Restorative Justice in Cases of Domestic Violence

Author: Kelsey Allen
Project Advisor: Beth Easterling, PhD
Mary Baldwin University, Staunton VA

Introduction
Currently, the two main models used in domestic violence cases are the legal model and the mediation model. The legal model fails to address the victim as an active participant in their own life, and does not address the underlying causes of domestic violence. Similarly, the mediation model negates the status of the victim, and will often force them to remain silent.

Objective
For this critical literature review, the research was focused on the question: Can restorative justice empower the victim as well as provide justice in cases of domestic violence? Domestic violence includes rape, sexual assault, robbery, and aggravated and simple assault committed by intimate partners. Justice is defined as some form of restitution or formal punishment. Empowerment is defined as facilitating ones own self determination.

Methods
This review analyzed how current models impact the victims of domestic violence. Next is an analysis of the current use of restorative justice in the United States. Then there is an examination of restorative justice in Canada and the United Kingdom. Using these, this review explains how restorative justice can be used in domestic violence cases in the United States.

Current Models
Legal Model
- Punishment through the penal system, usually through mandatory arrest policies and jail sentences
- Prosecutors may make it difficult to drop charges
- Even when prosecution is successful, victims may not feel that their voice has been heard

Mediation Model
- Victim and offender engage in dialogue
- Treats the victim and offender as equals
- Victims may be forced to offer apologies and compromises to avoid future violence

Neither models address issues that perpetuate abuse such as poverty, unemployment, and discrimination

Restorative Justice
- Focus on forgiveness and understanding, rather than revenge and punishment
- Needs of the victim come before the offender’s act of law breaking
- Victim plays an active role, focus is on being heard and beginning the process of healing
- Restitution formally holds the offender accountable

Around the World
- Canada: one study found that abuse declined by half as a result of victim-offender counseling
- United Kingdom: an analysis of domestic violence cases concluded that restorative justice has the capacity to empower the victims, and provide solutions for the future

Where to Begin?
- Police are usually the first contact with the criminal justice system for both victims and offenders
- Changes in policy must also be accompanied by an internal philosophy shift to support restorative justice
- Police partnerships with victim advocates to determine the possibility of restorative justice as soon as possible

Conclusions
The goals of restorative justice and the needs of domestic violence victims are the same, making restorative justice the perfect response to these crimes. Restorative justice is already being used in other countries, making it feasible that such a model can be brought to the United States successfully. Current ideological shifts may promote the use of restorative justice in this way, making now the ideal time to push for new changes, while restorative justice doctrine is still being developed.
References


