

# Restorative Justice

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## Glossary

### **Absolute Discharge**

A young person is given an Absolute Discharge when they admit guilt or are found guilty, but no further action is taken against them.

### **Crime and Disorder Reduction Partnership (CDRP)**

A statutory partnership in each local government area that audits crime, disorder and substance misuse in its area, and consults with the local community to establish priorities for action.

### **Conditional Discharge**

Sentencing option whereby the young person receives no punishment as long as they are convicted of no further offence within a fixed period of between six months and three years.

### **Drug Action Team (DAT)**

Also known as the Drug and Alcohol Action Team, a DAT is a multi-agency partnership in each local authority area. Membership includes local authority, police, probation, youth offending team and drug treatment providers working on drug use prevention and management.

### **Face-to-face restorative justice**

A meeting involving victims, offenders and their respective families, friends and key supporters, with the aim of deciding how to deal with the aftermath of the crime.

### **Family or community group conferencing**

Face-to-face restorative justice that may include 'private time' during the meeting to allow the offenders and their extended families to plan how the offence and its consequences will be addressed, and how the offender's rehabilitation will be supported in the future.

### **Final Warning**

A formal verbal warning administered by a police officer to a young person who admits guilt to a first or second offence. Unlike a Reprimand, however, the young person is also assessed to determine the causes of their offending behaviour and a programme of activities is identified to address them. It triggers an automatic referral to a youth offending team, following which any further offences by that person must be dealt with by prosecution in court.

### **Fine**

Sentencing option whereby a young person is required to pay a financial penalty, with the seriousness of the offence related to the amount of the fine. For a person under 16 years of age, the payment of the fine is the responsibility of their parents/carers and their financial circumstances will be taken into account when the level of the fine is set.

### **Indirect mediation**

Any process of communication between victims and offenders that does not involve face-to-face dialogue but is structured and communicated by a trained mediator, whether in writing or by oral summaries. Also known as shuttle mediation.

### **Indirect restorative justice**

Enables people directly affected by an offence, including offenders and victims, to communicate in a structured way without meeting face-to-face, with the help of a trained facilitator for the purpose of deciding how to deal with the offence and its consequences.

### **Intensive Supervision and Surveillance Programme (ISSP)**

ISSP is the most rigorous non-custodial intervention available for young offenders. It combines unprecedented levels of community-based surveillance with a comprehensive and sustained focus on tackling the factors that contribute to the young person's offending behaviour. ISSP targets the most active repeat young offenders, and those who commit the most serious crimes.

### **Mediation**

Any process of communication between victims and offenders that is structured and communicated by a trained mediator.

### **Pre-sentence report (PSR)**

A pre-sentence report on the offender, prepared by probation officers and youth offending team workers assists magistrates and judges in making sentencing decisions.

### **Referral Order**

Sentencing option for many young people pleading guilty to a first offence, who are then referred to a youth offender panel.

### **Reparation**

The act of making amends or giving satisfaction for a wrong committed.

### **Reparation Order**

Sentencing option designed to help young offenders understand the consequences of their offending and take responsibility for it. It requires the young person to repair the harm caused by the offence either directly to the victim or indirectly to the community, but specifically excludes financial restitution.

### **Reprimand**

A formal verbal warning given by a police officer to a young person who admits guilt to a minor first offence.

### **Restorative justice**

'Restorative justice is a process whereby parties with a stake in a specific offence resolve collectively how to deal with the aftermath of the offence and its implications for the future' (Marshall, 1999: 5).

### **Restorative practice**

Approaches to justice, criminal sanctions and rehabilitation that attempt to incorporate either offender awareness of the harm they have caused, or offender efforts to pay back the community for that harm, without necessarily engaging in restorative justice or in any way repairing harm done to their own victims.

### **Victim-offender mediation**

A process in which a trained mediator negotiates between the victim and offender and arrives at an outcome designed to repair the harm caused by the offence. This may involve a face-to-face meeting or, more usually, separate meetings by the mediator with each party. Also known as shuttle mediation.

## **Victims**

Persons who have been personally affected by a specific crime, either directly as victims in law (personal victims), or indirectly as persons affected by the direct victimisation of another person or entity. The latter may include organisations, communities, families, ethnic groups or other sources of emotional attachments.

**Youth Offender Panel (YOP)**

A panel which consists of a youth offending team officer and two volunteers from the local community who meet with a young person receiving a Referral Order, together with their parents/carers and sometimes the victim, in order to agree to a contract that addresses the behaviour and the harm it caused without necessarily engaging in restorative justice with the victim.

## Background

This review was commissioned to serve as a background source document to accompany guidance produced by the Youth Justice Board for England and Wales (YJB), identifying key elements of effective practice in interventions in the youth justice context. It has not been written primarily for an academic or research audience, but for managers and practitioners working in the youth justice field who are directly involved in providing, or brokering access to, services for young people who offend and their families. The review offers an accessible guide to the current state of the evidence base on effective interventions and services, helping youth justice practitioners and managers to be aware of and deliver more rigorously evidence-based services.

The review document is divided into sections structured around a number of key themes or headings relevant to practice in youth justice services. The source document is structured to mirror the *Key Elements of Effective Practice* to facilitate cross-referencing between the two documents, and to ensure it is a useful document for the intended audience who may wish to explore the areas covered in the *Key Elements of Effective Practice* summary in more depth. These nine common sections therefore reflect what are considered to be core areas of consideration for practice and management within youth justice, and as such this structure is largely consistent across all 10 documents in this series of publications. The following *Key Elements of Effective Practice* titles and corresponding source documents are available from the YJB website ([www.yjb.gov.uk](http://www.yjb.gov.uk)):

- *Accommodation*
- *Assessment, Planning Interventions and Supervision*
- *Education, Training and Employment*
- *Engaging Young People who Offend*
- *Mental Health*
- *Offending Behaviour Programmes*
- *Parenting*
- *Restorative Justice*
- *Substance Misuse*
- *Young People who Sexually Abuse.*

# Introduction

## **Structure of the document**

This introduction provides an overview of restorative justice. The following chapter entitled ‘General findings’, summarises the available evidence about restorative justice and victims, and serves as a reference for the succeeding sections. This is followed by conclusions.

The purpose of this source document is to describe the elements of effective service in the delivery of restorative justice and its benefits to victims of youth crime. This does *not* include what is defined in the glossary as ‘restorative practice’, except those practices which satisfy the Government’s definition of restorative justice:

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

(Marshall, 1999:5)

The research for this report has uncovered substantial variety and misunderstanding in terminology used about restorative *practices*, many of which are mistaken for restorative *justice*. Central to that misunderstanding is the role of the victim, who must be given a direct part in deciding how to deal with the aftermath of the offence in order for restorative *justice* to occur. Even youth justice practices in which victims meet face-to-face with their offenders (Zernova, 2007) would not constitute restorative justice if the victim cannot participate in a collective process of resolution. The distinction between restorative justice and other restorative practices (of which restorative justice is a sub-category) is a central message of this report, one which may encourage far wider use of restorative justice than is presently the case in youth justice for England and Wales.

The research evidence shows that restorative conferencing and other practices involving victims are important elements in youth justice interventions. Such practices can contribute to reducing young people’s offending and to repairing the harm that crime causes to victims. When combined with evidence on other interventions shown to be effective in reducing repeat offending, such as cognitive behavioural therapy (CBT), the potential for restorative justice to reduce crime may be even greater. Evidence on the conditions under which restorative justice services may fail or become counter-productive is an equally important part of the review, and is all part of the evidence base that can be applied in conjunction with the *Key Elements of Effective Practice* title *Restorative Justice*.

## **Audience for this report**

This report is written for the youth justice practitioners and managers who make daily decisions about young people who offend across England and Wales. These practitioners may be youth offending team (YOT) staff, including seconded police officers, staff of secure establishments, and community volunteers working on youth offender panels (YOPs). The report is not written at a strategic level for a policy-making audience, such as the authors’ recent report for the Smith Institute (Sherman and Strang,

2007). Nor is it written in great technical detail for scholars and scientists. Instead, it is intended to provide a transparent synthesis of the best evidence available on a wide range of operational questions that arise on the ground in delivering restorative justice in youth justice. While this evidence varies widely in its strength, the overall body of evidence has grown substantially in recent years.

### **Key concepts**

The following key concepts are referred to throughout this report.

#### **Restorative justice**

Restorative justice is defined above as:

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

(Marshall, 1999:5)

This process is widely understood to be consensual among all parties participating, especially the offenders, who accept responsibility for causing harm. Under this definition, offenders must agree to the terms and conditions of trying to 'restore' their own victims to their pre-crime status. This definition would exclude restorative *practices* in England and Wales whereby victims and their supporters attend meetings only to describe the effects of the offence and then are required to leave. It would also exclude practices in which YOT workers prepare the outcome agreement before the meeting takes place.

#### **Restorative practices**

Approaches to justice, criminal sanctions and rehabilitation that attempt to incorporate either offender awareness of the harm they have caused, or offender efforts to pay back the community for that harm, without necessarily engaging in restorative justice or in any way repairing harm done to their own victims. Where a personal victim has been harmed but does not participate in the restorative practice, it would not constitute restorative justice. Where no personal victim exists, however (as in vandalism at a community centre), the participation of a community representative in a collective resolution involving the offender as well would qualify that restorative practice as *restorative justice*.

#### **Victims**

People affected or harmed by a crime. They may be:

- **personal** victims – individuals personally affected by an offence
- **collective** or institutional victims – corporate entities such as department stores affected by shoplifting, transport authorities affected by vandalism or educational authorities affected by graffiti or arson
- **indirect** victims of a crime against a personal victim whose injury has affected those who are emotionally connected to the personal victim.

Surrogate victims, however, are not included in the definition of victims for this report, since they differ from either personal or collective/corporate victims in not having

experienced harm themselves by the specific offender. Rather, they are asked to represent a general victim’s perspective, whether personal or collective.

Restorative justice and victims were central issues in the 1998 reform of the youth justice system in England and Wales. The current review is central to the implementation of statutory and policy requirements stemming from that reform. The Victims Code of Practice has stipulated statutory requirements on the YOT services for victims, including a general requirement that YOTs take victims’ needs into account. This code highlights the arguably equal priority YOTs are obliged to give to work with the victims of youth people who offend, and with young people who offend themselves. Home Office/YJB statutory guidance for Referral Orders requires youth offender panels (YOPs) to operate on restorative *justice* principles.

### **Varieties of restorative justice**

As research commissioned by the YJB has shown (Wilcox with Hoyle, 2004), there are many varieties of restorative justice. These include family group conferences, victimless conferences, victim-offender mediation, and direct reparation to victims. This variety poses a challenge to the analysis of evidence on restorative justice using a standard definition of a systematic review.

One way to describe the subject of this report is to illustrate it with an excerpt from the *National Evaluation of the Youth Justice Board’s Restorative Justice Projects* (Wilcox with Hoyle, 2004:16):

**Table 1: Types and degrees of restorative justice practices (adapted from McCold and Wachtel 2000)**

<b>Fully restorative</b>	<b>Mostly restorative</b>	<b>Partly restorative</b>
Family group conference	Victim-offender mediation	Compensation
Community conferencing	Victim support circles	Victim services
Peace circles	Victimless conferences	Offender family services
Restorative conferences	Therapeutic communities	Family centred social work
	Direct reparation to victim	Compensation
		Offender family services
		Victim awareness
		Community reparation

Source: Wilcox with Hoyle, 2004:16.

The implementation of the Government’s mandates on restorative justice and related matters has yielded a wide range of practices in youth justice across England and Wales. There are four major areas of these practices.

### **Referral Orders**

These are a prime focus of YOTs’ statutory obligations in relation to restorative justice. Assessment of cases for restorative justice and recruitment of offenders and victims into decisions whether to participate in restorative justice are central aspects of evidence-based best practice. Up to 6,000 of these cases in the most recent financial year involved face-to-face meetings between victims and offenders, all of which relate to the largest body of evidence available in the literature to help guide YOT practice. Whether the meetings actually produced restorative justice, as distinct from a restorative practice, cannot be determined from the available evidence.

### **Indirect mediation**

Because many victims are interested in communicating with their offenders, but reluctant to meet with them face-to-face, indirect communication between victims and offenders in writing or through third parties continues to play a large role in YOT restorative justice practice. However, it is unfortunate that virtually no reliable research exists on how best to implement these procedures in ways that can demonstrate success in repair of harm to victims or reductions in repeat offending.

### **Reparation**

When courts or YOPs require offenders to undertake reparations to the community, they provide one of the most broadly applicable forms of repair of harm. Because no personal victim participation is required for offenders to undertake reparation to a community, it may be the most feasible option for a meaningful non-custodial sentence. Exclusion of personal victims from deliberation would also, however, mean that it does not constitute restorative justice at all. Again, however, the evidence on the successful implementation or effectiveness of Reparation Orders is virtually non-existent.

### **YOT work with victims**

The youth justice system has responsibilities to victims of youth crime beyond the specific issue of their involvement with restorative justice. For example, there is a statutory requirement to notify victims of violent crime that their offenders are leaving custody after a sentence of twelve months or more, which YOTs or probation offices may fulfil if victims request such notification (HMIP, 2003). The Code of Practice for Victims of Crime applies to YOTs in the same way that it does to other criminal justice agencies. The code governs the services to be provided to victims in England and Wales and was issued by the Home Secretary under Section 32 of the Domestic Violence, Crime and Victims Act of 2004. Broadly speaking, YOTs are required to take account of victim needs, including making information available to them about the progress of their case. In addition they can refer victims to the specific services offered by Victim Support.

However, most of the YOTs' specific statutory obligations concerning victims relate to restorative justice. The code states that when victims' details are received from the police, the YOT must decide whether restorative justice would be appropriate. Then, if it decides to offer restorative justice, it is necessary to explain the process in such a way that victims can make informed choices about participation. Their involvement must always be voluntary and they must never be asked to do anything that is primarily for the offender's benefit. Victims may choose, for example, to meet with an offender during a YOP meeting, or may ask to arrange a separate meeting with the offender at which the panel is not present.

Our intention is to address all of the above areas of practice that fall within the Government's definition of restorative justice, but not those which fall outside that definition. Thus Reparation Orders, which have not been based on any consultation with the parties with a stake in the offence, would fall outside the restorative justice definition used here.

### ***Goals for restorative justice and victims***

All these practices are intended to achieve a variety of goals. These goals may be associated with three dimensions of restorative justice:

- processes for undertaking restorative justice work
- restorative agreements reached in such processes about what youth offenders are to do in the aftermath of the crime (including satisfactory completion of these agreements)
- key outcomes for reduced recidivism and repairing harm to victims or communities.

### **Processes**

These lie at the heart of the YJB mandate in restorative justice. As the previous source document on these issues observes, the YJB had originally ‘set a target for [restorative procedures] to be used in 60% of YOT interventions by the end of the year 2002/2003 and in 80% of YOT intervention programmes by the end of 2003/2004.’ Early research on YOT practice observed that these targets had not been met consistently (see for example, Newburn et al, 2002; Crawford and Newburn, 2003), although more recent data are more encouraging. In 2005-6, YOT quarterly returns showed that YOTs had offered almost 40,000 victims the opportunity to take part in restorative justice processes, or 87% of the more than 46,000 victims who were identified in YOT cases. Of those 40,000 victims, over 19,000 (48%) accepted the opportunity. Of those, over 6,000 participated in a face-to-face process (31%), while over 13,000 (69%) participated in an indirect restorative justice practice. Thus, it is important for this review to address ‘what works’ in accomplishing these or other levels of participation, to assess the effectiveness of participation in reducing recidivism and helping victims, and even to make informed choices about whether fewer restorative *processes* would result in more victim and community benefits from restorative *justice*. Thus a key issue in this review is whether much greater investment of YOT resources should be made in a much smaller number of much more serious cases with personal victims only, in order to apply the available research about the greatest benefits of restorative justice.

### **Agreements**

Agreements reached by negotiation or by sentencing are of great interest to all concerned with a crime. Evidence on how often various agreements are likely to be reached, and under what conditions, may be useful to practitioners who are aware of preferences from victims or others for specific agreements to be reached.

### **Outcomes**

Outcomes for victim benefits, reduced recidivism, and offender and victim attitudes are the most common criteria for evaluating what works. Evidence about what difference restorative justice can make in these outcomes, and with what kinds of cases, may provide a useful guide to practitioners in setting priorities and allocating scarce resources.

Effective practice in restorative justice can be defined within the context of each of these three categories, based on empirical evidence about whether the goals in each category have been accomplished. The current status and availability of such evidence, however, is uneven across the various goals and practices. For each operational practice associated with each of the three dimensions (processes, agreements and outcomes), the available evidence may be classified on the basis of its certainty and its content.

## **Certainty**

In all of the available evidence, a crucial three-level distinction is found between evidence supporting a *moderate* degree of conclusiveness, evidence at a *threshold* of likelihood, and *no evidence* at all.

## **Content**

The available evidence may also sustain a conclusion about the direction of the effects of a practice – whether it is working or not. With evidence available at the moderate level of conclusiveness, the report can offer provisional conclusions about ‘what works’ and ‘what doesn’t work’. With less conclusive evidence at the threshold of certainty, the report can offer conclusions about ‘what’s promising’ and ‘what’s not promising’. With no evidence, there is a fifth category of ‘what’s unknown’, with no evidence at all on the likely direction of the effect of an operational practice on a goal.

These distinctions are based in part on the five-level scale of the reliability of evidence developed by the Home Office and YJB. Using this scale with appropriate modifications of the Maryland Scale of Scientific Methods (SMS, or Scientific Methods Scale) standards of evidence used in Sherman et al (1997), the report creates an ‘evidence map’ of the general findings in the ‘General findings’ chapter. The following eight chapters then apply these conclusions to the specific operational issues the YJB has raised for all source documents to answer as the basis for the *Key Elements of Effective Practice*.

## **Context**

This report was prepared in the context of continuing concern about resources and strategies for meeting statutory requirements in relation to restorative justice and victims, and in the context of increased emphasis on using better evidence to help achieve goals for government public services.

The *Joint Inspection of Youth Offending Teams Annual Report 2006/2007* describes its findings on YOT work with victims in restorative justice. It observes that, while contact with victims is most visible in Final Warnings and Referral Orders, YJB standards require attention to victims in most other orders as well. It reports that in its sample of Final Warning cases, of the 75% of cases where victim details were notified to the YOT by the police, half were invited to become involved in the process. Of these victims, 17% took part in some way – either directly, indirectly or through community reparation – and 75% were satisfied with their experience. In its sample of YOP cases 16% of victims were invited to attend the panel meeting and 8% actually attended. The report is generally positive about YOTs’ treatment of victims, though it observes that there were problems in relation to police notifying YOTs of victim details. It also found that case supervisors were often not aware of other people or services that were working with victims, and tended to be insufficiently aware of victims’ needs.

These issues can be addressed in the same way that other problems in public services delivery can be, with the increasing emphasis on evidence-based practices (i.e. evidence derived from a systematic review or reviews of evaluations). These methods for assessing evidence are now employed in a wide range of service professions, from medicine to primary school education. In all of those fields, ‘effective practice’ has long been determined based on theory, anecdote, and often untestable claims about what works, which are based only on subjective experience. The growth of rigorous evaluation research now provides some alternative basis for identifying best practice.

Central to an evidence-based definition of 'best practice' is the premise that knowledge may be constantly changing. A single study of any question is rarely sufficient to resolve a question of best practice. Increasing numbers of practices have been subjected to multiple studies, raising questions about how to integrate what may be conflicting findings. In recent years, the concept of a 'systematic review' has become the leading method for synthesising multiple studies. Appendices A and B explain that concept and shows how it is applied to both the methods and content of this report.

## General findings

This chapter summarises the general findings about the evidence on restorative justice and victims. It begins with a brief review of what is known about the major theories of why such practices should work, including what elements might be crucial in making them work. It then summarises the evidence base from which the general findings are drawn, which includes both moderately conclusive and merely suggestive evidence from the review. The general findings then follow in summary format, in order to serve as a reference for discussions in the following chapters.

### **Major theories about restoration and victims**

Across a wide range of programmes and activities, three kinds of predictions are made about the outcomes of restorative justice work in youth justice. One is that restorative justice provides *benefits to victims of crime*. Another is that *individual offenders will commit fewer new crimes* if they undertake restorative justice, mediation or reparations for their victims or communities. A third is that *institutions and communities will suffer less crime* if they employ restorative justice in their daily social regulation, including schools, secure establishments, policing areas and YOT areas. Several different theories about why and how each of those predictions are said to be likely are presented here and are used when assessing the evidence in relation to those theories.

#### **Repairing harm to victims: leading theories**

Diverse theories claim that restorative justice is likely to repair harm to victims. At a material level, the *legal* concept of reparation claims, by definition, that a remedy for harm must attempt to see that the victim of the harm is ‘made whole’. While for many kinds of crime it will never be possible to restore a victim to the state that existed prior to the harm, the legal theory of compensation often seeks to calculate a material or financial basis for making a victim (or survivors) whole. This theory works empirically, by definition, to the extent that money (or its equivalent) is actually paid to the harmed parties. In this theory, an offender’s apology is not central or even relevant.

The *apology* theory of forgiveness, in contrast, makes what Tavuchis (1991:6) calls the ‘almost miraculous qualities of a satisfying apology’ a central condition of repairing victim harm. As Newberg et al (2000) restate Arendt’s (1958) hypothesis about vengeance, an apology makes it possible for a victim to forgive an offender by releasing them from a desire for punishment and revenge. Newberg et al (2000) suggest that this process neurologically changes the cognitive structure of the brain by raising the status of the victim above that of the offender, which fosters greater uptake of serotonin in the brain. That, in turn, reduces the fear and anger associated with any injury, and should be measurable in scales of post-traumatic stress symptoms. These symptoms constitute risk factors for heart disease (Kubzansky et al, 2007), suggesting that there is a clear biological component to the post-traumatic stress symptoms (PTSS) that crime victims suffer, and to restorative justice conferences if they are shown to reduce PTSS.

#### **Reducing repeat offending: leading theories**

The many theories about why restorative justice is likely to reduce recidivism vary from scientific to colloquial. Perhaps the leading theory is *reintegrative shaming*

(Braithwaite, 1989), which proposes that apology and atonement offers a path to affirming an offender's identity as a full member of a community of law-abiding people. The claim is that if restorative justice focuses on shaming the act rather than the actor, and allows the actor to make full amends, the identity of the offender will be affirmed as a law-abider rather than as a lawbreaker.

Other advocates of restorative justice posit a kind of *deterrent effect*, on the premise that offenders are more likely to be held accountable for their crimes with restorative justice – and that it is far more painful (or even traumatic) for an offender to listen to a victim's statement of the harm the crime caused than it is to serve time in custody (Woolf, 2008). A related behaviourist theory is that offender *empathy* for a victim's suffering creates an aversive association with the idea of hurting anyone (Strang, 2002). A theory called *procedural justice* (Tyler, 1990) implies that restorative justice can reduce recidivism by treating offenders with greater respect and giving them more opportunity to participate in the deliberations about the nature of the justice that should be reached as a resolution to the deliberation. The *defiance theory* (Sherman, 1993) prediction for restorative justice is that offenders will reduce offending because they see a personal crime victim as having a legitimate stake in deciding the form of justice that an offender should receive, unlike judges or prosecutors who were not directly harmed by the offender.

### **Reducing crime in institutional and community settings: a theory**

The extension of restorative justice into schools, custodial institutions and community policing imply a collective theory of restorative justice. The theory is that in social units using restorative justice rather than retributive responses to crime, there will be less crime in the long run than would otherwise occur, other things being equal. The theory would predict fewer crimes of vengeance, or enhancement of social capital because of the effects of bringing to bear what Braithwaite (1989) calls 'networks of interdependency' when everyone affected by a crime in such settings deliberates and decides what is to be done.

### **Three dimensions of restorative justice**

The evidence in this report is organised around the three major dimensions of restorative justice. One is the extent to which the *processes* for engaging the parties affected by a youth crime succeed in producing a form of restorative justice. A second dimension concerns the scope and implementation of *agreements* reached at the conclusion of some form of restorative justice, including the extent to which an agreement is completed by an offender. The third dimension is the extent to which the *outcomes* of these agreements are as beneficial in repairing harm and preventing future crime as predicted when efforts are undertaken to deliver them, and how the outcomes may vary depending on participant and delivery characteristics. The conclusions about each of these dimensions is presented at one of the three levels of evidence: it 'works', it is 'promising' or its effects are 'unknown'. We also refer, where relevant, to findings about 'what doesn't work' or is 'not promising'. The definitions of these categories are presented in Appendix A and may be summarised here as follows:

- 'What works' – for outcomes, the standard is two or more level 3 evaluation studies with statistical significance tests and the preponderance of all available evidence showing effectiveness. For processes and agreements, the standard is the same except that level 2 studies are acceptable.
- 'What's promising' – for outcomes, the standard is one level 3 evaluation study with a statistical significance test and the preponderance of all available evidence

showing effectiveness. For processes and agreements, the standard is the same except that one level 2 study is acceptable.

- ‘What doesn’t work’ – for outcomes, the standard is two or more level 3 evaluation studies with statistical significance tests and the preponderance of all available evidence not showing effectiveness. For processes and agreements, the standard is the same except that level 2 studies are acceptable.
- ‘What’s not promising’ – for outcomes, the standard is one level 3 evaluation study with a statistical significance test and the preponderance of all available evidence showing no effectiveness. For processes and agreements, the standard is the same except that one level 2 study is acceptable.
- ‘What’s unknown’ – any practice or programme not classified in any of the above categories.

### **Summary of evidence on theories**

In general, this review finds the evidence from field tests on repairing harm to victims to be most consistent with the predictions made from the theories. Theoretical predictions about the effects of restorative justice on reducing repeat offending have been less consistent with the evidence, largely because the evidence on recidivism varies by offence type and location. Evidence on the institutional (e.g. schools and custodial establishments) and community crime rate effects of restorative justice is too thin to reach any conclusions about the underlying theories predicting benefits from applying restorative justice to social systems as distinct from individuals.

### ***The evidence base***

The evidence base for this review can be described in three parts. One is the evidence on effective practice in processes for engaging victims, offenders and others in restorative justice. A second part is the evidence on effective practice in reaching satisfactory agreements about what the offender will (and does) do after a restorative justice process. The third is the evidence on effective practice in achieving the major outcomes of restorative justice.

In all three parts, the evidence on ‘what works’ always depends upon the ancillary question of ‘compared to what?’ There is no guarantee that any method of youth justice will work 100% of the time to accomplish any goal. The nature of the evidence in this report is always a comparison of two probabilities or averages across cases, and not certainties for each individual case. Thus we must discover whether it is more likely that a goal will be achieved by doing one thing than doing another, even if the difference is only between a 50% chance and a 30% chance. The comparisons are stated, however briefly, in each of the summaries or tables of evidence below. The reader is thus well-advised to always consider the conclusion in relation to the comparison, since a different conclusion could always – at least hypothetically – be reached in relation to a different comparison.

#### **1. Evidence on processes**

The authors used the Maryland Scale of Scientific Methods to assess levels of evidence based on the relative power of a research design to rule out competing explanations of causation (see Appendix A). This scale ranks all evidence from the weakest (Level 1) to strongest (Level 5), as defined by the ability of the research design to rule out

competing explanations for an outcome besides the restorative justice practice. A major cut-off occurs at Level 3 and above, where before-after comparisons between two groups are found; no such comparisons are employed at Levels 1 and 2.

There is relatively little evidence on effective practice in processes of implementing restorative justice. There is no Level 5 evidence comparing, for example, different ways of engaging victims or offenders in face-to-face justice processes, or on encouraging victims to participate even indirectly in YOPs. Rigorous evidence on similar processes abroad is similarly lacking, with no controlled comparisons of different ways to foster more engagement. Nor is there much evidence at lower levels of causal inference using matched comparison groups (Levels 3 and 4), or before-after comparisons within groups (Level 2). What little evidence we are able to locate relies on correlations within groups at only one point in time (Level 1), which is a highly uncertain basis for drawing conclusions about cause and effect. At this level of evidence, there are many possible alternative, competing explanations for any observed difference in success rates between two practices.

The most useful research on restorative justice processes is found in descriptive studies funded by the Home Office and the YJB of restorative justice innovations for both youth and adults published since 2000. Each of these studies describes the processes by which pilot or experimental programmes in restorative justice were undertaken. These include:

- Wilcox with Hoyle (2004), describing the implementation of 46 pilot restorative justice projects across England and Wales funded by the YJB in 1999-2002; about half of the almost 7,000 cases in this study concerned crimes of theft (30%) or violence (23%).
- Newburn et al (2002) describing the 11 pilot projects in Referral Orders (Blackburn with Darwen, Cardiff, Nottingham City, Nottinghamshire County, Oxfordshire, Swindon, Suffolk, Wiltshire, Hammersmith and Fulham, Kensington and Chelsea, and Westminster) staggered across the pilot areas over the summer of 2000.
- Shapland et al, (2004, 2006, 2007 and forthcoming), describing the implementation of the eight randomised trials implemented by the Justice Research Consortium, known as JRC (Sherman et al, 2006a and Sherman et al, 2006b, unpublished). These included two youth offender studies, one for youth assault and one for youth property crimes, both with Reprimands and Final Warnings in five Northumbrian YOT areas. Shapland et al (2004, 2006, 2007 and forthcoming) also evaluated two other restorative justice projects implemented by different organisations: CONNECT, which worked with adult offenders in inner London, and REMEDI, which worked with both adults and juvenile offenders in Sheffield. In particular, Shapland et al (2006) compared attrition rates between different projects, offering Level 1 comparisons of organising restorative justice in different ways (albeit with different kinds of caseloads and context).
- Holdaway et al (2001), describing the early implementation of YOTs.
- Relevant evidence on restorative justice from outside England and Wales includes the Campbell et al's (2005) evaluation of the Northern Ireland Youth Conference Service and Strang's (2002) description of processes used in the Reintegrative

Shaming Experiments (RISE) that diverted juveniles from prosecution to restorative justice conferences.

Much of this evidence merely states the characteristics of the cases or the manner in which they were processed, as coded from official documents and interviews. Some of it compares two or more different ways of attempting to engage restorative justice cases. Wherever these comparisons have clear operational implications they are included in the findings reported below.

## **2. Evidence on agreements**

The evidence on compliance with agreements reached in restorative justice is somewhat stronger in nature than the evidence on processes of generating these resolutions. There are still many unanswered questions, such as what kind of agreements may be more effective than others in healing victims or reducing recidivism. Yet there are at least some Level 5 studies showing that restorative justice is more likely than a conventional justice comparison group to result in certain kinds of agreements that are valued for their own sake, such as an apology to the victim. There are also multiple descriptive studies tabulating the kinds of agreements that are reached in restorative processes. This evidence comes primarily from the following sources:

- Two youth court experiments in Canberra, Australia (for violent and property crime) combined with two adult Crown Court experiments in London (for robbery and burglary) in Sherman et al (2005), Strang et al (1999) and Strang (2002).
- The Shapland et al (2006) evaluations of the Justice Research Consortium, CONNECT and REMEDI Home Office-funded restorative justice pilots described above.

## **3. Evidence on outcomes**

When considering what outcomes will define success in restorative justice, both offender and victim perspectives need to be taken into account. Attention is usually given first to the effectiveness of restorative justice in reducing repeat offending and that has been the focus of all the studies listed in Tables 2, 3 and 4, which display the effects of restorative justice in violent crime, in property crime with personal victims and in crimes with no personal victims. However, an equally compelling outcome relates to the effects of restorative justice on victims. While restorative justice could never be recommended where it made repeat offending worse, if it made no difference to repeat offending but provided important benefits for victims it would be a desirable intervention. Thus outcomes relating to victim effects, displayed in Table 5, are arguably of equal importance to the YOTs' mandate.

The evidence on offender outcomes is most clearly divisible into two parts: moderately conclusive and merely suggestive. The evidence for the first category of conclusions comes from over fifteen separate Level 5 or Level 4 trials where the outcome measures are various indicators of repeat offending (described in the tables). The evidence for the merely suggestive findings comes in part from those same studies (if only one Level 5 test has been done, it remains 'what's promising' rather than 'what works'). It also comes from a larger array of Level 1 and 2 studies.

### *Tables of evidence*

The next five tables of evidence in this report summarise the evidence on the outcomes of restorative justice across all of the trials meeting the minimum level required for

outcome evidence (Level 3 or higher). Table 2 summarises the eligible trials of effects of restorative justice on repeat offending (of all offence types), as measured by re-arrest data and reconviction (the latter being the more commonly used measure of reoffending) in samples of youth or young adults originally charged with violent (or mixed samples of mostly violent) offences. In Table 3, the same kind of evidence is summarised for property offenders with personal victims. Table 4 summarises the same kind of evidence for offences without personal victims. The eligible outcome trials of effects of restorative justice on crime victims are summarised in Table 5.

Table 6 summarises the effects of restorative justice on the rate of offences brought to justice or held accountable. By this we mean that an offender verbally accepted moral (if not legal) responsibility for having committed the offence, usually in a way that the victim either heard or was informed of the offender being held to account. This can be contrasted with a justice process lacking any restorative justice procedure, including prosecution, in which charges are very often dropped or dismissed due to insufficient evidence after offenders make ‘no comment’ or continue to plead not guilty. The table suggests that in any specific instant case, restorative justice generally increases the chances of an offender agreeing to being held to account by 100% or better, compared to the chances in similar cases in which restorative justice was not employed.

In all five of these tables, ‘RJ’ denotes restorative justice or similar processes, while ‘CJ’ denotes conventional justice or youth justice without restorative processes.

In all of these five tables, the ‘p’ values in the far right-hand columns refer to the probability that any difference in results between restorative justice and conventional justice was due to chance. If the ‘p’ value is under .05, then there is a 95% or greater chance that the magnitude of the difference between restorative justice and restorative justice in that study was *not* due to chance.

The evidence from all these trials is cited throughout the list of general findings below. While not all of these tests involved offenders solely under 18, all of them involved offenders who were predominantly under 30. There is no evidence in the patterns of these findings to suggest that repeat offending or victim benefits after restorative justice varied according to the age of the offender or age of the victim.

**Table 2: Effects of restorative justice for violent crimes on repeat arrests, charges or convictions for all offence types, for samples with youth or young adults**

(Adapted from Sherman and Strang, 2007)

Place, evidence level	Reference	Population (n = RJ + CJ groups)	Intervention	Comparison	Results on key outcomes
Bethlehem, Pennsylvania Level 5	McCold and Wachtel, 1998	Hispanic (51%) and White violent youth offenders n = 111	Diversion to face-to-face RJ conferences, prior to victim or offender consent	Conventional juvenile prosecution	<b>No difference in re-arrest</b> Similar re-arrest rates for cases assigned to RJ and CJ, but with high rates of offender or victim refusal to participate
Canberra, Australia Level 5 (subgroup analysis)	Sherman et al 2006a	Non-Aboriginal Defendants in violent crimes under 30 years of age n = 97	Diversion to face-to-face RJ conferences, with consent of offender, prior to victim consent	Conventional juvenile prosecution	<b>Less re-arrest</b> RJ group had 84 fewer arrests per 100 offenders per year in two years after intervention than in two years before, relative to CJ group p = .026 <sup>1</sup>
Indianapolis Level 5	McGarrell et al 2000	Youth violent offenders under 15 n = 251	Face-to-face RJ conferences with consent of offender, prior to victim consent	Conventional juvenile diversion to a range of other programmes	<b>Less re-arrest</b> Re-arrest rate at 6 months. RJ = 28% CJ = 34% (p < .05); no effect at 12 months
Northumbria Level 5 (subgroup analysis)	Sherman et al, 2006b	Female youth offenders n = 34	Face-to-face RJ conferences in addition to Final Warnings by police	Conventional Final Warnings by police only	<b>Less re-arrest</b> RJ group had 71 fewer re-arrests per 100 offenders in year after than in year before, relative to CJ group (p = .012) <sup>2</sup>
Northumbria Level 5 (subgroup analysis)	Sherman et al, 2006b	Male youth violence defendants n = 64	Face-to-face RJ conferences in addition to Final Warnings by police	Conventional Final Warnings by police only	<b>No difference in re-arrest</b> One year before versus after comparison of arrest rates
West	Miers et al,	Young adult	Pre-sentence	Offenders' own	<b>Less</b>

<sup>1</sup> P value from Cohen's d calculated for the before-after differences between RJ and CJ cases.

<sup>2</sup> Ibid.

Yorkshire Level 4	2001	violence and property offenders. 58% given custodial sentences n = 153	mostly indirect, some direct mediation, requiring victim participation but rarely face-to-face; not reported to sentencing court	predicted recidivism rate, based on external model (OGRS2 score)	<b>reconviction than predicted</b> After-only two year reconviction rate for RJ cases = 44% compared to 58% predicted rate ( $p = .01$ ) <sup>3</sup>
West Midlands Level 4	Miers et al, 2001	Young adult violence and property offenders 52% given custodial sentences n = 147	Pre-sentence only, offenders told mediation would be reported to court and could help reduce sentence	Offenders' own predicted recidivism rate, based on external model (OGRS2 score)	<b>Less reconviction than predicted</b> After-only two year reconviction rate for RJ group 44% compared with 57% predicted rate ( $p = .01$ )
Kings County (Brooklyn) New York Level 5	Davis et al, 1981	Young adult and adult defendants in serious crime; family victims = 50% acquaintance victims = 40% violent = 60% property = 40% n = 465	Diversion from prosecution to direct mediation, 56% completed	Prosecution as usual, with 27% conviction rate; 72% dismissed or absconded; 2.5% jail sentences	<b>No difference in calls to police or re-arrest</b> Diversion from prosecution to RJ did no worse than prosecution in 4-month post-disposition rate of calling police: RJ = 12% Prosecution = 13% Arrests of victim or defendant = 4% in both groups

<sup>3</sup> Cohen's d calculated for the before-after differences between the RJ and CJ groups.

**Table 3: Effects of restorative justice for property crime against personal victims on repeat arrests, charges or convictions for all offence types, for samples with youth or young adults**

(adapted from Sherman and Strang, 2007)

Place, evidence level	Reference	Population (n = E + C groups)	Intervention	Comparison	Outcomes
Northumbria Level 5 (subgroup analysis)	Sherman et al, 2006b	Male youth n = 100	Face-to-face RJ conferences in addition to Final Warnings by police	Conventional Final Warnings by police only	<b>Less re-arrest</b> RJ = 56 fewer arrests per 100 offenders in RJ group in year after than in year before, relative to CJ group ( $p < .05$ ) <sup>4</sup>
Canberra Level 5 (subgroup analysis)	Sherman et al, 2006a	White youth arrested for property crimes with personal victims n = 228	Face-to-face RJ conferences	Conventional juvenile prosecution	<b>No difference in re-arrest</b> Arrest rate of CJ and RJ in two years. before versus two years after
Canberra Level 5 (subgroup analysis)	Sherman et al, 2006a	Aboriginal youth arrested for property crimes with personal victims n = 23	Face-to-face RJ conferences	Conventional juvenile prosecution	<b>More re-arrest</b> Comparing two years after to two years before, RJ = 288 <i>more</i> arrests per 100 offenders per year. CJ = 66 <i>fewer</i> arrests per 100 offenders per year ( $p = .049$ ) <sup>5</sup>
Indianapolis Level 5	McGarrell et al, 2000	Youth n = 381	Face-to-face RJ conferences, with consent of offender	Conventional diversion to a range of non-RJ programmes	<b>Less re-arrest</b> At six months, RJ = 15% Repeat offenders CJ = 27% ( $p < .05$ ) No difference by 12 months

<sup>4</sup> Cohen's D calculated on the difference of before-after differences between the RJ and CJ groups.

<sup>5</sup> Ibid.

**Table 4: Effects of restorative justice for crime without personal victims on repeat arrests, charges or convictions for all offence types, for samples with youth or young adults<sup>6</sup>**

(adapted from Sherman and Strang, 2007)

Place, Scientific Methods Scale Level	Reference	Population (n = E + C groups)	Intervention	Comparison	Outcomes
Canberra Level 5	Sherman et al, 2000	Drink-driving offenders caught in random breath tests n = 900	Face-to-face RJ conferences with five family members or supporters; sometimes community representative present	Prosecution in court, 6 months loss of driver's license, name published in newspaper	<b>No difference in re-arrest</b> No RJ-CJ difference in before-after difference of frequency in repeat offending
Canberra Level 5	Sherman et al, 2000	Youth shoplifters n = 143	Face-to-face RJ conferences with five family members or supporters; sometimes store representative present	Conventional juvenile prosecution	<b>No difference in re-arrest</b> No RJ-CJ difference in before-after difference of frequency in repeat offending
Indianapolis Level 5	McGarrell et al, 2000	Youth public order offenders n = 143	Face-to-face RJ conferences	Conventional diversion to a range of non-RJ programmes	<b>Less re-arrest</b> after 12 months; RJ = 28% re-arrest CJ = 45% re-arrest
Bethlehem, Pennsylvania	McCold and Wachtel, 1998	Hispanic (51%) and White youth arrested for property crime mostly without personal victims N = 181	Face-to-face RJ conferences	Conventional juvenile prosecution	<b>Marginally more re-arrest</b> Cases assigned to RJ, including those in which offenders or victims then refused to take part, had marginally higher repeat offending than in CJ (p = .11)

<sup>6</sup> Studies in which the majority of cases did not have personal victims are included in this table.

**Table 5: Effects of restorative justice on victims of personal crime, for samples with youth or young adults**

(adapted from Sherman and Strang, 2007)

Place, Evidence Level	Reference	Population	Intervention	Comparison	Outcomes
Canberra Level 4.5	Strang, 2002	Victims of violent crime by offenders under 30 or property crime by offenders under 18 n = 232 (2 separate randomised controlled trials (RCTs) combined)	Diversion to face-to-face RJ, with consent of offender, prior to victim consent	Conventional prosecution in juvenile or adult court	Anger at justice process CJ = 32% RJ = 18% Desire to harm offender CJ = 20% RJ = 7% Preference for process RJ = 69% CJ = 48% Satisfaction with outcome RJ = 60% CJ = 46% (All p = .05 or less)
London Level 4.5	Angel, 2005	Victims of robbery or burglary n = 216 (2 separate RCTs combined)	Face-to-face RJ in addition to CJ, with consent of offender prior to victim consent	Conventional prosecution in court without RJ	Post-Traumatic Stress Symptoms scores for RJ = 9 CJ = 14 (p < .01)
Canberra and London Level 4.5	Sherman et al, 2005	Eight point estimates of male & female victims of violent and property crimes n = 445 (4 RCTs disaggregated by gender)	Face-to-face RJ in addition to or instead of CJ, with consent of offender prior to victim consent	Conventional prosecution in court	Mean proportions desiring violent revenge against offender RJ = 4% CJ = 14% (p < .001)
Indianapolis Level 4.5	McGarrell et al, 2000	Victims of youth offenders, latter aged 7-14 n = 92 (low response rates)	Diversion to face-to-face RJ	Any of 23 court-ordered diversion programmes	Satisfied with how case was handled RJ = 90% CJ = 68% Recommend

					to other victims RJ = 98% CJ = 25%
London, Northumbria, Thames Valley 4.5	Shapland et al, 2007	Aggregate of: London – adult robbery, burglary in Crown Courts; Northumbria – adult assault and property crime in magistrates and youths in Final Warnings for assault and property crime; Thames Valley post-conviction for serious assault	Face-to-face RJ, with consent of offender prior to victim consent in addition to CJ	Normal CJ	Sentence was the right one RJ = 53% CJ = 45% (p = .02) Process was fair RJ = 73% CJ = 61% (p = .015) Satisfied with the criminal justice system RJ = 72% CJ = 60% (p = .03)

**Table 6: Effects of restorative justice on youth or young adult offenders with personal victims who have been brought to justice or held accountable**

(adapted from Sherman and Strang 2007)

Place, Evidence Level	Reference	Population	Intervention	Comparison	Outcome (instant offence brought to justice or offender held accountable for it)
King's County (Brooklyn), New York Level 5	Davis et al 1981	Adult violent and property felony defendants n = 465	Diversion to direct face-to-face mediation	Conventional prosecution	RJ = 56% CJ = 28% <b>Ratio 2:1</b>
Canberra Level 5	Strang et al, 1999	Defendants under age 30 charged with violent offences n = 65	Diversion to face-to-face RJ, with consent of offender prior to victim consent	Conventional prosecution	RJ = 89% CJ = 44 % <b>Ratio 2:1</b>
Canberra Level 5	Strang et al, 1999	Youth under 18 charged with property crimes against personal victims n = 126	Diversion to face-to-face RJ, with consent of offender prior to victim consent	Conventional prosecution	RJ= 92 % CJ= 27 % <b>Ratio 3:1</b>
Canberra Level 5	Strang et al, 1999	Licensed drivers arrested for drink-driving n = 773	Diversion to face-to-face RJ, with consent of offender prior to victim consent	Conventional prosecution	RJ = 99% CJ = 87 % <b>Ratio 1:1</b>
Canberra Level 5	Strang et al, 1999	Youth arrested for shoplifting from large stores n = 87	Diversion to face-to-face RJ, with consent of offender prior to victim consent	Conventional prosecution	RJ= 93% CJ = 18% <b>Ratio 4:1</b>

### **About the evidence**

#### **Where was the evidence compiled?**

The Level 5 and 4 evidence on 'what works' for recidivism, victim benefits and offences brought to justice in restorative justice comes from field tests in England, Australia, and the United States. All of it is based on urban samples, in cities of different sizes. None of it comes from rural communities, although some of the Canberra cases could be considered suburban.

### **When were the trials done?**

The English tests were carried out in London, Northumbria and the Thames Valley between 2002 and 2005. The Australian tests were conducted in Canberra between 1995 and 2000 with cases normally dealt with by the magistrates' court and the children's court. The American tests were conducted in Bethlehem, Pennsylvania, between 1995 and 1997 and in Indianapolis between 1997 and 1999.

### **What kind of restorative justice was tested?**

Most of the trials involved face-to-face restorative justice of the model developed originally in Wagga Wagga, New South Wales (Moore and O'Connell, 1994). All involved police officers specially trained in restorative techniques by the same trainers who initiated the Wagga programme. This model involves the facilitator leading a discussion between offenders, victims and the supporters of each that focuses on what happened at the time of the incident, how everyone was affected and what should be done to repair the harm caused and to prevent it happening again. It begins with a preamble to set the tone of the meeting, focusing on the accountability of offenders for their actions, followed by some broad, open-ended questions put to everyone attending, and finishing with an agreement as to what all participants want to happen after the meeting. Although this model is sometimes called 'scripted' (Shapland et al, 2006), as opposed to the largely undirected style of conferencing usually referred to as 'unscripted', the purpose is simply to give facilitators a framework for achieving the main tasks of the event. These tasks include ensuring that:

- all participants have an opportunity to have their say
- no participant is dominated by others
- the discussion is civil even though it may be highly emotional and
- the discussion leads to an agreement between all participants about an outcome focused on repairing the harm and preventing future crime.

In the two American programmes and the Canberra programme, youths were diverted to restorative justice from normal criminal justice processing, usually through the courts, while in the English experiment offenders participating in restorative justice did so in addition to going through conventional criminal justice processes for their offence in the usual way.

### **What were the crimes?**

In these trials the offence types were sometimes mixed and sometimes separated. The Level 5 trials generally separated violent and property crime and mostly involved personal (as distinct from institutional or community) victims. All of the trials excluded domestic violence and any offence with a sexual aspect. The Indianapolis study included first-time offenders no older than 14 who had committed low-level assault, criminal mischief, disorderly conduct, shoplifting or thefts. The Northumbria trials included adults admitting to middle-level property and violent crimes dealt with in the magistrates' courts and youths admitting to property and violent offences that were dealt with by Final Warning. Experiments in the London Crown Courts and post-conviction in the Thames Valley included very serious burglary, and violence up to, and including, grievous bodily harm.

### **Who were the victims?**

Almost all of the interviewed victims had been present during the discussion of the outcome agreement. The victims in the property crime trials who were interviewed after their cases had been dealt with tended to be middle-class and middle-aged, about half male and half female. By contrast, the interviewed victims in the violence experiments were on average younger, predominantly male, and more likely to be unemployed and non-White. It is important to appreciate that the outcomes observed in Tables 2–6 may not have been achieved with more impoverished restorative practices in which the victim was not present in the conference (see, for example, Zernova, 2007).

Perhaps the most crucial theoretical dimension was personal versus collective victims (i.e. organisations, institutions and communities) – for, in the latter case, restorative justice consistently had no beneficial effect. Where the majority of property crimes did not have a personal victim, the samples are included under Table 4 for crimes without personal victims. In Bethlehem, for example, only 23% of victims were ‘personal’, the remainder were ‘institutional’, mainly retailers and schools, which were represented at the conferences by store managers, security personnel, school administrators and teachers. In the Canberra shoplifting study, all of the victims were large department stores represented usually by security personnel.

### **Who were the offenders?**

The offenders in the majority of these trials were predominantly White, young and male. In the Northumbrian Final Warning trials, offenders were 100% White. While some subgroup analysis has been reported for the exceptional cases with substantial numbers of female or non-White offenders, the bulk of the evidence is about White teenage boys. In the Bethlehem property study, about one third of all offenders were female; just over half were aged 13 years or less, a further one third were 14–15 years and the remainder 17–18 years. Almost half of all those offenders were Latino and half were White. In the Bethlehem violence experiment, about a quarter of all offenders were female; about half were aged under 13 years; just over half were Latino, one third White and the remainder Black. In the Indianapolis study, which combined property and violent offenders, about one third were female; 40% were under 13 years and almost two thirds were non-White.

### **Evidence on victims**

The evidence base for the conclusions about the victim benefits of restorative justice comes from three kinds of trials. All of it is based on self-reported comparisons made by victims about their own feelings and perceptions, when interviewed after they have completed face-to-face restorative justice. These trials include

- Level 4.5 comparisons between victims engaged in restorative justice and control samples of similar victims<sup>7</sup>.

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<sup>7</sup> This includes evidence from the London trials in which interviews could not be done if victims dropped out of the restorative justice process after being randomly assigned (Angel, 2005). It also includes some evidence from the Canberra randomised controlled trials of young property and violent offenders, in which victims were assigned to receive restorative justice conferences, but did not always do so. The reasons they did not experience a conference were associated with the difficulties sometimes encountered in bringing together the necessary participants in this setting. Sometimes offenders were found not to be eligible for restorative justice after random assignment had taken place and victims had been informed (e.g. they had outstanding warrants or were re-arrested before the conference could take place); sometimes offenders did not turn up for their restorative justice conference; sometimes victims were not properly informed about the date and time of their conference or forgot about it. For these and other reasons, 23% of all victims in Canberra assigned to a conference did not actually experience one.

- Level 2 before-and-after comparisons of victims who completed restorative justice recalling the difference between how they felt before and how they felt after the process was completed.
- Some descriptive after-only data are available from an evaluation of two Home Office-funded programmes, in West Yorkshire and West Midlands, conducted by Miers et al (2001).

The remainder of this section presents the general findings of the systematic review.

## **1. Processes in restorative justice**

### **What works?**

No evidence is available to support a ‘what works’ conclusion about processes of engaging victims and offenders in restorative justice.

### **What’s promising?**

#### *1. Offender agreement to restorative justice*

- Youth offenders seem more likely to agree to engage in restorative justice where they are not required to sign or make full admissions as a condition of participation than where they are (Strang, 2002; Sherman et al, 2006b).
- Youth offenders seem more likely to agree to engage in restorative justice where their agreement means they are diverted from prosecution in court than where it has no bearing on the structure of the justice process (Sherman et al 2000, 2006b).

#### *2. Victim agreement to restorative justice*

- Personal victims and their families seem more likely to agree to engage in restorative justice with a young offender where a specially trained restorative justice facilitator meets with them face-to-face to explain how restorative justice works than where such extended explanation is not offered (Wilcox with Hoyle, 2004; Sherman et al, 2006b).
- Personal victims seem more likely to participate in restorative justice if they are allowed to choose a date and time for any meetings required than where they are simply notified by post of a date and time already determined (Wilcox with Hoyle, 2004; Sherman et al, 2006b; Holdaway et al, 2001).
- Personal victims seem more likely to participate in face-to-face restorative justice where they are assured that a facilitator they know will convene the process and remain present than where they are not given such an assurance (Wilcox with Hoyle, 2004; Sherman et al, 2006b).

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Nevertheless, their views were sought; to have excluded their views on restorative justice would have compounded their exclusion. This problem is endemic to research of this kind, though rarely do researchers report the views of victims who were promised restorative justice but never received it: they tend to be the most dissatisfied of all victims.

- Personal victims in England and Wales seem more likely to engage in restorative justice processes with young offenders than with adults (Sherman et al, 2006b).
- Personal victims in England and Wales seem more likely to engage in restorative justice processes if they think it will help the offender stop crime than if they think it is merely a way to gain material benefit from the offender (Shapland et al, 2004).
- Personal victims of crime and their supporters seem more likely to attend restorative justice processes, even after promising to do so, if they receive follow-up reminders from officials the day before a meeting, are provided transportation if needed, and provided child care at the venue if required (Sherman et al, 2006b).

#### **What's not promising?**

- Notifying personal victims of young people who offend by post/letter that they may participate in restorative justice, without following up with a phone call, generates lower rates of victim participation than attempting victim contact by phone (Wilcox with Hoyle, 2004).

#### **What's unknown?**

##### *1. Offenders in custody*

Almost nothing is known about the likely effects of attempting to undertake restorative justice with youths in custody; as the YJB report undertaken by De Montfort University observes in relation to England and Wales: 'Little restorative justice intervention of any kind is taking place in the juvenile secure estate' (YJB, 2005:5). Among the questions that remain unanswered are the following:

- Whether and how young offenders in custody would agree to restorative justice shortly before transition into or out of custody, or both.
- Whether offenders in custody would be more likely to engage in restorative justice after invitations by trained custodial staff or by YOT workers assigned to manage transitions.
- Whether and how victims would agree to meet with young offenders inside secure establishments, either to agree upon a case management plan (at the transition into custody) or to agree upon a resettlement plan (at transition out of custody).

##### *2. Victim agreements to different forms of restorative justice*

There is no evidence on whether victims would have a higher take-up rate for face-to-face restorative justice, indirect restorative justice, victim-offender mediation, or direct reparation if all options were explained at equal length in a face-to-face meeting, with equal support for the scheduling and logistical requirements of the victim for participating in the process.

There is also no evidence on whether victims would be more likely to engage in restorative justice depending on the institutional affiliation of the restorative justice facilitator, or on the facilitators' knowledge of the restorative justice process, or both.

## 2. Agreements reached in restorative justice

### What works?

#### 1. Apologies to victims

- Offenders are far more likely to apologise to victims in face-to-face meetings than if they do not have face-to-face restorative justice, regardless of whether the meeting takes place as a Reprimand/Final Warning, a diversion from court, or in a post-conviction but pre-sentence meeting (Sherman et al, 2005). There is no evidence, however, on whether two kinds of restorative justice would yield different rates of apologies, or different rates at which victims deem the apologies to have been sincere.

#### 2. Material reparation to victims

- Canberra victims were moderately less likely to seek material reparation in a restorative justice conference than if their cases were heard in court (Strang 2002).
- Canberra victims were twice as likely to *receive* material reparation in restorative justice conferences as in court (Strang, 2002: 92).

#### 3. Community service

- Young offenders in the Canberra cases of violent crime were four times more likely to agree in a restorative justice conference to undertake community service reparations than to be ordered to do so during sentencing in court; in cases of personal property crime they were twenty times more likely (Strang, et al, 1999:61–62).

### What's unknown?

#### 1. Offender compliance rates

- There is no evidence on whether offenders are more or less likely to complete their agreements or sentences under consensual restorative justice or mandatory reparations ordered by a court.

#### 2. Offender update letters

- There is no evidence on whether offenders are more or less likely to keep their promises to send annual reports on their lives to their victims when the promises are monitored by restorative justice staff than if they are not.

## 3. Outcomes of restorative justice

### What works?

#### 1. Victim benefits

- Personal victims of young people who offend in Canberra, and of felony defendants in Brooklyn, were far less afraid that the offender would commit

further crimes against them if they were assigned to restorative justice or mediation than if they were assigned to court (Strang, 2002:97; Davis et al, 1981:58).

- Personal victims of young and older adult robbers and burglars in London suffered significantly lower levels of post-traumatic stress symptoms if they completed a restorative justice meeting with offenders than if they did not (Angel, 2005).
- Personal victims of youth offenders in Canberra and of young and older adult robbers and burglars in London were collectively less likely to say that they desired physical revenge against their offenders if they had been assigned to restorative justice conferences than if they had not been (Strang, 2002; Angel, 2005).
- Youth and adult personal victims of felony defendants in Brooklyn were half as likely to be angry at the defendant after a mediation session as if the case had not been diverted to mediation (Davis et al, 1981:58).
- Victims of burglary in London were far more likely to forgive their offenders after they heard their apologies in restorative justice conferences than if they had not met with the offender (Sherman et al, 2005).

## 2. *Victim attitudes*

- Personal victims of young and older adult robbers and burglars in London, and of youth offenders in Canberra, were far more likely to think any apologies they received were sincere if they had been assigned to a restorative justice conference than if they had not been (Strang, 2002; Angel, 2005).
- Personal victims of youth offenders in Canberra were substantially more satisfied with the way their case was dealt with if it had been assigned to a restorative justice conference than if it had been assigned to court (Strang, 2002).
- A meta-analysis of 22 comparisons of victim satisfaction with restorative justice versus conventional justice found higher levels of satisfaction for restorative justice (Latimer, Dowden and Muse, 2001). Likewise, a review of restorative justice practice across 25 European countries found that wherever an evaluation had been conducted, including Austria, Denmark, the Netherlands and Norway, victims expressed very high levels of satisfaction (Miers and Willemsens, 2004).
- Personal victims of youth offenders in Canberra who received a restorative justice conference were substantially more pleased that their case was dealt with by restorative justice than court-assigned victims were that their case was dealt with in court (Strang, 2002).
- Personal victims of youth offenders in Canberra were almost twice as likely to say that 'the way their case was dealt with made them angry' if they had *not*

been assigned to a restorative justice conference than if they had been (Strang, 2002).

### *3. Repeat offending in pre-court disposals and court diversions*

- Young female violent offenders given Final Warnings with a restorative justice conference in Northumbria had lower rates of repeat arrest frequency in a one-year, before-after comparison than if they were given Final Warnings without restorative justice; see Table 2 (Sherman et al, 2006b).
- Young violent offenders in Canberra (average age of 18 years) had substantially greater reduction in arrest frequency rate in a two-year, before-after comparison if they were diverted from prosecution to a restorative justice conference than if they were prosecuted in court; see Table 2 (Sherman et al, 2000).
- Young violent and property crime offenders in Indianapolis had lower (after-only) rates of repeat arrest for six months after being assigned to a restorative justice conference than after being assigned to other forms of diversion from prosecution in juvenile court; see Table 2 (McGarrell et al, 2000).
- Young male property crime offenders given Final Warnings with a restorative justice conference in Northumbria had greater reductions in one year before-after arrest frequency rates than if they were given Final Warnings without restorative justice; see Table 2 (Sherman et al, 2006b).

### *4. Repeat offending: restorative justice versus custodial sentences*

- Young adult and adult violent and property felony defendants (60% of cases were violent) in Brooklyn had no greater (after-only) recidivism prevalence if they were diverted from prosecution to victim-offender mediation with no criminal record (and no chance of prison) than if they were prosecuted in court, with a 10% rate of prison sentences resulting (Davis et al, 1981).

### *5. Offender attitudes*

- Across a wide range of measures, young offenders who are randomly assigned to experience restorative justice tend to have more positive attitudes towards police, law and justice than those who are not (Strang et al, 1999; McGarrell et al, 2000).
- Across a wide range of measures, young people who offend who are randomly assigned to experience face-to-face restorative justice tend to have a clearer appreciation of how much they have harmed their victims and how much remorse they feel. (Strang et al, 1999; McGarrell et al, 2000).
- Across a wide range of restorative justice procedures, offenders tend to feel they have been treated more fairly and to be more satisfied with restorative justice than with conventional justice (Strang et al, 1999).

## What's promising?

### 1. *Victim satisfaction with justice*

- US victims in Bethlehem are more satisfied with restorative justice led by police officers than by other professionals (McCold, 1998).

### 2. *Victim benefits*

- Canberra victims of young offenders are less likely to fear repeat victimisation, to suffer anxiety, to be angry at their offenders, or to feel insecure and untrusting after they have had their violent or property crime dealt with in a restorative justice conference than before the conference (Strang, 2002).
- In repeated studies, personal victims of young offenders whose cases were dealt with in victim-offender mediation were highly satisfied with their experiences (Umbreit and colleagues as cited in Sherman and Strang, 2007:64).

### 3. *Repeat offending*

- Reductions in repeat offending appear to be greater for more serious crimes than for less serious crimes. Across all Tables above on repeat offending, the best results are found with personal victims, and the least evidence of restorative justice effectiveness in reducing offending is found with less serious crimes that lack personal victims, including shoplifting, public order delinquency and drink-driving.
- Young offenders in Australia and New Zealand who showed remorse in restorative justice conferences for violent and property offences, or later said that they had felt remorse in a conference, had lower repeat offending rates than those who did not show remorse in those conferences (Maxwell and Morris, 2001; Hayes and Daly, 2003).
- Young people who offend who participated in restorative justice conferences in New Zealand were less likely to have reoffended if they said years later that during the restorative justice they had not felt shamed (feeling they were a bad person), had felt involved in the decision-making, and had accepted the resolution of the conference (Maxwell and Morris, 2001).

### 4. *Offending rates in restorative justice-based institutions*

- One secure establishment for youth in Hertfordshire reported lower prevalence of serious offending after the entire staff was trained to resolve day-to-day minor crimes and conflicts with restorative principles (Littlechild, 2003).
- The YJB's Restorative Justice in Schools Programme (YJB, 2004) found that in three schools that used restorative justice principles for three full years, bullying behaviour as measured in student surveys was lower than in three comparison schools not adopting restorative justice. However, see finding below ('What's not promising') regarding restorative justice in a secure establishment in Hertfordshire (Littlechild, 2003).

## 5. Offender attitudes

- Across a wide range of studies, offenders who go through restorative justice processes report high levels of satisfaction with the process compared to their prior expectations.
- A Level 2 before-after, no control group evaluation of the victim-awareness Sycamore Tree Programme with 121 Young Offender Institutions (YOI) residents in England and Wales found improvements in self-reported attitudes towards victims (Feasey et al, unpublished)

### What's not promising?

#### 1. Repeat offending

- Victim awareness training with surrogate victims (i.e. people who had not been harmed by these particular offenders) may increase repeat offending, based on its observed reduction in the benefits of CBT in a meta-analysis of 56 tests of CBT on recidivism (Landenberger and Lipsey, 2005; Lipsey, 2007).
- Offenders who heard, in a restorative justice conference, victim statements of harm caused by a crime were no less likely to reoffend than those who did not (Hayes and Daly, 2003).
- As Table 4 shows above, restorative justice conferences are unlikely to reduce repeat offending by young offenders whose crimes lack personal victims (Sherman et al, 2000; McGarrell et al, 2000).

#### 2. Victims being promised restorative justice that is not delivered

- US victims in Bethlehem, Pennsylvania, were least satisfied when they were offered restorative justice (before offender consent was obtained) but were unable to participate in it because their offenders then said they did not wish to engage (McCold and Wachtel, 1998).
- Canberra victims who had been promised a restorative justice conference but did not receive one were far less satisfied with the way their case was handled, and far more angry, than victims who had never been offered restorative justice nor participated in it (Strang, 2002).

#### 3. Agreeing to restorative justice outcomes where the results are not known

- Victims of youth and adult offenders in the UK who were never informed about whether the restorative justice outcomes had been completed were far more dissatisfied with the way their case was handled than if they had not been offered restorative justice (Shapland et al, 2007).
- Victims of youth and adult offenders in the UK and of adult victims in New Zealand who agreed to outcomes about which no further information was ever provided were more dissatisfied than if they had not been promised to be kept informed (Sherman et al, 2006b; New Zealand Ministry of Justice, 2005).

#### 4. Offending rates in restorative justice-based institutions

- The YJB's Restorative Justice in Schools Programme (YJB, 2004) found that in 23 schools using the programme for only 18 months (versus three years as cited above) there were no significant differences from comparison schools in levels of bullying behaviour reported in student surveys.
- A secure establishment for young people who offend in Hertfordshire experienced an increase in the number of serious incidents (though not the percentage of residents breaking laws) after introducing an informal and formal restorative justice programme (Littlechild, 2003).

#### **Where do we have evidence that restorative justice makes no difference?**

##### 1. Victim benefits

- Victims of robbery in London were no more likely to forgive their offenders after meeting with them and receiving an apology than those who did not (Sherman et al, 2005).

##### 2. Repeat offending

- Young White property offenders with personal victims in Canberra had no greater changes of two-year before-after differences in rates of arrest frequency if they were assigned to be diverted to a restorative justice conference than if they were prosecuted in juvenile court (Sherman et al, 2000).
- Young shoplifting offenders arrested in corporate stores in Canberra had no difference in before-after rates of arrest frequency if they were assigned to be diverted to a restorative justice conference than if they were prosecuted in juvenile court (Sherman et al, 2000).
- Young property and violent offenders in Bethlehem who were randomly assigned to be diverted to restorative justice (a majority of whom refused to undertake it) had no significantly different rates of repeat offending than those who were not offered restorative justice (McCold and Wachtel, 1998).
- Young people who offend in Indianapolis with non-victim, public order crimes were less likely to reoffend after 12 months when diverted to victimless restorative justice conferences than when diverted to other kinds of youth justice programmes (McGarrell et al, 2000).

#### **Where do we have evidence that restorative justice fails on some criteria?**

- Young Aboriginal property offenders in Canberra had far greater before-after increases of arrest frequency after random assignment to be diverted from prosecution to restorative justice than if they did not (Sherman et al, 2006a).

#### **What's unknown?**

##### 1. Repeat offending

The following is unknown in relation to repeat offending:

- Whether restorative justice works better for violent crimes than for property crimes, since some results show restorative justice works for property crimes while others do not, and the same is true for violent crimes.
- Whether young people who offend from certain disaffected minorities in England and Wales increase their offending as a result of restorative justice rather than reducing it, as was found with Australian Aboriginals (Sherman and Strang, 2007).
- Whether YOPs practising ‘victim awareness’ discourse actually increase repeat offending consistent with the effects of victim awareness training in CBT (Landenberger and Lipsey, 2005; Lipsey, 2007). This refers to processes in which personal victims of the offender are not present but their views are represented: we do not know whether the same result would be obtained if the person representing the views was the victim of a different offender.
- Whether gender differences would be found in response to restorative justice for various offence categories, as was found in the Northumbria trials (Sherman and Strang, 2007).

## *2. Community-level effects*

- Whether entire police areas or YOT areas would have less crime if ‘restorative communities’ were developed to deal with many forms of crime and conflict through restorative justice practices.

## Assessment

Prior to any decision to employ restorative justice involving victims in a youth justice case, those who make the decision usually make assessments as to whether the case is appropriate for such services. These assessments occur in at least three phases. The first phase of assessment is whether it is possible to undertake restorative justice in the case. The second phase of assessment is how likely an attempt to engage victims and offenders would be in a given case. The third phase is whether it is optimal to undertake restorative justice in this case as a matter of priorities and scarce resources. This last phase is the one for which the review of the evidence is most relevant, in relation to a prediction of what effects the services would produce for the key outcomes.

This chapter addresses the assessment of cases, including offences, offenders, victims and supporters, in all three phases of decision-making. The first phase is especially important, since the research evidence suggests that it is possible that restorative justice could be used more widely than at present in cases that have gone to court, and those in custody. The evidence on the third phase also suggests that it could be more optimal to use restorative justice in court cases, especially in more serious matters.

### ***Phase one: is restorative justice possible?***

The first phase of assessment is straightforward. The key questions are:

1. whether there is a personal victim
2. whether there is a detected offender willing to undertake restorative justice with their own personal victim
3. whether it would be safe to engage the offender in restorative justice
4. whether the victim is willing to engage in restorative justice

A fifth question could be asked more widely: is restorative justice appropriate in relation to a particular disposition of a case in court?

A sixth question does not seem to be appropriate in view of the evidence, even though it is often asked: whether a given offender is sufficiently remorseful or otherwise 'suitable' for restorative justice for reasons *other than safety*. Asking this question can severely limit the potential benefits of restorative justice to victims, as well as the likelihood of reduced recidivism.

#### **1. Is there a personal victim?**

The fundamental question in restorative justice for youth justice is whether a crime has a personal victim. Crimes such as vandalism, arson of public property, driving while intoxicated, and drug abuse may have no personal victim. Most do not even have an indirect victim if members of the offender's family or loved ones are excluded from that category (see Glossary). While there are some attempts to use restorative justice in cases without a personal victim, descriptive evidence suggests it is much more difficult to organise such efforts around the theories on which they are based (see Introduction). These include the idea that offenders will feel more remorse for their actions when they see the harm they have caused to other human beings, the idea that repairing the harm they have caused to someone (a personal victim) will help offenders to feel they have

repaid their debt to society, and that expressions of regret and atonement will allow them to be reintegrated into society as members in full standing (Braithwaite, 1989, 2002; Strang, 2002). This includes the Canberra evidence (Strang et al, 1999) which indicates that when the offence is youth shoplifting or (adult) drink-driving, the number of people who must be brought together in place of a personal victim is quite substantial. The evidence in Table 4 above also suggests that across crimes without victims, no eligible test of restorative justice has ever found a reduction in repeat offending relative to conventional justice methods (Sherman and Strang, 2007). If only because no victim will benefit directly from non-victim restorative justice, there is reason to consider whether resources should be invested in non-victim cases that could be invested in crimes with victims.

Perhaps more important is the evidence on repeat offending when using surrogate victims (i.e. people with no connection to any crime of the specific offender but who may have been victims of other offenders) as the basis for a restorative justice proceeding or in CBT. This evidence includes the Canberra shoplifting and drink-driving experiments (Sherman et al, 2000), as well as the Bethlehem youth property crime experiment. In no field test of restorative justice to date in which indirect or surrogate victims have been involved as the only 'victims', has there been any evidence of reduced recidivism. The fact that offenders would react badly to indirect or surrogate victims is predicted by defiance theory (Sherman, 1993) and consistent with the evidence from a review of 58 CBT evaluations (Landenberger and Lipsey, 2005; Lipsey, 2007). The Landenberger and Lipsey review (1999) found that while CBT generally reduced recidivism substantially, the effects were weakened by adding surrogate victims into the process. In other words, offenders who might otherwise have desisted from crime were less likely to do so when exposed to the statements by persons they had never met before or directly harmed.

## **2. Is the detected young offender willing to undertake restorative justice with their own personal victim?**

If a personal victim is identifiable to a YOT, and barriers to accessing police records can make this difficult at times, then the next assessment can be whether the detected youth offender is willing to undertake restorative justice with the victim, communicating either directly or indirectly via a facilitator.

The common sequence is to get offender agreement first and then to offer restorative justice to a victim. The argument many facilitators make about this sequence is that it is better not to bother a victim about the possibility of restorative justice if the offender turns out to be an unwilling or unsafe party with whom to undertake restorative justice. This sequence may come at the cost of raising offenders' hopes that they will be able to undertake restorative justice when, in many cases, victims will refuse to do so. The authors' qualitative evidence from the eight JRC trials in the UK in 2001–04 suggests that victims were more likely to meet the offenders when they were young (in Northumbria) than when they were adults (in Northumbria, London and Thames Valley).

Evidence from the authors' meetings with over twenty YOT managers in London in mid-2005 suggest that most detected offenders receiving Reprimands and Final Warnings are not asked whether they would like to undertake restorative justice with victims who were willing to participate, either by direct (face-to-face) or indirect means (written or 'shuttle' communication). Evidence from five YOTs in Northumbria in 2002–04 shows that in 474 such cases in which young offenders and their parents were

asked whether they would like to participate in restorative justice in addition to the Final Warning process, 61% of offenders admitting assault and 66% of the offenders admitting property offences agreed to meet with their victims face-to-face. We have no comparable systematic evidence on young offender take-up rates for *indirect* restorative justice in the UK.

### **3. Risk assessment: would it be safe to engage the offender in restorative justice?**

In systematic tests of restorative justice for young offenders in the UK, it has been routine practice to undertake a risk assessment of the offender solely from the standpoint of safety. This assessment does not address things the offender might say, except the possibility that the offender may deny the offence altogether. Such cases are almost always deemed unsuitable for face-to-face restorative justice because the purpose is not to determine facts but to deal with emotions. The process is not designed to do both. The evidence from a few cases that slipped through the screening in Canberra is directly relevant. It shows that if the offender denies responsibility, it is difficult or impossible to achieve a resolution that is satisfactory to the victim (Strang, 2002:148–150).

Even where the offender accepts responsibility for having harmed the victim, the offender may be mentally ill, unable to control anger, or ready to blame the victim for having provoked the offender. Some offenders have, during a risk assessment meeting with a London police officer, threatened to attack the victim if they see the victim again. In the very small number of cases of this kind in which there would be some risk in promoting communication between victim and offender, most restorative justice facilitators we have interviewed would choose not to proceed with restorative justice. At the same time, some police facilitators have deemed as suitable for restorative justice some mentally ill offenders who were not demonstrably angry, as long as they said they accepted responsibility for having harmed the personal victim. The reasons for these decisions range from a simple judgment that the offender poses no threat, to a view that a restorative justice conference is especially appropriate as a forum for discussing why such offenders should take their medications more consistently.

*Evidence: no violence in restorative justice to date in the UK*

The evidence does not reflect any acts of violence in a restorative justice conference having ever occurred in England or Wales. This conclusion encompasses both youth and adult restorative justice. Indeed, we have not found any reports of violence in restorative justice internationally either, except in cases of mediation in domestic disputes. While the Home Office best practice guidance (2004) gives much more detailed commentary on restorative justice risk assessment, it is based on practitioner experience to date rather than rigorous research evidence on the topic.

### **4. Is the victim willing to engage in restorative justice?**

If a detected young offender agrees to, and is safe for, engagement in restorative justice with their personal victim/s, the next question is whether the victim is willing to engage in the process. Victim consent to restorative justice may often be lost because the victims are simply not asked – in person, with an opportunity to ask questions about the restorative justice process and to consult with their family before making a decision. Most important may be whether victims are asked in a way that allows them to influence the date and time of any in-person restorative justice processes, with or without offenders present. Victims being involved in setting the date and time, rather than simply being informed of the date when an offender will be processed with or

without the victim present, is a common practice in the JRC's restorative justice tests funded by the Home Office in 2001 (Shapland et al, 2004, 2006, 2007, forthcoming). It does not, however, seem to be at all common in YOT practice around England and Wales (Wilcox et al, 2004).

The evidence suggests that victim take-up rates are far higher when they can influence the scheduling of the day on which restorative justice will happen. In the Northumbria assault and property tests of restorative justice in Final Warnings, offenders agreed to meet with their victims in 277 cases in which victims could be located by police. Of the cases in which young offenders (and parents) were willing to meet with victims, the victims agreed to do so in 77% of the assault cases and 76% of the property cases.

No comparable data are available for the willingness of victims to engage in *indirect* communication with young offenders but some indicative evidence is available from the University of Sheffield's third evaluation report relating to the REMEDI and CONNECT restorative justice schemes (Shapland et al, 2007). The Sheffield team that evaluated the three Home Office-funded restorative justice programmes discuss in some detail the question of whether participants find a face-to-face meeting better or worse than indirect mediation (two of them offered both direct and indirect mediation). They make three relevant points on this subject:

- Regarding participants' reactions to having a direct meeting they found that among those not offered a choice between direct and indirect (as was the case in the JRC studies), 84 % thought that it was better to meet while 2 % thought it was worse. With the REMEDI programme, where participants had a choice, and the CONNECT programme, all offenders and victims who experienced direct mediation thought it was the best option.
- Looking at the experiences of victims and offenders who participated in indirect mediation, about half of them said they would have preferred to have met the other party directly. Indirect mediation is said to be associated with somewhat lower levels of satisfaction than direct mediation because it is not as complete an event.
- It is difficult to include future-oriented matters in the agreements because of the amount and kind of interaction necessary which cannot easily be done other than by direct communication. The ease of communication possible in direct events makes agreements easier to achieve and the presence of supporters who undertake monitoring roles also improves the likelihood of compliance.

Shapland et al (2007) conclude that more is likely to be achieved by direct mediation, or preferably conferencing, but they observe that there is always likely to be a proportion of people who do not want a direct encounter. They do not make a recommendation whether these people should be offered indirect restorative justice rather than nothing at all.

##### **5. Can restorative justice be used as part of any court order?**

The conventional view of restorative justice in youth justice cases is that it can be used widely in Referral Orders via the YOPs. The evidence of its potential effectiveness in Final Warnings in Northumbria is also encouraging (Sherman et al, 2006b; Shapland, forthcoming). Most important, however, is the general conclusion that the evidence on repeat offending shows restorative justice to be more effective with more serious crimes than with less serious crimes (Sherman and Strang, 2007).

One implication of that finding is that there may be good reason for YOTs to ask about using restorative justice in court cases resulting in disposals other than by Referral Order. Adult justice tests of restorative justice used before sentencing to custodial sentences, as part of community sentences and in anticipation of release from custody, indicate the feasibility of restorative justice with serious cases.

#### **6. Is the willing offender sufficiently remorseful or truly repentant?**

The evidence suggests that this question should not even be asked if the goal is to broaden victim access to restorative justice. No offenders were ever knowingly excluded from restorative justice on the basis of having too little remorse in advance by either the JRC police and non-police facilitators in the UK in 2001–05, or by the Australian Federal Police in Canberra.

While some commentators have suggested that the offender must be truly repentant as a condition of undertaking restorative justice with any criminal case, their argument lacks evidence given the sequence by which restorative justice works and it is thus inappropriate to require repentance in advance. Repentance is almost always a result of restorative justice, not a precondition.

The qualitative evidence from observations of restorative justice conferences with young people who had offended in Canberra (Strang et al, 1999) and the authors' work in the UK shows that remorse does not even begin to appear until well into a restorative justice process. As one burglar has described the emotional changes he experienced himself (Woolf, 2008), offenders tend to feel increasingly remorseful, or more truly remorseful, during the course of a restorative justice meeting. This claim is confirmed by a high percentage of victims in four different randomised trials (Strang, 2002; Shapland et al, 2007). Had the offenders been screened out prior to restorative justice for lacking 'sufficient' remorse, there would have been no opportunity for the offender to develop remorse and offer an apology to the victim. Yet that is just what they did in very high proportions of the cases.

There is qualitative evidence that the more remorse expressed *during* restorative justice, the lower an offenders' recidivism (Hayes and Daly, 2003); there is no evidence that the more remorse expressed *before* restorative justice predicts the level of remorse during restorative justice or rates of recidivism. There is, then, no evidence-based reason to deny restorative justice in cases in which offenders fail to provide statements of remorse or empathy for victims in advance of the restorative justice process.

#### ***Phase two: how likely is it that restorative justice would succeed?***

Regardless of whether it is possible to take a case into a restorative justice intervention, there remain substantial obstacles to completing such processes. Attrition is just as much an issue for restorative justice as for all other aspects of justice. Just as prosecutors routinely assess whether it is in the public interest to proceed with a case based upon its statistical probability of resulting in a conviction, YOT staff can assess whether a case is statistically likely to lead to a restorative justice agreement.

Evidence from Shapland et al (2006) provides an actuarial basis for this assessment. In the Sheffield REMEDI project, 22% of eligible Referral Order cases actually completed a restorative justice process which generally yielded an agreement. Similarly, the rate of REMEDI cases reaching restorative justice that came from direct YOT referrals

(without a court order) was 21%. Both of these probabilities were associated with civilian facilitators leading restorative justice attempts.

The evidence suggests, however, that the success rate can be higher when trained police serve as facilitators: in the JRC Northumbrian YOTs where restorative justice was initiated and completed by trained police facilitators, Shapland et al (2006) report a 43% rate of completion in Final Warnings and Reprimands for assaults and property crimes combined.

However, it seems likely, based on the JRC experience, that it may not be professional background *per se* that is crucial to success in restorative justice but rather the quality of the training, support and supervision that facilitators are given.

The question of the professional background of facilitators is an unresolved one as no study to date where different kinds of facilitators have been used can exclude a variety of other explanations for different rates of success. Shapland et al's (2006) data also suggest that the odds of a case reaching restorative justice may depend largely on the stage of the criminal justice process and the local context of court practices. The analysis of their sample of the JRC cases<sup>8</sup> shows that post-sentence adult cases for serious violence in Thames Valley, where the facilitators included probation and prison officers but no police officers, had much lower likelihood of completing restorative justice (18% for prison and 20% for community probation) than pre-sentence cases did in London burglary (42%) and robbery (39%). However, the reduced likelihood of completing restorative justice in the former cases might have been due to the greater seriousness of the offence or the length of time since the incident (all cases here had already been through the courts and the offenders were serving their sentences).

The Northumbrian Adult Magistrates' Court cases of assault and property crime also had a lower completion rate (25%) than these pre-sentence London Crown Court cases, even though both used police officers to organise restorative justice. The Northumbria figure, however, reflected the unwillingness of the Northumbrian Magistrates to delay sentencing long enough for facilitators to undertake restorative justice, so that neither offenders or victims were even asked in a large portion of suitable cases as Shapland et al (2006) defined them.

It should be noted that significant ethical issues may arise if the restorative justice facilitator is operationally in charge of the case, whether as a police officer, probation officer, YOT worker or prison officer (Dignan et al, 2007; Shapland et al, 2006). Facilitators need to be impartial and seen as such by all parties present at restorative justice, and what is said in conferences must not be used or be able to be used in other enquiries.

It seems likely, based on the JRC experience, that it may not be professional background *per se* that is crucial to success in RJ but rather the quality of the training, support and supervision that facilitators are given. Certainly Shapland et al's (2006) findings about

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<sup>8</sup> JRC experiments continued in the UK until January 2005, well beyond the cut-off date for the Home Office-funded evaluation by the University of Sheffield. Future publications by the JRC team will include the higher number of all cases randomised in the eight Level 5 JRC studies. Shapland et al (2006) refer to six studies because the two Final Warning studies (one property, one assault) and the two magistrates' court studies (one property and one assault) are combined in their report. Separate random assignment sequences, however, were used for violence and property crime cases in both the adult and youth cases, for an actual total of eight separate random assignment sequences comprising the randomised controlled trials.

police officers actually talking less and being less negatively directive than ‘civilians’ should calm fears about police officers being too overbearing to be successful in RJ.

Any YOT can build its own database of success rates of restorative justice with different types of crimes, offenders, victims, disposals, stages of the youth justice process and staff attempting to organise restorative justice. Such local data are likely to provide the most accurate assessments of the likelihood that investing resources in a case will result in an agreement from either a direct or indirect restorative justice process. Such assessments are crucial for the management of scarce resources, an issue especially relevant given the labour-intensity of delivering restorative justice well.

### ***Phase three: is the case a high priority for restorative justice?***

Even if a case is more likely than other cases to reach a successful restorative justice agreement, that does not mean that it will be effective in achieving the main outcomes desired. It is the outcomes for repeat offending and victim benefits, rather than mere delivery of restorative justice, which many would choose as the basis for setting priorities in undertaking restorative justice with young people who offend.

As outlined below, there is now a substantial evidence base regarding outcomes, which should be used to prioritise cases. This is particularly true for face-to-face restorative justice, the method of restorative justice which has the most extensive evidence about its effectiveness with offenders and victims. That evidence, however, shows that the effectiveness of restorative justice in reducing reoffending varies by sample and offence type. In the ‘Individual needs’ chapter, evidence by offender type is presented as a consideration for offenders with special needs.

#### **Serious offences**

The evidence of benefits from using restorative justice with serious crimes appears greater than for less serious crimes. ‘Serious’ crimes can be defined by several criteria, as follows:

- crimes with a personal victim are more serious than those without one
- crimes with injury are more serious than crimes without injury
- crimes are more serious when strangers invade a victim’s home.

The conclusion that restorative justice works better with more serious crimes applies to both the reduction of repeat offending and to the healing of victims. The victim evidence is consistently encouraging where victims have consented to participate, and where restorative justice has been delivered as promised at the time of consent (Strang, 2002; Sherman et al, 2005). There is also stronger evidence for serious crimes than for less serious crimes that face-to-face restorative justice reduces victims’ desires for violent retaliation. Research soon to be released on restorative justice experiments with both youth and adult offenders in the UK (Shapland et al, forthcoming) will provide additional evidence regarding the effectiveness of restorative justice in relation to serious crimes. In the interim, the strongest conclusion on effectiveness relates to the dimension of personal victims; two large experiments without personal victims show no effect on recidivism.

The repeat offending evidence on violent crime is mixed, but still stronger than the evidence for crimes without personal victims. Youth experiments using the strongest

research design (SMS Level 5) in Northumbria, Canberra and Indianapolis have shown statistically significant reductions in repeat offending after restorative justice for violence cases. The effects in Canberra were large (over 50% lower frequency of repeat arrest) and lasted two years (see Table 2). The controlled experiment in Northumbria showed a significant reduction in repeat crime over a one year follow-up for females, although not for males (see the chapter on 'Individual needs' below). Less rigorous evaluations of restorative justice with young adults in West Yorkshire and West Midlands (Miers et al, 2001) also found lower than predicted offending among offenders who completed the process.

Similarly, the evidence on property crimes with personal victims is mixed, but stronger than for crimes without personal victims. Restorative justice had no effect on young White property offenders in Canberra (mostly male), yet it did reduce repeat arrests in a one-year follow-up among White male youth offenders in Northumbria given Reprimands and Final Warnings. While the Canberra test showed serious negative effects on Aboriginal youth, another study of White youth in Indianapolis found significant six-month reductions in the prevalence of repeat arrest after restorative justice for property offences (see Table 3).

Serious crimes with personal victims, both violent and property, have generally responded better to restorative justice than crimes without personal victims. Restorative justice for a large sample of youth shoplifters in Canberra did no better than prosecution in court. Restorative justice for a small sample of youth public disorder offenders in Indianapolis did do better than other treatments, but restorative justice for a large sample of adult drink-driving offenders in Canberra did no better than prosecution in court. Only one eligible test of restorative justice for crimes without victims has ever shown a reduction in repeat offending compared to a similar group of offenders not treated with restorative justice.

Given scarce resources, the greater and more certain return on investment from restorative justice for serious crimes with personal victims suggests that such crimes should merit the highest priority for restorative justice. This would also imply further evidence in support of inserting restorative justice into a wide range of court orders, as well as in Reprimands, Final Warnings and Referral Orders with YOPs.

The failure of the Canberra test to reduce repeat offending after youth property crime cannot be taken as sufficient reason to exclude property crimes from restorative justice, or even to make it as low a priority as the evidence suggests for crimes without personal victims (see below and Table 4). The significant results from Northumbrian male property crime counterbalance the findings from the mostly male offenders in Canberra. They also have the additional advantage that the Northumbrian results are based on the YJB's system of youth justice, and not on diversion from court when prosecution would otherwise occur. It is therefore possible that using these methods with young people who offend in England and Wales will reduce repeat offending after property crimes, as long as there is a personal victim. The major exception to this conclusion is the case of property crimes without personal victims, most notably shoplifting from large retail enterprises.

### **Crimes without personal victims**

The weakest evidence for using restorative justice is for cases in which no direct, personal victim can be identified, and this should be considered when setting priorities. We found no unbiased evidence at all, for example, that restorative justice could reduce

repeat offending for shoplifting. The single positive result for crimes without personal victims in the research literature is for offenders aged seven to 14 years in Indianapolis. In that study (McGarrell et al, 2000) the use of face-to-face restorative justice with parents and supporters for public order offences did reduce repeat arrest for a twelve month period. But the lack of victim benefits, by definition, makes the total benefit gained from the investment in restorative justice lower than if the same investment were channelled to more serious crimes.

### ***Assessing priorities first***

The labour-intensive nature of restorative justice creates a practical limit on how much restorative justice any one YOT can deliver in a year. Making such assessments on a case-by-case basis may not be the best way to allocate the scarce resources at stake. The evidence suggests that assessments can be made by clear policies that set priorities by offence type, rather than case-by-case. These priorities could actually be placed at the front of the process, as Phase one, rather than at the back end as described here. The evidence would support a YOT establishing a priority system that placed highest emphasis on the types of crime which are known to create victim fears and where victims are most likely to have questions to put to offenders. Such crimes would include violence by strangers and property crime most distressing to personal victims, such as burglary in a dwelling and car theft. This may mean a general preference not to use labour-intensive restorative justice conferences in non-victim cases. This evidence would also support *not* assigning lower priority cases to restorative justice conferences at all.

Furthermore, given the evidence about the benefits to both victims and offenders of face-to-face restorative justice, it may be desirable to prioritise cases for face-to-face processes rather than indirect restorative justice methods which offer less evidence of effectiveness. While face-to-face restorative justice may be more labour intensive than indirect methods, it offers far greater certainty of benefits – especially to victims – than indirect restorative justice. Instead of using restorative justice as a routine response, YOTs that used it less often overall but more often for serious crimes would be supported by the evidence of greatest benefits. Practitioners need to be aware, however, that this evidence only emerges from tests of a face-to-face model of restorative justice in which offenders and victims meet face-to-face in the presence of others who have a legitimate stake in the offence. Most important, perhaps, is that such evidence is exclusively tied to the use of a highly trained and experienced facilitator.

In summary, the most powerful implication of the evidence for effective practice is that there could be a far greater role of restorative justice in cases of serious crimes. This role could provide a more viable alternative to custody, and perhaps contribute to lower incarceration rates of young persons without increasing youth crime rates. When inserted in the sentencing process for serious crimes, restorative justice could also, in principle if not in law, benefit from the High Court rulings in *R v. Collins* (2003) and *R v. Barci* (2003); that face-to-face restorative justice should be considered as equivalent to some period of custody.

## Individual needs

The evidence shows that young people who offend do not all respond the same way to restorative justice. Unlike victims, whose responses appear largely consistent within offence category, offenders vary in their responses by individual characteristics as well as by offence category. Those characteristics include gender and ethnicity.

The evidence also shows that many young people who offend have unmet needs in their lives that may be underlying causes of the crimes they commit. These needs may require services, including mental health services, housing, foster care, education or job training, drug treatment, or other individualised services. Restorative justice offers a potential opportunity for meeting those needs in ways that other case disposals do not.

### *Offender gender*

The clearest evidence on gender differences in restorative justice comes from one unpublished analysis of the Home Office-funded youth violence study by JRC in Northumbria (Sherman et al, 2006b). In this test of face-to-face restorative justice among young people who admitted to an assault, Reprimands and Final Warnings were delivered with (and without) restorative justice. While overall there were no statistically significant differences between restorative justice and non- restorative justice cases, the results for females alone were both large and significant (that is, the result was not likely to be due to chance, despite the relatively small sample of fewer than fifty cases). Based on a comparison of all arrests of the offenders in the year before and year after the offence was admitted and processed, the drop in arrests in the year after was twice as large in the restorative justice group as in the group receiving non- restorative justice Reprimands and Final Warnings.

The results for male youths in this test, which took cases from five different YOTs in the Northumbria Constabulary area, were also in the direction of fewer arrests in the restorative justice group. These results were not large enough to rule out chance variation as an alternative explanation of the difference. But the test did not provide any evidence that restorative justice would be counterproductive, or even a waste of time with males.

What the Northumbrian study demonstrated is evidence of a greater return on investment in restorative justice for girls than for boys, at least in assault cases. For the one offence type in which almost equal numbers of males and females were recruited for the sample, the reduction in repeat offending from restorative justice was greater for girls.

It is important to recognise that these findings emerge from only one study; we cannot say from the available evidence whether female young people would also be more responsive to restorative justice than males in cases of other offence types. The lack of sufficient numbers of young females who offend receiving Final Warnings for property crimes prevented a gender analysis for the Northumbrian study in that offence category. Similarly, tests of restorative justice in other countries have failed to find sufficient numbers of female offenders to analyse gender differences in those studies, such as in the Canberra tests (Sherman et al, 2000). Until the restorative justice research agenda

includes separate experiments designed from the outset to be 100% female samples, not much more can be said based on research.

What can be said is that restorative justice might be developed as a viable alternative to the use of custody for females who offend, which has been rising at a rapid rate. Here again, reference to these results in pre-sentence reports might be seen as effective YOT practice across the full range of disposals, and the full range of offence seriousness. Even the use of restorative justice to reduce length of custody could result from making it a high priority in female cases.

### **Black and Minority Ethnic groups**

In an era of clear differences in attitudes towards law in public opinion polls of the White majority compared to Black and Minority Ethnic (BME) groups, it is important to consider whether BME groups may be differentially affected by any practice in youth justice. While there is no evidence of such differential effects for restorative justice in the UK, there is a striking finding on face-to-face restorative justice with Australian Aboriginals in Canberra (Sherman et al, 2000). That finding may or may not be generalisable to BME groups in England and Wales, all of whom consist of relatively recent immigrant groups. Aboriginals predate Europeans in Australia by some 50,000 years. They may retain a strong sense that Europeans have stolen their lands, and have been deeply damaged by the history of Aboriginal relations with Whites. That, in turn, undermines the capacity of law to be perceived as fair and legitimate. Yet to the extent that similar cultural messages may be found for religious or other reasons in the UK, the findings from Canberra may well be relevant here.

The Canberra study (Sherman et al, 2000) shows that restorative justice significantly *increased* repeat offending among Aboriginal youth property offenders. Compared to similar offenders randomly assigned to be prosecuted in court without restorative justice, the Aboriginals who received restorative justice were arrested more than twice as often during a two year follow-up. This stands in contrast to the lack of a significant difference in repeat offending among White offenders assigned to restorative justice or prosecution in court. The Aboriginal findings were all the more striking because the sample size was only 23 cases. The difference was only statistically significant (not likely due to chance) because the magnitude of the criminogenic effect of restorative justice was so very large. Something about the way in which this restorative justice programme was conducted caused Aboriginal youth to have a much higher rate of offending than the non-Aboriginal youth for at least two years after the intervention.

The sample of Aboriginals in the Canberra youth violence study (Sherman et al, 2000) was not large enough to test for comparable ethnic differences; among the 14 Aboriginals there was no difference observed in repeat offending between the restorative justice and court groups. The fact that no such difference emerged is encouraging, in that it holds the possibility that restorative justice only backfires with Aboriginals for property crime. It could be that injury from violent crimes engendered more empathy among the offenders, at least to the point of not provoking a defiant reaction when the harm was discussed.

Again we must note that these findings emerge from only one setting. The most conservative conclusion about individual needs of ethnic minority youth in the UK would be that adverse reactions to restorative justice are possible. As in the case of surrogate victims used in CBT programmes (Landenberger and Lipsey, 2005; Lipsey,

2007), the use of any 'victim harm' content in youth justice may always be complicated by the issue of whether the offender accepts the moral fact of having harmed an identifiable victim. The CBT findings and other evidence about surrogate victims suggests that 'victim legitimacy' is dangerous ground for all offenders exposed to restorative justice. Whenever an offender may believe that the victim has wronged the offender in some way, either individually or as a member of a larger group (or even an entire race), there may be a greater potential for restorative justice to backfire. This more general reaction to an 'illegitimate' victim may, for example, explain the Aboriginal findings in the Canberra youth property crime (personal victim) experiment. Furthermore, the fact that there were only White police facilitators in the programme (as in the Canberra police generally) may also be a partial explanation for the results. These findings may, in turn, predict that the grievances of any BME group could lead to an ideology that denies the legitimacy of even a personal victim in the room.

It is difficult to put this evidence into a simple guideline for effective practice. The evidence is too thin and the theoretical links to other groups of offenders too untested for such a guideline to be adopted. What the evidence does suggest is that youth justice workers should be mindful of this finding, and sensitive to it when developing plans for possible restorative justice services with ethnic minority youth in England and Wales. Clearly the dynamic between the victim and offender and between the facilitator and the offender can be influenced by cultural preconceptions, and YOTs need to attend to diversity issues in this context. The evidence shows that in some cases it is possible that the goal of 'ensuring young people address the impact of their behaviour on their victims' is risky, since it can increase the repeat offending rate. Until that possibility is more systematically investigated, it cannot be ruled out.

### **Services and treatment**

Many restorative justice processes become discussions of an offender's life circumstances and how they might be changed for the better. Victims often take a sincere interest in seeing an offender address personal problems underlying a crime. In one London conference with a mentally ill young adult robber, for example, her victim spent a great deal of time helping to convince the offender it was important to take the pills prescribed for her schizophrenia. The resolution of the case was the offender's promise to take her pills (despite her mother telling the offender the pills would make her fat). When this agreement was presented to the judge, he imposed a community supervision order rather than a custodial sentence.

Many restorative justice agreements involve the offender seeking out and completing certain kinds of treatment that turn out to be not actually available. Such practices are less effective than having offenders agree to meet their individual needs with specific services that will accept them as clients in the immediate future (and not put them on a long waiting list). In order to avoid such futile conclusions to the process, restorative justice facilitators can investigate in advance what options may be geographically accessible to the offender. A list of drug treatment programmes with available places, for example, can be updated regularly, and taken into a restorative justice discussion as a way to make concrete an agreement reached with an offender. There is a great deal of difference between agreeing to 'seek drug treatment' and agreeing to 'begin drug treatment next Monday at 15 High Street'. Youth Offender Panels have the advantage of the presence not only of supporters of the young person who offends, who can comment on what services and treatment they believe are needed, but also professional YOT staff

who can contribute results of the *Asset* assessment. Thus a more complete picture can emerge both of the needs identified and the services available locally for the purpose of devising the agreement and the YOP contract.

## Communication

Communication is the key component of restorative justice processes and agreements. Outcomes of restorative justice may depend entirely on the effectiveness of the communication practices that YOTs employ in delivering the relevant services. This section reviews the largely qualitative evidence on effective communication strategies in restorative justice processes and resolutions.

### *Communication within and between agencies*

Data protection legislation as well as ethics require practitioners to walk a communications tightrope. Delivering restorative justice involves a careful balance between the need for many different agencies and individuals to be aware of confidential aspects of a restorative justice case, and those laws and procedures that limit the sharing of this kind of information. The provisions of the Data Protection Act 1998 have sometimes been interpreted as requiring that only police officers can have access to victim contact information, and this has been problematic for restorative justice workers attempting to set up a face-to-face meeting between offenders and victims. However, the Victims Code of Practice 5.27 sets statutory standards for the police and, unless the victim asks the police not to, the police must pass the victim's contact details to the YOT. This should enable YOT managers to review and update protocols with local police, as necessary, to ensure an effective, reliable and timely transferral of victim contact details and to ensure YOT staff other than those who are police can access victim contact data.

Some agencies may have been able to use staff other than police to access victim contact data, thereby freeing up police for the kinds of communication with victims and offenders for which they are particularly suited. Any YOT that has been unable to do that may address it in a variety of ways, from changing local police policy to training civilian staff to use police information systems.

Communication between and among agencies is especially critical because of the multi-faceted nature of the needs of young people who offend. Some of these needs may be self-evident or emerge in the course of normal interviewing, but others may be revealed only in the course of the restorative justice meeting. The fact that a young person who offends cannot read adequately, for example, may not be evident until a restorative justice process actually occurs. The successful incorporation of a literacy programme into the restorative justice agreement may then require the YOT to connect the young person to a literacy programme.

The multi-agency structure of YOTs goes some way to addressing this issue, though often access is needed to resources beyond the team. Shapland et al (2006) observe in their evaluation of three Home Office-funded restorative justice schemes that establishing effective restorative justice programmes takes longer than most people expect, precisely because of the need to set up strong communication systems and protocols with a large number of local criminal justice agencies and specialised service providers. This includes not only, for example, drug and alcohol referral agencies but also local authorities in charge of parks, hospitals, nursing homes, schools and other facilities which may be able to offer opportunities for reparation activities. Even the

National Probation Service has, in the past, been unclear about where the responsibility lies for contacting victims, an issue addressed in a national thematic inspection (HMIP, 2003). Thus the need for checking and re-checking possible areas of communication failure appears to be constant.

### ***Communication between agencies and restorative justice participants***

Evidence from Canberra (Strang, 2002) and from restorative justice schemes in the UK (Shapland et al, 2006) on preparation for restorative justice meetings show one particular model has produced far higher rates of success at delivering restorative justice than any other method of contact. That method is for one person to be the communicator with all likely participants at the conference. Shapland et al (2006) refer specifically to the experience of the Thames Valley tests of restorative justice used in prisons and for those under community supervision. Thames Valley used a large number of part-time facilitators based in several different agencies. Shapland et al (2006) note this structure created a need for more specification of the many tasks entailed in bringing a case to the point of a restorative justice conference. The time taken by staff in discussion of the complexities of even apparently straightforward cases was substantial.

Assigning principal responsibility for cases to specific individuals ensures that one person is aware of all perspectives on the incident to be discussed in the conference. It also helps to foster good rapport and a trustful relationship between the restorative justice facilitator and all participating parties prior to the conference itself.

### ***Communication between agencies and offenders***

The evidence shows that there is great value in face-to-face meetings between a facilitator and an offender in gaining offender consent to engage in face-to-face restorative justice. These meetings yield higher rates of offender consent than is found in programmes not employing that practice. One clear illustration of that is the Northumbria Final Warning study (Sherman et al, 2006b), which had far greater participation in restorative justice than was found in other youth justice programmes (Wilcox with Hoyle, 2004).

Perhaps the most salient issue at the outset of any restorative justice intervention is a clearly communicated acceptance by the offender of responsibility for the incident. Restorative justice facilitators encourage offenders to disclose to them prior to the conference as much as they can about the circumstances of the offence to allow for a full understanding of the context of the incident. Offenders are also fully informed of the limits of confidentiality, both in private conversation with the facilitator and in the conference itself. These warnings address what will happen if another offence is disclosed, or another person implicated in the offence in question, or if a future offence is suggested or threats are made. All of these matters appear more likely to be addressed in face-to-face discussions with offenders and their families before any restorative justice is undertaken.

Offenders and their families can also be made aware that restorative justice is a voluntary process and that participation must not be coerced. This is very important from the standpoint of victim benefits. Offenders who do not willingly agree to meet their victims may well re-victimise them through the absence of remorse (Strang, 2002). Evidence from the Northumbria youth study (Sherman et al, 2006b) shows that with proper explanation, restorative justice participants can be limited to young people who

show clear willingness to meet their victims. These young people, all of whom had admitted their offence and were to be disposed of by a Reprimand or Final Warning, were asked to participate in a restorative justice meeting with their victim, if they were selected by the research design to do so. Even though the formal outcome for both the experimental group and the control group would be the same, 68% of assault offenders asked agreed to undertake such a meeting. For property offenders the rate was even higher; 80% of those who had admitted to a property offence agreed to take part in a restorative justice conference.

### ***Communication between agencies and victims***

The evidence provides even stronger support for the practice of face-to-face meetings between agency restorative justice staff and victims prior to their being asked to consent to any form of restorative justice. These meetings are also associated with far higher consent rates than contact by mail or telephone. They appear to work well for two major reasons. One is that the meetings afford an opportunity for victims and their families to ask questions about the process, increasing their clarity about what to expect. Another is that the discussion also focuses on scheduling any restorative justice events around times and days convenient for the victim, rather than merely informing victims when they must come if they want to participate at all (Shapland et al, 2007; cf Miers et al, 2001; Newburn et al, 2002).

The most effective practice in restorative justice is one that avoids putting victims under any sense of obligation to meet their offenders, nor attempting to caution them against such a meeting. The high levels of victim satisfaction recorded across so many programmes (see, for example, Strang, 2002; McGarrell et al, 2000; McCold and Wachtel, 1998) shows that victims are capable of deciding for themselves whether the process is suitable for them. Evidence from the Sheffield University evaluation of three Home Office-funded restorative justice schemes suggests that once victims have been fully informed of what restorative justice entails, what their role is and what they should expect from the process, victims are better suited than the facilitator to decide whether restorative justice is unsuitable for their own case (Shapland et al, 2006). The enthusiasm of many victims to take part in restorative justice is evidenced by their very high take-up rate in the Northumbria youth study (Sherman et al, 2006b); 86% of assault victims and 91% of property crime victims invited to participate in the research agreed to do so.

Evidence from the Canberra studies (Strang, 2002) shows how important good communication between restorative justice facilitators and victims is for a satisfactory victim experience. When conferences failed for victims it was often a consequence of their ignorance about roles and legitimate expectations about the conference, because of inadequate information and opportunity for discussion in the preparation stage of the conference. The salutary experiences of Canberra led to much greater emphasis being given to explaining roles and expectations to victims in the JRC studies in the UK, resulting in extremely high levels of satisfaction expressed by victims about the quality of information they had been given (Angel, 2005; Sherman et al, 2006b).

### ***Completing agreements***

Qualitative evidence consistently suggests that a major failing of communication is in tracking whether an offender has completed the tasks agreed to in the restorative justice

process. Evaluation evidence shows that the restorative justice process usually comes to an end with the agreement. Few programmes have established an effective long-term follow-up strategy as part of the communication process. Such communications are often, but not always, essential for addressing another communication concern – notifying victims of whether the offender has kept the promises made in the restorative justice agreement.

Victims may know immediately whether the agreement has been complied with. In one adult case in Northumbria, for example, an offender agreed to pay a weekly sum to a car theft victim after the car was wrecked during the theft. The victim was therefore well aware that the payments were never made. Other victims in the Thames Valley study asked for offenders to write to them periodically, with news of their efforts to stay in compliance with the law. They were also aware that their offenders had not written to them.

Very often, however, victims do not know what has happened after the restorative justice agreement is reached. Victims who are especially concerned about offenders rehabilitating themselves are at a particular disadvantage. The only way for these victims to know, for example, that an offender has completed a drug treatment programme, or has learned to read, is if the agency leading the restorative justice writes or calls to tell the victims that. When this is not done, it is often because the agency does not know itself. Hence effective communication to victims requires effective communication with service agencies delivering the agreed interventions.

Youth Offender Panels can have a significant advantage over other settings in which restorative justice is used, for when the panel meeting itself is the restorative justice process, the agreement is ‘built in’ to the panel contract with the offender. The elements of the agreement are automatically monitored by the YOT to feed back to the court. It should therefore be a straightforward matter to ensure that victims too are informed about compliance with the agreement.

### ***Keeping victims informed***

Effective practices at keeping victims informed may require a system for tracking expected completion dates, linked to an identifiable source of information in each case about whether completion has occurred. A computerised case management system for restorative justice is essential for handling such matters in high volume, or in cases of frequent staff turnover. Only a case-based records system can provide the institutional memory for checking and communicating whether promises have been kept.

Foremost among these promises is what agency restorative justice staff promise to victims. At the conclusion of a restorative justice process, it is commonplace to see victims assured that they will be kept informed about the offender’s progress. Such promises are likely to be broken, however, if the programme ends, if the restorative justice facilitator moves to another job, or if there is no managerial performance indicator about the rate at which such promises are made and kept.

## Service delivery

This section reviews the evidence on service delivery in the context of the YOT service mandates for restorative justice and summarises the expectations that have been established in relation to the evidence. This analysis then provides the basis for assessing evidence for effective practice. That assessment suggests that under current resource constraints, the attempt to provide restorative justice to high volumes of victims of youth offenders prevents the provision of high-intensity restorative justice in the most serious cases for which restorative justice appears to have the greatest benefits. Using restorative justice in fewer cases of greater seriousness may produce a far higher return on investment than attempting to use restorative justice universally with low intensity, impersonal communication methods.

### *Restorative justice service mandates*

The Crime and Disorder Act 1998 was the first attempt to introduce widespread use of restorative justice into criminal justice processing in England and Wales at a moment when legislative action was focused on the prevention of offending by young people. The use of Reparation Orders was introduced by the same Act. The Youth Justice and Criminal Evidence Act 1999, introduced in the following year, extended the use of restorative justice to young people who offend through the device of Referral Orders for juvenile offenders pleading guilty in court for the first time. The YOTs had primary responsibility for developing the interventions in support of the Reparation Order, partly on their own and partly via liaison with other statutory or community-based organisations. Much of the effort here was focused on consulting with and supporting victims of youth offending.

### *Service delivery to victims*

The evidence shows that the delivery of restorative justice services to victims by YOTs on a wide scale has been more challenging than restorative justice theorists had expected. A multitude of competing priorities and lines of responsibility by the various agencies and organisations newly working together in the YOTs have set the stage for that development. According to some studies, less priority has been given to victims than was originally envisaged, both generally and in restorative justice interventions in particular (Holdaway et al, 2001).

While it was originally intended that the Crime and Disorder Act 1998 would result in greater involvement of victims in *all* youth disposals, this universal mandate has proven difficult to implement. In 2002, Hoyle et al (2002) found in their evaluation of the police-run Thames Valley programme that victims were involved in only 16% of restorative conferences. Crawford and Newburn (2003) found that victims attended youth offender panel meetings in 13% of cases. These numbers contrast with the high take-up rates by victims in other locations – as high as the 80–90% range reported in Canberra (Strang, 2002) and in the early programme in Wagga Wagga, New South Wales (Moore and O’Connell, 1994). They also contrast with the high take-up by victims taking part in the JRC Northumbria Final Warning study (Sherman et al, 2006b).

There has been considerable speculation about the reasons for low victim take-up in England and Wales. It is likely that reasons vary across sites and over time, but given the evidence from these UK studies as well as the Australian data (Strang, 2002), it is evident that the low levels of victim participation experienced by the YOTs are not due to low levels of victim demand for restorative justice but more likely a consequence of the low level of resources available in YOTs for this work. From the outset there was concern about any perception of coercion of victims, which may have resulted in little encouragement of victims to participate. Usually they are contacted by sending a letter asking the victim to call the YOT. Victims tend to be informed that a Final Warning or YOP meeting will take place at a certain time and place; they are not always fully informed about what a restorative intervention consists of (particularly problematic when restorative justice remains little understood by the general public), what the victim's role might be at such a meeting or what they might expect to come out of it. The fact that restorative justice has often been used for relatively minor offences may also undermine victim participation rates.

The key question of operational practice is whether to accommodate victims in terms of dates and times to suit their convenience. There is no evidence to suggest that this is routinely done. Yet the evidence does suggest much higher take-up rates when it is done (see 'Communication' chapter above). This matter is especially problematic in YOPs, where several volunteer panel members need to be consulted by the YOT before the meeting with the offender is scheduled. As a consequence, it becomes very difficult to then give victim convenience a higher priority.

There appear to be no shortcuts to securing a high uptake of victims. The programmes with the highest level of victim involvement go to great lengths to secure it. These lengths include home visits for the purpose of explaining fully what restorative justice entails, comfortable venues for restorative justice, care taken to avoid pre-conference confrontations between victim and offender parties, and even the provision of child care and transport to the venue.

### ***Service delivery to offenders***

While the evidence suggests there has been too little service delivery to crime victims, it also suggests that there has been too much delivered to some young people who offend. Because restorative justice has tended to be used for less serious offences, commentators have noted a major concern with 'net-widening'; adding offenders into the justice system who might not previously have been dealt with in a formal way. Under the current practice, young first-time offenders who commit petty crime can be subjected to a much more complex disposal than they might have been formerly. In one example, O'Mahony and Doak (2004) report that in the Northern Ireland pilot scheme, 80% of the cases they examined were for incidents involving property loss of less than fifteen pounds, many of which would otherwise have been dealt with by a simple caution. Given the evidence that restorative justice is more effective for more serious youth offending (Sherman and Strang, 2007), widespread use of restorative justice for minor matters can be questioned on the basis of evidence. Similar evidence in New Zealand youth justice reached the same conclusion (Maxwell and Morris, 2001); that restorative justice is best reserved for more serious cases.

### ***Balance of service delivery***

Consistent with YJB mandates, the evidence suggests that effective practice could re-balance YOT resources as between service delivery to offenders and service delivery to victims. For cases of low seriousness without personal victims, restorative justice could be dispensed with in favour of simple Reprimands or Final Warnings. Wherever restorative justice is being used beyond those requirements, there could be resources freed up to deliver restorative justice to more serious cases within current mandates.

## Transition

There is no direct evidence on the use of restorative justice in transition of young people who offend from the community into custodial sentence planning, or from custody back into the community. Indeed, the De Montfort University study commissioned by the YJB (2005) concluded that there was very little restorative justice in evidence at any point in the juvenile secure estate.

Something is known, however, about the attitudes of victims towards restorative justice with young adult offenders in custody. The JRC studies involved many offenders who were either serving prison sentences for violent crimes (Thames Valley) or who were remanded in custody awaiting sentencing for robbery or serious burglary (London). For all these offenders it was necessary to hold the restorative justice conference inside prison. This entailed, on the one hand, detailed explanation to victims of prison procedures – no mobile phones, body searches, valuables to be left with prison staff, the limited facilities available inside prison, even on the curiosity of other prisoners – and on the other hand carefully worked out protocols and procedures with prison officials at every level.

These studies demonstrated that victims prepared in this way were willing to meet their offenders under these conditions. Moreover, they showed the willingness of prison authorities to provide the level of co-operation needed for successful restorative justice conferences to be held within the secure estate.

Indirect evidence about transition may be found in the growing literature on re-settlement and what US agencies call ‘re-entry’. This evidence covers a wide range of issues in offenders’ lives. None of it, however, incorporates the use of restorative justice in the processes of transition from community to custody and back.

Some illustrative evidence of the potential use of restorative justice in transitions for offenders receiving Detention and Training Orders was developed and approved in 2003 by both YOT and custodial staff treating young London offenders sentenced to Feltham YOI. Given the substantial risk of serious and frequent offending associated with early conviction and incarceration (Farrington and Coid, 2003), the secure estate would seem to be a prime target for enhancing investments in rehabilitative and reintegrative strategies to prevent future offending.

# Training

## *Training and method*

The quality of facilitation is crucial to the effectiveness of restorative justice conferencing and to the quality of restorative justice practice. Among the hundreds of restorative justice programmes operating now or in the past around the world, surprisingly little documentation has been published about the structure, process and content of the training underpinning practice, nor has any attempt been made to conduct comparative studies about the relative virtues of different kinds of training courses. Fortunately, the one systematic training course that is well documented is also the one involved in most of the rigorous testing of restorative justice effectiveness. To the extent that this has been beneficial, or at least benign, we can assume that this style of training is conducive to good outcomes.

All the programmes subject to SMS Level 5 evaluation testing have entailed training consisting of 3–4 days of experiential learning, which begins with trainees taking part in didactic sessions followed by question and answer and commentary sessions. They are given some theoretical underpinnings about affects and emotions and about group dynamics. This is followed by practical information about successful techniques for managing people in conflict, including ‘active listening’, the use of silence in restorative justice meetings and other essential skills. Trainees then take part in role plays in which they are given a script about the circumstances of the various participants in a conference – victims, offenders and their supporters – and then play out their roles in a restorative justice conference. Trainees report that this is a very powerful learning device that gives them insights into the emotions of restorative justice participants that they would not have gained any other way.

In this model, the training emphasises preparing participants for what they can expect from the conference, and includes the importance of having at least one meeting prior to the conference itself with each party separately. It also stresses the importance of everyone being clear at the outset, through these prior conversations, about the way the conference will unfold, understanding that the intention is to move towards an agreed outcome. It is made clear that the conference consists of a facilitated conversation between the people affected by the offence. Furthermore, the starting point for the conversation is that one party takes responsibility for harming the other party, rather than the parties being moral equivalents. The training also emphasises the importance of engendering a sense of trust in the impartiality of the facilitator, whose role is essentially that of a ‘boundary umpire’ for people whose responsibility is to talk directly to each other. A good deal of attention is paid to techniques for making sure the conversation is between the parties, rather than between each party and the facilitator. This reflects a core feature of conference training; that the facilitator plays a minimal role in directing the conference, beyond ensuring that the conversation stays on course, that civility is maintained, that progress is made towards an outcome designed to repair the harm caused by the offence and to put in place plans for minimising the likelihood of reoffending.

Facilitators are strongly encouraged to allow participants to express their emotions as clearly as they wish within the bounds of civility. Conferences, especially those involving serious offences, can be extremely emotionally powerful, with fearful, angry

victims and anxious offenders struggling to express themselves. Tears and shouting are not uncommon when the emotional stakes are high. Such events require confidence and judgement to manage well, but the expression of strongly held emotion appears to be essential for the success of the process and a good deal of time is spent in the training sessions learning techniques for handling participants' feelings and for judging when to intervene.

Some basic rules about conference procedures have been proposed (Moore and McDonald, 2000). These are sometimes referred to as a 'script', though this term is something of a misnomer as it is much more a loose structure than a tightly controlling device. This structure consists of the following stages:

**1. Listening to what all parties present at the crime say what happened at the time of the incident and how they felt as it happened**

Usually offenders are asked to speak first and to tell their story. Offenders are often nervous and reluctant to disclose exactly what they did, especially in the presence of their family and friends. Victims are also sometimes reluctant to recall the details of the incident; sometimes they may be so angry that they do not know how to express themselves. Facilitators are taught methods for encouraging all participants to talk by various verbal cues and body language. Each party is asked what they were thinking and how they felt at the time of the incident. Facilitators are encouraged to put emphasis on the expression of these feelings rather than the 'facts' of the incident which may be disputed when the emotions resulting from the incident cannot be so easily.

**2. Hearing how everyone has been affected by the offence**

Victims are often invited to speak first here as the consequences for them are most salient. Offenders have often not properly considered up until this point how they themselves have been affected, beyond getting caught up in the justice system. They are encouraged to verbalise, for example, how relations with their family and friends have been affected. Often the words of offender and victim supporters are especially powerful at this point in affecting the offender's view of their actions and the consequences of those actions and facilitators are trained to maximise their involvement for this reason.

**3. Deciding as a group how to make things better**

Facilitators know that a coerced apology is of no value and they are trained to watch carefully for when participants are ready for discussion to turn to resolution; this is often the time at which offenders want to express their remorse and say sorry to their victims. Although victims are never expected to express forgiveness, they will almost always accept a sincerely expressed apology, whether or not they wish to forgive. At this stage, everyone has a role in suggesting what can be done to make things better, though frequently no one has a clear idea of how this should be achieved. They will often look to the facilitator for ideas. The facilitator is trained to take care not to be directive but rather to help guide participants towards their own conclusions. Facilitators are also trained to record throughout the conference items that are mentioned that might form elements of the outcome agreement between all parties. These might include damaged relationships that might be worked on by the offender or problems in the offender's life that participants believe contributed to the offending behaviour and which might be addressed via the outcome agreement.

Training must also address the ‘nuts and bolts’ of preparing for, and conducting, a conference. The following steps have been recommended (Moore and McDonald, 2000):

- Decide in advance where each participant should sit; it is inappropriate to allow people to choose their own seating and detracts from the formality of the occasion. A favoured arrangement is to have the offender sitting immediately opposite the facilitator with supporters on each side and the remaining participants completing a circle (conference observers sit outside this circle and do not speak).
- Plan in advance the approximate order in which participants will be invited to speak at the outset of the conference.
- Clarify housekeeping arrangements before the formal part of the conference begins including emergency exits, toilet facilities, any security issues relating to the premises (especially if the meeting is held in a secure establishment) and whether refreshments will be provided at the end of the conference.
- Once the conference is underway, keep a brief record of who speaks, to ensure that everyone has a fair chance to contribute; those reluctant to contribute for any reason can be reassured and encouraged to do so.
- Keep a note of important issues that are raised, especially those that may be significant in reaching an outcome agreement.
- Keep direct communication with all participants to a minimum; when they speak directly to the facilitator, encourage them to direct their speech to others. Facilitators should never engage in one-to-one dialogue with anyone in the course of the conference.
- When the direction of the conference appears to flounder or emotions become too heated, the facilitator should intervene to move discussion forward by returning to the structure or ‘script’ of the conference.

The YJB itself is well aware of the necessity of quality training for its practitioners and YOP members are required to complete seven days of training for their role. The first three days of training focus on effective communication and interventions within the youth justice system and the following four days are made up of intensive training in the role of a panel member, which includes extensive content on restorative principles, skills and practice. Practitioners are also able to access K523 which is an Open University course called ‘Exploring the Youth Justice System’. This introductory course looks at evidence-based practice and the principles of effective practice, *Every Child Matters* (Department for Education and Skills, 2004) and young people within the youth justice system. The YJB is reviewing developments for accreditation of restorative practice either through the Open University or through Development Awards. Within the YJB Learning Space, which is provided by the Open University, there will be a specialist area for restorative justice and practitioners will be able to use that resource to confirm their knowledge of the area as well as to learn new methods and intervention processes.

Standards and certification are lively topics within the field of restorative justice internationally and some progress has been made towards recognition of facilitator

qualifications. In the meantime there are good reasons for further exploring the effectiveness of different restorative justice facilitation techniques. Poor training undoubtedly leads to poor outcomes (see for example Strang, 2002:141–151) and while we know relatively little about the benefits and advantages of different training regimes, we arguably know how vital it is to good outcomes for all restorative justice participants.

The question of the professional background of facilitators has also been a lively subject with many claims being made about the advantages and disadvantages of lay people versus criminal justice professionals, especially police (see for example Roche, 2003; Dignan et al, 2007). Despite these claims, little empirical evidence is available on this subject. The underlying premises about legitimacy that govern restorative justice include the absolute necessity of impartiality in its facilitation. It is therefore clear that no one with an operational role in decision-making associated with arrest, charge, or prosecution of the case should occupy the role of a restorative justice facilitator. It is also implied in respect of those involved in YOT supervision. Furthermore, the chain of accountability in restorative justice practice should be explicit. Facilitators must be free to exercise their independent judgment about the use of information disclosed in a restorative justice meeting. Different professions may be associated with certain stereotypes concerning their professional culture and occupational identity, but the real issue is more often to do with individuals' propensities to be overbearing or coercive, regardless of their institutional affiliation. Restorative justice training regimes emphasise the view that facilitators must take care never to be over-directive and must ensure that all participants in restorative justice are aware of their rights and their responsibilities.

## Management

This systematic review of restorative justice research did not find rigorous tests which compared management systems or case studies of management to indicate whether differences in management had effects on processes, agreements, or outcomes. The research does, however, have management implications in terms of operational practices in restorative justice, which will be explored below.

### *Managing assessment*

A management system for assessment of cases can be established based on the conclusions of this review. A priority score system, for example, based on a weighted checklist, could help to automate the decision process. A set of guidelines not unlike sentencing criteria could be used to classify each case. The action taken in each case, and whether or not it was consistent with such guidelines, could then be reported, with a reason for that action. Little more than a tick box would be required. For example, if offenders refuse consent to meet with victims, a mere tickbox or computerised code would suffice to show that. Compilations of these data could make the implementation of the priorities more transparent to management and YOT workers alike. It could also allow analysis of trends or demographic patterns (see the chapter on ‘Service development’ below).

Information about operations is only the beginning of management. Discussions with YOT staff about how more successful restorative justice processes might be delivered would be essential to make the most of such information. Management can also take the lead in providing training to YOT staff on restorative justice, which can help to foster understanding of assessment policies and priorities. Finally, management attention on a daily or weekly basis to restorative justice questions can help to create a sense of importance around such work, which arguably lies at the core of youth justice policy.

### *Managing communications*

YOT management can review all communication processes discussed in the ‘Communication’ chapter above. Where essential communication is not happening, or where its methods are ineffective, management can implement the kinds of evidence-based practices included in this source document. The major challenge for YOTs will be to implement a face-to-face explanation of restorative justice, in cases of serious crime, prior to the decision of a victim or offender to consent to undertake the process. This labour-intensive work may only become possible by reducing other kinds of work which are less evidence-based.

### *Managing service delivery*

Management of restorative justice delivery must address the inherent challenges of bringing people together. Many restorative justice processes fail because key participants do not appear at the last minute. Managerially-fostered systems, such as telephone or email reminders to participants the day before a meeting, could improve

the rate of completed processes. The pre-meeting contacts could also discover whether a particular problem, such as transportation or child care, can be solved in time to allow the participant to attend. This strategy could be used with supporters as well as with victims and offenders.

### ***Managing service development***

The ‘Service development’ chapter below presents an evidence-based description of some possible areas of service development. Managing these or other areas may best be accomplished by a team-building exercise within the YOT that is not unlike a face-to-face deliberation with a young person. If a YOT is able to collectively decide to commit to one or more of the possible areas of service development as goals for the coming year, there may also be the possibility for a consensus on the division of labour needed to accomplish each goal. The management of a division of labour reached in such a framework may be more likely to succeed than a mandate from a source beyond face-to-face discussion. What may make a consensus on development goals more likely is a pre-disposition to rely on independent evidence, rather than opinions of higher authorities. A robust discussion of the role of evidence and its value in accomplishing YOT goals may be a separate, warm-up preliminary discussion ahead of the discussion about service development.

### ***Managing evaluation and monitoring***

Managing evaluation and monitoring is likely to be a very different task from managing service development. Evaluation and monitoring can be done with one or several part-time YOT staff member/s. Unlike service development, the evaluation and monitoring tasks listed in the ‘Monitoring and evaluation’ chapter do not require a widespread change in YOT work with multiple knock-on effects. However, what may require YOT-wide discussion is the uses and implications of the information compiled from evaluation and monitoring. Any information that would bear particularly on the performance of any one individual, for example, could be a sensitive matter. Engaging staff in a deliberation about the design and interpretation of such measures before they are undertaken could go a long way to smoothing their acceptance. A consensus about the validity and legitimacy of such indicators, in turn, could increase their effectiveness at focusing and improving YOT-wide efforts in achieving goals for restorative justice, victims and related processes.

## Service development

This review of the evidence suggests three key areas for service development in restorative justice. One is developing a case-screening system to implement priorities for more cost-effective interventions. A second, related development would be to provide more face-to-face discussions with victims about their options for engagement in the youth justice processing of their case. A third relates to the process of seeking consent from victims to participate in restorative justice processes.

Three continuing areas of development would also increase the effectiveness of youth justice. One is greater engagement of all local services in restorative justice processes and agreements. A second is the development of restorative justice in the secure estate, both as an internal matter of disciplinary policy and in relation to transitions into and out of custody. A third is enhanced offender motivation to engage with treatment and reparation.

### **Three key areas**

#### **Screening cases for investment priority**

The evidence implies that youth justice offences can be classified by their likelihood of victims or offenders deriving benefit from a restorative justice process. Since restorative justice may work better when there are personal victims who have been harmed by a crime, screening of cases for this characteristic could provide an index for service priority. Developing such a screening process requires planning and testing for reliability. If successful, it could provide a useful tool for allocating scarce resources for working with victims, starting with the initial contact.

#### **Contacting victims face-to-face**

Evidence from restorative justice programmes in which police or other officials meet with crime victims suggests that such meetings enhance victim benefits. A victim's decision to engage with the youth justice process deserves a substantial amount of information and guidance. Such guidance can address the many unknowns about how much time they will be asked to invest, or how much danger they may face, or who will be their prime point of contact throughout the process. A system of face-to-face meetings with victims at the very outset of youth justice can be developed for the relatively few high-priority cases in which their engagement may do both victims and offenders the most good.

#### **Police versus civilian restorative justice staff**

Face-to-face meetings of victims and offenders can be offered by YOT staff from a wide range of backgrounds. The evidence suggests, however, that this kind of work may be the most cost-effective use of police officers in YOTs. Quantitative evidence suggests that police are very effective at both obtaining consents to participate, especially in very serious cases, and also in facilitating restorative justice processes. Effective practice in restorative justice includes wherever possible assigning civilian or clerical staff to replace police officers in IT access duties. Training all police officers in seeking victim consent as well as the delivery of restorative justice would help to

implement a broader practice of engaging police in discussions with crime victims and offenders about repairing the harm done by crime. It is of course possible that others with high quality training in obtaining consent during meetings with potential victim participants and in conducting restorative justice could be equally effective.

### ***Three continuing areas***

#### **Local services**

There is a clear need for updated information about services that are available to young people who offend. When the need for such services becomes apparent in a restorative justice event, however, YOT staff may not be prepared to suggest specific programmes that meet those needs or provide appropriate services. One way to make a more seamless transition from restorative justice to local services would be to engage them more directly in the event. This could even be done with preliminary discussions with offenders to identify their needs. If the offender is a drug or alcohol abuser, for example, a representative of a programme for treating such abuse could be invited to the restorative justice event. At that point, a direct handover of the offender to the social service agency could occur, closing a gap through which offenders may easily fall.

#### **Secure estate**

The evidence suggests there is little delivery of restorative justice within the secure estate (YJB, 2005). The pressures of custodial security may afford scarce resources for implementing restorative justice. Yet the evidence from one UK secure establishment for youths in Hertfordshire suggests that restorative justice can reduce problems of disorder within the establishment (Littlechild, 2003). There is also a track record of victims going into prisons to meet with their offenders in London and Thames Valley prisons (Shapland et al, 2006). For these and other reasons, secure estates in the YJB realm can seriously consider the use of restorative justice within their walls. Such practices might reduce crime both inside and outside the secure establishments.

### ***Motivating offenders for rehabilitation***

One potential area for developing restorative justice and related services is with offenders who have dropped out of treatment or rehabilitation programmes. It is not uncommon for young people to receive custodial sentences as a penalty for failure to comply with court orders to attend various treatment services. Before the penalty of custody is invoked, it may be highly cost-effective to invest in arranging a restorative justice process for the young person, either with or without the personal victims (if any) of their crimes. Even though crimes without personal victims have not been the subject of any demonstrated success of restorative justice in reducing repeat offending, it could well be that restorative justice would increase the rate of success in completing treatment programmes. That kind of outcome is as yet unmeasured and untested. Yet it is consistent with the theories underlying restorative justice processes that have been validated in at least some other tests. Making the most of any possibilities for motivational effects is something each YOT could develop and test in their own cases.

## Monitoring and evaluation

Effective delivery of restorative justice depends heavily on monitoring and evaluation. The evidence shows far higher rates of delivery where restorative justice is data-driven, rather than data-free. While practitioners have reasonable concerns that they should spend their time delivering services rather than computing statistics, the evidence suggests that the two are complementary. In agencies keeping careful track of restorative justice case eligibility, consent and delivery, far higher volumes of cases appear to have been generated than in agencies investing little in such monitoring (Miers et al, 2001).

### Monitoring

The process of monitoring restorative justice in YOTs might include data on the monthly percentage of designated high-priority cases in which the nature and possibility of restorative justice is explained to offenders and victims, cases in which they agree to restorative justice, in which agreements are reached, and in which the offender completes the work required by the agreement and victims are notified of completion status by a date certain. The following items could be the subject of such monitoring, regardless of how often management or practitioners meet to review the data:

- **Eligible caseload**

In order to assess the actual use of restorative justice in relation to its potential, monitoring data on the number of youths with personal victims could be compiled and reported on a periodic basis. All other statistics about restorative justice could be drawn from this number as a basis for the calculation of various rates.

- **Priority caseload**

Within all cases featuring personal victims, there will be a much smaller number of violent crimes, or serious property crimes, in which restorative justice may have the greatest benefits. A threshold for seriousness appropriate to any YOT's local caseload can be established to distinguish priority cases from others. Cases with female victims could also be given priority, given their higher levels of post-traumatic stress symptoms in the aftermath of crime (Angel, 2005).

- **Offender consent**

YOT workers can compile a periodic count of all the offenders in priority cases they have contacted to assess for restorative justice. Further counts can be kept of those deemed eligible for restorative justice, and of those how many consented.

- **Victim consent**

YOT workers can construct counts and rates in relation to victim consent. This would also allow YOT staff to distinguish the rates at which victims agreed initially but then discontinued participation, or failed to keep promises to engage in restorative justice. Such rates, in turn, could lead to analysis of the reasons for victim dropout, and the possible ways to address those reasons.

- **Agreements reached**

A periodic count of agreements reached can serve as a marker for the rate at which restorative justice processes are undertaken. The percentage of cases completed then would become a key indicator of whether the processes were being managed effectively, or whether recurrent obstacles to completion could be addressed. Reminders, transportation, child care, or unsuccessful negotiations are all examples of things that can go wrong in the process that would prevent completion. Only a continuous monitoring of the rate of case completion can show whether such problems are in need of attention.

- **Agreed tasks completed**

Perhaps the least common, but potentially most effective, monitoring system would track the rate at which offenders complete the tasks to which they have agreed in the restorative justice process. Whatever the restorative justice agreement calls for can be classified as 'done' or 'not all done yet'. A list of 'not done' cases for any time period could generate a follow-up process in which YOT workers remind offenders to complete their tasks as promised. Graduated sanctions for failure to do so would then be discussed as an essential part of maintaining the integrity of restorative justice.

- **Victims informed**

Regardless of whether a case is 'done' or 'not done', victims who have participated in restorative justice report a strong desire to be kept informed. Thus YOT staff can calculate the rate at which victims are notified (by mail or telephone) of the status of the offender's completion. This rate could be used to generate lists of victims who have not been contacted, so that YOT staff could bring the restorative justice -served victim updates to 100% as quickly as possible.

- **Repeat offending rates**

It is very helpful for a YOT to track trends in repeat offending over time, offence type and offender characteristics. Computing the percentage of offenders with a new conviction within six months or one year after completing restorative justice would be a simple means of tracking this key outcome.

## **Evaluation**

Evaluation is the process of analysing monitoring data to reach conclusions about cause and effect, or about problems and potential solutions. Such operational evaluations, as distinct from long-term independent studies (where the YJB recommends the use of its joint YJB/RDS-NOMS standards for outcome evaluations), are an essential part of continuous quality improvement in YOTs and secure institutions, as in all agencies. In combination with the monitoring data from which they can be generated, evaluations can form the basis of a monthly process of data review and discussion by management and staff.

Evaluating restorative justice practices can be done by every YOT and secure establishment. It can be done for solely internal purposes, or for external consumption. It can be done to measure progress, or to document problems. Most important, evaluation can help to solve problems that limit the effectiveness of practice.

### **Evaluating processes**

The monitoring data provide the basic information for delivery of contact, consent, and completion of restorative justice processes. These data can then be entered into an evaluation of whether the agency's own efforts caused better results this year than last. That evaluation would also include some assessment of the factors outside the agency's control that could affect the completion of these processes.

### **Evaluating agreements**

These are some of the key questions for evaluation of agreements:

- Do more intensive agreements that address specific victim harms or offender needs have higher or lower completion/failure rates than simpler agreements that offenders may be more likely to keep?
- Do agreements involving specific services, such as drug treatment, have a higher rate of completion/failure than more general outcomes?
- Do some kinds of offenders have higher rates of completion/failure than others?
- Do some kinds of offenders have lower rates of completion/failures for certain kinds of agreements, compared to others, within each category of offender?

An EXCEL spreadsheet could provide relatively quick calculations of answers to these questions. And with these answers in hand, restorative justice facilitators could give more information to crime victims, offenders, and their supporters to support their mutual deliberations about what should be done in the aftermath of the crime.

### **Evaluating victim outcomes**

The evaluation of victim benefits can be undertaken with a small investment in telephone interviewing during evening hours. A short questionnaire of the kind used by Shapland et al (2007) could be administered to a sample of victims participating in restorative justice. If done at the six-month follow-up point, the survey could be done in conjunction with a report on whether the offender completed the tasks required by the agreement. With a randomly selected sample of some 100 victims per year, or about one third of the average number of victims served by each YOT, a reasonably reliable estimate of victim satisfaction could be obtained. Nonetheless, as in all such measures, a resource investment would be necessary.

### **Evaluating offender outcomes**

An estimate of whether restorative justice is reducing repeat offending can be compiled in each agency by comparing expected and actual prevalence of repeat offending. In these analyses, the expected rate of offending could be computed using the offender's criminal history (e.g. by forecasting future offending based on past offending). On a case-by-case basis, it can be difficult to interpret the difference between expected risk and actual recidivism. Across groups of cases, however, it can be fairly simple to compare the expected percentage of offenders with a repeat offence to the actual percentage (Miers et al, 2001).

# Conclusions

## *Processes*

The processes used to generate restorative justice for young people who offend can be greatly improved by adopting effective practices. These include priority resource allocations for more serious crimes, and crimes that cause victims the greatest anxiety, providing time for face-to-face discussions about consent from offenders and victims, giving victims the chance to select the date and time for a face-to-face process, implementing pre-process contacts with all participants to reduce last-minute cancellations, and conducting restorative justice in a manner that allows all participants to be heard. Processes that deliver high-intensity services in high-priority cases may be the most effective at repairing harm and preventing future crime.

## *Agreements*

The resolutions reached in restorative justice are more effective when they are grounded in up-to-date information about the availability of certain kinds of rehabilitative programming that victims may wish to see offenders undertake. They are also more effective where agency staff monitor whether offenders have kept their promises made in restorative justice processes. Failure to keep these promises can be followed with pressure from agency staff to complete the tasks, which evidence suggests can be effective even without graduated penalties. Such penalties may, however, need to become an evidence-based (i.e. carefully-tested) feature of restorative justice if it is used more widely.

## *Outcomes*

If properly implemented, restorative justice helps most victims, including those whose post-traumatic stress from crime is reduced after completing face-to-face restorative justice. The offenders who complete restorative justice also may commit fewer crimes in the future, but this result is not consistent across all tests. In one test, restorative justice even increased the rate of arrest frequency among an ethnic minority group (Australian Aboriginals) (Sherman et al 2000). The use of agency-based evaluations of expected versus actual recidivism rates provides a data-driven means to guide restorative justice with local evidence of whether it is reducing (or not increasing) crime.

## Appendix A: What is a systematic review?

This report generally defines a systematic review to satisfy the following criteria:

- systematic searching and critical appraisal of studies identified
- transparency of the inclusion and exclusion criteria
- systematic and transparent extraction and analysis of data.

In accordance with the guidelines set out by the Campbell Collaboration<sup>9</sup>, our methodology as described in Appendix B includes:

1. criteria for inclusion and exclusion
2. search strategy
3. description of methods used in primary research
4. criteria for determination of independent findings
5. details of study coding categories.

The modern concept of a systematic review had its origin in evidence-based medicine in the 1990s in the development of the Cochrane Collaboration<sup>10</sup> for the National Health Service. Cochrane Reviews are defined as:

*...reviews... based on the best available information about healthcare interventions. They explore the evidence for and against the effectiveness and appropriateness of treatments (medications, surgery, education, etc) in specific circumstances.<sup>11</sup>*

They focus on a single intervention in each review, or on a comparison of interventions in relation to each other, in achieving a preferred outcome. The methods of these reviews require transparency and replicability, so that independent analysts using the same procedures would find the same results and reach similar conclusions. These traits are aided by keeping reviews narrow in scope, with each one focused on a single response to a single medical situation or condition.

### **Integrating multiple reviews**

This report uses a similar approach to the distinct features of its topic. Like the University of Maryland Report to the US Congress (Sherman, et al, 1997) on *Preventing Crime: What Works, What Doesn't, What's Promising*, this report combines what could be seen as multiple reviews of the best evidence available on different ways that practitioners can accomplish many different goals and objectives. Unlike the Maryland Report, this report reviews not only evidence on such outcomes as repeat offending, but

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<sup>9</sup> <http://www.campbellcollaboration.org>

<sup>10</sup> <http://www.cochrane.org>

<sup>11</sup> <http://www.cochrane.org/reviews/clibintro.htm>

also evidence on accomplishing implementation goals at intermediate stages of delivering programmes. Neither this report nor the Maryland Report constitutes a 'systematic' review in the technical sense of searching on a single question, since both are compilations of findings about many related questions. Unlike a single systematic review of evidence about the outcomes of a single youth justice programme, such as 'Scared Straight' (Petrosino et al, 2001), this review encompasses not only many different interventions but also component elements of those interventions.

### **Scope of the report**

The scope of this report is similar to that of all modern systematic reviews. Using transparent review methods, it attempts to provide the best guidance from evidence on *achieving goals* for restoration and victims in youth justice. The report attempts to map a wide variety of operational practices into mutually exclusive categories of what works, what doesn't, what's promising, what's not promising, and what remains unknown. Practitioners who may read this source document, or who may read the *Key Elements of Effective Practice* summary, which is based on this source document, should therefore be clear about the following premises of the report:

- Restoration and work with victims have multiple goals: achieving these goals requires, in theory, that many interim objectives for implementation be accomplished. When the evidence shows that a final outcome goal, such as reduced recidivism, has not been achieved, this result could be due to failures to achieve the interim objectives. It does *not* necessarily mean that the theory by which attaining interim objectives causes final outcomes is wrong.
- The evidence may show that some practices now in use either fail to work, or cause more harm than good. For the purposes of this report, those two negative outcomes are combined under the single category of 'what doesn't work'. The evidence on what does work, as noted above, varies from moderate levels of certainty (what works and what doesn't) to a mere threshold of insight (what's promising and what's not) to no evidence whatsoever.

### **What is evidence?**

The basic idea of gathering evidence on what happens in practice is to compare it to predictions made, in theory, about how that world works. Evidence can therefore only be defined in relation to a theory or a prediction – a claim that choosing one course of action is more likely than choosing other courses to be followed by a desired goal or objective. Because the test of such claims depends upon ruling out many other possible interpretations of why a desired result was or was not achieved, statisticians have developed (and still debate) elaborate principles of inferring cause and effect. The principle that 'correlation alone does not show causation' is used throughout this report. The premise of the analysis is that some evidence of correlation is better than no evidence at all on 'what's promising' (and what's not), but that conclusions about 'what works' (and what doesn't) must be strictly limited to the rare cases of repeated results that eliminate or reduce major competing explanations of causation.

One well-known example of this is the problem of comparing reconviction rates by type of disposal of cases. As the Home Office juvenile reconviction study for the 2003 cohort observed (Home Office, 2005:13):

*Reconviction rates vary considerably by type of disposal but this is largely explained by differences in the characteristics of offenders given each*

*disposal. For this reason, when comparing the effectiveness of different disposals, actual reconviction rates are not a good measure. For instance, in the first quarter of 2003 only 13 per cent of those receiving custody were first-time offenders, compared to 94 per cent of those who received a pre-court disposal.*

In order to produce fair comparisons of the effects of disposals on outcomes, then, it is necessary to control the characteristics of the offenders compared to the extent possible. It is just that logic which underlies the more elaborate procedures used to classify evidence in this report.

#### **Levels of evidence**

The five SMS Levels of evidence employed in the Maryland Scale of Scientific Methods are based on the relative power of a research design to rule out competing explanations of causation. This power is called ‘internal validity’, in contrast to ‘external validity’, which is the generalisability of conclusions from one sample or location to another. Because internal validity is a fundamental requirement for external validity, the Maryland Scale focused on the wide range of internal validity found in crime prevention evaluations (Sherman, 1997). That range is classified in this report as follows:

- *Level 1:* Correlation at a single point in time between outcomes and programme.
- *Level 2:* Comparisons of outcomes before and after a programme is introduced.
- *Level 3:* Comparisons of outcomes before and after a programme is introduced in a single site, with a further comparison between the programme site and a similar site not receiving the programme.
- *Level 4:* Comparisons of the average outcomes before and after a programme is introduced in multiple sites or for multiple persons, with a further comparison to the average outcomes of multiple sites not receiving the programme that were chosen to match the characteristics of the programme sites (or people).
- *Level 5:* A randomised controlled trial, in which comparisons of average outcomes are made between two or more reasonably large groups of people or sites that have been assigned the programme (or not) under a strict lottery allocation method called ‘random assignment’.

#### **Standards of evidence**

The Maryland Report (Sherman et al, 1997) used these five levels of internal validity for *each* study to establish three standards of evidence for integrating *all* studies about the effects of programmes on crime:

- moderately conclusive
- merely suggestive
- completely absent.

In light of the relative dearth of programme evaluations, the authors set the standard for *moderately conclusive* evidence on ‘what works’ and ‘what doesn’t’ as follows: two or more independent Level 3 tests of the same programme on separate samples reaching the same result, not substantially contradicted by other evidence. Level 3 tests were minimally defined as those making before and after comparisons of crime trends in a population using a comparison group. The standard for defining the *merely suggestive*

evidence of ‘what’s promising’ was set somewhat lower at one Level 3 test showing a crime prevention effect. The report did not specify or identify the logical extension of this standard to ‘what’s not promising’, or one Level 3 test showing no crime prevention effect (or showing a crime increase effect). It did specify, by definition, that any programme lacking enough evidence to meet any of these standards could be considered to have *unknown effects*.

### **Outcomes versus processes**

The standards of evidence used in the Maryland Report are limited in several ways. One is that the report did not employ the more advanced methods of synthesising independent results to look for an average programme effect, taking instead a more conservative approach that did not assume the studies were comparable enough to justify computing average results of the tests. Another is that the report focused almost entirely on outcomes of programmes, rather than on the component processes or interim stages of the programmes, in reaching a global conclusion about programme effectiveness. This report maintains the first limitation, since the evidence for the report is just as limited as it was for the Maryland Report. This report abandons the second limitation, however, by addressing the processes and agreements intended to lead to better outcomes for youth and victims, for the following reasons.

This report employs the same standards for ‘what works’ and ‘what doesn’t’ as the Maryland Report (Sherman et al, 1997), on the grounds that this is actually a more cautious and unbiased approach in this context. As Berk (2005) has demonstrated, the use of more advanced methods for synthesising conclusions (often called ‘meta-analysis’) is arguably inappropriate when the independent conclusions of each study are reached using research designs that lack either random selection of cases or random assignment of treatments. Since most evaluations of restorative justice programmes lack that kind of evidence, the more descriptive approach this report employs reflects a more cautious use of the evidence available.

This report employs a less conservative standard than the Maryland Report (Sherman et al, 1997), however, in examining evidence concerning ‘what’s promising’ and ‘what’s not promising’ in restorative justice processes and agreements. The standard used in this report is at least one finding at Level 1 (with or without tests of statistical significance) or higher. The report applies this relaxed standard *only to processes and not to outcomes*. The reason for relaxing the standard is to provide operational guidance to practitioners on tactical questions of restorative justice operations. Such implementation questions were excluded by definition from the mandate for the Maryland Report. The present report, in contrast, includes a clear mandate to address operational issues of restorative justice practices. This makes a more relaxed standard of evidence on such questions appropriate. The alternative to is exclude information that could be of some use to practitioners in making daily decisions – not about whether to undertake a restorative justice intervention, but rather, *how* to go about delivering it.

## Appendix B: Methodology of the systematic review

This appendix describes the methodology used for the systematic review. It includes the criteria the report used for inclusion and exclusion of studies, the search strategy, the description of methods used in primary research, and the criteria used for the determination of independent findings.

### **Criteria for inclusion and exclusion**

#### **Quantitative**

All studies that provided data which relate to restorative justice and work with victims have been included if they reported findings on any of the following:

1. Impact of restorative justice on the prevalence (percentage with any) offending/reoffending of *both* presenting offenders and victims
2. Impact of restorative justice on the frequency or severity of offending of *both* presenting offenders and victims
3. Interaction effects between type of offence, offender or victim and the results of numbers 1 and 2 above.
4. Correlations of factors suggesting a relationship or association of restorative justice with offending/reoffending of *both* presenting offenders and victims
5. Impact of restorative justice on victims' post-traumatic stress symptoms, including days lost from work, anxiety levels and health effects
6. Impact of restorative justice on victim satisfaction and *dissatisfaction* with the process, in relation to offender conduct during the process or restorative justice facilitator conduct
7. Impact of different methods of attempting to implement restorative justice at the case level on the degree of participation elected by victims and offenders, both in advance agreements and in actual completion of restorative justice on the day/s scheduled
8. Interaction effects of community representatives participating in restorative justice processes on the effects on offending covered in numbers 1 and 2 above

#### **Qualitative**

Studies that provided data which related to restorative justice and work with victims have been included if they reported findings on any of the following:

9. Effects on victim and offender decisions to participate in restorative justice
10. Effects on successful completion of restorative justice processes once initiated
11. Variations in success rates according to direct or indirect restorative justice methods used, including 'shuttle' communication between victims and offenders, same time-different place dual facilitator telephone communications, and one-way communication (letters and oral messages)

12. Effects of restorative justice on offences brought to justice
13. Effect on victim satisfaction
14. Effect on community engagement and public confidence

Decisions on what to include or exclude have been made according to the *content* criteria above and based upon our examination of the titles, keywords, abstracts, and where necessary the complete text, to ensure that all relevant studies were included.

For quantitative research, we have distinguished between studies that provide reasonably unbiased estimates of the effects of restorative justice and those which do not. For this purpose, ‘reasonably unbiased estimates’ for determining ‘what works’ consist of any programme evaluation at level 3 or higher on the Scientific Methods Scale (SMS).

The introduction of a restorative justice process in an ongoing series of cases being processed in a jurisdiction may provide some basis for inferring the effects of the programme, even though the internal validity of the estimate of effects is vulnerable to the threats of history, regression to the mean, and changing composition of cases. Nonetheless, it seems useful to include such studies in analyses of ‘what’s promising’. In that respect, we have been even more inclusive in methodology than the University of Maryland Report to the US Congress, which required evidence from one Level 3 or higher evaluation designs in order to qualify as a programme that is ‘promising’ (Sherman et al, 1997 and 1998<sup>12</sup>). This approach also allows the reader to employ the same criteria used in the Maryland Report if the reader chooses to do so.

Level 1 (correlational or unmatched comparison) quantitative studies have therefore been omitted from inclusion in analyses of ‘what works’, but not from ‘what’s promising’ on several methodological grounds. Foremost is the inability to eliminate selection bias from the comparison of restorative justice cases to other cases. Designs in which even large numbers of restorative justice cases are compared to non-restorative justice cases, and even when controlling for offence type and offence characteristics, may be vulnerable to the apples-to-oranges problem of specification error; unmeasured, and hence uncontrolled, differences in traits between offenders in the restorative justice category and those not that would spuriously drive differences, or lack of differences, between the two categories in their outcomes. In addition, comparisons made in some studies between refusers (or defiers) and accepters of restorative justice are clearly contaminated by traits that are of greatest interest, and are hence entirely corrupted as evidence of the effects of restorative justice as distinct from pre-existing personality differences.

The qualitative studies use much more relaxed criteria, consistent with Cabinet Office standards, which set the floor at a systematic approach to learning about how restorative justice has succeeded or failed. Such an approach is defined for our purposes as based on sustained contact between the source of the evidence and the field operations of a restorative justice provider over at least a month. This ‘time-in-the-field’ requirement, minimal as it is, provides a screen against purely anecdotal evidence. All of our own case studies, for example, are based on at least six months of contact with the YOTs from which we draw the evidence, during which we had repeated interviews about why eligible cases were or were not being served with restorative justice.

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<sup>12</sup> <http://www.ncjrs.gov/works/>

## Search strategy

### Quantitative

The review includes published and unpublished research, conducted since 2001 for UK and international studies, and draws on the sources/research contained/referenced in the original source document. However, the overall conclusions include all evidence produced before and after 2001. We followed the basic rule in science of cumulative findings, with the new findings since 2001 integrated into the previous results for the purpose of completing the new source document.

The search strategy involved:

- Searches of online databases: These included ASSIA, IBSS, CSA, CJA, PAIS International (Public Affairs Information Services), IBSS, PsycInfo, NCJRS (The National Criminal Justice Reference Service), C2-SPECTR, SwetsWise
- Web searches (e.g. CCJG)
- Print sources: Journals, textbooks, hand searching (e.g. British Library, BPLES, Home Office library)
- ‘Grey’ literature: databases (e.g. SIGLE), conference proceedings, research funders (e.g. ESRC)
- Snowballing through contact with researchers who have undertaken work in this area to identify additional sources of unpublished research which may be of relevance to the review
- Search of our own records, data sets and reports for relevant findings.

The search terms utilised for this study have been developed through systematic searching from initial keywords identified. Initial key terms used when searching the databases include:

- Youth justice/juvenile justice/youth custody/juvenile custody
- Young offender/juvenile offender/youth offending/juvenile offending/youth reoffending/juvenile reoffending
- Restorative justice/restorative practice/restorative approaches
- Restorative conferencing
- Direct reparation/indirect reparation/reparation
- Mediation
- Family group conference
- Youth Offender Panel/referral order
- Victim contact
- Offender participation

- Sentencing circles

### ***Description of methods used in primary research***

This review focuses on all the available evidence relating to impact studies. Both individual studies and meta-analytical studies and reviews are included where appropriate. These quantitative studies have been assessed according to the Scientific Methods Scale, with each study being rated according to that scale. When meta-analytic studies are identified, each of the primary studies listed in the bibliography of the meta-analysis have been located and assessed independently.

### ***Criteria for determination of independent findings***

The methodology for this report took a broad view of the definition of independent findings. If the findings were quantitative, the report assumes that the numerical analysis creates a measure independent of any goals or expectations that may be held by those compiling the numbers. If the findings were qualitative, the report assumes that the observers were reflecting accurately their perceptions from first-hand observations or experience. The fact that authors of reports were engaged in practice did not in any way exclude the studies from being considered.

What this approach required, however, is a focus on research design in the primary studies; how the authors knew what they said they had learned. The ways in which we used the Home Office/YJB criteria to code these studies has been described in the text of the report.

The review focused on the role of youth justice services in providing or brokering access to restorative processes, and ensuring young people address the impact of their behaviour on their victims. It also considered the role of YOTs in providing services for the victims of youth crime referred to them in order to address their needs and increase their satisfaction.

The review addressed issues relevant to delivery for frontline staff, operational management, and strategic management and partnership working. It is written with the needs and interests of YOTs and secure establishments in mind.

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