

# Community Restorative Justice Ireland

Report of a pre-inspection of schemes in  
Belfast and in the North West with a view to  
accreditation under the Government's Protocol  
for Community Based Restorative Justice

October 2007



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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

**Criminal Justice Inspection  
Northern Ireland**  
*a better justice system for all*







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## List of abbreviations

<b>AP</b>	Atlantic Philanthropies
<b>ASB</b>	Anti-Social Behaviour
<b>CBRJ</b>	Community Based Restorative Justice
<b>CCI</b>	City Centre Initiative (in Derry/Londonderry)
<b>CJI</b>	Criminal Justice Inspection Northern Ireland
<b>CJR</b>	Criminal Justice Review
<b>CJS</b>	Criminal Justice System
<b>CRJ</b>	Community Restorative Justice
<b>CRJI</b>	Community Restorative Justice Ireland
<b>CSP</b>	Community Safety Partnership
<b>DSD</b>	Department for Social Development
<b>FCC</b>	Falls Community Council
<b>IMC</b>	Independent Monitoring Committee
<b>INLA</b>	Irish National Liberation Army
<b>IRA</b>	Irish Republican Army
<b>NIA</b>	Northern Ireland Alternatives
<b>NIAC</b>	Northern Ireland Affairs Committee
<b>NIACRO</b>	Northern Ireland Association for the Care and Resettlement of Offenders
<b>NIHE</b>	Northern Ireland Housing Executive
<b>NIO</b>	Northern Ireland Office
<b>NVQ</b>	National Vocational Qualification
<b>OCN</b>	Open College Network
<b>PBNI</b>	Probation Board for Northern Ireland
<b>POCVA</b>	Protection of Children and Vulnerable Adults
<b>PPS</b>	Public Prosecution Service for Northern Ireland
<b>PRG</b>	Peace and Reconciliation Group
<b>PSNI</b>	Police Service of Northern Ireland
<b>RJ</b>	Restorative Justice
<b>SNP</b>	Safer Neighbourhoods Project
<b>YJA</b>	Youth Justice Agency





## Chief Inspector's Foreword

*“While shared activities can build trust within communities, this is not always enough to tackle problems such as anti-social behaviour. What is needed is for people to feel that their actions will be backed up by others in the neighbourhood - that there is a shared willingness to act, and shared expectations about the circumstances in which citizens will act.”<sup>1</sup>*

Part of the Government's response to problems of lawlessness in Britain's cities has been to encourage community involvement in 'civic society'. In Northern Ireland we have schemes that engage substantial numbers of volunteers in activities which have the potential to be supportive of law and order, but because they have not been linked to the police they have tended to be seen as a threat rather than as an asset.

The question now is whether some of these schemes in Nationalist areas are ready to enter into a positive relationship with the criminal justice system. In the past part of their *raison d'être* was a rejection of the institutions of the State. Can they continue to generate the same energy working for their communities in the context of power-sharing and a fully representative Policing Board?

The background against which Inspectors made this preliminary inspection was one of rapid change. The schemes are changing their methods of operation, and at the same time the political environment in which they operate is changing around them. Independent observers and the statutory agencies attest that the schemes have come a long way in the past five years and that their character is now significantly different from what went before. Policing is changing too, as the PSNI becomes gradually more acceptable to the Nationalist community, and that is enabling more constructive relationships to develop. There is still, however, some way to go, and it will require sustained efforts on both sides.

What place should be accorded to CBRJ schemes – whether they should be regarded as transitional or whether they should occupy a permanent place in the structure of community safety – are matters for Ministers, and in due course for the Assembly, to decide. As Inspectors we have attempted to provide evidence to inform the public debate around these issues, but the broad decisions are political ones and are not for CJI<sup>2</sup>.

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<sup>1</sup> Rt Hon David Miliband MP, as Communities Secretary, in a speech on 24 October 2005.

<sup>2</sup> CJI set out its position on inspection of the CBRJ schemes in a memorandum to the Northern Ireland Affairs Committee in November 2006, which is reproduced at Appendix 1.



In the course of this inspection we spoke to priests, teachers, business and community leaders, housing managers and others with a perspective on the work of CRJI in Belfast and Derry/Londonderry, as well as consulting the statutory agencies: the PSNI, the Probation Board and the Youth Justice Agency. Inspectors conducted in total around 100 interviews. I am most grateful to all those who helped CJI with this work, and particularly to CRJI's staff and volunteers, who provided every possible assistance.

**Kit Chivers**

Chief Inspector of Criminal Justice in Northern Ireland

**Criminal Justice Inspection  
Northern Ireland**  
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Section



# Inspection Report



# Introduction

*“Make peace with your adversary quickly, before you get to court.”<sup>3</sup>*

### *The nature of CBRJ schemes*

- 1.1 CBRJ schemes are designed to provide restorative solutions to problems of neighbour disputes and low-level criminality, to save people having to have recourse to the police and to the courts, which can take far longer and often offers no greater certainty of obtaining a satisfactory outcome. The schemes aim to bring victims and offenders into contact with each other with the aim of achieving a degree of understanding, apology and if possible restitution between them, rather than criminal sanctions.
- 1.2 Restorative justice schemes have been developed in many parts of the world, and restorative conferencing has been adopted into the Northern Ireland youth justice system<sup>4</sup>. In Northern Ireland CBRJ schemes originally had the specific purpose of providing a substitute for the punishment beatings handed out by the paramilitary organisations – work

which was funded for a number of years by Atlantic Philanthropies and other charitable trusts<sup>5</sup>. Schemes are operated on the Loyalist side, under the auspices of Northern Ireland Alternatives<sup>6</sup>, and on the Republican side, under the auspices of Community Restorative Justice Ireland (CRJI).

### *Grounds on which the schemes are criticised*

- 1.3 Community based restorative justice schemes in Northern Ireland have been criticised on the grounds that:
  - They are a front for paramilitary organisations, which they help to maintain control over their communities;
  - They rely on coercion (actual or implied) to force clients to take part in restorative justice;
  - They infringe the rights of the client by denying him or her due process; and
  - They expose the client to double jeopardy, since the state may still be obliged to take the offender to court.

3 Sermon on the Mount (Matt. 5.25).

4 CJI will be publishing a report on Youth Conferencing during the autumn of 2007.

5 See Professor Harry Mika's report on this aspect of the work of schemes, published by Queen's University Belfast in January 2007.

6 CJI reported on Northern Ireland Alternatives in April 2007.



1.4 In addition the CRJI schemes have been accused of showing favouritism to clients who have links to the Republican Movement. In relation to the Government's proposal to accredit the schemes and bring them into a working relationship with the criminal justice system it is also argued that some of the people who work in them are, because of their past paramilitary involvement, unsuitable for any role in relation to criminal justice.

1.5 Last year the Independent Monitoring Commission said:

*"We believe there are some people – who may or may not be personally associated with community restorative justice – who in some instances use it as a cover for the exercise of paramilitary influence or who allow people to think they are doing so.... We have been unable to date to determine how widespread this phenomenon really is, though we do not doubt it is happening and we believe that it delays the firm establishment of a "culture of lawfulness". The more benign interpretation is that it is part of the difficult process of transition from a world where violence and threats were the norm and the writ of the agencies of the criminal law did not effectively run, and that it is therefore a passing phase. The more sinister and worrying interpretation is that it represents a deliberate tactic on behalf of paramilitaries to find new means of exerting their control now that violence or other crude threats are less open to them; and that by this means they can*

*prolong a situation where people turn to them rather than to the forces of the law."*<sup>7</sup>

In deciding whether or not to recommend accreditation this report needs to decide which of these two interpretations is justified in relation to the CRJI schemes in Belfast and in the North West.

### ***The Government's proposal to accredit the schemes***

1.6 In July 2006 the Government published a draft Protocol<sup>8</sup> under which it proposed to offer accreditation to CBRJ schemes provided they met certain criteria and undertook to co-operate with the criminal justice system in future. It addressed the point about the past paramilitary involvement of individuals by providing that employment in accredited schemes should be subject to vetting by a suitability panel appointed by the Government.

1.7 The Government's policy is that there should be no discrimination against former paramilitaries for employment purposes unless they are still or have recently been engaged in criminal activity, or unless the nature of their offence disqualifies them from the particular sort of employment proposed. It was recognised by the Northern Ireland Affairs Select Committee that many former paramilitaries have distanced themselves from unlawful activity and are motivated to undertake

7 Eighth Report, February 2006.

8 [www.nio.gov.uk/protocol\\_for\\_community\\_based\\_restorative\\_justice\\_scheme\\_\\_5\\_february\\_2007.pdf](http://www.nio.gov.uk/protocol_for_community_based_restorative_justice_scheme__5_february_2007.pdf)

work which will benefit their communities<sup>9</sup>.

- 1.8 Responding to the NIAC's report the then Minister of State at the NIO, the Rt Hon David Hanson MP, said on 3 March 2007,

*"The Chief Inspector of Criminal Justice stands ready to undertake inspection of schemes and advise on their state of readiness for formal accreditation under the Protocol"*.

He went on to say, in the Government's response<sup>10</sup> to the NIAC Report:

*"The Protocol was published on 5 February 2007 and schemes invited to announce their intention to conform to the Protocol. Once the accreditation process is under way schemes will be able to seek access to appropriate funding, subject to meeting the requisite grant criteria."*

### **The Justice and Security (NI) Act 2007**

- 1.9 In May 2007 the Government accepted an amendment to the Justice and Security (NI) Bill which provided that the Secretary of State should keep a register of CBRJ schemes 'that meet requirements determined and published by him'. The schemes should be subject to inspection and reporting by the Chief Inspector of Criminal Justice. The Bill has since been enacted. Inspectors

take it for present purposes that 'meeting requirements' under s.43 of the Justice and Security Act is to be interpreted as meaning complying with the Government Protocol.

- 1.10 It follows that if the schemes are not currently operating in accordance with the Protocol it will not be possible to recommend accreditation at this stage. We propose below<sup>11</sup> that the schemes should be designated 'eligible schemes' and that they should be able to seek accreditation at the point at which they certify that they have started to comply with the Protocol.<sup>12</sup>

### **The Criminal Law Act (NI) 1967**

- 1.11 A dilemma is posed to CBRJ schemes (and to other organisations, such as Victim Support and Women's Aid, who work with the victims of crime) by s.5 of the Criminal Law Act (Northern Ireland) 1967. The Act, in a provision unique to Northern Ireland, provides that:

*"Where a person has committed an arrestable offence, it shall be the duty of every other person who knows or believes*

*1. that the offence or some other arrestable offence has been committed and*

*2. that he has information that is likely to secure or to be of material assistance*

9 First Report of the Northern Ireland Affairs Committee 2006-07

10 Government Response to the Committee's First Report of Session 2006-07, HC 475 of 30 April 2007.

11 Paragraph 5.16 page 33.

12 There is a potential problem of circularity if the PSNI does not begin to refer cases to the schemes until accreditation has been granted. We would suggest that the PSNI should begin to refer cases as soon as the schemes declare that they are ready to handle them in accordance with the Protocol, so that when CJI inspects them for accreditation there will be evidence of the whole Protocol procedure in operation.



*in securing the apprehension, prosecution or conviction of any person for that offence*

*to give that information within a reasonable time to a constable and if, without reasonable excuse, he fails to do so then that person is committing an offence.”*

The interpretation of this duty can be problematic in some circumstances, for example, when the victim is under a credible threat or when, for whatever reason, involving the police is likely to make matters worse rather than better. Victims of crime often have their own reasons for being unwilling to report offences and while being prepared to take their case to a voluntary organisation may deny that the offence occurred if they are questioned by the police. The police recognise the need for flexibility in practice, and the Act is rarely invoked<sup>13</sup>.

1.12 This is not the place for a detailed discussion of the subject, but at some point it would be helpful to review the Act to see whether there is scope for amendment or legal interpretation which would give greater recognition to these difficulties.

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13 A further provision of the Act which is often cited by the CBRJ schemes as potentially helpful is s.5(2):  
“It shall not be an offence under this section for the person suffering loss or injury by reason of the commission of the offence (in this section referred to as “the injured person”) **or some other person acting on his behalf** not to disclose information upon that loss or injury being made good to the injured person or upon the injured person being reasonably recompensed therefor so long as no further or other consideration is received for or on account of such non-disclosure.”

## CHAPTER 2:

# Nature of the schemes in Nationalist areas



### *Organisational structure*

- 2.1 This report examines two sets of CBRJ schemes – four in West Belfast and four in Derry/Londonderry – which operate under the auspices of Community Restorative Justice Ireland (CRJI)<sup>14</sup>. The purpose of the inspection was ‘to advise on their state of readiness for formal accreditation’ under the Government’s Protocol on CBRJ.
- 2.2 Although the schemes in the two areas have much in common there are differences in their modes of operation, in the types of cases they handle, in the casework records they keep and in their constitutions. Despite coming under the umbrella of CRJI the North West schemes are legally separate from the Belfast schemes and do not have charitable status, as the Belfast schemes do. In Chapters 3 and 4, therefore, we discuss the two sets of schemes separately, and we propose that any decision to accredit them should relate to a ‘family’ of schemes<sup>15</sup>.

### *Political and paramilitary involvement*

- 2.3 The schemes in Nationalist areas are controversial because, as noted earlier, it has been alleged that they are a front for the Republican Movement and a way for the IRA to maintain its grip on the communities concerned. We discuss these allegations and other criticisms that have been made of the schemes later in the report.
- 2.4 CJJ’s broad conclusion is that the character of the schemes as we see them today is determined primarily by the communities themselves rather than by the political or paramilitary factions present within them. Republicanism may have increased the extent to which the communities served by the schemes have held themselves apart from the police and the criminal justice system, and the schemes themselves have, as a matter of principle, refused to communicate with the police in the past. But as we found in the inspection of Northern Ireland Alternatives, alienation from the CJS

14 CRJI has two other schemes, in Down and in Newry and South Armagh, but it has not yet sought accreditation for them.

15 This is in line with CJJ’s recommendation in relation to Northern Ireland Alternatives. There is much to be said for a structure in which a group of schemes shares the cost of overheads such as making grant applications, payment of staff, training of staff and volunteers, development of policies, quality assurance and reporting of results. Isolated and unsupported schemes would have difficulty in achieving the standards that would be required for accreditation.



is not restricted to Republican areas: it is also evident in working class Loyalist communities.

- 2.5 What Inspectors observed was the communities organising themselves to resolve their internal disputes (including offences) without recourse to the agencies of the State. Their unwillingness to turn to the State for assistance had a political dimension, but it also reflected their negative experiences of policing, dating back long before the Troubles. As they saw it, they were tackling problems with which the agencies of the State were unable or unwilling to help them.
- 2.6 As we report, they were doing so promptly and with a good level of effectiveness. Not every problem was solved, but the success rate was almost certainly better than the CJS could have achieved and the speed of response was significantly faster. Some criminal cases which should have been referred to the CJS were not being referred, but that will be rectified if and when the schemes start to adhere to the Protocol, as they have agreed to do. There are questions, however, about whether the activity, even if it is effective, is proper for a voluntary or community sector body and about whether it can be guaranteed that it meets the essential criteria of fairness, equality and respect for human rights. These issues are addressed in this report.

### *Coercion and social control*

- 2.7 A crucial issue is whether there is coercion, either to take part in the mediation process or to make restitution at the end of it. As Margarita Zernova observed in a recent article<sup>16</sup>, it is illusory to think that CBRJ will ever be *entirely* voluntary. Even in statutory RJ processes a variety of psychological pressures are brought to bear on victims and offenders to participate, quite apart from any legal sanctions. Inspectors concluded that the dynamic by which the schemes influenced people to resolve their disputes was not the exercise of physical force or the threat of force but social pressure exercised by the community itself<sup>17</sup>.
- 2.8 The IRA at one time figured large in these communities, but in recent years – even before decommissioning – it has been the community itself rather than the IRA that has been the driving force. In the absence of policing which was acceptable to it the community often turned to the IRA to impose sanctions, but the IRA became, from the mid-1990s onwards, increasingly unwilling to perform that role. That created the opportunity for CRJI to take over the function in a different and non-violent way.
- 2.9 Inspectors found no evidence of physical coercion either to take part in mediation or to make restitution,

<sup>16</sup> British Journal of Criminology (2007) 47, 491-509. The article contains a useful bibliography.

<sup>17</sup> As we noted in the report on NIA (para.1.13), social pressure can take tangible forms (ostracism, picketing and breaking windows) which may at the extreme be no less unacceptable than paramilitary beatings. The community has great strengths, but it is important not to romanticise it. It is the role of CBRJ schemes to mediate these pressures and channel them into acceptable forms of social control.



and witnesses testified to the contrary. Mediation and restitution happened because both sides to the issue, victim and offender, were persuaded that they had a shared problem. The offender could not shrug off the problem because he knew he still had to live in the community in proximity with the victim and (probably) the victim's friends and relations.

2.10 This would probably not have happened in a different sort of community. The prevalent social system nowadays tends to assume that people are self-sufficient in their nuclear families and that they can ignore the rest of society provided they do not fall foul of the law. In these communities, by contrast, people have fewer individual resources<sup>18</sup>, are more exposed to pressure from their neighbours and have less opportunity to move elsewhere. They do not turn to the police except in the last resort, not so much because they see the police as their enemy as because doing so is likely to make matters worse with their neighbours.

2.11 It would be naïve not to acknowledge at the same time that there is drug dealing and other forms of serious and organised crime present in some of these areas, and that as a result a number of people have a vested interest in keeping the police out. It will be important to monitor how far a closer relationship between the PSNI and the CBRJ schemes proves

helpful to the police in relation to more serious and organised crime.

### *The status of individuals in the schemes*

2.12 It has to be acknowledged that one element in the structure of social control is the status which certain individuals have on account of their past history. Individuals who have been members of the IRA in their time retain an authority which causes their word to be heeded even in the absence of any actual or implied threat. Moreover, although such individuals may have left their paramilitary past behind it is often supposed that they still have paramilitary force behind them: we found examples of people going along to CRJI in the belief that they were approaching the IRA for help. But Inspectors concluded that, while in the public's perception the IRA shadow was often still part of the picture, the schemes had gained authority in their own right, and that the influence they were able to bring to bear was not intrinsically sinister. Many people working in the schemes had no past paramilitary association.

2.13 Inspectors asked individual members of CRJI about allegations that had been made against them and received satisfactory explanations, but CJI does not have investigatory powers. Allegations of a criminal nature against individuals will be a matter for the Suitability Panel to be set up by the Government, which will receive evidence from the police.

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18 As many as 70 per cent of those of working age in these areas are reckoned to be economically inactive or unemployed, and nearly all of the wards covered by the schemes would be in the top 20 (out of more than 500 in Northern Ireland) on the composite index of deprivation.



### *The acceptability of social control*

- 2.14 It is for politicians – in due course for the Assembly – to decide whether in principle they want the sort of society that exercises social control of this kind. Social control can be very positive, encouraging everyone to keep their gardens tidy and their children well-behaved. But it can also be illiberal, discriminating for example against foreigners, people of different religion and different sexuality. One would not want a completely atomised society in which no-one spoke to his or her neighbours, but equally one would not want a society in which the individual was not free to be different.
- 2.15 Whatever view wider society takes, it would be right to be respectful of the communities served by the CBRJ schemes and therefore cautious about imposing external norms and values upon them. The degree of social cohesion which exists in these communities deserves to be valued. It is something that cities in Britain and many other parts of the world are keen to re-create, and it is very difficult to re-create once it has been lost.
- 2.16 Nevertheless there are dangers in unregulated social control, and it is right that the State should insist that at all times and in all places the rights of the individual must be respected. That is the perspective from which Inspectors approached this subject. There must be due process and an absence of coercion

at any stage. There must be public accountability, the ability for anyone aggrieved to feel free to make a complaint and have it investigated independently, and there must be political and personal impartiality.

- 2.17 It is therefore imperative 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<sup>19</sup> 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 on behalf of the Secretary of State.

### *Is CBRJ a second-best solution?*

- 2.18 The final question is whether, even if CBRJ were to work perfectly, it would represent a second-best approach to criminal justice. It may be an improvement on *no* law and order, in the absence of the police, but once the police are available and are accepted on the estates will there still be a role for CBRJ?
- 2.19 Inspectors can imagine that even in a normal policing environment there could still be a niche for the schemes in providing mediation and victim support and handling low-level offences and nuisance in a way which the police are not able to do within available resources. The following chapters give examples of specific

<sup>19</sup> The Protocol provides that: “It shall be the responsibility of the Review Panel to maintain records of referrals and their outcome, and to consider the effectiveness of specific interventions for particular categories of offence and offender.”



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interventions by the schemes which show how difficult it would be for the statutory agencies to achieve similar results.

- 2.20 Against that there is the danger that placing any intermediary between the police and the citizen is likely to lead to a certain amount of ‘buffering’ of information. The schemes understand that under the Protocol they will have to make it clear to anyone coming through their doors that the presumption must be that any information relating to an offence will be passed to the police. Nevertheless in practice there is bound to be some information that the schemes receive that will not be passed on. In many cases the police would not have received it in any event, but sometimes they might have, and it is hard to know how the balance of advantage might work out.
- 2.21 The essential thing, if the schemes are accredited, will be to build up confidence between them and the police, so that the schemes feel able to share as much information as possible, even if it is not going to lead to any action. There are encouraging signs that that is beginning to happen, and it must be hoped that the Protocol does not have the effect of formalising relationships to the point of inhibiting informal, confidential exchanges. Inspectors are pleased to note that the PSNI are already developing working guidelines to make sure that the Protocol is implemented appropriately.



## CHAPTER 3:

# The Belfast schemes and Assessment under the CJI criteria



### Origin and context of the CRJI Belfast schemes

3.1 The inspection examined four schemes operating in Nationalist areas of West Belfast: Andersonstown, Colin (Twinbrook), Falls and Upper Springfield. Between them they handle around 1000 cases a year, as follows:

Colin (Twinbrook)	469
Andersonstown	250
Falls	150
Upper Springfield	122

3.2 The original scheme was based in Andersonstown. It was constituted in 1998, but it had antecedents in a

succession of projects dating back to 1992 or before<sup>20</sup>. The scheme in Twinbrook started in 1999, and Upper Springfield followed in 2003. In 2006 a further office was opened in the Lower Falls to relieve pressure on the Andersonstown office.

3.3 The original main purpose of the schemes, for which they were funded by Atlantic Philanthropies and others, was to reduce the incidence of punishment beatings by providing alternative means of imposing sanctions on those who committed offences against the community. However they were always part of a wider vision of a way of handling disputes within the community without recourse to the law<sup>21</sup>.

<sup>20</sup> CRJI had its origins in work which was done in the early 1990s, under the auspices of Extern and NIACRO, by the *Youthlink* project. *Youthlink* worked with persistent young offenders such as joyriders in West Belfast, who were also often petty informants and therefore under threat from the IRA. NIACRO took over responsibility for *Youthlink* from Extern in 1992, when Extern came under pressure to give it up, and it became in effect the embryo of BASE 2. (Extern at that point started its *Passport to the Future* project instead.) NIACRO continued to be subject to criticism for sponsoring a project which engaged in regular dialogue with the IRA, and it was asked to restrict its activities to 'clarification' with the IRA, not negotiation. The threat removal work at that point passed to *Challenge for Youth*, which was again funded through NIACRO. In 1994 NIACRO obtained money from Atlantic Philanthropies (AP) to fund two pilot projects, one in a Nationalist and one in a Loyalist area. The research done as part of the latter led in due course to the setting up of Northern Ireland Alternatives. On the Nationalist side the next step was that a group of academics and ex-prisoners entered into dialogue with the IRA, who had made it clear that they wanted to exit from punishment beatings but were under pressure from the community to continue with them. There was at that stage no reference to restorative justice. The concept of restorative justice was incorporated subsequently and developed when in 1996 one of the founders of CRJI attended a university course in the USA under Prof. Howard Zehr, a leading exponent of restorative justice. In 1997 the 'Blue Book' was published (see note). *An Phoblacht* announced that the Republican Movement no longer approved of punishment beatings and that injured parties should go to Community Restorative Justice instead. In 1998 CRJI was formally set up, with funding from AP routed through NIACRO, and regular monitoring and evaluation by Prof Harry Mika. NIACRO managed two tranches of AP funding, taking CRJI through to 2002. From 2003 to 2006 AP funded CRJI directly.

<sup>21</sup> See the 'Blue Book': *Designing a System of Restorative Justice in Northern Ireland*, published privately by the authors, Jim Auld, Brian Gormally, Kieran McEvoy, and Michael Ritchie in 1997 (revised 1999).



### What the Belfast schemes do

- 3.4 The schemes in Belfast use restorative conferencing and other mediation techniques to resolve a wide range of different sorts of dispute. Slightly more than half of the cases Inspectors examined involved what could have been seen as a criminal offence<sup>22</sup>. Other cases were mainly neighbour disputes and complaints about noise and nuisance, parking spaces and shared driveways, but there were also some commercial or landlord and tenant disputes.
- 3.5 Analysis of files showed that the main categories of work were Youth, Housing, Threat and Neighbour. Examples ranged from the trivial, e.g. which neighbour owned a hedge and had the right to cut it, to the tragic: a girl becomes pregnant after a two-week relationship, has an abortion on her own and then attempts suicide, her father remonstrates with the former partner at his work, and CRJI try to mediate.
- 3.6 There were also a number of cases of serious assault and criminal damage, none of which showed any evidence of reporting to the police<sup>23</sup>. 'Under threat' cases were declining, but there was still a steady trickle of them emanating from dissident Republican organisations. Inspectors spoke to a number of victims of crime, who testified that CRJI volunteers had helped them to cope while under severe pressure, often over lengthy periods of time.
- 3.7 Mediation was achieved by inviting the parties to the CRJI office and talking the problem through. Although the practice of knocking on doors had been discontinued (on the grounds that it could be seen as too threatening) some of the letters of invitation to attend at the CRJI office which were sent instead had initially been over- forceful, for example, "It would be in your best interests to attend", and had been open to misinterpretation. Practice had improved, and the letters were now genuinely invitations.
- 3.8 Only one sixth of cases on file involved direct or indirect mediation, which Inspectors found surprising in relation to the relatively high proportion of cases that were reported to have been 'resolved'. However, the definition of 'resolved' allows for cases to be concluded once CRJ has done all it can: this might include simply providing advice or even doing nothing, if someone is not prepared to engage further. Cases that are referred on to other agencies also count as resolved. Inspectors were told also that often people just wanted their cases to be logged, without any other action being taken. In many cases of a criminal nature it did not look, from the file, as though there would have been the evidence to proceed within the formal system even if the case had been reported; though it might nevertheless have provided the police with information that might have been useful in other cases.

22 One of the problems in regulating the schemes is that the community often takes a different view from the authorities as to whether an offence has been committed: for example it is likely to be more tolerant of a fight fuelled by drink which has resulted in accidental injuries. Under the Protocol any exercise of discretion in such matters must be reserved to the police.

23 The cases under reference all pre-dated the Sinn Fein *ard fheis* which opened the way for Republicans to report cases to the PSNI.

### 3.9 A few examples of the work being done are:

#### *A young offender*

- S was part of a group of about 20 young people who were drinking and causing problems. He came to CRJI and after a few talks with a staff member he was referred to a local youth worker, who got him into a number of projects, including a trip to climb Ben Nevis. He now has a child and a job, and thinks himself fortunate compared to some of his mates who got back into trouble. He mentioned an incident when he broke a neighbour's windows and CRJ got him in to the office to meet the neighbour. He apologised and paid restitution. He did not get a criminal record, and that was important to him.

#### *A restorative conference*

- An Inspector attended a conference aimed at reconciling two women whose families had a long-running feud. There had recently been physical assaults and other disturbances. The conference was successful in reaching agreement, though it was recognised by all parties that there was a larger feud in the background that still had the potential to flare up again.
- The Inspector noted that CRJI invested a lot of time and energy in the case at short notice, over a bank holiday weekend. The meeting was productive in quickly sorting out the immediate difficulty between the two women. His view was that the police would not have wanted to get embroiled in the issue, even if the women had been willing to cooperate with them (which

they were not). Technically there was at least one common assault and possibly also criminal damage and harassment offences. If they had pursued these charges through the PPS and the courts it would have taken months, and in all probability would have exacerbated the situation.

#### *Working with statutory agencies*

- In Colin (Twinbrook) statutory agencies have supported the work of CRJI because it assists them in their service delivery. The Housing Executive has provided benefit in kind in the form of accommodation via the local tenants' association with the tacit approval of NIHE HQ. CRJI provide written reports to verify homeless applications, and undertake a lot of neighbour mediation to prevent 'intentional homelessness'. They sit on the Travellers Committee and helped to draft the local ASB Charter. NIHE prefer to use the services of CRJI and find them "well-known and they have a lot of respect... more than statutory bodies". Social Services find them responsible about referring child protection cases to them, and said that they were clear about boundaries. They provided a valuable out of hours contact point, and monitored and reported back effectively. They often helped people understand the need for Social Services intervention at difficult times, e.g. during court proceedings, and sometimes accompanied people to court to support them through proceedings. They work closely with the Alternative Education Project, which reserves four out of 25 places for their referrals. They refer groups of young people to the Sally Gardens



Community Centre, especially for activities during the summer months. Sally Gardens reported that there were a wide range of people involved as CRJI volunteers, including “ex-criminals, priests and teachers”.

- In Ballymurphy the NIHE reported that when they received complaints about individual tenants they generally found that CRJI was already involved. If mediation was necessary CRJI was involved in about 50% of their cases by the choice of the people concerned. CRJI was also useful in giving them advice, especially in the context of the Ballymurphy dispute, about placing certain families in certain streets in an attempt to prevent further escalation of the dispute. Ballymurphy, they said, would have been “totally unmanageable without CRJI”. CRJI had also helped witnesses give evidence in cases where NIHE was seeking to evict tenants. They had accompanied individuals to court and sat in the court through the evidence.

#### *Working in schools*

- A school in Andersonstown is piloting a restorative justice approach to school discipline in a CRJI project funded by the Oak Foundation. A group of 24 pupils now aged 14 or 15 has been studied continuously over an 18 month period to see how restorative practice can influence their behaviour and improve their emotional intelligence and their academic performance compared with a control population. Progress has been regularly reported to parents, who have been fully involved in the programme. Inspectors saw a video of a sample restorative

conference in the school involving a group of male teenagers who had been verbally abusing a female student teacher. The conference was effective in making the boys realise how wrong and inappropriate their behaviour had been.

#### *Community projects*

- Falls Community Council’s drugs project has been working with CRJI for 8 years. CRJI refer cases to the FCC drugs unit if they come across an issue in a case they are mediating. FCC can do in-depth work with them if there are drugs problems. They may also refer cases to CRJI for mediation, and reported that they believed it was effective.
- A local community worker gave an example where he had referred a case involving local children on quad bikes to CRJI. He said that they had dealt with it very well. He commented that CRJI could not solve every case, and that often the community was still looking for violent retribution. But he believed that CRJI was helping people to help themselves and also giving the community a lead in relation to policing.
- A local councillor, who had done the CRJI training, said that she regularly referred cases to CRJI. She gave an example of a group of young people who were causing annoyance on her estate. CRJI had brought everyone together in a meeting, including the parents of the young people. She said that the difference it had made was unbelievable, and that people still approached her about that meeting

and the difference it made to the problem. She contrasted the effectiveness of CRJI with the relative ineffectiveness, as she saw it, of the police in her area.

### Public order

- There were a relatively small number of instances cited where CRJI members had intervened in public order situations, mainly involving young people or Travellers. Most of these appeared to have been resolved successfully, showing considerable personal courage on the part of the members involved. CRJI as a matter of policy has separated itself from the neighbourhood patrolling activities of Safer Neighbourhoods, recognising that there is a danger that it could lead to confusion about the proper role and character of CRJI, but it is almost inevitable that some individuals will associate themselves with both<sup>24</sup>. We were told that when CRJI intervened in a situation it would typically be with only two individuals, and their role would be to defuse the tension and mediate any dispute.

## Assessment against the CJI criteria: Belfast schemes

### A Openness and accountability

3.10 The four schemes are all constituted as separate voluntary associations with charitable status. They share a

standard form of constitution<sup>25</sup>. CRJI itself is a company limited by guarantee, also with charitable status. All the organisations have management committees which are duly elected at Annual General Meetings, and they publish Annual Reports and Accounts, which are brought together in an Annual Report published by CRJI.

3.11 The Belfast schemes keep good records by the standards of voluntary organisations, and with few modifications they would provide an adequate audit trail for inspectors in the future. It would be helpful, though, if more attention could be paid to recording the outcomes from cases, which was often unclear. There is no register of complaints: explicit arrangements for the handling of complaints are something the schemes will need to give attention to.

### B Partnership with the criminal justice system

3.12 Until this year contact with the PSNI was very limited, since there were constraints on both sides. There has, however, always been some contact on a confidential basis. More recently contact has been expanding rapidly, especially in Colin (Twinbrook), where there are particularly good relations with PSNI Lisburn<sup>26</sup>. In Falls, too, Inspectors found staff talking to the police on a daily basis.

24 CJI did not inspect *Safer Neighbourhoods*, but Inspectors were told that their method of operation nowadays was very different from that of the Community Watch schemes which preceded them, which were described as 'out of control', 'flexing muscle' and 'pretending to be paramilitaries'. SNP, which has received funding from NIACRO, is now careful not to project physical force. It is currently engaged in drawing up protocols with the PSNI, for example to ensure preservation of forensic material at crime scenes.

25 It differs from the standard constitution of the CRJI North West schemes, which are not charities.

26 Colin is in the Lisburn PSNI District, while the other Belfast schemes are in West Belfast District (now North and West Belfast).



3.13 Inspectors found that in West Belfast about one fifth of criminal cases were now showing police involvement, which is not yet satisfactory but represents a significant turn-around in the context of West Belfast's experience of engaging with the police. The police expressed some dissatisfaction with the pace of progress, but they recognised that things could not change overnight. The schemes have to move carefully in recognition of the degree of suspicion and hostility there is towards the police in their communities.

3.14 Social Services said that they believed CRJI had always been clear on sexual abuse and had handed over cases quickly. They had no knowledge of any cases being held back.

3.15 The Probation Board said that it had had contact with the schemes over the years. It had made a particular effort two years ago to visit the schemes to explain the role of a Probation Officer, and what a Probation Officer could and could not do, which was often misunderstood. It had to explain, for example, that just because someone re-offended they were not necessarily in breach: it was often people on bail rather than people on licence who were the problem.

3.16 The PBNi told Inspectors that CRJI had twice put proposals to the Board for funding: one two years ago about the re-integration of offenders, and another more recently about working with adjudicated offenders. They

looked forward to working with the schemes, if they were accredited, and felt that the schemes could offer specific skills in relation to working with victims of crime and bringing together victims and offenders in a constructive way.

3.17 Voluntary sector organisations said that they thought CRJI tended to be a bit insular and that it could usefully engage more with them. The problem has been a reciprocal one, because voluntary organisations have often tended to keep their distance from CRJI lest it affect their funding.

## **C Equality and human rights**

3.18 All staff and volunteers received human rights training, and Inspectors had no concerns about it.

3.19 As regards equality, there was no sign of any discrimination on grounds of religion or political affiliation, and several witnesses testified that the schemes had shown themselves not to discriminate. Sound policies on these matters were in place.

3.20 There was a problem of perception, because it is known that the schemes have their origins in Republicanism and many of the individuals concerned are still viewed in that light. But many witnesses told Inspectors that the perception was beginning to change. Part of the problem seems to be that, although people from other political parties have been invited to join, relatively few have been willing to do so.



## **D Learning**

- 3.21 The schemes provide training in mediation skills, human rights and child protection. Inspectors examined the materials used, and found them satisfactory, though they did not have the opportunity to sit in on any training sessions in the course of this inspection. They will wish to do that as part of any full inspection.
- 3.22 People who put themselves forward as volunteers are placed with their local CRJI office as part of an induction programme but do not become fully active CRJ members until they complete a training programme. Once a quota of 20 new volunteers is reached CRJI places them on a ten-week training programme which is accredited by the Open College Network (OCN). The CRJ programme which amounts to around 60 hours of learning time includes sessions on human rights, mediation, and child protection. All active CRJI volunteers have received the basic level of training in CRJ. The OCN programme accreditation is equivalent to NVQ2, Intermediate GNVQ and GCSE grades A\*-C.
- 3.23 CRJI itself takes a keen interest in the development of restorative justice practice, and participates in a number of conferences each year.
- 3.24 The schemes told Inspectors that most of the volunteers had as yet only a limited understanding (if any) of what the Protocol would involve,

and they would face a major task of training them up to meet the new required standards. They would need access to funding for that purpose, and as a result it would take a certain amount of time before they would be able to claim that they were operating in accordance with the Protocol.

## **E Results**

- 3.25 Professor Harry Mika has reported very positively<sup>27</sup> on the success of the schemes in their original purpose of tackling paramilitary 'beatings'.
- 3.26 As regards the rest of their work the evidence is not there at present which would allow Inspectors to assess the results achieved by the schemes. The work is very diverse, and the outcomes are often intangible. Some problems are intractable, and the schemes freely admitted that they did not always succeed. Nevertheless there was a strong body of testimony, reflected in the examples quoted above, showing that the schemes did some very good work and in many cases achieved results at least as good as might have expected if the parties had had recourse to the formal criminal justice system.
- 3.27 In terms of value for money there can be little doubt that the schemes would score highly, since their cost are minimal in relation to the volume of work undertaken. Several official agencies told us that they shared that view and would be willing to contract out services to the schemes if they

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27 Prof. Harry Mika's report was published by Queen's University Belfast in January 2007.





were permitted to do so. The prospects of project funding are therefore good, but the schemes will also need to attract some core funding if they are to cover their overhead costs and introduce management systems to satisfy the requirements of the Protocol.

## CHAPTER 4:

# The North West schemes and Assessment under the CJI criteria



### *Origin and context of the CRJI North West schemes*

- 4.1 There are four schemes in Derry/Londonderry operating under the auspices of CRJI. They serve the districts of Ballymagroarty, Brandywell, Creggan and Shantallow, with a combined population of about 20,000. The estates are attractive and well-maintained and they have a young population, but they contain above average levels of unemployment (around 10 per cent). More significantly, around 50 per cent of the population of working age are economically inactive.
- 4.2 The schemes participate in a network of interlocking community organisations and have to be seen as part of a widely based movement for self-help and improvement of the conditions of people on the estates. CRJI's volunteers are widely respected in the local community because of their hard work and their involvement in community affairs.
- 4.3 These areas are strongly Nationalist, and there has traditionally been limited contact between their residents and the police. The police would go in and out of the estates as necessary, but there would be no regular police presence. Local residents would not call the police if it could be avoided, the main exceptions being (apart from the most serious crimes) burglaries and car thefts, which need to be reported for insurance purposes.
- 4.4 However the picture is now improving, with local residents feeling slightly freer to call the police and reporting that when they do they receive quicker responses than in the past. Certain community police officers were highly commended by members of CRJI North West for their efforts to change the perception of the police. CRJI has in turn been helping to lead opinion in the community towards acceptance of police intervention when it is necessary.
- 4.5 During the Troubles, the IRA provided alternative policing of these estates, using punishments (sometimes of extreme violence) which were arbitrary and ill-directed. CRJI North West started in 1998 following a visit, facilitated by NIACRO<sup>28</sup>, by some of the founders of Northern Ireland Alternatives. There had for some time been dissatisfaction among local

<sup>28</sup> NIACRO was responsible for the BASE 2 Programme, aimed at safeguarding people under threat from the paramilitaries.



residents, even those who were members of the Republican Movement, about the use of violent methods by the paramilitaries. Punishment beatings were seen to be not only uncivilised but ineffective, because they led to continuing bitterness and revenge. A particular concern of CRJI North West in the early years was to prevent the exiling of young people and keep them in their community.

- 4.6 Inspectors were told that before the CRJI schemes were set up in the years 1998 to 2002 their immediate predecessors were Neighbourhood Watch schemes in two of the areas. They were told that those schemes were widely regarded as favouring those who had a record in the Republican Movement, or those whose families did, and turning a blind eye to their misdemeanours.
- 4.7 It was felt that restorative techniques offered a better alternative, and there was a positive decision, with political support, to adopt community based restorative justice as the preferred solution. The decision to establish the schemes followed extensive, house to house consultation on a Community Charter setting out the objectives of the schemes and the principles according to which they would operate, in particular that they would be non-discriminatory and non-violent. An example of the Community Charter, which was adopted in each of the estates in turn, is found at Appendix 2.
- 4.8 Volunteers were recruited and trained to work in the projects. They came mainly from the

Republican community. They included some people with a background in the IRA, but also other community activists and politically involved people known and respected in their areas. CRJI obtained from Atlantic Philanthropies funding for them to be trained in mediation skills, child protection and some human rights training. Altogether over 100 volunteers received training.

- 4.9 One observer told us that at the outset CRJI was seen as carrying, as a legacy from the past, at least an implied threat of coercion, but that perception disappeared 'at least five years ago'. Whether it disappeared that early is not clear, but at any rate it seems to have disappeared by now. CRJI recognised that unless it set its face firmly against violence of all kinds it would be impossible for it to mediate with community members, who often pressed for paramilitary-style punishments, and the ethos of non-violence became firmly embedded in the work of the schemes.

#### *What the CRJI North West schemes do*

- 4.10 The schemes depend entirely on the efforts of volunteers. There are no staff paid by CRJI as such. The only paid staff involved are the local Co-ordinator, a part time Administrator and a Development Worker, who are all currently paid by the Community Foundation for Northern Ireland (funded by the European Union's Peace II programme), not by CRJI, and CRJI is only part of their remit. The Development Worker's main responsibility is the REACT project, on which he works in partnership with CRJI.



4.11 Rent for the office they share is likewise paid by the Community Foundation. The four schemes do not have their own premises. They operate out of community centres and out of people's homes, sometimes also using parochial houses for mediation meetings. No expenses are paid to volunteers for their normal day-to-day activities.

4.12 Although CRJI North West operates under the auspices of CRJI HQ and subscribes to policies promulgated by CRJI there are no legal links between the two organisations<sup>29</sup>. The question of the precise future relationship is currently being debated, but for the time being it would be right to think in terms of separate approval for CRJI North West. The four individual schemes are technically separate entities but they are in practice closely tied to CRJI North West, with much of the business being routed through the Co-ordinator, and it is suggested that any approval should be for the family of schemes as a whole, rather than for each scheme separately.

4.13 The work of the schemes falls into two main categories:

1. Mediation and dispute resolution (by much the major part of their work); and
2. Providing a security presence in public places.

### *Mediation and dispute resolution*

4.14 CRJI North West uses its restorative mediation techniques to respond to a

wide range of cases (described as 'complaints') referred to it by the public. Sometimes (and this was the original focus, which has been thoroughly researched by Prof. Harry Mika) mediation is still used as a way of negotiating away threats of violence posed by dissident paramilitaries. Far more often it is used to deal with low-level criminal or anti-social behaviour. The majority of 'complaints' are not of a criminal nature. Often they involve neighbour disputes, for example over noise or arguments among children. Some cases relate to business and property matters, and mediation is a substitute for recourse to the civil rather than the criminal court.

4.15 Where possible mediation would include helping the victim to obtain restitution from the offender. CRJI volunteers provide services with a ready response at any hour of the day or night, and a high rate of success was reported. Acceptance of the service depended on the agreement of both parties, and of the parents in the case of a minor. It was entirely voluntary and there was no indication of any coercion. As part of this work CRJI provided a service to establishments that employed door-keepers in the city, by agreement with the firm that employed them, resolving disputes between them and customers or would-be customers.

4.16 Inspectors asked how CRJI managed to enforce payments of compensation and other restorative sanctions. There was no evidence of any coercion. CRJI was clearly able to

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<sup>29</sup> Though the Co-ordinator of CRJI North West has a place *ex officio* on the main Board of CRJI.





exert considerable moral authority over parents as well as over young people themselves. Inspectors were told that very often offences had been committed under the influence of drink and the perpetrators would repent of their actions when they were sober. This showed the advantage of a quick response on a personal basis (CRJI volunteers often being known to the offender and his family) compared to the relatively slow and impersonal response of the criminal justice system.

### *Types of offence*

- 4.17 One of the crucial points to be safeguarded in a CBRJ scheme is the sorts of offences with which it seeks to deal. Under the Government Protocol a scheme will have to report to the police any offence which meets the criteria of criminality, and that threshold will need to be understood by all workers in the scheme. In the absence of any links with the PSNI the projects have been dealing with a wide variety of types of offence, some of them extremely serious. CRJI North West accepts that under the Protocol that will cease.
- 4.18 In their early days the schemes occasionally attempted to deal with cases involving domestic violence or sexual abuse, which they now recognise is outwith their capability. They were at one time publicly criticised by Foyle Women's Aid for allegedly mishandling such a case, though it may have been a

misunderstanding. We were told that in the early days they had also got into difficulty over the handling of under-age drinking, and Foyle Newpin reported a case two to three years ago when CRJI volunteers had become involved in child protection matters which they felt should have been referred to specialists. CRJI contest some of these points. They now recognise the importance of referring cases of suspected sexual abuse straight to the PSNI. In a recent case they called a priest to take an alleged rape victim to the police CARE Unit at Maydown, recognising that it was too serious for them to handle. In future, if approved under the Protocol, they will liaise directly with the police<sup>30</sup>.

- 4.19 The concerns that have been expressed about child protection emphasise the importance of ensuring that all volunteers are fully trained on these matters, and that there is effective management and quality assurance of the schemes.

### *Providing a security presence*

- 4.20 The schemes have also provided a security presence in certain situations. Examples were given (see below) of attendance at football matches, at parades and in the city centre on weekend evenings. The benefits of a CRJI presence were well attested: the police confirmed that they had exerted a calming influence and defused potentially troublesome situations. However, Inspectors were concerned that such influence

<sup>30</sup> We were told that in an earlier case a CRJI volunteer had accompanied a woman to the CARE Unit and had sat with her through the entire process. That case had pre-dated Sinn Fein's *ard fheis* resolution.



could only be exerted through an implication of physical force, and that such activities were therefore not helpful in promoting an image of CRJI consistent with the Government Protocol.

4.21 Witnesses testified that in practice there had been no problem, and that CRJI North West had filled a vacuum left by the absence of policing in the past. They had often helped in situations where police intervention would have been likely to have made matters worse. CRJI's volunteers had not conducted themselves in an intimidatory way, and had confined themselves to separating people who were fighting and admonishing others who were causing trouble. There had been no use or threat of violence. The police confirmed that they had no concerns about the way in which CRJI had exercised this role, and said that it had in fact been extremely helpful to them at times.

4.22 Following are some examples:

#### *Derry City FC*

- During a match with Linfield FC in 2004 there was a high level of co-operation between all the agencies involved in maintaining peace, including the PSNI, the club itself through stewarding, and CRJI. CRJI provided around 100 volunteers from within the community around the stadium to help with overcoming local fears that things would get out of hand. In the event there was only one small incident following the game. Since then other games have passed off without incident and with an increasing community acceptance of the need for police to

have overall control. On match days CRJI now provides a presence of around four to six volunteers to assist the club stewards in maintaining order within and around the stadium.

- During 2006 some elderly residents living close to the stadium had been having problems with young people drinking and urinating near their homes during and after matches. CRJI became involved and by persuasion and sometimes by negotiating free entry to the ground for the young people managed to divert the young people from their anti-social behaviour.
- Derry City FC in partnership with CRJI and the PSNI are investigating the feasibility of a football-based project to divert young people from anti-social behaviour, improve their fitness and contribute to their education. It would be based on the 'Kicks' project which has been run for some three years in England at Charlton Athletic FC. It is hoped that CRJI participation will give the project more credibility locally and help with community acceptance of PSNI involvement.

#### *Rainbow Project*

- CRJI became involved in a number of cases of persistent harassment of gay people in their homes which eventually led to the police being able to obtain statements from witnesses in the community and some successful prosecutions.
- CRJI engaged with the Rainbow project in relation to a Gay Pride march and arranged for 6 CRJI volunteers to attend the event which passed off peacefully. CRJI have also been involved





in reconciliation work between a person convicted of assaulting a gay man and his victim. The perpetrator's family had approached CRJ to ask for their help as they did not want their family labeled as 'homophobic'. The perpetrator and victim are now on speaking terms.

- The Rainbow Project credits CRJI with having helped to change public attitudes to gay and lesbian people in Derry/Londonderry, which two or three years ago were threatening to be extremely negative.

#### *City Centre Initiative*

- CRJI provided a presence on the streets around the city centre after meeting with the City Centre Initiative (CCI) due to the number of assaults and night time fights. The numbers of incidents have substantially reduced. The CCI described their approach as, 'quiet, sensitive, sober and focused on resolving the problem.'
- CRJI played an important role in reducing tension and trouble during the annual Apprentice Boys' parade. Their presence helped to reduce numbers of protesters at potential flashpoints and resulted in the parades passing off peacefully.
- CRJI provide volunteers on a rota basis on one side of 'The Fountain' interface to reduce conflict between residents and youths. The numbers of incidents have been reduced since their involvement.

4.23 It can now be seen that CRJI's role in these situations was to some extent transitional. As the police have become more skilful in their public order work and their presence has become less contentious the role of CRJI volunteers in the city centre has lapsed. They are still valued at football matches, however, and at parades (where one organiser only regretted that there was not a counterpart Loyalist organisation for them to work with).

4.24 In the long run, as policing by the PSNI becomes progressively more acceptable, this aspect of the role of CRJI can be expected to decline, or perhaps to be assimilated into part-time police community support service. In the meantime it might be helpful for some CRJI volunteers to receive training from the police as part of a course in stewarding of public events<sup>31</sup>. The assistance of a small number of CRJI volunteers is valued by Derry City FC, and we would not want to disturb an arrangement which has proved satisfactory in all respects. The essential thing is that any such activity should be done with the approval of the PSNI, who should retain control at all times.

#### **Assessment against the CJI criteria: CRJI North West schemes**

##### **A Openness and accountability**

4.25 CRJI North West and the four schemes are each separate voluntary associations, with comprehensive standard constitutions. Unlike CRJI

<sup>31</sup> Inspectors were told that there was a programme of that kind in Coleraine, sponsored by the local Council with involvement from all the emergency services, which CRJI could take as a model.

nationally they are not incorporated or registered as charities. They have management committees which are duly elected at an Annual General Meeting. CRJI North West keeps proper accounts, and publishes a summary annual report as part of CRJI's Annual Report.

- 4.26 Understandably, since the schemes depend almost entirely on volunteers, record keeping on cases dealt with by the schemes is incomplete. For historical reasons there has been a tradition of keeping limited, anonymised records and not holding on to them for longer than is necessary. The case files as they stand do not provide a sufficient basis for inspection. CRJI recognises that this is an area that will need to be addressed if the schemes are to be accredited.

#### Case notes

Cases are recorded in booklets held by each volunteer and written up in a case report. The case reports record the following categories:

- Area
- Case Number
- Case category – e.g. damage
- Date Opened
- Date Closed
- Workers Involved (not by name)
- Hours spent on case
- Number of people involved in the case
- Referral details
- Description of case
- Other Organisations
- Case referred to other Organisations
- Details of actions taken by CRJ
- Case outcome
- Other comments
- Review – position 6 months after case closed

Not every category in the case reports was completed in detail. Details of names and addresses were held separately from the case reports for security purposes and were only held for a year and two months.

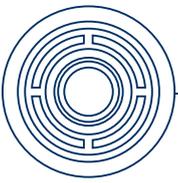
- 4.27 There will be a need for staff and volunteers to record their work on behalf of the schemes in a more thorough and systematic way which will provide an adequate audit trail. There is also a need for a complaints register to be kept, and for complaints to be investigated and the outcomes recorded.
- 4.28 Record-keeping to the required standard will be a challenge for many volunteers, and it will be important that they should be properly trained and supported for the purpose. The schemes will need to employ some professional staff and to find premises for the secure storage of files, and for that they will need to bid for new resources.

A Youth Officer who had funded CRJI North West and had provided them with Child Protection training commented:

“Their financial probity is good and their methods are sound... They have an MOU with us, and conform to our SLAs and standards”. He also trained his area youth workers by sending them out with CRJI volunteers.

## B Partnership

- 4.29 Contacts with the police have until now been limited, with the constraint coming from the CRJI side rather than from the PSNI. There has also



been little contact with Probation; slightly more with the Youth Justice Agency. Despite this, Inspectors were told that the tacit support of the police and other agencies has been a contributor to CRJI North West's success: "The police have rolled with it and given them the leeway", said one interviewee. Instances were cited where it was said that police officers working in the community had directly or indirectly referred cases to the schemes.

- 4.30 There is still a good deal of hostility to the police on the ground in these estates, and there are times of the day and of the week when the police would still need to respond in force to any call-out, but excellent liaison work is being done and much of the time they are now able to attend calls in ordinary cars. Sinn Fein's agreement to join the Policing Board is beginning to make it easier for Republicans to liaise with the police and other agencies, but public opinion on the estates is still a constraint on many people.

The police invited CRJI to help them to stage the reconstruction of a recent murder in Shantallow by keeping sightseers away from the scene. They report that the cooperation from CRJI was excellent and the operation was a success.

CRJI also helped to terminate the attacks that regularly used to take place at polling stations in the areas covered by the schemes. Police liaised indirectly with CRJI to aid this process.

- 4.31 CRJI North West has entered into partnership with REACT, a Loyalist community development organisation based in the Waterside, and provides training in restorative justice to REACT volunteers. There is indirect contact with the PSNI often mediated through the Peace and Reconciliation Group. CRJI has had matters referred to it via the PSNI on an informal and unofficial basis. We were told that other 'armed groups' such as the INLA and the Real IRA have referred cases to CRJI but we have not been able to verify this.

- 4.32 Many of the volunteers are involved in some other capacity with community groups and statutory bodies, for example TRIAX. TRIAX is a new pilot Neighbourhood Renewal Taskforce established by the North West Development Office of DSD in June 2002 and sees CRJI as an important constituent element in its work with communities.

## **C Equality and human rights**

- 4.33 It is essential that any organisation involved in the administration of justice, restorative or otherwise, should be clearly independent of political control. The schemes are committed to providing equal help to anyone who applies to them from the estates. Their constitutions are explicit that the schemes shall be non-sectarian and not politically aligned. Their clients are from a wide cross section of ages, genders and political allegiance. The evidence is that in practice the schemes do not nowadays discriminate in favour of clients with Republican links.

A priest commented: “An ex-blanketman and his son were involved in a fight outside a pub. There was a lot of community reaction and a big meeting with 1,000 people present. CRJI handled it extremely well and started by pointing out that they would not favour the ex-blanketman because of his past”.

- 4.34 Despite this, the schemes still tend to be seen as politically aligned, and the distinction between what is done by CRJI and what is done by individuals and groups known to be associated with CRJI is sometimes lost. CRJI needs to be careful to guard its ‘brand’ and not allow its name to be used in a political context. For the future it would be helpful in gaining wider acceptance for the schemes if the management committees and the volunteer base could be made more inclusive (while recognising that they already include non-Republicans).
- 4.35 Some volunteers received training in human rights and equality a few years ago, but there is a need to make sure that all volunteers are properly trained and up to date. There has not as yet been any delivery of training in Race and Diversity. Highlighting training needs is done informally based on observations and experiences of volunteers. We were told by volunteers and committee members that quality assurance of volunteers work and their compliance with Human Rights is done through peer assessment and feedback, though on an informal basis. None of this is documented in any

way. There is a need for more structure and quality assurance.

## **D Learning**

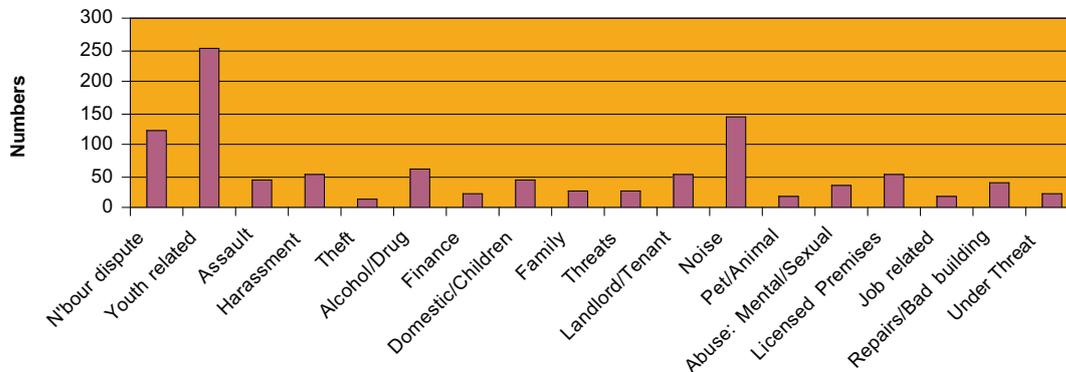
- 4.36 There has been a considerable investment in training, largely funded by Atlantic Philanthropies. All CRJI North West volunteers have received the basic level of mediation training through PRG. This training is accredited through the Open College Network. Some volunteers have gone on to take further mediation skills training and facilitator training. Inspectors were given course outlines including aims and objectives for each of these courses.
- 4.37 Each volunteer has also received basic child protection training and 16 volunteers are POCVA-cleared. Volunteers have received training on domestic violence in the past through Foyle Women’s Aid. There is a need, as noted above, for training to be updated regularly and for the work of the schemes to be regularly quality assured.

## **E Results**

- 4.38 The table on page 30 shows the analysis of the caseload of CRJI North West presented in CRJI’s Annual Report for 2005-06.
- 4.39 The CRJI North West schemes perform a number of different functions, and it is beyond the scope of this inspection to evaluate the outcomes from their work in any quantitative way. There is substantial evidence that the work is valued not only by residents on the estates but by business and community leaders



## Breakdown of CRJI North West's Caseload 2005-06



and even by the statutory agencies, including the police. But the records do not provide a sufficient trail to establish in quantitative terms the outcomes of cases of different kinds and therefore to measure what CRJI North West has achieved.

4.40 For the future, the schemes will focus on mediation and restorative justice work. Only some of that will be criminal justice-related: probably the majority will continue to concern neighbour disputes and low-level anti-social behaviour on the estates. Official agencies may wish to support this work as a whole, rather than focussing on the criminal justice element of it. It all contributes to the well-being of the local community, providing support and redress for residents of all sorts, not just for the victims of actual crime. The Community Safety Partnership and the Housing Executive might be among the agencies which would have an interest.

4.41 Whichever agencies the schemes wish to approach for funding it will be necessary for them to keep clear and explicit records of the cases they are handling. In relation to criminal

or potentially criminal cases they would need to detail the name and age of the offender, the nature of the alleged offence, whether the offender admitted to it, the nature of the action taken (including reference to the police if the incident amounts to a criminal offence), action taken with the victim, the outcome in terms of reconciliation or restitution, and a check six and twelve months later to see whether there has been any recurrence. Only with this sort of evidence would it be possible to establish the value of the work to the standards required by public accountability.

4.42 At present the work is almost entirely voluntary, costs very little<sup>32</sup> and is highly valued. CRJI volunteers are often active in other voluntary and community associations, so their influence spreads widely through the community and it is often difficult to say whether something has been done by CRJI or just by someone who happens also to volunteer for CRJI in their spare time. The training which CRJI has sponsored, and for which it has obtained funding, has also benefited other organisations.

<sup>32</sup> Because CRJI has been barred from obtaining funding from government sources its own income and expenditure has been small, but related organisations have received official funding for youth work and community safety purposes.

## Conclusions and Recommendation

### Overview

- 5.1 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.
- 5.2 On the basis of their fieldwork Inspectors are inclined to the first of the two views described by the Independent Monitoring Commission<sup>33</sup>. 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.
- 5.3 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.
- 5.4 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'<sup>34</sup>, 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.
- 5.5 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

33 Paragraph 1.5 page 4.

34 Paragraph 1.10 page 5.



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 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 procedure<sup>35</sup> if complainants are still not satisfied.

- 5.6 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.
- 5.7 We have recommended<sup>36</sup> 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*

- 5.8 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.
- 5.9 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.
- 5.10 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.
- 5.11 The funding position is precarious, especially for Falls and Upper Springfield, and there is urgency about finding money to keep these offices open.

<sup>35</sup> It is proposed that the PBNi will provide the external complaints mechanism.

<sup>36</sup> Paragraph 2.17 page 10.

## *The North West schemes*

5.12 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.

5.13 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.

5.14 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.

5.15 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*

5.16 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.



Section



# Appendices



# Appendix 1

## Northern Ireland Affairs Committee<sup>2</sup>

### November 2006

#### Community Restorative Justice

*Memorandum by the Chief Inspector of Criminal Justice, Kit Chivers*

The office of Chief Inspector was established in 2003 under the Justice (Northern Ireland) Act 2002. It is not part of the Crown and its Inspectors are not civil servants. The Inspectorate does not have a statutory duty to inspect Community Restorative Justice schemes, but under s.47(4) the Secretary of State may require me to carry out a review of any matter relating to the criminal justice system in Northern Ireland. Such a request would be the basis upon which CJI would inspect.

The policy as to whether community based restorative justice schemes should be licensed or supported by the State is not a matter for the Inspectorate. There is widespread support for the principles of restorative justice, which are now being applied in the field of youth justice in Northern Ireland with considerable success. However, there are difficult judgments to be made about the terms upon which such functions can properly be devolved to community based organisations. In August Ministers published a second draft Protocol (as it is now called) setting out what they saw as the basis for establishing a proper relationship between the Schemes and the statutory agencies of the criminal justice system.

It is not for the Inspectorate to second-guess the judgment of Ministers on the policy. Where Inspectors can contribute is by establishing a framework for ensuring that whatever arrangements may be agreed are observed in practice. CJI set out some proposals in its response to the Government's first round of consultation, suggesting the sorts of subjects we would want to inspect and the possible modalities of doing so. So far we have had a few conversations with representatives of the Schemes but until we have some first-hand experience of the work of the Schemes I would be cautious about going too far in firming up those proposals. I therefore welcome the proposal in the draft Protocol that there should be pilot inspections before the arrangements are finally implemented.

The Criminal Justice Review was conscious of the need to strike a balance between the risks and the opportunities of this initiative, and it emphasised the conditions that would need to be satisfied if it were to proceed. I agree with the Review that robust, independent inspection will be crucial in controlling the risks and thereby making it possible for the potential benefits to be realised.



## Appendix 2

# Community Charter

Accepting that recognition and acceptance of the collective, and individual, rights and associated responsibilities of all the members of our community is the foundation of freedom, justice and peace for all of us and acknowledging the need to consistently promote and advance a supportive social and physical environment as essential to the development of the potential of all in our neighbourhood we, the residents of [this area] commit ourselves to the promotion of a new spirit and infrastructure designed to build a better community.

In keeping with this commitment we agree to work collectively, jointly and separately as appropriate to ensure and reaffirm the dignity and worth of all who live here regardless of gender, race, religion, language, disability, sexuality or age and to strive to the best of our abilities to promote social justice, supportive relationships and an associated physical environment for all who live in our community. This dignity and human worth is enshrined in a combination of rights and linked responsibilities.

### **We affirm that everyone in our community has the right to:**

- Be free from torture, inhuman or degrading treatment;
- Fair trial;
- Shelter, warmth and basic living necessities;
- Freedom from externalised fear and anxiety;
- Privacy;
- Own property alone or in association with others;
- Free Association;
- Information and Freedom of opinion and expression;
- Choice of sexuality;
- Education and Learning opportunities and resources;
- Appropriate care and support;
- Open expression or celebration of their religious, cultural or political affiliation;
- Political participation;
- Equal protection under the law;
- Equality of access to public service;
- Work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment;
- Rest and leisure and to share in the cultural and artistic life of the community.



**We also hold that we each have a responsibility to** ensure that we do not create, or enhance, any condition, relationship or situation which may prevent our neighbours from exercising or enjoying their rights outlined.

Given that a major factor in the negation of the rights of our residents is crime and the fear of crime, we believe our community must address this issue, its causes and its consequences, with humanity, consistency and as a matter of urgency. Ensuring that our model of justice includes both restorative elements and proportionate treatment, recognising that we must distinguish between the various criminal, deviant and anti-social behaviours and differentiating between crime against the person, against property and that which can be generally classified as nuisance, we commit ourselves to confronting crime and its effects on our community.

Each signatory to this Charter pledges to respect the rights of his/her neighbours in the community and appropriately to exercise her/his own responsibilities.

In keeping with this pledge we reject violence as a tool for resolving disagreement between individuals or families and as an alternative we will initiate and/or will co-operate in any agreed community systems or processes involving information or formal mediation to resolve disputes or respond to crime, and to criminal or anti-social behaviour within our community.

Should such extensive processes of mediation prove not to be effective in resolving a dispute due to the unwillingness or refusal of any of the parties to the dispute to co-operate or meet their responsibilities we will further commit ourselves to participating in any non-violent activity collectively agreed in open discussion within the community. Such activity should be designed to ensure that those who refuse to comply with their responsibilities are subjected to the collective disapproval of the community expressed if necessary through boycott or any other non-violent process as may be necessary to protect the rights of individuals or groups in our area.







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