

ABSTRACT

Title of Thesis: VICTIM PERCEPTIONS OF LEGITIMACY OF
DIVERSION TO A CONDITIONAL OUT-OF-
COURT DISPOSAL: A RANDOMIZED
CONTROLLED TRIAL

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This paper describes a randomized controlled trial testing the impact of a conditional out-of-court police disposal on victim satisfaction. The study draws on three previous research findings: that the quality of procedural factors about the way a case is handled (fair and respectful treatment, etc.) influence victim satisfaction more than the outcome of cases; that victims' primary goal for their case is to stop the offender from committing the crime again; and that the way in which a sanction is communicated can change how appropriate the sanction is perceived to be. In this sample of 142 UK crime victims, half of the offenders in these victims' cases were randomly assigned to court as usual, and half to diversion into Turning Point, wherein offenders agreed to complete conditions designed to stop their offending and address victims' needs. Based on a victim survey (70% response rate), Turning Point sample was 45% more satisfied with their cases (72.5% and 50% satisfaction, respectively). Potential explanations and implications are discussed; how out-of-court disposals are communicated may be key. In a third non-randomized but suggestive sample of victims with Turning Point cases without special attention to communication with victims, only 54% of victims were satisfied.

VICTIM PERCEPTIONS OF LEGITIMACY OF
DIVERSION TO A CONDITIONAL OUT-OF-COURT DISPOSAL:
A RANDOMIZED CONTROLLED TRIAL

by

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Introduction

The impacts of negative experiences of victims in the criminal justice system can be profound, and can sometimes carry serious consequences for victims. Criminal justice responses to crime have measurable effects on victims' health and wellbeing, as well as their satisfaction and perceptions that the response to their cases was legitimate. More than 3 out of 4 Americans are victims of violent crimes in their lifetime and almost all are victims of property crimes (Koppel 1987). Experiences as victims in the criminal justice system are widespread enough to have potential cumulative effects at the societal level on factors ranging from crime reporting, to crime levels, to trauma and other public health issues (Tyler and Huo 2002). Preventing negative experiences of victims with the criminal justice system is a critical area for research and policy attention.

Negative experiences in criminal justice systems can adversely impact the health and wellbeing of victims as they struggle to regain normality following an incident. There is evidence of negative experiences in court causing or exacerbating ongoing stress, anxiety, guilt, fear of future victimization, victim aversion to leaving homes or being in the area of the offense, illness, inability to sleep, negative relationship effects, and serious Post-Traumatic Stress symptoms and disorders (Ullman 2010; Orth 2002; Winick 1997). Long-term declines in health and wellbeing due to negative criminal justice experiences appear to even result in premature mortality, at least in some populations (Sherman and Harris 2014).

The stakes for getting victim experiences in the criminal justice system right are not only high for victims, they are high for society, in terms of overall societal

perceptions of police and criminal justice legitimacy. Research suggests that low perceptions of police legitimacy have adverse crime control consequences. Negative experiences of victims with criminal justice can lead to reductions in perceptions of legitimacy among victims and others who hear about a victim's experience (e.g., Tyler and Huo 2002; Tyler 1990), which in turn appear to reduce the likelihood that those involved will comply with the law themselves in the future (Tyler and Huo 2002). Victim dissatisfaction can also reduce the likelihood that victims will contact the police about an incident in the future. Indeed, research suggests negative expectations about the criminal justice system and a belief that it will not help them is one of the leading factors causing non-reporting among victims of crime (Shapland et. al. 1985), as is past negative experiences with the police (Conway and Lohr 1994). Only about half of violent victimizations and about 40% of property victimizations were reported to the police annually from 2000 to 2010 in the US (Harrell 2011).

One criminal justice response to crime that impacts a large number of victims—and has largely unknown impacts on these victims—are cases where police divert offenders from court into sanctioning in out-of-court disposals. As of 2008, almost 40% of cases brought to justice in the UK were out-of-court disposals¹, and they are likely to increase in the future (CJJI 2011). However, little is known about victim experiences in these diversionary disposals, and victim perceptions of these actions have not been studied experimentally aside from victims views of diversion to restorative justice, an alternate approach to securing justice for victims and reducing

¹ Out-of-court disposals in the UK are non-court diversionary sanctions for low-level offenses (usually police-issued). These disposals are issued in place of sending offenders to court, and generally are only used when the offender admits the offense. In descending order of severity, these disposal options are: conditional cautions, simple cautions, penalty notices for disorder, cannabis or khat warnings, and community resolutions.

reoffending (Strang 2002; Shapland et al. 2011). In the past, out-of-court disposals have been reserved for low-level offenses. As these disposals are a promising approach to reducing reoffending and cutting criminal justice costs, there is currently policy discussion in the UK of extending out-of-court disposals to crimes that are still low on the full spectrum of offending, but higher-level cases than in the past (none that are serious enough to be likely to be sentenced to incarceration, but would normally be charged and sent to court). However, the use of these disposals in higher-level cases may be perceived negatively by victims if they feel this outcome is not severe enough or otherwise inappropriate.

Conversely, conditional out-of-court disposals offer potential to satisfy victims more than non-conditional out-of-court disposals, and more than cases being charged and sent to court. In the past, the vast majority of out-of-court disposals have not been conditional, and have simply been administrative or financial admonishments (for example, simple cautions—which go on the offender’s record but do not come attached with offender requirements, and penalty notices—which simply require the offender to pay a fine). It may be that conditions with teeth for offenders to complete are desirable for victims. It is also possible that they are more satisfying to victims than court. Cases that are unlikely to receive a custodial sentence—such as the cases involved in this study—are handled primarily in the UK Magistrate (which handles less serious cases than Crown Court). In the UK, 63% of Magistrate court sentences are only a fine. Therefore, the addition of versatile conditions to address the needs of victims and reduce reoffending may be able to improve upon current practice when it comes to victim satisfaction.

This victim-focused study takes place within the context of an offender-focused randomized controlled trial (Turning Point) in Birmingham, UK. The main offender trial tests a new out-of-court disposal for these relatively low-level—but more serious than would normally be diverted—cases. Turning Point focuses on recidivism for offenders who are charged and sent to court compared to recidivism of those who are diverted into an out-of-court disposal; its focus was designed to draw on deterrence and rehabilitation to reduce reoffending (Sherman, 2011; Sherman and Neyroud 2012). This disposal requires offenders to complete conditions that can be focused on reducing reoffending, punishment, or reducing reoffending, and if the offender completes their individualized conditions within four months, then they are not prosecuted for the initial offense. These disposals run the risk of adverse effects on victims, if victims feel their needs are not being met or their cases are not being taken seriously. On the other hand, they may be equally or more satisfactory if victims feel the disposal and the conditions are more likely to be effective at stopping reoffending for the handling of the case. Therefore, this study is key to understand victims' experiences with out-of-court disposals in these more serious cases.

In order to measure the satisfaction of victims in both treatment groups in the study, the research team re-designed the randomization programs for the final phase of the overall study so that cases with and without victims were block-randomized to allow for disaggregation of the overall trial into several sub-experiments (Ariel and Farrington, 2010). One of the sub-experiments is the present study that examines victim-involved cases without analytic contamination from victimless cases. This

paper is based on a survey of the victims in those cases, in which both victims with cases assigned to diversion and those assigned to court were interviewed.

The outcome of this study has key theoretical and policy implications for the role of police. It comes at a time when the criminal justice approach to sanctioning is being re-evaluated through the lenses of both satisfaction of and legitimacy to victims, and effectiveness for reducing offender recidivism. Changes to out-of-court disposals are also being considered, including the increased use of conditional out-of-court disposals, as well as out-of-court disposals for more serious offenses.

Background: Out-of-Court Disposals

There is a growing case for sanctioning “smarter” in the UK, US, and elsewhere, as high rates of reoffending, prison overcrowding, high court volumes, pressure on criminal justice budgets, and attacks on police legitimacy converge. A growing body of evidence suggests that sanctioning smarter often requires less severe but more effective punishments, including those that are more individually tailored towards what is most likely to work for specific offense and offender types (e.g., MacKenzie 2006). A significant backfiring effect has been detected of increased severity of punishment in many contexts, and research suggests instead that increasing certainty (and possibly the speed) of punishment can be more effective at reducing offender recidivism than increasing severity (Durlauf and Nagin 2011; Nagin et. al. 2009; Hawken 2011).

Conditional out-of-court disposals are a promising approach to reducing severity and cost while increasing effectiveness and efficiency of sanctions. Diversion

from court into police disposals that require offenders to complete conditions designed to reduce their reoffending and address the needs of victims may be a more effective way to reduce reoffending than court processing for many offenders. Prior research suggests court processing may do more harm than good for many offenders: for example, a recent review of all of the high-quality studies that have been conducted on juvenile court processing found that court processing had a significant overall backfiring effect, increasing the later offending of juveniles (Petrosino et. al. 2010). Looking across the lifecourse of offenders from adolescence to age 70, Laub and Sampson (2003) found that court can often be a turning point for the worse, nudging offenders towards, rather than away from, continued offending behavior.

While out-of-court disposal effects on offenders are promising, out-of-court disposal effects on victims remain a serious concern. If victims overall feel diversion-from-prosecution approaches to the handling of their cases are not legitimate, then these approaches may be perceived as much less politically and ethically tenable option. Little research exists on victim satisfaction with and perceptions of legitimacy of these much-used disposals. Existing research generally lacks compelling comparison groups and sufficient sample sizes, creating strong biases. There is no experimental or quasi-experimental research on this question in the UK, despite the widespread use of these approaches in that country. For example, one of the few studies on the matter was conducted by the joint Criminal Justice Inspectorate for England and Wales (CJJI 2011), which found that victim satisfaction with out-of-court disposals was at least equivalent and perhaps higher than satisfaction with court. This important conclusion, however, was based on a convenience sample of 64

victims whose cases had been handled with out-of-court disposals, and 22 whose cases had been handled in court, posing a strong risk of bias.

The dearth of experimental and quasi-experimental evidence overall is limiting to the ability of researchers to draw conclusions when it comes to elements influencing victim perceptions of legitimacy and satisfaction with case processing and outcomes. The existing research is limited by heavy reliance on cross-sectional or longitudinal designs. Much of it is derived from surveys of victims who have had their cases handled by the criminal justice system, who are asked how they felt about their outcome factors, and about what outcomes or processing factors they would have preferred. Additionally, cross-sectional research compares the survey responses of victims who have experienced different outcomes to see which outcomes seem to be the most satisfactory. This approach is limiting for two reasons. First, even when various characteristics about the victim, case, and offender are controlled for, there are likely to be underlying differences between the victims and cases that received different outcomes as a matter of normal process rather than study manipulation. These differences cause bias in the resulting comparison between the satisfaction of victims with cases in different outcomes. Cases that receive cautions as opposed to those that go to court are likely to be different in a range of different ways, and the satisfaction of those victims may relate more to the underlying differences between the cases, victims, or offenders than the difference in outcome. Second, the way dissatisfied victims state they would have preferred their cases to be handled does not necessarily mean they would have in fact been more satisfied were they to have actually received those sanctioning outcomes—the experience of those outcomes may

not make them feel the way they envision it would. These two phenomena highlight the importance of experimental research in which similar (or equivalent) groups of victims experience different sanctioning outcomes, allowing the research to compare how legitimate they feel to victims after having experienced them. Such experiments offer far greater internal validity than simply asking observational samples of victims to imagine what experience they would have preferred.

There are experimental exceptions to the generally descriptive character of victim legitimacy research. These are, however, focused specifically on testing legitimacy of substantial victim-oriented changes in case handling—alternatives (restorative justice; Strang 2002; Shapland et. al. 2011) and add-ons (victim impact statements; Davis and Smith 1994) to traditional criminal justice—rather than different processes and/or outcomes in the traditional criminal justice process for offenders. While these can inform the victim satisfaction and perceptions of legitimacy within standard case processing, their applicability to standard case processing requires further testing.

The importance of generating clear, high quality research on these issue is heightened due to three major policy actions that have pushed out-of-court disposals to the forefront of the national debate on crime and criminal justice in the UK:

First, as of April 2013, *conditional cautions* (CC)—a diversionary suspended sentence that keeps offenders out of court as long as they comply with a set of conditions—became a police decision (henceforth decided and issued by police, rather than the Crown Prosecution Service) for most offense types. The newly simplified procedure replaced the previous little-used, bureaucratic, multi-agency

process, making conditional cautions more accessible to police officers. The CC disposal adds enforceable conditions to traditional police-led simple cautions, which are administrative admonishments with no action requirements to offenders. Conditions in CCs could range from rehabilitative options such as completing drugs treatment or working towards employment, punitive options such as community payback, reparative options such as victim compensation and restorative justice, and control-oriented options such as curfews or requirements not to contact the victim or co-offending peers. If implemented in an effective manner, their potential to generate reduced reoffending, lower costs, and satisfied victims makes them a promising direction for police disposals.

Second, the *Community Remedy* (CR) was passed into law in the first half of 2014, wherein police officers can approach victims with a list of potential conditions designed by the public under the guidance of the Police and Crime Commissioners (elected officials who have oversight of a wide range of police functions), and allow the victim to request the conditions/requirements they want to place on their offender in CCs or community resolutions (another conditional out-of-court disposal).

Third, a UK governmental *review of out-of-court disposals* focused attention on out-of-court disposals and whether they are being used appropriately (CJJI 2011; Sosa 2012). In part based on this review, out-of-court disposals received substantial media attention as policy-makers and researchers alike raised questions about the most appropriate use of these options.

These three policy changes have increased the attention on out-of-court disposals. Learning how to implement them in a way that ensures effectiveness and

legitimacy for all stakeholders is an important goal. Proponents of smarter sentencing have widely pointed to securing justice for victims as a major part of the case for more severe outcomes in the UK, US, and elsewhere. The question of what outcomes victims view as legitimate, and how procedural factors may impact that view, is crucial for setting acceptable criminal justice policy in the eyes of victims, the public, and policy makers.

Drivers of Victim Satisfaction

The present study drew on three key findings from the previous literature on victim satisfaction: first, the quality of case procedural (process) factors appears to be more important than case outcomes in determining victim satisfaction; second, the primary goal stated by victims for their cases in a range of studies is stopping the offender from committing the offense again; and third, the way in which an outcome is communicated can impact whether it is perceived as legitimate.

Satisfaction: Outcome Versus Process

Beginning in the 1970s and 80s, a body of victim research developed in response to three widespread findings: 1) the criminal justice system largely does not include victims as a party or even a stakeholder in their own crimes, aside from possibly being a witness—and as the majority of cases are handled with plea bargains, this often does not include testifying in court; 2) victims widely feel that they are not treated with the care and respect that they expected or deserved by criminal justice systems, and; 3) there are sometimes serious consequences of this neglect. Researchers have also critiqued the practice of pointing to victims' rights as

justification for harsher outcomes for offenders (see, for example, Strang 2002; Shapland et. al. 2011; Shapland et. al. 1985).

Not only have victim perceptions of legitimacy and satisfaction with criminal justice systems been low in many contexts (Laxminarayan et. al. 2013; Shapland et. al. 1985), but studies testing improved victim treatment have demonstrated dramatic increases in victim satisfaction (Strang 2002; Shapland et. al. 2011). Key sources of victim dissatisfaction include: not receiving enough information about the processing of their cases (Shapland et al. 1985; Maguire 1982); feeling that they are not included in the handling of their cases (Strang 2002; Shapland et. at. 2011); feeling that they are being treated disrespectfully or unfairly (Tyler and Huo 2002); and failing to receive material or emotional restoration, leaving victims with substantial material, financial, and emotional loss (Strang 2002; Shapland et. al. 2011). These issues can have substantial impacts on the health and wellbeing of victims, as discussed in the introduction.

The overwhelming majority of the elements associated with dissatisfaction and lowered perceptions of legitimacy² are process factors, not the actual sanctioning outcome of victims' cases (Tyler 1990; Shapland et. al. 2011; Strang 2002; Laxaminarayan et. al 2013; Mazarolle et. al 2013). Process factors are defined here as factors relating to *the way in which a case is handled as it moves through the criminal*

² Researchers have focused on both victim satisfaction and perceptions of legitimacy, with varying degrees of distinction and overlap. The relationship between the two is complex (see, for example, Mazarolle et al. 2013). One distinction is the level of focus—victims' perceptions of police/criminal justice system legitimacy as a whole, versus in regards to the legitimacy of the handling of their particular case. As this paper is focused on perceptions of victims' own cases, rather than larger societal perceptions of legitimacy, this paper addresses and measures satisfaction with and perceptions of legitimacy of victims' own case handling, but acknowledges that these are not the same as victims' perceptions of legitimacy of the criminal justice system as a whole. Evidence suggests that satisfaction/perceptions of legitimacy of ones' own case handling heavily influences perceptions of legitimacy as a whole (Tyler and Huo 2002).

justice system. Important process factors include³ ensuring that victims: have a voice in the handling of their case;⁴ perceive the process to be fair and unbiased;⁵ are updated in a timely manner about their case processing;⁶ and are treated with respect and care by criminal justice professionals.⁷ Sanctioning outcomes are defined here as *the criminal justice-ordered consequences for breaking the law*. Such outcomes include: the severity and type of sentences (fine, probation, prison, victim compensation, community service, etc.); and whether or not a case results in a “successful” outcome (offender is arrested, charged, prosecuted, found guilty, sentenced, etc.).

Whether or not a case has a “favorable” outcome to victims (including severity of sanction and whether the offender was found guilty or not) can affect

³ These categorizations vary across the literature, but this list captures the most common issues (see for example Laxminarayan et. al. 2013; Mazerolle et. al. 2013; Strang 2002; Shapland et al. 1985).

⁴ Victims and the public widely feel that the criminal justice system does not sufficiently take into account the views of victims (Freeman 2013; Rossetti et. al. 2010; Strang 2002; Shapland 2000). Research has consistently found that victims believe they should be able to contribute; there should be an opportunity for them to explain what happened to them, and their input should be taken into account (Tyler 1990). This seems to be a key component in ensuring victims feel the process is fair and satisfying (Laxminarayan et. al. 2013; Tyler 1990; Forst and Hernon 1985).

⁵ A range of studies have found that the perception of fairness and neutrality of the process leading up to the sentence, and the fairness of the sentencing process itself, matters as much or more to victims in terms of victim satisfaction (Tyler and Huo 2002; Erez 1994; Maguire 1982; Shapland 1996; Strang 2002; Laxminarayan et. al. 2013).

⁶ Studies have found that the sooner victims heard something after the initial contact, and the more overall contact from criminal justice staff, the higher the odds that the victim was satisfied (Shapland 1986; Maguire 1982). In the UK Witness and Victim Experience Survey (WAVES), the length of time before the first follow-up contact had the single highest association with victim satisfaction (Franklyn 2012). While victims tend to be satisfied at first as police are investigating the crime, satisfaction reduces over time as they stop receiving contact after the initial investigation is over (e.g., Shapland 1985). Receiving a leaflet explaining what was likely to happen, receiving the contact information of an officer who they can contact at any time for follow-up information, and being informed of a complains procedure have all led to increased satisfaction in samples of victims (Franklin 2012). Information accuracy is also important: one study found victim anger when offenders only had to pay some or none of their court-ordered fine, or a prison sentence was later automatically halved (Rossetti et. al. 2010).

⁷ Interpersonal treatment appears to be among the most important elements in satisfaction with police. Victims who feel that the police and criminal justice officials took their case seriously, showed concern, cared about them, and made a real effort to respond effectively were significantly more satisfied with their experience (Laxminarayan et. al. 2013).

overall victim satisfaction and perceptions of legitimacy. Zevitz and Gurnack (1991), for example, found higher satisfaction among elderly victims when an offender is arrested. In the UK Victim and Witness Experience Survey (WAVES), victim satisfaction is negatively related to having their case dropped (Franklyn 2012). This also appears to apply to some degree to the level of severity of the punishment, with those with cases receiving more severe punishments being more satisfied than those with less severe punishments (e.g., Felson and Pare 2008; Erez et. al. 1996; Erez and Bienkowska 1993), and to some degree to the substance of the punishment (i.e. incarceration versus a non-incarceration community sentence; e.g., Felson and Pare 2008; Erez and Tontodonato 1992).⁸

However, when the relative importance of outcome and process have been tested, process has generally been more important (e.g. Erez 1994; Tyler and Huo 2002). Other reviews find an effect of both outcome and process, but the relative strength of the relationships is not always clear (e.g. Laxaminarayan et. al. 2013). In addition, in studies that have randomly assigned less severe process-based interventions (such as restorative justice) with more traditionally severe court outcomes, victims have been profoundly happier with the high process quality, low outcome severity treatment groups (e.g. Strang 2002; Shapland et. al. 2011).

⁸ These findings are weakened by substantial bias embedded in these studies, in that cases that result in imprisonment as opposed to alternatives to incarceration are inherently more likely to be serious cases and more criminal justice-experienced offenders, so the result may have more to do with the seriousness of the crime and the resulting improved treatment of victims by criminal justice officials; it is also possible that cases that are dropped or found not guilty may have experienced lower procedural justice (e.g. police error, etc.), or lower culpability (e.g. joint culpability between offender and victim), which all would impact satisfaction independently of the actual case outcome. Based on this research, it is impossible to know if the same victims with the same case factors and same offenders would have felt differently regardless of the outcome severity of their case.

Three decades of research can be summed up as follows (although substantial limitations in the existing literature weaken findings somewhat): Outcomes-based factors are consistently positively associated with victim satisfaction and perceptions of police legitimacy (Laxminarayan et. al. 2013; Tyler and Huo 2004). Process factors are perhaps less consistently, but more powerfully (e.g. Tyler and Huo 2002; Strang 2002; Shapland et. al. 2011, 1985; Erez 1994), associated with satisfaction and perceptions of police legitimacy; (some process factors do not seem to matter as much, or in all contexts, but overall process does consistently matter; Laxminarayan et. al. 2013).

Victim research has had some important impacts in terms of securing the statutory rights of victims in a number of ways, and improving satisfaction with some elements of the criminal justice system.⁹ But the implementation of these changes has been much slower in coming (see, for example Groenhuijsen & Pemberton, 2009), and changes in law and practice around victims have been spotty. Some victim researchers argue that not much has changed for victims since the early days when key research brought to light the monumental deficit of the criminal justice system when it came to victims (e.g., Laxminarayan et. al. 2013: 29).

As previously discussed, this study is designed to test one area lacking in experimental research, victims' perceptions of the handling of their cases in court

⁹ In the US, federal statutes intended to protect and/or support victims of crime include: the Federal Victim and Witness Protection Act (1982); Victim Right and Restitution Act of 1990; Victim Rights Clarification Act (1997), etc. In addition, every state has victims' rights laws (there are over 27,000 crime-victim related statutes) and a crime victim compensation fund. Research-based national standards have been produced for victim care (e.g., Attorney General's Guidelines for Victims and Witness Assistance of 1983; Guidelines produced at the 1999 International Association of Chiefs of Police Summit, Available at <http://www.theiacp.org/portals/0/pdfs/WhatDoVictimsWantSummitReport.pdf>). UK victims rights legislation includes: Domestic Violence, Crime and Victims Act (2004), the Code of Practice for Victims of Crime (2013) and others.

versus out of court (but see Strang, 2002 and Shapland 2011 for diversion to restorative justice). While out-of-court disposals pose risks in terms of victim satisfaction if victims feel their case is not being taken seriously, they may also offer potentially substantial benefits for victims. The present study is designed to take into account the consensus in the research that process seems to matter more to victims than outcome. Applied to the context of out-of-court disposals, it theoretically should follow that as long as process factors are attended to for victims—as long as victims feel the police respect them, care about them, and are trying to do something in their interest—they will be happy with diversion to a low-level, non-court outcome. In the context of this study, as long as process factors are properly attended to by police officers in relation to victims with cases in Turning Point, the outcome itself (Turning Point versus court) may have little impact on satisfaction. In fact, out-of-court disposals that focus on reducing reoffending and addressing the needs of victims may be able to improve victim satisfaction with the handling of lower-level cases. The flexibility, speed, and potential effectiveness of these disposals may make them useful tools for achieving victims' goals. This study tests this overall approach.

Victim Primary Goal: 'Stop Offender from Doing It Again'

Almost all victims tend to report that the most important element in the handling of their case to them is that the offender is made to stop the offending behavior (e.g., Rossetti et al. 2010; Victim Support forthcoming). For example, one study found that 94% of victims said the most important thing to them was that the offender did not commit the crime again, and in that study 81% said they would

prefer an offender to receive an effective sentence rather than a harsh one (Smith 2007).¹⁰ The top three reasons for reporting incidents to the police among National Crime Victimization Survey respondents other than the vague “because the incident was a crime” between 2005-2009 (Harrell 2011) were to: “Stop or prevent this incident from happening” (41%), “Prevent future incidents against respondents” (31%); and “Stop this offender from committing other crimes against anyone” (13%).¹¹ These types of responses suggest that, whether or not these elements in practice drive satisfaction among victims, victims value this element of criminal justice responses to crimes. Tyler and Huo (2002) suggest that while victims have these expectations, victims also understand that sometimes securing an effective outcome is not possible or not fair (for example if there is insufficient evidence, such an outcome may be unjust), so in many cases the perceptions that police are trying to achieve the same goals as victims (police motives) are sufficient to satisfy victims.

Communication of Outcomes

One key process factor of importance in the current study is that how an outcome is communicated to victims and others appears to in some studies profoundly impact whether or not is perceived as a satisfactory/legitimate outcome¹². For example, one randomized controlled trial found that when people were given

¹⁰The meaning of this measure is obscured because some victims may feel that a harsh sentence *is* a more effective sentence (thus may take the question to be asking if they prefer rehabilitation to a severe punishment), but this wording does not detract from the point, in fact it means this focus on outcome may be a conservative measure and the real focus on effect is even stronger. This paper discusses more measurement issues that have blurred this issue below.

¹¹ Similar total protection responses are found in different crime types, with some variation between exact responses (e.g., for workplace violence these percentages are 31%, 21%, and 20% respectively: Harrell 2011; domestic violence victims respond similarly as well: Felson et al 2002).

¹² See, for example, Bottoms and Tankebe (2012) Beyond procedural justice: A dialogic approach to legitimacy in criminal justice.

scenarios and asked whether they would recommend sanctioning the offender with six months in prison or a six month conditional community sentence, 27% chose the community sentence. In the sample that was given the same choice with an explanation of the conditions attached to the community sentence (report to authorities, obey a curfew, make restitution, and community payback), the response levels reversed, with almost two thirds (64%) choosing the community sentence (Sanders and Roberts 2000).

In a 1998 experiment by Hough and Roberts, people who were asked in an open-ended fashion without a list of options what outcome they recommended for offenders were much more likely to choose imprisonment than those who were given a list of options that included both imprisonment and community alternatives (See also: Doble and Klein 1989; English, Crouch and Pullen 1989; Cullen et al 2000).

The amount of information about the case/offender itself has been found in a range of studies to have a powerful effect on the perception of the outcome. Doob and Robert (1983) were the first to demonstrate that information can change desired outcomes, finding that people who were randomly assigned to receive a brief newspaper account of an incident were more likely to find sentencing too lenient than those who received a full summary of the court documents. In the latter group, the vast majority of participants did not think the sentence was too lenient.

The general finding that communication can change opinions of outcomes is particularly relevant for the present study, and for out-of-court disposals in general. It appears that victims in particular are cautiously open to diversion to less harsh punishments (Rossetti 2010; Shapland 2011; Strang 2002; Mattison and Murrlees-

Black 2000), but they express doubts about how effective rehabilitative options would be in practice to deter offenders from committing more crimes. Victims report being concerned that the offender would not take their requirements seriously, and that if they failed to comply they would not be held to account. In one study with these findings, victims were also skeptical about the specific elements of the possible requirements, including restorative justice and community payback (Victim Support/Make Justice Work 2012). In the same survey, victims who had an explanation were more supportive of less punitive options. Victims wanted more information about what exactly the offender would do in their alternative sentence, and information about the offender's progress in these options. Similarly, in the WAVES 2009/10 study, victims and witnesses who were provided with an explanation of what their sentence meant were 10% more likely to think it was fair (Franklyn 2012).

The research on communication of outcomes suggest that merely through changing the explanation of the outcome, police and/or criminal justice officials can influence whether or not victims think their motives were achieved, regardless of what the actual outcome is, to a point. This can include increasing satisfaction with both different types of outcomes, and also with reduced levels of severity of outcomes.

This study draws on these three key elements in the previous literature (that process matters more than outcome, that victims primary goal is to reduce reoffending, and that the way in which the outcome is communicated can change how well it is perceived) to suggest that as long as victims feel the police respect and care

about them, and are doing something in the victims own interest by trying to stop it from happening again, a conditional out-of-court disposal focused on reducing reoffending may be satisfactory to victims. However, as victim satisfaction could theoretically also be lower in the out-of-court disposal (possibly due to victim concern that their case was not being taken seriously as it was not sent to court), this study measured for a potential negative reaction as well as positive. The important question of whether victims *can* be more satisfied, or if they are less satisfied despite the special attention to communication, or if there is no difference, requires a two-tailed test. Therefore, the study tests whether Turning Point victims are differently satisfied when their cases are sent to Turning Point compared to court, in a situation where special attention is given to explaining the out-of-court disposal to victims.

Research Design and Methods

This study is based on a survey of all crime victims with offenders who were randomly assigned within the study time period to be either: 1) diverted into the conditional out-of-court disposal Turning Point (treatment); or 2) charged and sent to court as usual (control). Turning Point is an approximately four month intervention in which offenders are required to comply with a set of conditions set by police officers that are designed to: stop them from committing another offense, and when applicable and to the degree possible, address the needs of victims resulting from the offense. Offenders who successfully completed Turning Point were not charged for the initial offense and did not receive a criminal record (unlike those receiving conditional cautions, which do entail a permanent record). The survey for the present study

attempted to reach all victims of these offenders and assess their feelings about the handling of their cases.

Sample

The sample for the victim-involved, block-randomized subsample within the larger Turning Point experiment is all 142 victims with cases under the jurisdiction of the West Midlands Police (WMP) in Birmingham, UK, that met the sample criteria (see below) and were at the point of charge in the study time period (April 24, 2013 through November 18, 2013). All of the victims in these cases had offenders who would normally be charged for their offense and sent to court, thus were not eligible for a normal out-of-court disposal, such as a caution or a community resolution.

The larger offender-focused randomized controlled trial, Turning Point, was designed to test an approach to offender desistance policing (Sherman 2011; Sherman and Neyroud 2012). The experimental condition was an alternative to court for low-risk offenders with dual theoretical underpinnings: *deterrence*, especially swiftness and certainty of punishment; as well as addressing lifecourse factors that research suggests may lead offenders towards *desistance* from crime (Laub and Sampson 2003). In this disposal, offenders were required to complete a set of conditions designed to reduce the criminogenic conditions sustaining their offending, and to repay the victim (e.g., drugs treatment, employment services, anger management courses, community service, victim compensation, etc.).

The sample of cases in the Turning Point offender study was limited to low risk offenders, as assessed in three ways: first, the cases were not serious enough to be likely to receive a custodial sentence (incarceration or the juvenile equivalents,

such as detention) in court, as judged by a police Sgt. custody officer¹³; second, the offender did not have multiple previous convictions, meaning their cases had no more than one historical previous conviction¹⁴; and third, the offense was not domestic violence, a hate crime, or sexual assault against a minor. For logistical reasons, cases without a bail-able address in Birmingham were also excluded, as were cases that required a specialized order of the court (such as a Child Protection Order) or immigration officials.

The sample of cases chosen for the present study was the subset of the Turning Point offender sample of cases that had an identifiable victim, and as such, a lot of the study logistics were already in place, including the process of treatment and random assignment. West Midlands Police—the second biggest force in the UK (with just under 7.5 thousand sworn officers)—was initially chosen for the study in part because of its size and variety of offender and offense types. Researchers were concerned that a similar study on a smaller force would have been less applicable on a wider scale, as implementation is complex and may be more difficult on a larger scale.¹⁵

Offenders were identified and selected for random assignment by custody officers after arrest while offenders were in custody at the point of charge, before they were to be released. These officers then filled out an eligibility criteria intake form

¹³ In the UK, Custody Officers are police Sergeants responsible for managing police custody blocks where offenders are detained after arrest and prior to a disposal decision or court appearance. Custody Officers' duties including overseeing detained persons and deciding the police disposals.

¹⁴ Historical previous convictions are defined in this study as more than 2 years in the past for juveniles and 5 years in the past for adults.

¹⁵ This study was designed to reflect business as usual for officers, in that Turning Point case selection and administration was not relegated to a small team of particularly skilled or trained officers with time dedicated specifically for the project. It instead relied on all officers in Birmingham who would normally be involved. This enables the study to better assess the practical impact of the study if the intervention was adopted at a large scale.

Number and Interview Response Rate of Victims for Randomly Assigned Cases

based on the offender eligibility criteria discussed previously, using an online experimental study support tool including screening and automatic random assignment, developed at the Jerry Lee Centre of Experimental Criminology at University of Cambridge (Ariel et al 2011), the Cambridge Gateway. Offenders who were deemed eligible were randomly assigned by the Cambridge Gateway, which instantly informed officers of the randomization result. All offenders eligible were included in the randomization stream. After random assignment, offenders who were randomly assigned to Turning Point were asked if they consented to take part in the study. Offenders randomly assigned to Turning Point who consented to take part were diverted, whereas those who did not consent were charged and sent to court as usual, and considered not treated as assigned for the purpose of the study. Randomization in the offender Turning Point study was blocked such that cases with victims were randomly assigned in a separate stream from those without victims. Therefore the victim component of the study is a true randomized controlled trial, allowing comparison between victims with cases in both the treatment and control groups (see Table 1).

by Adult/Juvenile Status of Offender

	Victims w/Adult Offender	Victims w/ Juvenile Offender
Treatment (Diversion, n=70) <i>(51 completed—72%)</i>	48 <i>(36 completed—75%)</i>	22 <i>(15 completed—68%)</i>
Control (Court, n=72) <i>(50 completed—69%)</i>	53 <i>(37 completed—70%)</i>	19 <i>(13 completed—68%)</i>
Total (N=142; 101 victims completed surveys—70% response rate)	101 <i>(73 completed—72%)</i>	41 <i>(28 completed—68%)</i>

Table 1

All victims identified as such in police case records were included in the sample, unless multiple victims resided in the same household, wherein one victim per household was interviewed based on the first victim listed in police records.

In the case of juvenile victims, the parent or guardian was contacted to request permission to interview their juvenile. Where the parent or guardian declined to allow their juvenile to be interviewed, the researcher asked to interview the parent or guardian instead about their child’s experience. In addition, in one case the victim could not speak English so his wife completed the survey on his behalf. Interviews of secondary victims on behalf of the primary victim took place in eight cases: five cases in the treatment group (secondary victims: three mothers and two fathers); and three cases in the control group (secondary victims: one mother, one father, and one wife). Reasons for not giving permission for their juvenile to participate included: the child did not wish to answer; the parent did not want to upset their child by reminding them about the incident; and their child was too busy and was not likely to be accessible.

Of the 142 victims in the sample, 127 had apparently correct contact information and contact was attempted (eight did not have contact info; five had wrong numbers when called; see Table 2). Of these, 115 were successfully reached,

and 101 were successfully interviewed. Four were reached and declined to participate, saying they were uninterested or too busy to participate and would not like a call back (one in the treatment group, three in the control group).

Attempted Surveys by Treatment Group

	Treatment	Control
Total Victims	70	72
No contact info given to police	1	7
Phone out of order	1	4
Case proceeding at survey close	0	2
Attempted Contact	68	59
Reached	59	56
Declined	1	3
Spoke, no response to follow-up	7	3
Survey Completed (71.1%)	51 (72.8%)	50 (69.4%)

Table 2 (N=142)

To test whether the demographic correlates of survey completion were similar for treatment and control groups, a dummy variable measuring survey completion was regressed on a set of interaction terms created by multiplying treatment status by each demographic variable. Dummy variables for treatment status and each demographic characteristic were also included in these regression equations. None of the interaction terms were significant, suggesting that the demographic correlates of the response rate did not differ by treatment group, although the sample was small so this test was low powered. T-tests were conducted to compare differences in survey completion between demographic variables, finding only that cases with white offenders were somewhat more likely to respond. This pattern was similar in the treatment and control groups. No discernable pattern of treatment-control differences in these demographic correlates of non-response was observed.

Offender Process

At the point of charge, cases were randomly assigned to receive either the diversionary treatment, or the control condition of court as normal (see Figure 1). Those who were assigned to diversion were taken through the informed consent process. Offenders were informed by the police custody sergeant making the prosecution decisions of the study and of their rights, and were asked if they wanted to participate. If they agreed to take part, they then signed a consent form confirming this,¹⁶ and were given an appointment with Turning Point Offender Managers or for juveniles, the local Youth Offending Team.

Turning Point Victim Study Case Flow Chart

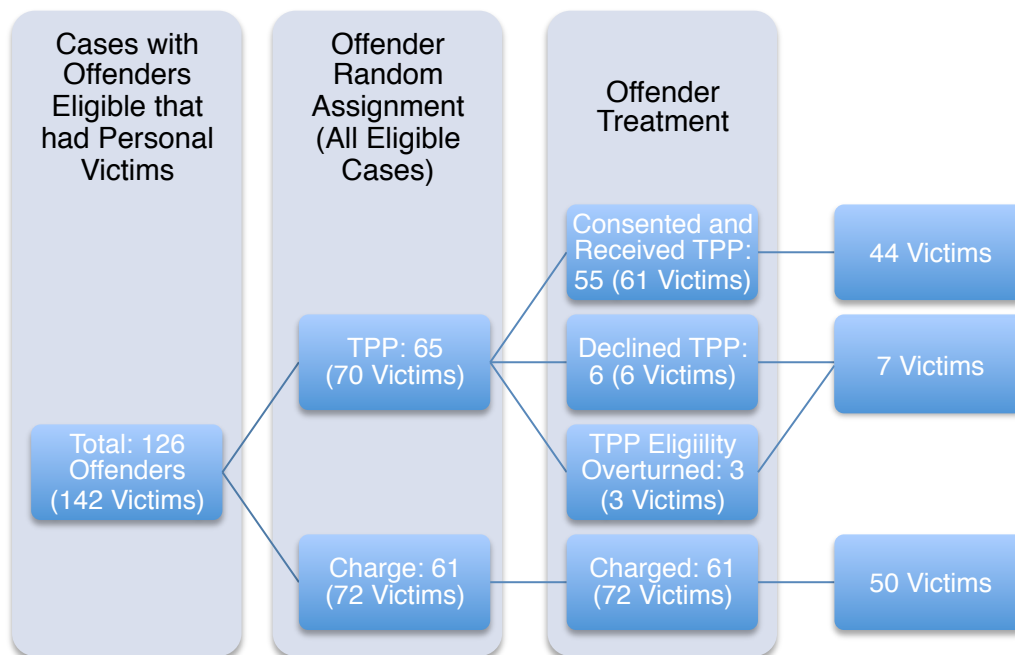


Figure 1 Note: Some victims in the sample had the same offender, so the number of offenders represented is lower than the number of victims

Offenders that were randomly assigned into the Turning Point treatment were diverted from court, and sent within 2 business days for adults and 3 business days for

¹⁶ Offenders were consented in the presence of their solicitor, if they chose to have one—all offenders were offered solicitors—and their parent or appropriate adult as determined by the UK Police and Criminal Evidence Act of 1984 Codes of Practice, if they were juveniles.

juveniles to a screening process with an Offender Manager Police Officer. In this process, a guided interview took place to determine if there were underlying criminogenic needs that led to the offending (Andrews and Bonta 2010). Additionally, the screening was designed to determine if there were other conditions necessary in the interests of the victim and society, including restorative, reparative, and punitive components. While officers were given tools to aid them in this interview process, the plans were designed based on their own discretion. The plans included various combinations of drugs treatment, mental health requirements, victim compensation, restorative justice, curfews, employment requirements, etc.

Offenders who successfully completed their agreed upon plans had their charges for the initial offense dropped at the end of the plan period. Those that declined either in custody or in the appointment with offender managers were immediately charged for the initial offense. Offenders who agreed to take part but then who failed to comply with their conditions and were breached (15 offenders; see Table 3) were therefore quickly prosecuted for the initial offense, enabling them to experience the swift and certain punishment underlying the larger Turning Point study. As with other studies that have focused on certainty of punishment these were not considered failed interventions. The experience of swift and certain punishment for failure to comply was a part of the treatment based on the theoretical underpinning of the study (see for example Project HOPE: Hawken 2011). These cases were considered to be successfully treated as assigned.

Of these offenders in the treatment sample with victims that fit the present study criteria, at the time that their victims were contacted, 86% were treated as

assigned, of which 75% were currently on Turning Point plans, and 25% had breached Turning Point by failing to comply with their conditions and had been charged and sent to court, six offenders declined Turning Point and were charged and sent to court, and four were determined to be too serious for the sample and the Turning Point decision was overturned by police officials and sent to court (see Table 3).

TPP Sample Offender Status at Time of Victim Survey	
Successfully Treated as TPP (86%)	
Offender on Turning Point Plan	46 (66%)
Offender breached	15 (21%)
<i>Rearrested</i>	6
<i>Failed to Comply</i>	9
Failed to Treat as TPP (14%)	
Offender declined Turning Point, Cases proceeding in Court	6 (9%)
Offender Eligibility Overturned	3 (4%)

Table 3 (n=70 victims – note: 65 offenders)

Offenders who were randomly assigned to the control condition of treatment as usual were charged and sent to court. All of these cases were treated as assigned—their cases received the treatment that they would normally receive once their cases were charged and sent to court. Of these, 71% received positive disposals (guilty plea/guilty finding), and 29% did not (dismissed/discontinued/withdrawn/not guilty). Of those that received positive disposals, 63% received community orders¹⁷, 12% received fines, and 16% received conditional discharges (see Table 4).

¹⁷ Community orders are any sentence that involve some form of action beyond simply a fine, but do not involve incarceration. These outcomes can vary considerably, and sometimes include rehabilitative and supervision orders. Notably, a number of victims in the current study reported knowing their offender received a community order, but not knowing what that meant or entailed.

The differential failure of cases to be treated as assigned of offenders between treatment samples--86% treated as assigned for Turning Point and 100% of control cases were charged and sent to court, as per their assignment—is due to two factors: First, offenders were not able to decline court, but could decline Turning Point in favor of court. Cases in which offenders chose to challenge their guilt in court were treated as assigned on the court side—and more than a quarter of the court sample

Control Sample Victims' Case Status at Time of Victim Contact

All Successfully Treated as Court	
Dismissed/Discontinued/Withdrawn/Not Guilty	21
Offender Guilty	51
<i>Plea</i>	46
<i>Finding</i>	5
Sentences for Guilty Outcomes	
Community Order	30 (Average: 8.13 mo)
	14 (Average: 155 GBP)
Conditional Discharge	7 (All cases: 12 Months)
Additional Outcomes	
Victim Compensation	34 (Average: 176.42 GBP) ¹⁸

Table 4 (n=72)

was dismissed or found not guilty in court—but those cases are considered non-treated as assigned in the Turning Point sample. Second, in three occasions, the eligibility of cases that were randomized and consented into Turning Point was overturned and offenders were charged and sent to court. This happened when higher ranking police officers overruled custody officers' decision to include the case, determining the case was ineligible due to being too serious for Turning Point because the case would have received a likely custodial sentence. The original

¹⁸ Average reported excludes outlier; average is 364.69 GBP including 2623.83 GBP outlier.

decision that the case was eligible for the study was determined to be mistaken, so the case was charged and sent to court.

The full sample of victims was 93% treated as assigned. Offenders were significantly less likely ($p < .001$) to be treated as assigned in the treatment group than the control group (86% and 100%, respectively). This ratio of treatment as assigned was not significantly different between offenders in cases with victims that completed the survey and those who did not complete the survey (mean for survey completers = .94, standard deviation = .24; mean for survey non-completers = .94, standard deviation = .26), although the sample of non-treatment as assigned was so small that a difference would be difficult to detect.

**Likelihood that Offenders with
Different Characteristics were Treated As Assigned**

	With Characteristic (e.g., Offender White)		Without Characteristic (e.g., Offender non-White)	
	Mean	Standard Deviation	Mean	Standard Deviation
Offender Male	.85	.36	.94	.24
Offender White*	.95	.23	.79	.42
Offender Black	.73	.46	.91	.29
Offender Asian	.85	.36	.94	.24
Offender Adult	.87	.34	.87	.34
Offender Unemployed	.83	.38	.93	.25
Violent	.88	.33	.87	.35
Property	.89	.31	.85	.36

Table 5 (n=70; *significant at $p < .05$)

As all cases in the control group were treated as assigned, the treatment group cases were tested to see if any demographic groups were more likely to be treated as assigned than other demographic groups in the treatment sample (Table 5). There were no significant differences between the proportion of crime types or demographic groups that were treated as assigned within the Turning Point sample, with the

exception that white offenders were more likely to be treated as assigned than other races.¹⁹

Victim Process

In cases that were randomly assigned to the treatment group, an email was automatically generated from the randomization computer program and sent to a single police Sergeant who was responsible for coordinating a group of officers to respond to cases in the treatment group of the study as they came in. Victims were allocated to members of this group of officers, and the officer receiving the email contacted the victim to discuss the outcome of the case. Intake officers received a notice to inform the officer in charge of the case that someone else would be contacting the victim, and they were asked not to make this contact.

Officers were given a brief introduction to the task and to the basic pillars of victim legitimacy research by the Sgt. managing the group, as well as a handout with some suggested messaging. The two key phrases officers were instructed to focus on internally as they planned their discussions with victims about why the police were diverting their cases away from court and into Turning Point were:

- ***“Ensuring victims feel that the police respect them, care about them, and are doing something in their interest”***
- ***“Talking to victims about reducing reoffending as a legitimate police goal”***

More specifically, they were instructed to focus on three components, to be adapted as necessary:

- Using the beginning of the restorative justice preparation script²⁰ to ensure victims feel police care about the victim and want to know the impacts the

¹⁹ This test was also conducted using only cases with victims that had completed the survey, with no significant differences for any demographic or crime type group.

offense had on the victim—i.e., police want to know what victims saw as the problems;

- Focus on reducing reoffending as a legitimate police outcome; and
- Attend to the required level of communication as outlined in UK law: update victims as quickly as possible about how their case was to be handled, within 48 hours; create a victim contact plan based on how much contact the victim would like and when (monthly, bi-monthly, only upon plan completion, etc.); follow the victim contact plan as agreed.

These officers were selected based on availability and some level of experience with restorative justice conferencing or other victim-oriented tasks in the past.

Officers involved in this process performed the duties as part of their day-to-day work, which was subject to a range of constraints. Officers were given no relief from their other duties to perform these tasks, therefore any involvement was built in and around other tasks that were often determined to take higher precedence. Any leave or days off took place as normal, and officers were not obligated to perform tasks related to the study when they were not on duty. Three officers were off for substantial portions of time on health or maternity leave for some portion of the study, and all officers took annual leave vacations during this time. Over the course of the study two officers no longer participated and four officers joined to fill their

²⁰ Restorative justice conferences bring together victims, offenders, and their supporters to address the impact of crimes and enable participants to decide what to do about the harm caused. These conferences traditionally involve a specific scripted set of questions asked by the facilitator to each of the parties involved. The questions for victims used in this study by officers, drawing from the victim portion of this script, are:

- 1) *How did you feel then?*
- 2) *How do you feel now?*
- 3) *Who else was affected?*
- 4) *What was the hardest thing?*

place, with a total of seven officers taking part, and at any given time the number of officers actively involved ranged from two to five. All replacement officers were given the same instruction as the original officers.

Due to these day-to-day constraints, the speed and amount of contact varied, as would likely be the case in scaled-up field implementation of the study. This is confirmed by victim recollection of the speed and number of contacts; victims in the Turning Point sample stated they received an average of 2.6 contacts, with a standard deviation of 1.5, and that on average they received an initial contact after the offender was arrested about what was going to happen with their case between two days and a week (in the court side this was a mean of 2.7 contacts with a standard deviation of 1.5, not significantly different from the Turning Point sample, and received initial contact about what would happen with their case within two days after contact, which was also not significantly different). In fact, victims in the court sample reported slightly more contact, and sooner, although these were not significant differences.

Victims with cases randomly assigned to court were treated the way they normally would have been without the study (treatment as usual). Officially, the requirements involve an update by the Officer in Charge of the case to inform victims of what was going to happen with their case within 48 hours, and additional contacts as determined by the victim's contact plan. Officers do not receive training in regards to contacting victims about their cases. Sometimes victims receive contacts from the police, Crown Prosecution Service, or court officials in relation to their case processing. Once a decision has been made, it is standard process to send out a letter

to victims with the outcome from court. There is not a consistent oversight process for victim contacts.

Hypothesis

The hypothesis that this study was designed to address was:

Victim satisfaction will be different depending on whether victims' cases were diverted into Turning Point, or their cases were charged and sent to court. Turning Point is an out-of-court disposal (traditionally considered lower severity than charging the offender and sending them to court) that in this test included special care to how police communicated with victims about Turning Point (i.e., high process).

A finding that victims were less satisfied in Turning Point than court would suggest that Turning Point is not a satisfactory outcome to victims, despite special attention to police communication to victims about Turning Point. A finding of no difference or that victims were more satisfied with Turning Point would support Turning Point as an approach to handling cases, in the eyes of victims. There are theoretical reasons—outlined above—to support either direction, thus a two-tailed hypothesis is used.

This must be taken in the context of an out-of-court disposal wherein police explain to victims that they diverted the case because the police believe the outcome is more likely to stop reoffending and address the needs of victims. The randomly assigned test does not speak to how victims would feel about diversion if police *do not* attend to these things. Inclusion of other potential treatment groups was not possible at the time of this study, so in order to lay the foundation for future research while addressing the current policy question, this study explores the question of whether it is *possible*, given careful attention to communication with victims, for

victims to be as or more satisfied with this out-of-court disposal. For exploratory purposes, an additional non-randomized sample of victims who received Turning Point without special attention to communication with the victim is included in the discussion section below.

Measures

Case Data

Case data on the offenders and nature of offenses were collected from West Midlands Police information systems, as was information regarding whether the case was successfully diverted into Turning Point or charged. This includes the type of offense (property/violent), which was received from the case record. Offender demographic characteristics were retrieved from a West Midlands Police system where custody officers record the offenders stated date of birth, gender, and employment status, as well as the ethnic appearance according to the officer. Court outcomes were collected from a police/court data sharing system. The victim date of birth and the contact information the victims gave to the police at the time of the incident was also retrieved from the police case management system.

Survey

Surveys were conducted over the phone by the primary investigator and author of this paper an average of 4.7 months following the case outcome decision (averaging 5.3 months for the Turning Point sample and 4.2 months for the court sample). All substantive words by victims were captured; free text responses were

captured as the researcher typed the victims' responses as they spoke. Surveys were constructed by drawing on a series of existing victim surveys as well as creating new questions for the present survey. They consisted of both rating scales, as well as open-ended questions.

Strategic efforts were made to reduce bias in surveys. Any day when survey respondents were dialed, all remaining survey respondents in that sample were attempted so as to ensure equal chances of response were achieved, with the exception of interviews scheduled by respondents. Effort was made to ask survey questions in the precise same order and flat intonation, so as to minimize any bias generated by the surveyor. All surveys were conducted by the same person so as to eliminate inter-surveyor differences. Effort was made to construct survey questions drawing on research designed to elicit accurate responses and reduce bias, although some is presumed to remain. Qualitative questions attempted to further to elicit victims' accurate opinions.

Dependent Variable

A survey item measuring satisfaction of victims was the primary dependent variable: "How satisfied or dissatisfied are you with the overall handling of your case [in Turning Point/Court]?" The response options were: "Very Satisfied", "Satisfied", "Dissatisfied", or "Very Dissatisfied".²¹

²¹ There was no neutral (Neither agree nor disagree, etc.) option given to victims to force a positive or negative choice because research suggests that many victims may answer neutrally in regards to their satisfaction but upon follow up questions answer negatively, possibly due to a desire to appear socially acceptable, or a lack of a clear image or justification for what they would have preferred. This effect was found during pilot period for the present study wherein victims who were not satisfied initially answered neutrally when asked about their satisfaction in semi-structured interviews, and proceeded to voice dissatisfaction throughout the remainder of the interview.

Analytic Strategy

The analytic strategy includes two steps. First, the samples were compared to determine whether random assignment left any discernable differences between the treatment groups by demographic characteristics described previously (race, gender, employment status) and offense type. Second, the means between the two models were compared using t-tests and Cohen's d. A table with the correlations among all variables used is listed in Appendix A.

Intent to Treat Analysis

The primary randomized question was designed to assess whether victims could be satisfied with an out-of-court disposal in a situation where officers attended to communication with victims. It is important to assess whether it was even possible for victims to be satisfied when outcome severity was potentially perceived as lower when cases were not charged and sent to court. The primary test conducted to establish the effect of the treatment groups on victim satisfaction was a t-test, as well as the calculation of the effect size (Cohen's d and the odds ratio). The test compared the satisfaction of all cases assigned to the treatment group with all cases assigned to the control group, in an intent-to-treat analysis (e.g., Piantadosi 2005).

Findings

Sample Demographics

The offenders in victims' cases in the sample (see Table 6) were primarily male (73%), in their late 20s (average age of 29 for treatment, 27 for control). They were half white, 22% black, 21% East Asian, and the remainder were other (according to

appearance, as determined by custody officers—self-described race/ethnicity was less consistently recorded). The percentage of East Asian offenders was substantially higher on the control side, but as there were only 21 East Asian offenders total (13 treatment, 8 control), this difference was not significant. Unemployed offenders make up 64% of the sample. Almost half (47%) of cases included a property offense in the incident (some arrests included multiple offenses within one incident, such as a criminal damage and assault that took place together), and 61% included a violent offense—these add up to more than 100% because 7% of the total included both. There were no significant differences on any of these characteristics between the offenders in the treatment or control groups.

Sample Demographic Characteristics

Offender variables relate to the number of victims with offenders with those variables

Independent Variable	Treatment Mean	Treatment S.D.	Control Mean	Control S.D.
Offender Male	.73	.45	.74	.44
Offender Age	29.18	14.49	26.8	12.35
Offender Adult	.67	.48	.74	.44
Offender White	.55	.50	.46	.43
Offender Black	.20	.40	.24	.05
Offender East Asian	.16	.37	.26	.44
Offender Unemployed	.63	.49	.66	.48
Property Offense	.53	.50	.40	.49
Violent Offense	.57	.50	.66	.48
Victim Male	.69	.47	.64	.48
Victim Adult	.88	.33	.90	.30
Victim White	.63	.49	.56	.50
Victim Black	.14	.35	.10	.30
Victim East Asian	.10	.30	.22	.42
Victim Unemployed	.04	.20	.02	.14

Table 6 (N=101 Victims) (* significant at p<.05)

Victims were 66% male and 89% adult. The victims in the sample (see Table 6) were slightly more likely to be white and less likely to be minorities than their offenders (victims were 59% white, 12% black, 16% East Asian). They were also

much less likely to be unemployed (3%, as opposed to offenders who were 64% unemployed). There were no significant differences in terms of demographic characteristics between victims in the treatment and control groups.

Intent to Treat Analysis

This study found that victims in the Turning Point sample had an increase in satisfaction of 45% (the percent increase being relative to the baseline satisfaction of court—73% is 45% higher than 50%), as compared to victims with cases that were charged and sent to court (see Figure 2; Table 7).

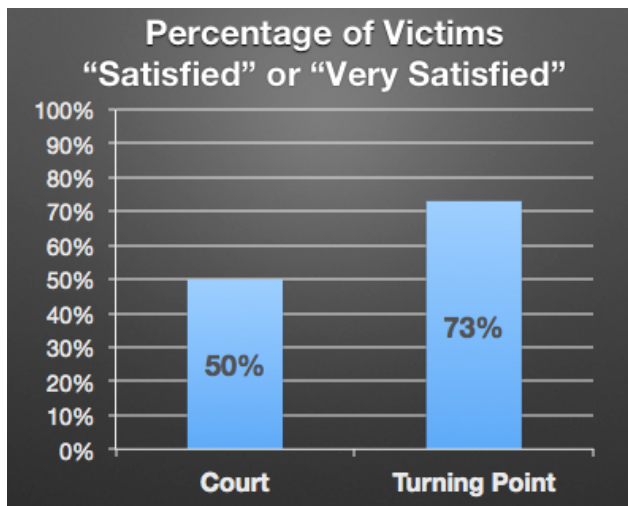


Figure 2 (n=101)

Satisfaction Responses by Treatment Group

Sample	Very Satisfied	Satisfied	Dissatisfied	Very Dissatisfied	TOTAL
Turning Point	31%	41%	16%	12%	51
Court	18%	32%	20%	30%	50

Table 7 (n=101)

Victims with cases in the Turning Point group ($M = 2.08$; $SD = .98$, where Very Satisfied = 1, Very Dissatisfied = 4) reported being significantly more satisfied

than their counterparts with cases in the charge control sample ($M = 2.62$; $SD = 1.1$), $t(99) = 2.61$, $p = .01$. The odds of being ‘Satisfied’ or ‘Very Satisfied’ is 2.64 higher for victims with cases in the treatment sample as compared to victims with cases in the control sample ($OR = 2.62$; $CI95\ 1.15 - 6.05$). Further, Cohen’s effect size value ($d = .52$) suggested a moderate practical significance.²²

A t-test was also run without the eight cases in which a secondary victim (parent or spouse) responded to the survey on behalf of the primary victim, to see if the surrogate respondents impacted the effect found. The model remained significant when these cases were removed ($p = .01$). This suggests that the effect found was not driven by the cases with secondary victim interviews.

Discussion

This appears to be the first randomized controlled trial to test victims’ perceptions of diversion of their cases from prosecution to a wide range of alternative consequences that are imposed by police discretion, compared to cases being charged and sent to court. The effect found, with victims with cases in Turning Point being more satisfied than victims with cases in court, suggests that victims *can* be more satisfied when their cases are diverted into a conditional out-of-court disposal than court—including when, in the case of Turning Point, offenders did not receive a

²² This test is experimental with randomization into the treatment and control groups, therefore theoretically there is no need to include control variables. Randomization should hold all other variables constant, and the groups should be equal. The sample size is relatively small ($N=142$) and there was 30% non-response, however, so in order to ensure diligence was done to explore the relationship between sample, satisfaction, and demographic characteristics, a logit model was used with a binary satisfaction dependent variable (‘Satisfied’/‘Very Satisfied’ = 1, ‘Dissatisfied/Very Dissatisfied’ = 0). Additional possible explanatory variables are included in the model (a dummy variable for whether the offense included a violent offense, as well as the gender, race, and age of both the offenders and victims). In this model, satisfaction remained significant ($z = 2.25$; $p = .02$) whereas none of the demographic characteristics were significant.

criminal record for the offense if they successfully complete Turning Point.

Traditionally the decision of police to charge an offender and send them to court is considered more severe of a punishment than diversion into an out-of-court disposal, however it is not a given that victims considered court more severe of a punishment. If Turning Point is perceived as less severe, but more certain and swift, or more likely to address the criminogenic factors that underpinned the offending, then this study constitutes evidence that victims are willing to accept less severity in exchange for better chances of desistance.

This finding should be considered in light of the details of the intervention— police asked victims about their motives and explained why the police felt Turning Point might be a better option to stop the offender from committing another offense. This does not speak to what would have happened if the police had not put special attention into communication with victims.

The rate of satisfaction of victims with cases in court in this survey was slightly lower than the overall rates found in other British crime surveys (e.g., in the British Crime Survey 2007-2008 victims reported being 60% satisfied with the criminal justice system: Smith 2010).²³ This may be because the cases in the Turning Point study sample were selected because they were not serious enough to receive a likely custodial sentence, and criminal justice officials may provide less attention to these lower-level cases than to cases they perceive as more severe.

²³ The Witness and Victim Experience Survey (Franklyn (2012), which is sometimes pointed to in the UK to describe overall levels of victim satisfaction, finds a much higher satisfaction among victims of the criminal justice system in regards to their cases (e.g., 84 %: Franklyn 2012), which is sometimes cited in the UK. However this survey has substantial bias: for example, this wave of WAVES had only a 36% response rate and only sampled victims provided by local jurisdictions from their Witness Management Systems, therefore if victims are not listed in that database then they were not included.

The overall finding has implications for criminal justice. It suggests that out-of-court disposals are a viable approach for handling low-level cases that would normally be charged and sent to court, based on the needs of victims. This finding is an important consideration if out-of-court disposals are in fact able to reduce reoffending and/or save on criminal justice costs.

While some victims remained dissatisfied in Turning Point, it may be that some of these victims would also be dissatisfied with court since only 50% of victims in the court sample stated they were “Satisfied” or “Very Satisfied” with the handling of their cases. This highlights the importance of experimental research on this question—while dissatisfied victims in Turning Point may state they would prefer their cases had been handled in court, the results of this study suggests that they may not have been as satisfied as they envision with court. Other measures may be needed to satisfy remaining dissatisfied victims in both in-court and out-of-court disposals. This may include improvement of process factors, or ensuring specific sanctions are more aligned with the needs of victims.

This study comes with a warning—the overall study finding should not be taken to suggest that victims are inherently more satisfied when their cases are handled out of court. Given the extensive body of research affirming the key role of process, it is likely that *how* out-of-court disposals are structured and communicated to victims is crucial for victim satisfaction. It should not be assumed that if a police force diverts all of the low-level cases they would normally charge, they will have more satisfied victims, even if the results are generalizable to other populations of victims.

To explore the impact of the conversation on satisfaction with Turning Point, a third sample of victims was surveyed, in which victims had their cases handled in Turning Point but no special attention was given to the conversation with the victim—this sample was treated as they usually would have been in day to day practice. This sample consisted of victims with cases in the Turning Point offender

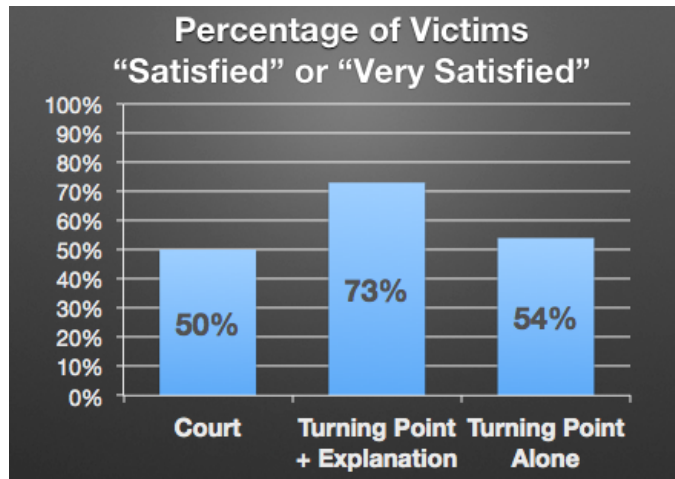


Figure 3 (n=212)

sample prior to the introduction of the team of officers designated to communicate with victims about their cases. This sample is not based on random assignment of cases with victims, therefore it is not conclusive, merely suggestive, and is included to explore whether the higher satisfaction in the randomized Turning Point Sample may have been due to the attention to the conversation with the victim by officers. There were no changes to the case selection criteria between the early and the main Turing Point samples, and no significant differences in demographic/crime type variables between these two samples. The sample had 70 people, and had a 69% response rate (Figure 3). However, as it was not randomly assigned and was instead a before and after comparison, there may be non-measured differences between these groups.

In this sample, there were no significant difference between the court sample ($M = 2.62$; $SD = 1.1$) and the early Turning Point alone sample ($M = 2.38$; $SD = 1.1$), $t(99) = 1.09$, $p = .28$.²⁴ The lack of significant increase between the court and the early Turning Point alone sample suggests that something may have been present in the Turning Point plus explanation randomized sample that was not engaged in the early sample. This is supportive of the theory that the way in which Turning Point was communicated is be important in driving victim satisfaction. As this question was not randomly assigned, it is possible that other factors drive this difference.

The implications of this study require further unpacking, however they suggest some possible implications for policy for out-of-court disposals. These include the following:

- **Out-of-court disposals *can* satisfy victims.** The strongest finding from this study is that at least in this case, victims were more satisfied with an out-of-court disposal, and as such, that means satisfying victims in these disposals is possible.
- **Reducing reoffending is a victim-focused goal.** While some UK policy attention is focused on how victim-focused a range of outcomes and processes may be, and providing more victim-focused options

²⁴ Cohen's effect size value ($d = .22$) suggested small practical significance (when a binary measure of satisfaction is used, Cohen's effect size is only .08, no practical significance). When compared to the Turning Point plus explanation sample ($M = 2.08$; $SD = .98$), the early Turning Point alone sample is not significantly different, $t(97) = -1.4$, $N = 99$, $p = .16$. Using the binary logit model used as a sensitivity analysis for the main study to compare the early Turning Point alone sample and the Turning Point plus explanation sample, including demographic controls (described above in reference to the logit sensitivity analysis footnoted above), the model finds the Turning Point plus explanation sample to be significantly more likely to report satisfaction ($z = 2.56$, $p = .01$). Cohen's effect size value ($d = .28$) suggested small practical significance, and this effect size increased ($d = .39$) to be a small to moderate effect when a binary indicator was used. This variation based on a binary versus four-point measure suggests that future further development of measures on this question may be of value.

such as the new community remedy wherein victims are given increased influence in deciding the conditions for out-of-court disposals, reducing reoffending is largely left out of this conversation. For example, some conditional caution schemes do not have any condition options for victims to choose from in the community remedy that are focused on this goal;

- **The Ask:** Criminal justice officials should ask victims about all impacts of the offense, and the restorative justice questions may be one way to do this; and
- **The Tell:** Criminal justice officials should carefully explain how disposals meet each of victims' goals and needs after an offense.

This study may have implications for court practices in terms of victims as well. Only half of victims in the court sample were satisfied. As previously discussed, this is slightly lower than other studies have found satisfaction to be among UK victims, and this may be due to the relatively low-level nature of the crimes in this sample. Of the victims that went to court, about a third had their cases withdrawn or discontinued, and another third had offenders receive only a conditional discharge (no further action unless they reoffending within a given timeframe) or a fine. While the remaining third received community sentences, several offenders in this sample mentioned that they had been notified about the community sentence but were not told what it meant or what it would involve. Three possible approaches may be suggested by this study to increasing satisfaction among these cases in court that are not likely to receive a custodial sentence: first, communicate outcomes such as

community sanctions to victims in a way that clarifies how the outcome is designed to stop the offense from happening again and address the impact on victims (this may require asking victims what those impacts are); second, consider how fines or conditional discharges impact the victim (more research is needed in this area) and explore whether these outcomes can be coupled with restorative justice or another way to address the impact on the victim; third, consider ways to increase the number of cases brought to justice—while some were dropped because the case was not strong enough, some were dropped because of failure of police to appear or to present any evidence (which could be due to error or prioritizing other cases, or due to not having the evidence) or due to the perception that the case was not serious enough to warrant sanction. Alternatives such as restorative justice could be put in place once officials decide to drop a case, so that victims' last contact about their case is not simply that the case is over and nothing will be done about what happened to them.

The impact of specific processes and outcomes on satisfaction requires additional research. There are a number of factors that could explain the measured difference between the treatment groups. It may be that something about Turning Point that may or may not be present in other out-of-court disposals is satisfying to victims. The specific conditions required of offenders may have particular importance. It is also possible that if special care had not been given to how officers explain the Turning Point project to victims, they would have been less satisfied. Further qualitative and quantitative analyses of this study are key to explore some of these “black box” issues further, and practitioners and policy-makers are

recommended to consider this study's results in conjunction with future detailed explorations of the study findings.

Limitations

This study, as designed, was not intended to experimentally parse out whether the higher satisfaction for victims in the Turning Point sample was due to diversion, the actual design of Turning Point (e.g., the conditions required of the offenders), a negative process experience that many victims shared in the court sample, or the way in which police explained the outcome, although all of those differences could, in principle, have been randomly assigned, getting much closer to the identification of causal mechanisms than any observational study could ever do. Therefore, future experimental designs can be justified by the positive effects that are observed when these elements are bundled together in a randomly assigned single package; all that is required is unbundling. The third sample, the earlier Turning Point sample without attention to communication, provides suggestive evidence that the element of communication is key to the observed difference in satisfaction. It is not recommended that policy-makers act based on the study without attention to the issues of how the outcome is communicated, which will be explored further in forthcoming work. The lack of increased satisfaction in the third sample, in which victims had cases diverted to Turning Point without special attention to the explanation, would suggest that communication may be a key component of the observed difference in satisfaction. Forthcoming research based on qualitative elements of these victim surveys will shed more light into which elements of the

process and outcome appear to be most important in securing the satisfaction of victims, and future research should randomly assign four samples, including treatment in court versus diversion, each with and without attention to communication.

An additional limitation could be that the satisfaction measure was generated using a four-point scale, with no neutral option, to create a forced choice. There is much literature discussing the benefits of both even and odd-numbered scales, with pros and cons to each. The choice was made to omit a neutral option in order to discourage victims from withholding dissatisfaction by choosing the neutral option, a problem that has been identified in past studies and was prevalent in the pilot study that led to this randomized controlled trial. However, no neutral option could lead to victims stating they are satisfied when they are in fact neutral. This difference is theorized to impact the treatment groups equally so it is unlikely that such a change would impact the significance found.

As with any randomized controlled trial, the study generalizability is limited by the sample used. Replications are recommended using samples of victims with other cultural backgrounds, with other demographics, with different types of victims, and based on other offense-types to increase certainty that the findings may generalize to other populations.

Conclusion

The study conclusion is that victims with cases randomly assigned to the Turning Point sample were 45% more satisfied relative to those with cases in the

court sample, suggesting that victims *can* be more satisfied with conditional out-of-court disposals designed to reduce reoffending and address the needs of victims than with their cases being charged and sent to court. This supports the use of conditional out-of-court disposals for more serious offenses, and suggests that victim satisfaction should not be a deterrent to use of these disposals with higher-level cases. The lack of increased satisfaction in the sample of victims who received Turning Point without special attention to communication suggests that communication may be key to the outcome.

Appendix A

Correlations Among Variables Included in the Model

	Satisfaction	Turning Point Sample	Violent Offense	Off. Male	Off. White	Off. Adult	Off. Unemp	Vic. Male	Vic. White	Vic. Adult	Vic. Unemp
Satisfaction	1.00										
Turning Point Sample	.22	1.00									
Violent Offense	-.12	-.09	1.00								
Offender Male	.08	-.01	-.07	1.00							
Offender White	.04	.10	-.14	-.20	1.00						
Offender Adult	.17	-.07	.15	-.05	.09	1.00					
Offender Unemployed	.01	-.03	-.002	.20	-.08	-.26	1.00				
Victim Male	.11	.04	-.04	.24	-.11	-.09	.09	1.00			
Victim White	.02	.08	.08	-.09	.31	-.10	-.07	-.20	1.00		
Victim Adult	-.08	-.02	.11	.002	.10	.26	.003	-.11	.03	1.00	
Victim Unemployed	.02	.05	-.10	-.03	-.06	-.01	.13	-.13	-.21	.06	1.00

Table 10 N=101

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