

# A review of restorative justice responses to offending

Don Weatherburn, Director  
Megan Macadam, Research Assistant  
NSW Bureau of Crime Statistics and Research  
Level 8, St James Centre  
111 Elizabeth Street, Sydney  
Author contact: [Don\\_J\\_Weatherburn@agd.nsw.gov.au](mailto:Don_J_Weatherburn@agd.nsw.gov.au)

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## Abstract

The present review sought to determine on the available evidence (a) whether restorative justice (RJ) is an effective means of reducing re-offending (b) what benefits victims of crime obtain from participation in the RJ process (c) whether the public supports the principles of RJ and (d) how the cost and efficiency of RJ proceedings compare with conventional courts in cost and efficiency (i.e. time taken to finalize cases). The review finds little reliable evidence that RJ reduces re-offending. Victims who participate in RJ are generally satisfied with the experience but it is unclear whether they are more satisfied than victims in similar cases that are dealt with in court. The limited evidence available suggests that the public supports the principles of RJ. It appears to be a less expensive and more efficient way of finalizing criminal cases involving young people but, once again, the evidence on this issue at this stage is rather limited.

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Restorative Justice (RJ) has been described as ‘a process whereby all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of that offence and its implications for the future’ (Marshall 1996, 37). RJ has origins in diverse sources, including traditional Navajo conflict resolution practices and the Western victim-offender mediation movement (McCold 2006). The first modern variant of RJ, in the sense described by Marshall (1996), appeared in New Zealand (NZ) with the passage of the Children, Young Persons and Their Families Act (1989). That Act formalized a process known as Family Group Conferencing (FGC), in which young offenders, their family, their victims and others (e.g. police, youth advocates) meet to discuss the offence and what can be done to repair the damage.

Initial reports of FGC were highly favorable (Maxwell and Morris 1993) and it did not take long for enthusiasm for RJ to spread across the Tasman. A pilot youth conferencing scheme was introduced in the New South Wales (NSW) town of Wagga Wagga in 1991. By 2001, every Australian State and Territory had some form of RJ program for juvenile offenders (Strang 2001). By 2010, most jurisdictions had created special RJ programs for Indigenous offenders (Marchetti and Daly 2007) and some had extended the reach of their RJ programs to include young adult offenders (regardless of Indigenous status). RJ has been applied to conflict resolution in domains as diverse as schools, workplaces and international relations. It could now be described without too much exaggeration as a global movement (see for example Sullivan and Tift 2006).

## **The aims of the review**

The aims of this review are to determine:

1. Whether RJ is an effective means of reducing re-offending.
2. The benefits that victims of crime, if any, obtain from participation in the RJ process.
3. Whether and to what extent the public supports the principles of RJ.
4. How the cost and efficiency of RJ proceedings compare with conventional courts (i.e. time taken to finalize cases).
5. What the priorities are in terms of future RJ research

The principal impediment to any evaluation of the evidence in relation to RJ is that, on the definition proposed by Marshall (1996), RJ encompasses a very broad range of programs. Some of these programs are offered as an alternative to court. Some are only available once an offender reaches court. Some are available both as alternatives to court and as options a court can exercise in its own right. The referral processes, the nature of each program, the program entry and exclusion criteria, the mode of operation and the program target groups vary considerably from one program to another. This variation makes any generalization about RJ inherently tentative and provisional.

We can avoid some of this complexity by defining RJ more narrowly than Marshall (1996), but no particular subspecies of RJ has attracted a body of research large or consistent enough to warrant review. The best course of action in the circumstances would appear to be to retain a Marshall's (1996) general definition of RJ, while recognizing from the outset that some of the inconsistency in findings surrounding RJ (see below) may be due to the fact that different types of RJ programs have different effects. In what follows, we examine all research on RJ dealing with offenders (whether juvenile or adult), regardless of the specific form an RJ program takes and regardless of whether an evaluation of RJ compares it court or with some other form of disposition.

## **Selection of studies**

Several reviews have been conducted of research on the effectiveness of restorative justice in reducing re-offending (Braithwaite 1989; Hayes 2005; Latimer, Dowden and Muise 2005; Bonta et al. 2006; Sherman and Strang 2007). In light of this, we conduct a brief critical appraisal of earlier reviews of RJ and re-offending but limit our review of new evidence on RJ and re-offending to studies published since 2006.

Because only one review has been conducted of research on victim perceptions of RJ (Wemmers 2002), we review all the available evidence on victim perceptions of restorative justice published since 2002. No reviews appear to have been conducted of research into the cost/efficiency of RJ compared with conventional court proceedings, or on public support for the principles of RJ, so we impose no time constraint regarding evidence on these issues. Table 1 summarizes the criteria used to include studies in this review, grouped by the first four aims of this review listed above.

**Table 1** Criteria for including studies in the review

Review question	Review inclusion criteria
Impact of RJ on re-offending	<ul style="list-style-type: none"> <li>• Include a comparison group</li> <li>• Measure one or more of the following outcomes: whether re-offended, time to re-offending, frequency of re-offending, seriousness of re-offending</li> </ul>
Victim satisfaction with RJ	<ul style="list-style-type: none"> <li>• Involve a survey of victims who participated in RJ</li> <li>• Measure at least one aspect of victim satisfaction toward the RJ process</li> <li>• Involve offenders</li> </ul>
Public attitudes to RJ	<ul style="list-style-type: none"> <li>• Involve a representative sample survey of the general public</li> <li>• Measure at least one aspect of public opinion toward RJ as a means of dealing with offenders</li> </ul>
Cost/efficiency of RJ	<ul style="list-style-type: none"> <li>• Include at least one comparison group receiving a different sanction but matched for offender characteristics or program eligibility criteria</li> <li>• Measure the cost of the RJ procedure and the alternative sanction</li> </ul>

### *Search strategy*

Five search strategies were employed to locate studies meeting our inclusion criteria for this report. These strategies were: (i) a keyword search on a number of research databases relevant to criminal justice research; (ii) examination of the bibliographies of research papers and reviews on RJ to identify studies not stored on the databases used; (iii) a forward search for studies citing seminal works on RJ; (iv) a search of the publication pages of professional bodies and government departments; and (v) consultation with academics in the RJ field.

Only published and professional agency or governmental reports were included. This review does not include unpublished literature. While our search was internationally based, our review excludes any study not published in English. Appendix 1 details the specific search elements used to find the studies included in this review.

### *Methodological issues*

There are a few important points to note about research in this area before we begin. The first is that, in most locations, RJ is not available, or is less likely to be made available to offenders who commit serious offences (e.g. robbery, sexual assault, extortion), or who have a substantial criminal record including past referral to RJ (Weatherburn, McGrath and Bartels 2012). This creates the possibility of selection bias. In other words, lower rates of re-offending may be found among offenders who receive RJ because they are lower risk offenders to begin with rather than because RJ reduces re-offending risk.

The best line of defence against selection bias is a randomized controlled trial (RCT). For both ethical and practical reasons, however, RCTs are comparatively rare in studies of RJ and re-offending. Most studies attempt to control for selection bias by measuring the factors thought to affect selection into treatment and/or risk of re-offending, and including them in some form of regression analysis (e.g. Cox, logistic or negative binomial regression). The effectiveness of this strategy depends on whether the controls included are adequate and whether the analysis is conducted on the basis of intention-to-treat (ITT).

Nagin et al. (2009) have argued that age, gender, race, principal offence and prior criminal record exert such powerful effects they should be included as minimum controls in any study of the effect of penalties on re-offending. In what follows we treat age, gender, race, principal offence and prior criminal record as minimum controls in any non-RCT study of the effectiveness of RJ in reducing re-offending. It should be noted, however, that many RJ studies do not control for all these factors.

Apart from these minimum controls, program evaluations should also always be conducted on the basis of ITT. In other words, subjects allocated to treatment should always be kept in the treatment group, even if they do not end up receiving treatment, or leave before completing it. The logic behind ITT is straightforward. Removing those who do not complete treatment from the treatment group introduces selection bias. Many studies of RJ and re-offending do not analyze their results on the basis of ITT.

The final preliminary point is this: it is customary in reviews of evaluation research to report some measure of effect size. In the present case, this would mean providing some estimate of the reduction in re-offending attributable to RJ. In the present analysis we do not present estimates of effect size for most of the studies we cite. There are two reasons for this. Firstly, as we shall see shortly, many of the effects of RJ on re-offending derive from studies of questionable validity. Secondly, both the definition of 're-offending' and the measure of re-offending vary widely from study to study.

## **RJ and re-offending**

The bulk of studies examining the effect of RJ on re-offending prior to 2007 find lower rates of re-offending among offenders dealt with via RJ than among offenders dealt with in court or through some other diversion program. Most of these studies, however, have significant methodological weaknesses. Among the best conducted studies published since 2007, there is a slight preponderance of evidence *against* the hypothesis that RJ reduces re-offending. Only one study to date has found any evidence that RJ *increases* the risk of re-offending, but the effect was small and limited to one offence (Sherman and Strang 2000).

### *Early reviews*

RJ evolved as an alternative to traditional court processing, which was (and in some quarters still is) widely believed to be stigmatizing and criminogenic. Proponents of RJ have always maintained that RJ avoids this problem because it allows offenders some means by which to atone for their wrongdoing and regain social acceptance (Braithwaite 1989). Not surprisingly, most of the research on RJ has focused on its effectiveness in reducing re-offending. There have been several major reviews of the evidence on re-offending, including Braithwaite (1999); Umbreit, Coates and Vos (2002); Nugent, Williams and Umbreit (2003); Latimer, Dowden and Muike (2005); Bonta et al. (2006); and Sherman and Strang (2007).

Latimer, Dowden and Muike (2005) examined 32 tests for the effectiveness of RJ in reducing re-offending, in 22 separate studies published over the preceding 25 years. The majority of the tests (72 per cent) showed a positive effect in favour of RJ, with a putative average effect size of 0.07, meaning that the average reduction in recidivism in the group receiving RJ was estimated to be seven per cent lower than that of the comparison group. Two years later Bonta et al. (2006) published a review of studies

conducted over the preceding 31 years and reached a similar conclusion, but claimed slightly smaller effect sizes for juveniles (6 per cent) than for adults (9 per cent).

Neither Latimer et al. (2005) nor Bonta et al. (2006) imposed very strong restrictions on the quality of the studies they reviewed. For example, neither meta-analysis imposed any requirement that members of the treatment and comparison groups be matched on factors relevant to re-offending (e.g. age, gender, and prior criminal record). Nor was any requirement imposed that the analysis be conducted on the basis of ITT. The absence of such requirements raises legitimate doubts about their claim that RJ reduces re-offending. Latimer et al. (2005) acknowledged this point, noting that some of the studies they reviewed had high drop-out rates and that 'self-selection bias' might have compromised their results (Latimer et al. 2005, 138-139).

In a bid to overcome this problem, Sherman and Strang (2007) restricted their attention to studies published between 1986 and 2005 that made some attempt to match treatment and comparison groups, and that analyzed their results on the basis of ITT. They identified what they described as '23 reasonably unbiased point estimates of the impact of RJ on repeat offending' (Sherman and Strang 2007, 15). On the basis of this evidence, the authors concluded that RJ substantially reduces 'repeat offending for both violence and property crime'.

Close examination of the seven studies in question (Sherman et al. 2006a; McGarrell et al. 2000; Pennell and Burford 2000; Sherman et al. 2006b; Miers et al. 2001; Bonta et al. 1998 and Schneider 1986) raises serious doubts about their conclusion. The findings in two of the cited studies (Sherman et al. 2006a and 2006b) appear to have only ever been released in the form of PowerPoint presentations (H. Strang, personal communication, 17 September 2012). These presentations contain too little detail to judge the merits of the cited studies. The remaining studies either have significant methodological weaknesses and/or provide only weak evidence in favour of the hypothesis that RJ reduces re-offending.

McGarrell et al. (2000), for example, conducted a randomized trial evaluation of a conferencing program in Indianapolis. Re-arrest and court re-contact rates were lower for the RJ group than the control group but the analysis – for some unexplained reason – was based on far fewer offenders than were originally assigned to the conference and control groups. Without knowing why such a large proportion (27 per cent) of the sample was lost to follow-up, it is difficult to take the significant results at face value. They may reflect nothing more than bias resulting from sample attrition.

Pennell and Burford (2000) evaluated the effectiveness of RJ in reducing child maltreatment and mother/wife violence by comparing rates of maltreatment and violence in a sample of families before and after they had participated in an RJ process. Maltreatment and violence were measured using a specially constructed 'Child Protection Checklist'. The changes in this checklist for the treatment group were compared with those occurring in a comparison group of families 'selected by child protection workers under the direction of an independent consulting group' (Pennell and Burford 2000, 143).

Pennell and Burford (2000) found that the number of child protection events and the number of recorded instances of mother/wife abuse fell in the treatment group but rose in the comparison group. No statistical test, however, was conducted on the downward trend in the RJ group. Moreover, the pre-treatment incidence of child protection events and the number of incidents of mother/wife abuse was much higher in the RJ group than in the comparison group. The convergence of trends in the two groups may have been nothing more than regression to the mean.

Miers et al. (2001) evaluated five conferencing schemes operating in the UK. In one of these schemes, 153 offenders who received RJ were compared with 79 offenders who were referred to the program but who did not receive RJ. Rates of reconviction were found to be lower among RJ offenders than among the comparison group, even after controlling for prior risk of re-offending using a standard risk of re-offending assessment measure known as the OGRS 2. The most common reason for non-receipt of RJ, however, was unwillingness to participate in the program. As the researchers themselves acknowledge, notwithstanding the matching on OGRS2, those who refused to participate in RJ may have been at higher risk of re-offending than those who were willing to participate (Miers et al. 2001, 54).

Bonta et al. (1998) compared 75 male offenders who received 'restorative resolutions' (RR) with 70 male offenders detained in two institutions, 94 probationers who had no restitution requirement, and 83 probationers who had restitution or community service as a condition of probation. They found that the RR group had a lower rate of recidivism than any of the comparison groups. Unfortunately, any offender judged by staff as unwilling to assume responsibility for their behaviour or unwilling to meet the victim was excluded from the RR group. Once again, then, the better outcome for the restorative resolutions group may have been a result of selection bias.

The most rigorous of the pre-2007 studies cited by Sherman et al. (2007), and the only pre-2007 study offering credible evidence that RJ may be more effective than other forms of diversion, was that conducted by Schneider (1986). In his first study (Boise, Idaho), 86 juveniles required to pay restitution to the victims of their crime or to complete a specified number of community service hours were compared with 95 juveniles assigned to weekend detention. In the second (Washington DC), 274 juveniles ordered to pay restitution were compared with 137 placed on probation. In the third (Clayton County, Georgia), 73 juveniles required to pay restitution or to perform community service were compared with 55 placed on probation. In the last (Oklahoma County), 104 juveniles required to pay restitution were compared with 78 placed on probation.

Only the results in Washington and Clayton County were statistically significant. The study in Washington DC produced lower rates of offending among the restitution group, but the differences were only just significant (re-contact frequency:  $p = 0.04$ ; re-contact rate:  $p = 0.05$ ). Lower re-contact rates were also found in the restitution group in Clayton County but, once again, the difference was only marginally significant ( $p = 0.04$ ). Thus while the Schneider (1986) results are encouraging, they provide only limited evidence that restitution is more effective than other dispositions in reducing re-offending.

### *Research published from 2007 onwards*

As we noted earlier, studies of interventions to reduce recidivism are generally regarded as more reliable if they analyze the results on the basis of ITT and (where the study is not an RCT) include explicit controls for age, race, gender, principal offence and prior criminal record. In stage two, therefore, the studies meeting requirements (1) and (2) were further examined to determine which met the following additional criteria:

1. The recidivism data were analyzed on the basis of ITT
2. The study included controls for prior criminal record, conviction offence type, age, race and sex

Table 2 places post-2007 studies into three groups. The first (Group A) consists of studies that analyzed their data on the basis of ITT *and* included controls for prior criminal record, conviction offence type, age, race and sex.<sup>1</sup> The second (Group B) consists of studies that analyzed their data on the basis of ITT *or* included controls for prior criminal record, conviction offence type, age, race and sex, *but which did not meet both of these requirements*. The third (Group C) consists of studies that met criteria (1) and (2) above but did not analyze their data on the basis of ITT *and* did not include controls for prior criminal record, conviction offence type, age, race or sex (Group C).

The term ‘NS’ in the table means that the study found no significant effect of RJ in any analysis. The sign ‘+’ indicates a positive effect in favor of RJ. Only one study fell into category C (Nesheim 2010). It is excluded from further discussion on the grounds that it is too weak methodologically to warrant serious consideration.

Of the 14 studies in Category A or B, eight found at least one significant effect in favour of RJ and six did not. Some of the studies in Category B, however, also had significant methodological weaknesses, such as failure to rely on ITT (e.g. Baffour 2006; Rodriguez 2007; De Beus and Rodriguez 2007) or limited controls (Daly et al. 2012).

If we restrict our attention to Category A studies, only four out of 10 studies (McGarrell and Hipple 2007; Lynn 2011; Bergseth and Bouffard 2007; Bergseth and Bouffard 2012) found a significant effect in favour of RJ. One of these studies (McGarrell and Hipple 2007) only found a significant effect because alpha levels (i.e. statistical significance thresholds) in the study were set at 0.1 instead of at the conventional level of 0.01 or 0.05.<sup>2</sup> Had the alpha level been set at 0.05, they would not have found a significant effect. In fact Jeong, McGarrell and Hipple’s (2012) long-term follow up of offenders in the McGarrell and Hipple (2007) study found no significant effect of conferencing on either the likelihood of re-arrest or the time to re-arrest.

This leaves us, then, with only three out of 10 A-level studies supporting the hypothesis that RJ reduces re-offending (Lynn 2011; Bergseth and Bouffard 2007; Bergseth and Bouffard 2012), and seven finding no significant effect.

Lynn (2011) conducted two separate studies of the effectiveness of Family Group Conferencing (FGC) in NZ in reducing re-offending amongst a cohort of offenders conferenced in 2008 (study 1), and a separate cohort of offenders conferenced in 2009 (study 2). Matched comparison groups of offenders were created for each cohort, from those referred to court in either 2008 or 2009. He found no significant effect of FGC on the 2008 cohort’s reconviction rate after either 12 months or 24 months. The 2009 cohort, however, had a 20 per cent lower 12-month re-offending rate than the matched comparison group.

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<sup>1</sup> Note that studies that randomly allocated cases to treatment and control and analyzed data on the basis of ITT were classified in Group A, even if the analysis did not include explicit controls for prior criminal record, conviction offence type, age, race and sex. Studies that compared the RJ group to a group matched on risk of re-offending were also classified in Group A, but only if the regression analysis used to estimate risk of re-offending included prior criminal record, conviction offence type, age, race and sex as independent variables.

<sup>2</sup> This was done to reduce the risk of a Type I error (failing to detect an effect when there is one), but it necessarily increased the risk of a Type II error (finding an effect when there isn’t one).

**Table 2** Research on RJ and re-offending (2007-2012)

Study	Treatment Group	Control Group	Follow-up period	Outcome
<i>Category A studies</i>				
McGarrell & Hipple (2007)	Juvenile offenders (n=400)	Juvenile offenders referred to other diversion programs, RCT (n=382)	24 months	+
Bergseth & Bouffard (2007)	Juvenile offenders (n=164)	Juvenile offenders matched on offence who were referred to court n=166)	42 months (average)	+
Bergseth & Bouffard (2012)	Juvenile offenders (n =284)	Juvenile offenders matched on offence who were referred to court n=267)	42 months (average)	+
Lynn (2011) study 1	Adult offenders (n=468)	Adult offenders matched on re-offending risk referred to court (n=9901)	12 months	+
Lynn (2011) study 2	Adult offenders (n=251)	Adult offenders matched on re-offending risk referred to court (n=5784)	12 months	NS
Jeong, McGarrell & Hipple (2012)	Juvenile offenders (n=400)	Juvenile offenders referred to other diversion programs, RCT (n=382)	120 months	NS
Shapland et al. (2008) study 1	Adult offenders (n=47)	Adult offenders matched on re-offending risk referred to court (n=47)	24 months	NS
Shapland et al. (2008) study 2	Adult offenders (n=342)	RCT (n=386)	24 months	NS
Shapland et al. (2008) study 3	Adult and juvenile offenders (n=15)	RCT (n=15)	24 months	NS
Fitzgerald (2008)	Adult Indigenous offenders (n=153)	Adult Indigenous offenders eligible for RJ referred to court (n=21,477)	30 months (average)	NS
Jones (2009)	Adult offenders (n=264)	Matched sample of adult offenders referred to court (n=39,833)	12 months	NS
Davis (2009)	Adult offenders involved in interpersonal violence (n=259)	Adult offenders eligible for RJ who were referred to court (n=206)	4 months	NS
Smith & Weatherburn (2012)	Juvenile offenders (n=918)	Matched sample of juvenile offenders (n=918)	24 months	NS
<i>Category B studies</i>				
Baffour (2006)	First time juvenile offenders (n=80)	Juvenile offenders eligible for diversion who were referred to court (n=212)	18 months	+
Rodriguez (2007)	Juvenile offenders (n=1708)	Juvenile offenders eligible for diversion who were referred to probation (n=3262)	24 months	+
de Beus & Rodriguez (2007)	Juvenile offenders (n=4198)	Juvenile offenders eligible for RJ referred to another program (n=5057)	24 months	+
Daly et al. (2012)	Juvenile sex offenders (n=118)	Juvenile sex offenders referred to court (n=226)	47 months (average)	+
<i>Category C studies</i>				
Nesheim (2010)	Juvenile offenders circle sentenced (n=26)	Juvenile offenders referred to court (n=26)	36 months	No sig. tests

Lynn (2011) took this as evidence that FGC reduces re-offending but, as he points out, although the comparison group was matched for its *predicted* probability of re-offending, compared with the matched comparison group its members were younger, less likely to have had a previous custodial sentence, more likely to have committed an assault, and less likely to have committed a theft/receiving offence (Lynn 2011, 31). The effects observed by Lynn (2011), in other words, may still be a result of selection bias.

Bergseth and Bouffard (2007) examined the effectiveness of an RJ program in a mostly rural county in the Midwestern United States. Theirs is the most rigorous of the post-2007 studies of RJ and re-offending so far conducted. The treatment sample



included all 164 youth referred to RJ during the calendar years 2000 to 2003. The court sample included youth referred to court during the same time period (2000 to 2003) for offences that were largely similar to those committed by members of the RJ group.

Significant effects favouring the conference group were found, even after adjusting for each of the factors we earlier noted as critical controls. The effects, moreover, were quite substantial. Depending on the follow-up period, the odds of re-offending amongst the RJ group ranged between 59 per cent and 37 per cent below those of the comparison group. Bergseth and Bouffard (2012) later re-evaluated the same program with a larger set of treatment and control subjects. This study also found evidence supporting RJ. This, arguably, is the most convincing evidence published to date that RJ may in some circumstances reduce re-offending (although see the discussion section below).

### **Restorative justice and victim satisfaction**

On the whole, victims who participate in RJ seem to be very satisfied with the process. Victim satisfaction tends to decline over time but remains high even months after participation in a conference. There is some evidence that victims who participate in RJ are more satisfied than those whose cases are dealt with in court. It is difficult to draw firm conclusions on this issue, however, because very few studies have compared victim satisfaction in RJ with victim satisfaction in court for comparable groups of cases.

#### *The Wemmers (2002) review*

Wemmers (2002) found that most studies she reviewed reported fairly high levels of satisfaction with the RJ process but noted that few include court comparison groups. This led her to conclude that ‘when compared to victims whose cases were handled in the traditional criminal justice system, there is no clear evidence to conclude that victims in restorative programs are any more or less satisfied’ (Wemmers 2002, 35).

A number of studies on the effects of RJ on victim satisfaction have been published since the Wemmers (2002) review. Most continue to find high levels of satisfaction among victims who participate in RJ, but many involve small sample sizes and no long-term follow-up (e.g. Campbell et al. 2005; Goldsmith, Halsey and Bamford 2005; People and Trimboli 2007; Potas et al. 2003; Poulson and Elton 2002; and Wilcox and Hoyle 2004). We focus our attention below on studies that have more than 10 people in the RJ group and include some form of follow-up after completion of the conference.

#### *Studies without a comparison group*

The New Zealand Ministry of Justice has commissioned five studies on victim satisfaction. The first, by Maxwell et al. (2004), assessed victim satisfaction immediately after the conference, and 4-8 weeks following the conference. Most of those surveyed following the conference appeared fairly satisfied with the features of RJ they were asked about. For example, 87 per cent of the victims who attended the conference were satisfied with the amount of information provided prior to the commencement of the conference, 90 per cent said they were treated with respect and 71 per cent indicated that their needs were met. The authors did not report any quantitative findings on victim satisfaction at the second interview.

The second and third NZ studies were evaluations of the Wanganui and Rotorua RJ programs, conducted by Paulin, Kingi and Lash (2005) and Paulin et al. (2005). The Wanganui evaluation program involved interviews with 21 victims (55 per cent of those contacted for interview) who attended an RJ conference, at points ranging from one to twelve months following the conference. The results indicated a high level of satisfaction, with half of the participating victims being 'very satisfied' with the outcome plan and 19 out of 21 participants giving a rating of 5-7 in a 0-7 scale of satisfaction. The evaluation of the Rotorua RJ program involved interviews with only 19 victims. Results showed a similar pattern to the Wanganui study, with 17 out of 19 victims reporting satisfaction with the agreed upon plan, 18 out of 19 reporting general satisfaction with the RJ meeting and just over half of these victims reporting that they were very satisfied with the meeting.

The fourth study (Kingi, Paulin, and Porima 2008) sought to investigate the level of satisfaction for victims involved in RJ conferences across five sites offering conferences for offenders and victims in cases of family violence. Seven of the 14 victims interviewed said they were very satisfied with the agreement. Eleven said they were satisfied. Only nine out of the 14 victims, however, thought that the agreement was 'about right' considering the offence.

The fifth and final study involved a telephone survey of victims who participated in conferences in New Zealand between 2009 and 2010. A total of 418 victims were invited to participate in the survey and 59 per cent agreed to participate. The follow-up periods for the survey ranged from 8-17 months.

A large majority (82 per cent) of victims surveyed said they were 'fairly' or 'very' satisfied with their RJ conferences. A similar proportion (80 per cent) said that they would recommend RJ to others in a similar situation. Four victim factors were found to be most strongly related to overall satisfaction: a perception that the victim's concerns and questions had been treated seriously at the conference; a perception that the facilitator was fair to everyone at the conference; completion of the outcome plan; and follow-up contact with the victim by the facilitator after the conference (Ministry of Justice New Zealand 2011).

#### *Studies with a comparison group*

McCold (2003) compared victim satisfaction among 148 cases randomly assigned into a victim-offender mediation program or to court. Two-thirds of the cases involving violent offences and half of the cases involving property offences assigned to a conference were in fact dealt with by a court (either because the victim or the offender refused to participate in the RJ process). McCold created a separate group for these cases labeled 'declines'. Victims in the mediation condition were found to be more satisfied than victims in either the court group or the decline group (96, 79, and 73 per cent respectively). They were also more likely than the other two groups to say the process they participated in was fair (96, 79, and 81 per cent). It is interesting to note, however, that satisfaction with both methods of case disposal was fairly high.

Beven et al. (2005) interviewed victims of adult offenders who participated in an RJ program in Perth, Western Australia (n=36). They were compared with a control group of victims (n=47) whose cases were dealt with in a court. The results showed that victims in the RJ group were significantly more satisfied with the outcome than victims in the court group. Unfortunately, the study gave no detail on the process used to allocate offenders to treatment or control groups, or on response rates to the survey. It is unclear, therefore, whether the types of criminal cases being compared in treatment and comparison groups were similar, or whether the responses elicited from

those interviewed were representative of all victims who participated in the RJ program.

Gal and Moyal (2011) examined satisfaction levels of victims participating in the RISE RJ project in Canberra, Australian Capital Territory. Eighty-nine per cent of the 260 victims approached agreed to be interviewed, with 116 allocated to the RJ condition and 116 allocated to court. Victims in conferencing were significantly more satisfied than victims in the court system. Interestingly, the difference in level of satisfaction among victims in the conference and court groups was much more pronounced for adult victims than for juvenile victims. In fact, victims whose offenders were juvenile and whose cases were dealt with at a conference were slightly (but not significantly) less satisfied than those whose cases were dealt with in court. Two studies since 2002 have compared long-term satisfaction among RJ victims to long-term satisfaction among victims whose cases were dealt with in court. Triggs (2005) compared victim satisfaction levels at two distinct time points: immediately after the conference (n=181) or (in the control group) after sentencing (n=167)<sup>3</sup>, and 12 months after the conference (n=154). At the initial evaluation interview, 88 per cent of RJ victims said they were satisfied with the conference and 87 per cent were pleased with the plan agreed upon. By contrast, only 65 per cent of victims were satisfied with the sentence imposed by the court. Victim satisfaction with both RJ and the court process declined over time but remained higher for RJ than for court. According to Triggs (2005), the fall in satisfaction for RJ was more pronounced for those whose outcome plans were not completed.

Shapland et al. (2007) assessed levels of victim satisfaction for three RJ programs, respectively known as JRC, REMEDI, and CONNECT. REMEDI and CONNECT both contained small sample sizes. The JRC study is of particular interest here because it was a large randomized trial (for RJ group n=216, for control group n=166). When victims were asked 8-10 months after the RJ or court process how satisfied they were with what the criminal justice system had done overall about the offence, 71 per cent of conference victims but only 59 per cent of control group victims said they were very or quite satisfied. Conference victims also gave significantly higher ratings than did control group victims on the fairness of the process they experienced (73 per cent vs. 61 per cent).

## Restorative Justice and Public Opinion

Very little research has been conducted on public support for the principles of RJ. Such research as there is, suggests that public support is strong. Whether this support extends to very serious offences and whether it is as strong for adult as for juvenile offenders remains unknown.

### *Overseas research*

Only four studies met our criteria on public opinion and restorative justice. The first of these (Lee 2009) involved a survey of 333 Hong Kong residents aged 18 and above. Survey participants were given a brief explanation of RJ and then asked whether they would support the implementation of RJ in juvenile justice. The majority of participants (88.9 per cent) indicated that they would support the adoption of RJ practices.

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<sup>3</sup> In the NZ RJ process, offenders are referred to conferences by courts, who are then referred back to courts for sentencing.

The second (Huang et al. 2011) involved separate telephone surveys of 1,544 Japanese and 1,967 Australians. The concept of RJ was described to participants, who were then asked if they supported RJ when imagining themselves in the shoes of: a community resident, a victim, and an offender. Japanese respondents were reportedly more open to RJ than Australian respondents for all stakeholders involved (i.e. community resident, victim, and offender). Unfortunately, Huang et al. (2011) did not report the percentage of respondents in each country who supported RJ.

The third study, conducted by the Prison Reform Trust (2011), involved telephone interviews with a sample of 1,000 UK residents randomly selected using a telephone omnibus. The study found strong public support for offenders being required to perform unpaid community work and for victims being given an opportunity to tell offenders about the harm and distress their offence caused.

#### *Australian research*

The fourth study (Moore 2012) administered a survey similar to that conducted by the Prison Reform Trust (2011) to a sample of 2,530 randomly chosen NSW residents. She also found strong public support for the principles of RJ. Most respondents in her survey agreed that offenders' sentences should include unpaid work in the community (85.9 per cent); that victims should be given the opportunity to inform offenders of the harm their crime had caused (87.3 per cent); and that victims should have a say in how offenders should make amends for that harm (73.8 per cent).

#### *A caveat*

No studies have examined public support for the use of RJ for very serious offences. Nor have there been any systematic comparisons of public support for RJ programs targeted at juvenile versus adult offenders. There is some evidence that support for the use of RJ is weaker for more serious offences. Gromet and Darley (2006) conducted an experiment designed to determine how crime severity affected university student preferences for RJ compared with other sentencing options. Subjects in the study were given a series of crime vignettes varying in seriousness and were asked which of three sentencing options for dealing with the offender they preferred (one of which involved RJ). Gromet and Darley (2006) found that support for RJ tended to decline as the seriousness of the crime increased.

### **The cost and efficiency of RJ**

Studies suggesting that RJ produces substantial savings in criminal justice outlays are generally based on the questionable assumption that RJ produces a substantial reduction in re-offending. The limited available evidence suggests that, for comparable groups of offenders, RJ is a less expensive and more efficient means of disposing of criminal cases than court, as long as the RJ is set up as an alternative to court rather than as a sentencing option available to courts.

#### *Cost*

There are very few cost-benefit or cost-effectiveness studies of RJ. In locations where courts are the gatekeepers to RJ (e.g. NZ), the cost of RJ is additional to any costs associated with court processing. In these circumstances, RJ produces a net benefit

only if savings in other areas (e.g. reduced police and court expenditure as a result of lowered rates of re-offending) exceed program costs.

Two studies have attempted to determine whether RJ produces a net benefit. Shapland et al. (2008) found that savings exceeded outlays for one of the three RJ schemes they evaluated. This conclusion, however, depends on their claim that the scheme in question (JRC) reduced re-offending. As we noted earlier (see Table 2), the difference in re-offending between treatment and control groups observed by Shapland (2008) was not statistically significant.<sup>4</sup> A similar problem afflicts the economic evaluation of RJ carried out by the Barrow Cadbury Trust (2009). They estimated that the diversion of offenders from community orders to pre-court RJ in the UK would produce a lifetime cost saving of almost £275 million (£7,050 per offender). This is an impressive saving but it hinges on the assumption that RJ reduces re-offending; this conclusion, as we have already noted, is very much open to question.

Only three studies have examined the cost or cost-effectiveness of RJ compared with court. Maxwell, Morris, and Anderson (1999) assessed the cost of two RJ schemes in NZ: Project Turnaround, located in Timaru; and Te Whanua Awhina, located in West Auckland. The cost per offender of both RJ programs was found to be lower than the cost per offender among a matched sample of cases referred to court but much of the cost difference stemmed from higher rates of re-appearance in court for those initially referred to court compared with those referred to one of the RJ programs. If the lower rate of re-offending in the RJ were partly a result of selection bias, the study would have overestimated the treatment effect and the savings associated with it.

KPMG (2010) examined the cost of finalizing a case via the Victorian Youth Justice Group Conferencing Program (YJGCP) compared with the cost of finalizing a case that resulted in a Community Based Order (CBO). The cost of referring a young offender to a YJGCP (\$5,022 per conference) was found to be much lower than the average cost per CBO (\$9,495).

The most thorough cost assessment to date is that by Webber (2012). He examined the cost-effectiveness of youth justice conferences (YJC) versus the NSW Children's Court using the same data that were used by Smith and Weatherburn (2012) in their analysis of re-offending. That study, it will be recalled, found no difference between RJ and court in rates of re-offending. Webber (2012), however, found that the average cost per youth offender dealt with via a YJC (\$4,926) was lower than the average cost (\$5,976) of the Children's Court, rendering the former more cost-effective. This was only true, however, of conferences initiated by police. Cases that reached a conference via the court system were more expensive than those that were referred directly by police. Webber (2012) also noted that if the *marginal* cost of sending an additional offender to the Children's Court is very low, it may be more cost effective to process offenders through the Children's Court.

### *Efficiency*

Only one reported study has examined the efficiency of RJ compared with court proceedings. Moore (2011) compared the time taken to finalize the cases of juvenile offenders in NSW by way of a police-referred youth justice conference, with the time taken to finalize a matched set of cases via a court-referred youth justice conference or

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<sup>4</sup> Shapland et al. (2008) also estimated savings based on a comparison of re-offending rates before and after RJ but falls in offending rates over time may reflect nothing more than the well known effects of age on criminal propensity.

court without any conference referral. She found that cases dealt with by a police-referred conference were finalized more quickly (median = 55 days) than comparable cases finalized in the Children's Court (median = 64 days). The difference remained both significant and substantial even after controlling for a number of offence and offender characteristics. Conference cases initiated by courts, however, took longer than cases finalized in the courts. It should be noted in passing that the maximum time frames for disposition of RJ conferences in NSW are set down in the NSW Young Offender's Act (1997).

## Discussion

A key finding in the current review is that, in contrast to most of the earlier reviews, we find little support for the hypothesis that RJ is more effective than court in reducing re-offending. Professor Ken Polk and his colleagues reached the same conclusion in a review of diversion schemes for the Australian Government nearly ten years ago (Commonwealth of Australia 2003). Sherman and Strang (2012) have recently argued that, once the data from well-conducted studies are pooled, the results clearly indicate that RJ is more effective than court in reducing re-offending. Pooling data from separate studies is unwise where there is any reason to believe that program effect estimates may be biased in a particular direction. Since RJ is generally reserved for offenders who are not as serious or persistent as those referred to court and the controls in many RJ studies are weak, estimates of the effectiveness of RJ in reducing re-offending are likely to be biased upwards.

Although the effectiveness of RJ in reducing re-offending is open to question, there is no doubt that the majority of victims who participate in an RJ program are fairly or very satisfied with the process. There is also little doubt that the public as a whole supports the principles behind RJ. RJ may also be useful in blunting demands for more punitive and potentially harmful sanctions, such as imprisonment, especially where juvenile offenders are concerned. The question for policy makers is whether these advantages warrant continued investment in RJ or whether it would be more prudent to shift scarce correctional resources out of RJ and into programs that are demonstrably effective in reducing re-offending, such as multidimensional treatment foster care, cognitive behavioral therapy, community-based drug treatment or functional family therapy (Aos et al. 2006).

Given its manifest advantages and the poor state of the evidence concerning RJ and re-offending, abandonment would seem premature. The better course of action would likely be to either continue with RJ while waiting for more decisive evidence to emerge concerning its effectiveness or, alternatively, combine RJ with correctional measures that *have* been shown to be effective in reducing re-offending (such as those just mentioned).

The second option would seem the more prudent of the two. RJ is not based on any generally accepted theory about the determinants of offending and was never designed to reduce the risk factors known to be associated with involvement in crime (e.g. drug and alcohol abuse, poor impulse control, association with delinquent/criminal peers). Instead of treating RJ as if it had some inherent capacity to reduce re-offending, it might be better to treat it as an opportunity to refer those in need of treatment and support to professionals able to provide it. Some jurisdictions (e.g. Victoria<sup>5</sup>) have

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<sup>5</sup> One of the aims of the Victorian 'Group Conferencing' Scheme is to 'Divert the young person from more intensive supervisory court outcomes by raising their understanding of the impact of their

already gone down this track. In other cases, however (e.g. Youth Justice Conferencing in NSW), there are no guidelines governing the referral process, and the majority of participants receive no specific treatment or professional support (Taussig 2012).

There is a pressing need for more and better research on RJ. There are obvious difficulties in conducting randomized controlled trials with criminal sanctions, but RCTs are not the only reliable way of estimating treatment effects. Instrumental variable methods and propensity score analysis are well-regarded alternatives. Only one study to date, however, has employed propensity score matching, despite its superiority to conventional regression methods in assessing treatment effectiveness (Apel and Sweeten 2010). No studies have employed instrumental variable techniques to get around the problem of omitted variable bias. It is also worth noting that little account has been paid to differences in remorse between treatment and control groups, even though remorse is known to be associated with lower rates of re-offending after controlling for age, race, offence and prior criminal record (Hayes and Daly 2003).

Further research is also needed on victim satisfaction. There are two priorities here: firstly to find out whether victims who participate in an RJ process are more satisfied than victims who attend court *for comparable types of case*. The second is to find out whether and to what extent victim satisfaction with RJ is affected by failure on the part of an offender to complete the undertakings given during the course of an RJ process. This is important because in some ways we would expect a fair degree of satisfaction amongst a group of people who elect to hear the offender's point of view and who are offered an apology and recompense for the harm they have suffered. From a policy viewpoint, whether that satisfaction continues if and when offenders fail to complete their undertakings is perhaps a more important question.

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## Appendix 1

The research databases employed in this review were:

- CINCH
- Criminal Justice Abstracts
- Google Scholar
- National Criminal Justice Reference Service (NCJRS)
- ProQuest Criminal Justice
- ProQuest Dissertations and Theses
- Sociological Abstracts

The keywords used in the above databases were:

- Community conferencing
- Family group conferencing
- Mediated dialogue
- Police conferencing
- Problem-oriented policing
- Restorative justice
- Sentencing circles
- Victim offender mediation
- Victim offender reconciliation
- Peace-making circles

The above keywords were used in conjunction with the following four areas of interests:

- Re-offending (re-offend\* OR recidiv\*)
- Victim satisfaction (victim satisfaction OR victim benefit\*)
- Community support (public attitude\* OR public opinion\*)
- Cost efficacy (cost\* OR sustain\* OR effic\*)

Websites of professional bodies and government departments used were:

- Australian Institute of Criminology <[www.aic.gov.au/en/publications.aspx](http://www.aic.gov.au/en/publications.aspx)>
- Center for Restorative Justice and Peacemaking  
<[www.cehd.umn.edu/ssw/rjp/](http://www.cehd.umn.edu/ssw/rjp/)>
- Department of Justice Canada  
<[www.justice.gc.ca/eng/dept-min/pub/index.asp](http://www.justice.gc.ca/eng/dept-min/pub/index.asp)>
- Judicial commission of New South Wales  
<[www.judcom.nsw.gov.au/publications](http://www.judcom.nsw.gov.au/publications)>
- Justice United Kingdom <[www.justice.gov.uk/publications](http://www.justice.gov.uk/publications)>
- Ministry of Justice New Zealand <[www.justice.govt.nz/publications](http://www.justice.govt.nz/publications)>
- Ministry of Social Development New Zealand <[www.msd.govt.nz/about-msd-and-our-work/publications-resources/index.html](http://www.msd.govt.nz/about-msd-and-our-work/publications-resources/index.html)>
- National Center for Juvenile Justice <[www.ncjj.org/Default.aspx](http://www.ncjj.org/Default.aspx)>

- New South Wales Bureau of Crime Statistics and Research  
<[www.bocsar.nsw.gov.au/lawlink/bocsar/ll\\_bocsar.nsf/pages/bocsar\\_publication](http://www.bocsar.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/pages/bocsar_publication)>
- Public Safety Canada <[www.publicsafety.gc.ca/res/index-eng.aspx](http://www.publicsafety.gc.ca/res/index-eng.aspx)>
- Restorative Justice Council <[www.restorativejustice.org/](http://www.restorativejustice.org/)>
- The Centre for Restorative Justice <[www.sfu.ca/crj/popular.html#evaluation](http://www.sfu.ca/crj/popular.html#evaluation)>
- Youth Justice Board United Kingdom <[yjbpublications.justice.gov.uk/en-gb/Scripts/prodList.asp?eP](http://yjbpublications.justice.gov.uk/en-gb/Scripts/prodList.asp?eP)>