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# **The Feasibility of Utilising Restorative Justice within the Serious and Organised Crime Context**

**By:**

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A thesis submitted in partial fulfilment of the requirements  
for the degree of  
Doctor of Philosophy

The University of Sheffield  
Faculty of Social Sciences  
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Submitted December 2019

### **Declaration**

I, Nikki D'Souza, confirm that the Thesis is my own work. I am aware of the University's Guidance on the Use of Unfair Means ([www.sheffield.ac.uk/ssid/unfair-means](http://www.sheffield.ac.uk/ssid/unfair-means)). This work has not been previously been presented for an award at this, or any other, university.

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## Acknowledgements

To undertake a project like this involves so many people – not just the researcher. The final product is the culmination of many people individually and collectively supporting me throughout this study and at different points during my journey. I am indebted to Durham Constabulary for supporting me. My thanks to the former Chief Constable, Mike Barton, for his continuous support throughout this course and fully championing the proposal to examine this area of policing practice and to the Assistant Chief Officer, Gary Ridley, for his support and enthusiasm for this study. I am also very grateful to my sponsors, without whom this study would not have been possible – the University of Sheffield, the Home Office, and the College of Policing.

I express my sincere thanks to my truly wonderful supervision team - Professor Joanna Shapland and Dr Mark Brown – you are a formidable team and I am in your debt for sharing your expertise, and thank you for your guidance, encouragement and unlimited patience! Thank you also to Dr Xavier L’Hoiry for the first three months of the PhD journey and for collaborating with me on the pilot study exploring the same topic prior to this PhD.

I want to thank all those who assisted at the North East Regional Specialist Operations Unit (NERSOU) who paved the way for me in an enabling and supportive way for which I am very grateful indeed. Big thanks to all those professionals who voluntarily assisted me in undertaking this research - Simon Smart, Gabriela Gravili, Becky Childs and Paul Shaw. It has been my privilege to work with such an inspiring bunch of highly competent professionals who went the extra mile – including travelling long distances and staying overnight in places in order to make this research happen – it has been fun and I have enjoyed every minute of working with you. I also thank all those professionals in different agencies in different parts of the country who played a part in the process of considering cases and gave their valuable insights and knowledge. There are too many to mention in person, but you know who you are! I also warmly thank the experts who took part and freely shared their views with me.

I am grateful to all the offenders and victims who participated – even those who chose not to! This too gave me valuable insights. Thank you.

A mountain of gratitude goes to my dear friends – the ‘Charlie’s Angels’ – Carole, Beverly and Helen. You three have been with me every step of the way in all things academic and non-academic and I can’t express in words alone what it has meant to me – a simple thank you is not enough. Tania – thank you for being a great sister and being at the end of that phone line! Enormous thanks to all my friends – I have appreciated every ounce of encouragement!

To Oliver from whom I learn so much every day! ‘Mummy’s big boring book’ aptly called “MBBB” by you over the last three years is finally finished! It is a privilege and an honour to have such a wonderful little boy call me “mum.” The most heartfelt thanks go to you – for being you.

## Abstract

### **The Feasibility of Utilising Restorative Justice within the Serious and Organised Crime Context.**

This thesis outlines the results of a ground-breaking study which explored the potential for utilising Restorative Justice (RJ) within the context of Serious and Organised Crime (SOC) offending – a relatively unexplored area of policing work. There is evidence of the utilisation of RJ within serious and complex offences (with domestic violence and terrorism for example), but one particular set of offences, offenders and their victims are excluded from being considered for this intervention, namely serious and organised crime offending. This study sought to explore why this was the case and what the potential is for such an application.

The research involved interviewing SOC prisoners, SOC offenders and ex-offenders living in the community, SOC victims and industry experts (both those working as SOC police experts and those specialists delivering RJ) to gather their views and opinions about extending the use of RJ to this context using a qualitatively dominant mixed methods approach. Offenders and victims were asked if they wished to participate in an RJ intervention and if they did, the researcher pursued this in the form of case studies.

Strong differences in opinions are evident between the RJ and SOC experts in the main, with the RJ expert sample being overwhelmingly in favour of trialling such an approach in the SOC context and the SOC expert sample expressing caution and a lack of faith in restorative justice to achieve its stated outcomes for most SOC offences, SOC offenders and their victims.

Despite high initial willingness to pursue RJ, the attrition rates among offenders is significant – but where there is motivation, it is sustained over a considerable period of time and results in excellent outcomes for both offenders and victims – comparable to short-term outcomes in non-SOC contexts.

The findings put a spotlight on the limitations as well as the possibilities of deploying RJ in this context. The case studies demonstrate the complexities and sheer hard work required to translate the theory into practice in this specific context, but also reinforce the need for police forces to discharge their statutory responsibilities under the revised Victims Code (2015). This study provides an insight into why this status quo exists and contributes to the body of knowledge about the use of RJ by police forces and the complexities involved when RJ is used with SOC offenders and their victims.

The work represents a ground-breaking research area with significant high-impact implications for operational policing activities and for the development of academic knowledge, with the potential to address recidivism, community cohesion, offender reintegration and victim satisfaction – key imperatives in the pursuit of justice and meeting wider societal and governmental objectives.



## List of Abbreviations and Acronyms

ACE	Adverse Childhood Experiences
BME	Black and Minority Ethnic
BSA	British Sociological Association
CID	Criminal Investigation Department
DCI	Detective Chief Inspector
ESRC	Economic and Social Research Council
HO	Home Office
MOJ	Ministry of Justice
MOPI	Management of Police Information
NCA	National Crime Agency
NERSOU	North East Regional Specialist Operations Unit
NIM	National Intelligence Model
NPCC	National Police Chiefs Council
OCG	Organised Crime Group
OCGM	Organised Crime Group Mapping
OIC	Officer in the Case
OPCVC	Office of the Police, Crime & Victims' Commissioner
PLO	Prison Liaison Officer
PNC	Police National Computer
PRP	Policing Research Partnership
ROCU	Regional Organised Crime Unit
RJ	Restorative Justice
RJC	Restorative Justice Council
SOC	Serious and Organised Crime
TOC	Transnational Organised Crime
UNTOC	United Nations Convention against Transnational Organized Crime

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## Chapter 1: Introduction

### **The Story of Peter Woolf and Will Riley**

Peter Woolf was a lifestyle career criminal with a heroin addiction who was well known to the statutory services. In March 2012, he broke into Will Riley's home, during which he attacked him. He received a three-year prison sentence, during which he participated in a restorative justice conference with Will. This is their story.

Peter was living in squalor, addicted to drugs and committing crime on a regular basis. He went to an affluent area, broke into Will's home and was confronted by him during the burglary. He attacked Will who fell down and was injured. This required hospital treatment.

In Peter's words, reflecting after the conference and some years later:

'I said to him "Will, when we first met."' And at that he blew. "We didn't meet in a cocktail bar," he said, "YOU broke into my house", and he started listing all his feelings. Until that moment I never knew that a burglary could make people feel sad, angry, depressed, guilty – yes guilty about things I'd done! All my life I'd chosen the wrong path but, on that day, having met Will, for the first time in my life I chose the right path.'

In Will's words, reflecting after the conference and some years later:

'I told him how he'd destroyed the one belief I had in myself, that I could protect my home and my family. It was like a train had hit him.'

'Talking is the only way forward. People who don't talk (which is the majority of victims) are delaying and even maintaining the pain.'

Taken from:

<https://www.theforgivenessproject.com/peter-woolf-will-riley>

Since the restorative conference meeting, a partnership has developed between Will and Peter promoting the use of restorative justice. Will has founded "Why Me?" an organisation which supports victims through the restorative justice process and Peter has written a monograph entitled "The Damage Done" published in 2009.

## 1.1 Introducing the Research

Restorative justice (hereafter referred to as RJ) is playing an increasingly bigger role within modern criminal justice, as a response to crime. It has been presented as an ‘alternative paradigm of justice’ (O’Mahony and Doak, 2017:1) and involves a dialogue in some form between an offender and their victim to resolve the conflict and repair the harm caused through an independent facilitator. Voluntary consent is required by both parties. RJ, broadly conceived as communication between parties where one has harmed the other in some way including physically, mentally, emotionally and/or financially, has been increasingly used in a broad range of settings, e.g., the education sector (Anfara et al., 2018), prisons (Dhami et al., 2009) and work settings (Simms, 2017). As a widely-used conflict resolution method, the aim of such interventions is to find a mutually agreeable way forward to address the harms experienced. Its use is perhaps best documented in the criminal justice setting, where the literature is voluminous with no signs of slowing down, both on a national and international basis. The Council of Europe Recommendation in 2018 (CM/Rec 8) notes ‘the growing interest in restorative justice in its member States’ and refers to the appeal of RJ as ‘a flexible, responsive, participatory and problem-solving process’ which may contribute to explaining its increasing popularity leading its use to be described as a ‘global social movement’ (Johnstone and Van Ness, 2007:5). Furthermore, references to the ‘growing body of research evidence which indicates the effectiveness of restorative justice on a variety of metrics, including victim recovery, offender desistance and participant satisfaction<sup>1</sup>’ also strengthens its appeal in the criminal justice context.

Over the last 40 years, the use of RJ has seen considerable innovation both in the form of delivery (for example the use of Skype<sup>2</sup> where distance may preclude a face-to-face meeting) and its usage across a range of diverse sectors and at different points in the service-user’s journey (in the criminal justice context this means it has been used as a diversion from the formal criminal justice system, pre-sentence, during a prison/community-based sentence,

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<sup>1</sup> This quote from the Council of Europe Recommendation 2018 (8) on restorative justice can be found at: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016808e35f3](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016808e35f3)

<sup>2</sup> The researcher was informed of this form of RJ as an anecdote from an accredited RJ facilitator who was describing the innovative ways in which dialogue can take place between an offender and a victim where the victim was abroad and the offender was a UK resident.

and post-sentence). A colossal growth has been witnessed in the use of RJ in criminal justice settings in line with substantial academic activities (Daley, 2004) exploring this topic and its theoretical underpinnings. RJ is heralded as a victim-centric response which enables victims to be more centre-stage so that they can learn of the impact their offending actions have had on their victims.

Much of the literature focuses on the use of RJ in the youth justice system (for example Crawford and Newburn, 2003), and mainly as part of early intervention diversionary schemes for primarily low-level offending. Over the last two decades, its use has been expanded to ever-increasingly challenging contexts to encompass serious and complex offending contexts, with evidence from Shapland et al. (2007) demonstrating the effectiveness of RJ with more serious offences – especially where the offenders and victims have had direct contact.

While RJ is embedded in some criminal justice settings such as youth justice (for example statutory youth conferencing in Northern Ireland as documented by Campbell et al., 2005) and has been used for many offences committed by adults (Shapland et al., 2011), there is a tendency for it to be used for low-level offences and primarily as a diversionary measure (Shapland et al., 2011:3). Restorative policing (RJ organised by the police and mostly used as a disposal for low-level crime) is, according to Shewan (2010), used by over 77% of forces in England and Wales (38 forces responded to a request in this study to participate in a survey, with 33 indicating that they utilised RJ). This suggests a solid base from which further expansion and development can be anticipated. However, other studies such as Acton (2015) suggest inconsistent use of RJ across police forces with a “postcode lottery” leading to social injustice in that services are not accessible to all those who may want them, so that potential transformative benefits are not being realised. This state of affairs is complicated by funding arrangements as the previously devolved budgets issued by the Ministry of Justice<sup>3</sup> for RJ services are now subsumed within general victim services provision funding given to the Office of the Police, Crime and Victims’ Commissioners (OPCVC)<sup>4</sup> in each force area, resulting in a variety of outsourced contracts or no provisions at all in some areas.

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<sup>3</sup> The MoJ is a justice/rule-promoting ministerial department responsible for the courts, prison, probation service and attendance centres. More at: <https://www.gov.uk/government/organisations/ministry-of-justice/about>

<sup>4</sup> Each force area in England and Wales is represented by an elected PCC (except in Manchester and London where mayors assume the responsibilities); their role is to hold chief constables and police forces to account

Despite this tendency to focus on less serious types of offending and offender, restorative interventions have been increasingly utilised for some serious and sensitive cases such as domestic abuse and hate crime (Cunneen and Hoyle, 2010). It would appear, however, that RJ has not been widely utilised in a systematic manner for serious and organised crime, with the only published case being the one described by D'Souza (2019) under the N8 partnership<sup>5</sup>. There are no publications looking at the possibility of using RJ in the context of serious and organised crime (hereafter referred to as SOC) prior to 2015, as far as the writer is aware, and this represents a gap in the literature. This chapter will provide the rationale for why exploring this topic is worth the investment in time, energy and resources, how the study contributes to the growing body of knowledge on RJ and on SOC, and the implications there are for theory, policy and practice and future research. The aims and objectives of the study will be detailed in full as well as the research questions and the approach adopted to answer them. The limitations in the study are acknowledged. Finally, the structure of the thesis will be outlined.

SOC constitutes a very broad range of offences committed in groups (also referred to as organised crime groups, or OCGs), with a well-documented impact on communities and individuals. Crocker et al. (2016) found that 'organised crime scarred neighbourhoods and the people who lived within them, causing harm that was less overt, more insidious and harder to tackle' (Crocker et al., p. 3). The use of RJ in such a context may well be contentious because of the risks it is believed to carry for victims and offenders, which this small-scale study has sought to explore. The researcher, based on her previous work under the N8 partnership, believed that a perception of an inability to mitigate risk, address potential power imbalances and positively impact on entrenched criminality, at best, rendered the use of RJ to the margins or excluded all SOC offenders and their victims from being offered RJ.

While some studies have focused on police practitioners (such as Shapland et al., 2017, Stockdale, 2015, and Gavin and MacVean, 2018), most research on RJ concentrates on theoretical concepts and evaluating the impact on offenders and victims when they participate in RJ. The current study concentrates upon the perceptions of victims, offenders

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for their performance and to consult communities about policing priorities. More at:

<https://www.apccs.police.uk/role-of-the-pcc/>

<sup>5</sup> More can be found at: <https://www.n8research.org.uk/>

and practitioners in relation to using RJ for SOC cases, but combines the two approaches in that it seeks to undertake some practice-based case studies with a short-term evaluation of its impact on the participants, and also examines the views of practitioners working within the police and RJ services. This thesis aims to fill this gap both in the academic literature and in practice.

## **1.2 Rationale for this Research – Why is it important?**

The researcher believes that there are compelling arguments for exploring why a specific set of offenders and victims, who are formally processed through the criminal justice system, are denied the opportunity to participate in RJ or even be given information about it, simply due to perceived offence seriousness factors. This is despite provisions to the contrary in international and domestic guidance (see below) with legislative force. It indicates that an inclusive (and perhaps a progressive) public service is not being offered, or even indeed pursued, and opportunities to realise the benefits of RJ are lost – perhaps with no or few other alternatives possible to improve the outcomes for such individuals (both offenders and victims). This status quo does not adhere to legislative requirements (as outlined in the Victims Code 2015) but also compromises the stated values for police forces to provide a non-discriminatory inclusive service to their local communities.

The Victims Code (2015), which has statutory force in England and Wales, makes provision for RJ services dependent on the age of the offender. In England and Wales, those victims who were offended against by a person over 18 years of age, are entitled to be provided with information about RJ (as detailed in the Victims Code, 2015) and how they may access such services (this is to accommodate the fact that RJ services may not be available in some locations). Those with offenders under the age of 18 years are entitled to be offered RJ services by the Youth Offending Teams in their local areas. As such, it would appear that victims of serious and organised crime (whether their offenders are under or over the age of 18 years) are not routinely given information or offered RJ by their local service providers. The fact that some victims and offenders are offered RJ-related information and services made accessible to them if they want to pursue a restorative dialogue, and some are not, has resulted in the “postcode lottery” evidenced throughout England and Wales (Acton, 2015) as

alluded to above. The Victims Code (2015) was designed to bring the provisions of the EU Victims Directive (Directive 2012/29/EU) into national law. The more recent Council of Europe Recommendation (2018) CM/Rec 8, which has only advisory force, reiterates that victims and offenders should be encouraged to consider RJ, whatever the offence.

The House of Commons Justice Committee (2016:3) stated in their report that 'There is evidence of mixed compliance with the requirement under the Victims Code to make victims aware of restorative justice, and we recommend the introduction of a system to improve compliance.' It would appear that the status quo remains some four years later. The report suggests that a clear mandate about offering RJ to victims should be introduced, but perhaps it would be 'too soon to introduce a legislative right to access restorative justice services' (p.3) as capacity issues would need to be rectified first.

Furthermore, the Ministry of Justice Restorative Justice Action Plan for the Criminal Justice System for the period to March 2016 (published in 2017) reviews progress against the original commitments expressed in the 2014 Action Plan in respect of, first, equal access (i.e., the availability of RJ services regardless of age or offence or where either party resides – an aspect important in the SOC context due to the potential geographical distances between parties), and, secondly, quality information being given to potential participants to enable them to make an informed decision based on choices and good quality RJ services delivered by trained professionals. Excluding a set of offenders and victims entirely from any RJ offers evidently negates these commitments, with RJ service providers clearly reliant on police professionals sharing the information and referring the cases.

It was deemed to be of importance to investigate why this state of affairs exists, and, were the opportunities to engage in RJ to be presented, what may result, i.e., to go beyond the hypothetical scenarios of what respondents thought about the use of RJ in this context to what may actually happen.

### *Research Aims and Objectives*

The aim of this study is therefore to undertake exploratory work identifying key stakeholders' perceptions of utilising an RJ approach by interviewing offenders, victims and police SOC and RJ experts working in the RJ field, and to undertake RJ interventions between offenders and



victims where appropriate and possible. This builds on former work undertaken as part of the N8 Policing Research Partnership (PRP), a collaboration between 13 northern police forces and 8 universities<sup>6</sup>. As part of the N8 PRP work, incarcerated offenders', victims' and experts' views were gained via a mixture of audiotaped, semi-structured interviews, e-surveys and telephone calls (D'Souza and L'Hoiry, 2019). An application of RJ took place in one case culminating in a videotaped face-to-face restorative conference between an incarcerated offender and a proxy victim representing a bank (role play scenario). This tape was subsequently shown to victims who travelled significant geographical distances to view it (D'Souza, 2019). The current study builds on these two research projects undertaken by the current researcher with Xavier L'Hoiry – to the researcher's knowledge the only publications in this specific context within the literature in RJ.

Hence, the current study builds on what was known about the application of RJ to serious/complex/sensitive cases (as well as knowledge gained by undertaking the pilot case study as part of the N8 project by D'Souza, 2019) and also distinguishes what is different, in a SOC context, utilising a mixed-methods, qualitative-dominant, action research design. The current study did this by gaining information from the attitudinal survey with the various stakeholders as well as undertaking case studies to contribute towards developing a model for RJ interventions in the SOC context. A case study approach was adopted to examine the outcomes if the contextualised theory was operationalised in a police setting. This was with a view to identifying the specific practicalities that would apply if this approach were to be adopted, to identify what works and what does not, and to also identify the process issues and find the likely outcomes of adopting an innovative approach.

### *Research Questions*

The primary research question was 'Can RJ be used in the SOC Context?' The following were subset questions posed from the outset:

1. Are there examples of practice or application anywhere in England and Wales known to police or co-ordinated by police forces, or does this study represent a true innovation in terms of exploring the concept?

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<sup>6</sup> More can be found at: <http://n8prp.org.uk/n8-prp-pilot-staff-exchange/>

2. What are the views of SOC experts about undertaking RJ with organised crime groups?
3. What are the views of RJ experts about undertaking RJ with organised crime groups?
4. What are incarcerated adult OCG members' views of taking part in RJ?
5. What are current and former SOC offenders' views of taking part in RJ? Are there differences in motivation when OCG members are living amongst their actual/potential victim population? What is the potential influence of the OCG itself and the type of OCG?
6. What are the views of victims of OCG activities in relation to taking part in different forms of restorative practices?
7. What happens when offenders and victims are given the opportunity to participate in RJ? Can RJ be used safely in this context? How does each party reflect on what was achieved?
8. What can be learned about the way that SOC is conceptualised and subsequently "policed" through a close examination of the profile of mapped organised crime groups in the north-east which may shed light on the deployment of RJ in this context?

### **1.3 Thesis Structure**

The thesis consists of seven chapters, with the next two chapters focusing on what is already known in the field of SOC and RJ. Chapter 2 gives a brief outline of the origins of the SOC concept with a description of the popular depictions of SOC. Conceptually ambiguous, the multitude of definitions for SOC are explored in depth before the scale of the problem and its impact on society are described in an English context. Law enforcement efforts in the UK are described before outlining how the application of RJ in this context may be challenging, but relevant.

Chapter 3 provides a conceptual critique of RJ, commencing with detailing its historic development both internationally and in the UK. There is a plethora of definitions of RJ with no common agreement between theorists, academics and practitioners, with the difficulties of bringing together two conceptually challenging entities (RJ and SOC) in one study meriting brief exploration. There is much wider agreement globally in relation to the values and standards underpinning RJ, though there remains much lively debate evident in the literature

between critics and advocates of RJ. The impact of such divided views on RJ at a theoretical and practical level in relation to its use in the SOC context is briefly explored.

Chapter 4 outlines the researcher's epistemological and ontological perspectives as well as her reflections on her position as an insider (police civilian employee) and as an outsider (a doctoral student). The chapter presents the details of the methods used to undertake each aspect of the study: a National Police Chiefs' Council (NPCC<sup>7</sup>) survey asking for anecdotal evidence of the use of RJ in SOC to determine the extent to which this may present an innovative venture, a NPCC questionnaire to SOC experts, an RJ expert consultation exercise (with the help of the Restorative Justice Council<sup>8</sup>), semi-structured interviews with offenders and victims, and a case study methodology used to pursue restorative dialogues between offenders and their victims. An explanation of why each method was used (rather than other methods) is detailed, as well as the merits of the use of thematic analysis as the key analytical method used. This study presented numerous ethical challenges, not least due to one aspect of the research being classed as covert, which are fully expanded upon in this chapter. Finally, the limitations of the study are outlined.

The findings of the research and the discussion arising from these results are split across two chapters. Chapter 5 provides the results for the NPCC Survey requesting anecdotal evidence of the use of RJ in the SOC context and the findings from the interviews with SOC and RJ experts. Their responses to the hypothetical questions are analysed and presented with a discussion of what this may mean for practice and theory. Chapter 6 presents the findings in relation to the offender and victim interviews, commencing with briefly revisiting the sample characteristics before describing the results from analysing the interviews in respect of their responses to the hypothetical questions. For those offenders and victims who wished to

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<sup>7</sup> The National Police Chief's Council (NPCC) is an independent body responsible for leading and co-ordinating the strategic development of policing services in England, Wales and Ireland.

<sup>8</sup> The RJC website states: 'The RJC is the independent third sector membership body for the field of restorative practice. The RJC's role is to set and champion clear standards for restorative practice. It ensures quality and supports those in the field to build on their capacity and accessibility. The ultimate aim of the RJC is to drive take-up and to enable safe, high quality restorative practice to develop and thrive'. More available at: <https://restorativejustice.org.uk/about-rjc>

pursued RJ, the full range of case studies pursued is then described, with the chapter ending with a discussion of the core themes which emerged.

The final chapter (Chapter 7) brings together the main research findings from across the range of fieldwork undertaken utilising the different methods used within and between the groups of respondents to answer the overall research question: Can RJ be used in the SOC context? The possibilities are examined, particularly in the context of austerity and finite police resources. The implications for criminological theory, policy and practice and future research (at both a theoretical and empirical level) are explored in full. The chapter concludes with a brief exploration of the implementation challenges faced by police forces in embracing evidence-informed practices, with a specific focus on the broader utilisation of RJ in the SOC environment.

## **Chapter 2: Serious and Organised Crime – An Overview**

### **2.1 Introduction**

From a cursory glance at the literature on serious and organised crime (SOC) it becomes immediately apparent that the field is a complex and somewhat muddled area from a theoretical and policy perspective. This chapter will start by discussing briefly the evolution of the phenomenon in England and identify the wide range of offences that falls under the use of the term “SOC” recognising the breadth of crimes which are given this label. This thesis explores the use of Restorative Justice (RJ) for offences which come under the umbrella term ‘serious and organised’, i.e., which meet the Home Office<sup>9</sup> criteria for such offences and is not an exploration of the use of RJ in serious cases or in organised cases as separate entities, but where the term SOC is used by British forces. Hence, this study does not explore the feasibility of utilising restorative justice (RJ) with serious (but not organised) offences nor offences which are organised but not serious.

The chapter will review the hotly contested definitions in both the international and British context. The scope of the problem in Britain will be examined before analysing law enforcement approaches to SOC. A focus on economic crime will follow as the fieldwork featured largely fraud cases. An exploration of victimology issues and how they may apply to the serious and organised crime context is also detailed before ending with a synopsis of what may be the particular challenges which differentiate the application of RJ in SOC cases compared with non-SOC cases.

### **2.2 Evolution of the Concept**

The term “organised crime” appears to originate in the 1920s from the US, focusing mainly on the Mafia, which is based on social and familial links (Wright, 2006) and spreading across Europe in the 1960s and 1970s before being used worldwide from the 1990s (Hobbs, 2013).

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<sup>9</sup> The Home Office is the lead government department in the UK for immigration, drugs policy, crime, police, fire and counter-terrorism i.e. for security and economic prosperity. More at: <https://www.gov.uk/government/organisations/home-office/about>

It has its historical roots in bandits and pirates and criminal groups who collaborated to make profits in rural and maritime areas (Marmo and Chazal, 2016).

Antonopoulos and Papanicolaou (2018) refer to the fact that organised crime appears to be understood with reference to the ethnicity of criminal groups. This may be significant given that, increasingly, the makeup of groups crosses cultural and geographical boundaries and can be virtual networks, subsequently limiting the thinking and resourcing of policing organised crime. The ethnicity thesis such as the categorisation of 'Albanian organised crime groups' is problematic given the magnitude of globalisation but also because it may contribute to the alien conspiracy theory (Hobbs and Antonopoulos, 2013). They state:

how the 'Other' has been used as prism for the construction of organised crime primarily in the United States and how this construction, as a franchise, has been exported on the international level and on heterogeneous criminal landscapes (Hobbs and Antonopoulos, 213: 27)

Antonopoulos and Papanicolaou describe the four groups which are commonly referred to as "Italian organized crime" by law enforcement agencies throughout the world:

1. The Sicilian Mafia is organised around a hierarchical structure called *cosca* and is at present a conglomeration of about 150 groups; the authors state that the Sicilian Mafia which historically established secret societies provided the template for Italian–America organised crime.
2. The Ndrangheta, which is organised around hierarchical clans based on kinship and blood ties, emerged as a powerful body in the 1990s when the Sicilian Mafia became weaker and proceeds from local crime were diverted into investing in the profitable drug trade.
3. The Camorra, based in Naples, is a set of independent criminal groupings, some with familial ties; the lack of structure means that there is violent hostility between and among Camorra groups competing for control.
4. Apulian organised crime found in Perglia emerged in the 1980s when Camorra and Ndrangheta members were imprisoned in correctional facilities in Perglia.

Italian Mafias have a tendency to be based on family ties and kinship, loyalty, respect, honour and masculinity, with an important code of silence known as *omerta* which provides a defence

against the formal authorities and keeps their structure, activities and plans to known circles only. The Mafia have infiltrated legitimate businesses.

Italian–American organised crime evolved, specifically during Prohibition in the 1920s, and with this came a perception of local gangs collaborating in large, centralised groupings to take over the alcohol industry. This led to the image of organised crime which the researcher believes still exists today. Antonopoulos and Papanicolaou describe that law enforcement efforts and competition by other ethnic groups have led to the steady decline in the dominance of Italian–American organised crime.

In contrast, British organised crime ‘has never really been described in terms of “Mafia”’ (Antonopoulos and Papanicolaou, 1998:18) and they believe that the structure and type of criminal activities of organised groups have been shaped by social, political and economic developments. Notoriety was achieved by some such as the Krays and the Richardsons in the 1960s and some crimes received a very high profile such as the Great Train Robbery in 1963. Much organised crime from the 1930s – 1970s was shaped by masculine characteristics in the industrial era and enmeshed in working-class cultures. De-industrialisation led to a new form of criminality with networks of entrepreneurs with the present landscape being shaped by emerging market demands such as the drug trade and the provision of goods and services, human smuggling and trafficking. Sergi (2017) reports that ‘local gangsterism of the 1950s – 1970s’ (p. 178) evolved into ‘small entrepreneurial systems of crime’ (p. 178). Sergi suggests that in her analysis of how models have evolved ‘the word Mafia does not fit English/British conceptualisations’ (p. 187). As the effects of globalisation started to emerge, such groups were declared a threat to national security (Home Office Serious and Organised Crime Strategy, 2013). Sergi progresses to discuss the issue of the overlap between organised crime and gangs, stating that ‘Gangs have been in the UK what Mafia has been in Italy’ (p. 187). Upon further analysis, she notes that ‘When considering the sociological analyses of both concepts we find more than one corresponding feature, which leaves us to think that organised crime and gangs are indeed two peas of the same pod’ (p. 188). She concludes that the differences between the two concepts lie in their seriousness (with much organised crime being hidden), their reach (with many gangs having local/street-level activities) and age (most gangs are associated with the youth context). Organised crime tends to work ‘beyond the street level’ (p. 189) posing a national security threat due to the forms of criminality and

sophistication, while gangs are perceived to be a social/public order issue for relatively low-level offending perpetrated by youths. A diverse contemporary picture emerges across the UK, with some groups maintaining a traditional familial local structure, but also others that are agile, multi-ethnic groups (further undermining the ethnicity thesis) taking up international innovative opportunities made possible by global markets and technology.

Allum and Gilmour (2012) question how the concept of transnational organised crime (TOC) has been developed, describing it as a 'quiet pandemic that is spreading across the world with varying degrees of potency and often unnoticed mortality' (2012:1) arising from a country's history and its specific social, political, economic and legal conditions and systems. They quote Falcone (1992) to emphasize that TOC is not the product of globalisation, but has indeed existed since the beginning of civilisation, thriving by modernising its codes of conduct and behaviour:

the mafia is not a cancer which has spread through heathy tissue. It lives in perfect symbiosis with a myriad of protectors, accomplices, debtors of all kinds, informers, and people from all strata of society who have been intimidated or subjected to blackmail. (1992:81)

Giddens (1990:8) refers to the 'darker side' and 'sombre side' of modernity and globalisation while Milward and Raab (2006) elaborate stating that the bright network is legal and visible while the dark network is illegal and attempts to be invisible to law enforcement. This may help to understand that despite the use of covert law enforcement methods to match the offenders' attempts to be invisible, the concept and definition used by the British police is indeed a narrow one, focusing on that which is visible and tangible.

## **2.3 Serious and Organised Crime**

### *2.3.1 What type of offences are considered to be 'Serious and Organised'?*

Under the banner of "serious and organised crime", "organised crime" and "transnational organised crime" (TOC), a very wide range of offences are encapsulated: at one end, there are conspiratorial/accessorial liability type offences (secondary liability in English criminal law governed by the Accessories & Abettors Act, 1861 S8<sup>10</sup> and the Serious Crime Act 2015 which

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<sup>10</sup> More at: <http://www.legislation.gov.uk/ukpga/Vict/24-25/94/section/8>



makes it a criminal offence to take part in the criminal activities of an organised crime group<sup>11</sup>), through to forms of crime that previously (or indeed even concurrently) are treated as an entirely independent form of criminological phenomenon – that of gang crime. It becomes clear that the gangs’ literature is distinct from the organised crime literature with little recognition of any formal overlaps, despite the convergence of themes such as recruitment into gangs (Densley, 2012), the difficulties of exiting such groups (Pyrooz and Decker, 2014) and how membership may affect the nature and level of offending (Melde and Esbensen, 2013) for example.

At the other end, are offences which appear to now be reclassified as “serious and organised” which may previously have been regarded within the literature on, for example, fraud and white collar crime, i.e., those type of offences which now are deemed to meet Home Office definitions are being reconceptualised by British forces as SOC and captured under this wide umbrella term. When the international context of such offending is considered, the type of offence which may be deemed to be of a transnational nature appears to be very different to that which may be used to explain domestic SOC which adds further complexity to the term. For example, organised theft of sheep and agricultural machinery from rural farmlands or organised theft of copper wire from English rural locations are vastly different, in both character and nature, from that which may emerge in environments of post-conflict instability. Such environments are often characterised by the emergence and/or dominance of drug traffickers and terrorist organisations who take advantage of the lack of governance across the area (e.g., Zyck and Muggah, 2013, who discuss the situation in Mali and Niger in sub-Saharan Africa). The proliferation of criminal groups within such contexts where there is limited reach of formal/state institutions such as the police and mass-scale conflict between armed citizens is very different from the domestic context where the typologies focus around organised acquisitive crime, firearms, drugs, child sexual exploitation and abuse, modern slavery and human trafficking as examples.

### 2.3.2 *Scale of the Problem*

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<sup>11</sup> More at: <http://www.legislation.gov.uk/ukpga/2015/9/part/3/crossheading/organised-crime-groups/enacted>

The Home Office Research Report 103 published in November 2018 estimated that the social and economic costs of SOC to the UK during the financial year 2015 to 2016 was approximately £37 billion, with drugs supply contributing £20 billion, economic crime £8 billion and modern slavery £2 billion, though these numbers are thought to probably underestimate the true costs to society. This clearly represents significant societal harms and merits considerable law enforcement efforts. However, these costs were revised in the second edition of the report three months later by the same name (Number 103) by Fell et al. (2019) demonstrating that the estimates were in fact, lower than previously thought: the total scale of economic crime was revised from £14.4 billion to £7.3 billion and the total scale of SOC from £20 billion to £13 billion. This second edition has the ambition of improving on the methodology deployed in the 2013 estimates (Mills et al., 2013). Significant methodological improvements are noted from the study carried out in 2013 such as taking inflation into consideration and the inclusion of new crime types such as organised environmental crime and organised cyber-dependent offences. Mills et al. state that their report 'takes a cautious approach and applies high standards to the data; data is only included where there is a strong degree of confidence in accuracy' (2013:2), thereby explaining that these are indeed conservative estimates. This scenario highlights the difficulties of measuring the scale and costs associated with different forms of SOC as well as the challenges inherent in both defining and categorising organised crime types and throws into question the reliability of the data and information generated.

### *2.3.3 How OCGs are formed and sustained*

The Home Office 2018 Strategy outlines that developments in technology and the fact that specialist expertise is not required to commit some types of cyber-enabled crime will continue to impact on the changing profile of OCGs on a global basis. The impact of migration and political conflict will also bring about change, with Libya, Syria and the Ukraine identified as source countries and transit routes for criminal exploitation. The impact of Brexit is not yet known, but it is thought that it is highly likely to assist law enforcement agencies in respect of policing the movement of people and goods. The Assessment concludes that it is unlikely that brand new types of SOC will emerge, but more likely that existing crime types will operate in new ways.

There is the potential for SOC offenders to network and form affiliations when in prison and form new contacts and acquire new skills to pursue more serious and organised criminality. The Home Office 2018 Strategy makes many references to SOC activities in prison including those offenders who enable SOC crimes to continue on their behalf in the community from behind the prison walls and those who are involved in SOC from within the prison. This includes those offenders known to the police as SOC criminals but not convicted of SOC offences and those, of course, who are current serving SOC offenders convicted of SOC crimes. High numbers of drug traffickers (with associated offences of firearms, violence and money laundering) feature within the SOC prisoner profile, made more complicated by the introduction of spice as the drug of choice in recent times and synthetic psychoactive substances which have serious side effects. The latter is particularly difficult to detect as it is available as a liquid which is sprayed on paper and ingested. The extent to which these activities are controlled by SOC members is not known, but thought to be highly probable, a key enabler being corrupt staff who facilitate the entry of forbidden goods such as mobile phones into the prison establishments so that SOC activities continue. This is exacerbated by younger prisoners who are recruited by older SOC cyber offenders to extend their criminal reaches. The Strategy concludes that SOC prisoners tend to be criminally entrenched and resistant to rehabilitative efforts and thus likely to continue to offend.

Criminality is further facilitated by new modes of transportation providing increased mobility, free movement in line with the Schengen Borders Agreement<sup>12</sup> (Metea, 2012), robotics, Big Data and economic disparity which may mean easier recruitment into OCGs, all of which enable criminals to exploit new opportunities. The Europol Report (2015) appears to hint at the need for early intervention responses, outlining the need to respond to future threats before they even occur and focusing on anticipating the SOC threat. The researcher believes that this aligns very well with the current policing focus on demand management and reduction via early intervention responses, though there is a strong ethical base for intervening early too. However, in reality, this type of early intervention may prove difficult without more knowledge about the structure and make-up of SOC groups as they form.

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<sup>12</sup> The Schengen Borders Agreement (1985) is a treaty which culminated in the creation of Europe's Schengen Area. This allows citizens to travel freely to the 26 countries within the Schengen Area for business or pleasure as internal border checks are not required.

#### 2.3.4 *Profile of SOC Offenders*

There is a dearth of data and information on the profile of members of serious and organised groups as detailed by Francis et al. in the Home Office Report 74 (2013) which utilises information from the Police National Computer (PNC) database by scrutinising data on criminal disposals such as convictions, warnings and reprimands. Hence the analysis (as it is reliant on PNC-based data) is unlikely to reveal a “true” picture of actual SOC offending patterns, but only those based on offences for which there has been a criminal sanction. Despite the challenges in this methodology (there are no mechanisms such as markers on the system for identifying those involved in SOC), they were able to decipher the following in relation to SOC offenders who had been known to the police for their involvement in organised crime. The researchers used crime types, the sentencing of co-defendants and sentence length as determinants of their involvement in SOC activities. They were able to decipher the following from their analysis:

- The average age of SOC offenders was 32 years
- 1% of SOC offenders were under the age of 18 years
- 95% were males
- 87% were UK nationals, with 56% assessed by police as being White European.

SOC offenders demonstrated little evidence of specialism in respect of their offending, with only 12% specialising in a particular crime type. This indicates that, within this sample of SOC offenders, they were generalists and thus, despite the offence type being new to the potential for RJ applications, the offender type is well known, as they committed a range of different offences. This then, potentially, has serious implications for the use of RJ in this context, as it suggests that as generalists, within their offending history, there may be crime types for which RJ is used currently.

#### **2.4 Definitional Challenges**

Achieving a consensus in relation to a definition of SOC has been elusive amongst commentators, with Wright (2006) stating ‘unfortunately, the official documentation and the critical literature set out almost as many definitions as there are people with an interest in

the subject' (2006:2–3). A globally accepted definition of organised crime for both the academic and practitioner communities has not been formally agreed. This has been complicated by several factors such as the globalisation of the economy, with services, people and goods moving readily and with relative ease across national boundaries, for example, the emerging recognition of human trafficking as a global problem and a tangible form of transnational organised crime (Finckenauer, 2005).

Finckenauer (2005) states that the definition of SOC is very important as it will shape public policy. This in turn will determine the allocation of resources to address organised crime problems, how laws are formed, how investigations are undertaken, how research is conceptualised and how mutual collaborative assistance is articulated across national borders. This aspect is particularly important in the researcher's view given that much SOC is undertaken using digital means and as such is boundary-less requiring a consensus in respect of a legal definition or a shared understanding of the concept. Finckenauer also believes that the definition is important as it plays a role in influencing the public's support for policies to address organised criminality.

Wall and Chistyakova (2015: online) explain how there is a significant gap between the imagery depicted in the public's and professionals' minds when thinking about serious and organised crime and reality with their opening statement:

The mere mention of the term "organised crime" instantly conjures up brutal imagery of a crime family going about its day-to-day business to the tune of Coppola's *Godfather*. (online)

They suggest that research reveals a very different picture, not of close-knit familial ties constituting organised crime groups, but the 'complex and shape-shifting world of career criminals' (Wall and Chistyakova, 2015: online). They state that UK-based groups are not organised via Mafia-type structures, but are groups of career criminals who collaborate with others on a temporary basis to commit crimes till their conclusion before joining new groups to re-commence criminal activities. The authors observe that if the biggest Italian-type structures such as The Ndrangheta and the Camorra are removed as images from the SOC landscape in the UK, then the organisation of organised crime groups is very similar to the rest of Europe and can be characterised as 'polymorphous, adaptable and fluid multi-

commodity criminal networks'. Wall and Chisthyakova conclude that this has important implications for policing SOC: if a hierarchical rigid model is accepted as the way that OCGs operate, then this is better suited to policing a Mafia-type organisation and not the fluidity of models observed in the UK, bringing into question whether past law enforcement efforts had much chance of being successful from a disruption/tactical perspective as inevitably the understanding of organised crime on a conceptual level will determine the solution.

Over the decades, there has been heavy criticism of successive governments' attempts to police SOC, not assisted by the sense of moral panic created by the rhetoric of organised crime. Woodwiss and Hobbs (2009) discuss American politics and how organised crime rhetoric has influenced the British penal landscape, with the mere term "organised crime" creating an ominous sense of threats of significant magnitude, combined with immigrants entering the UK who are perceived to be organised criminals. This has enhanced that very sense of fear and panic in the public's mind and influenced law enforcement agencies efforts to tackle SOC.

Lavorgna and Sergi (2016:2) highlight the social reconstruction of organised crime in the UK which is not founded on an evidence-base of the evolution of such crime and has led to organised crime being perceived as a national security threat since 2010 and therefore 'dealt with through an enhanced national strategy centered on criminal intelligence' (King and Sharp, 2006; HM Government, 2010; Sergi, 2015a). The authors refer to the new offence of participation in activities of organised crime groups as lowering 'the threshold for organised crime at the point of being over inclusive of virtually every type of (serious) gang-style crime. Therefore, ambiguities of the language and the presumption of seriousness have made organised crime an over-inflated concept.' (Lavorgna and Sergi, 2016: 183). This has important implications for the conceptual development of SOC as there is a clear bypass of the evidence-based work which is available in favour of intelligence-based assessments of SOC, i.e., intelligence which is based on data and information gathered by the police on what they think is happening 'out there' as well as information reported by the public. Hence, a variety of sources are used which do not take into account the research evidence. Furthermore, the all-encompassing nature of the legal definition means that anything broadly conceived of as serious with a degree of organisation (either of the offence, the offenders or

the structures used to carry out criminal activities) will be captured within the policing responses. They add that

ambiguities around the notion of organised crime have been used in policy-making for producing consensus around increased resources and domestic powers.... Arguably, defining a group of offenders as “organised” allows the approval of more intrusive and secretive investigative power. (Lavorgna and Sergi, 2016: 171).

However, while many academics claim that there is no nationally agreed definition of SOC and transnational organised crime (TOC), the United Nations has outlined a definition which appears to be accepted world-wide and quoted in almost every text which discusses the definitional conundrums. The United Nations Convention against Transnational Organized Crime (UNTOC and often referred to as The Palermo Convention) is a treaty which achieved agreements between the relevant member states (the UN General Assembly) in 2000 (which came into force in 2003) in respect of transnational organised crime:

‘organised crime group’ shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit. (UN, 2000: 60)

This definition does not recognise non-material benefits such as sexual gratification that SOC members may seek. ‘Serious’ crime is defined in Section 93(4) of the Police Act 1997 as (a) conduct which uses violence, leads to substantial economic gains or is undertaken by a number of people in joint pursuit of a common purpose, or (b) one of the offences is an offence for which an offender over 21-years-old with no previous convictions could be expected to receive three years or more term of imprisonment. There is no legal definition of ‘organised’ crime. The legal definition of organised crime groups in the UK (which is the definition which will be adopted for this study and is to be distinguished from a definition of serious crime and organised crime which may not be serious) can be found in the Serious Crime Act 2015 (Section 45: 6) and is described as three or more persons who act or agree to act together for the purposes of carrying out criminal activities. This appears to follow the UNTOC model drafting in relation to outlining the minimum numbers of offenders involved to be eligible to be constituted as an organised crime group, though it is not as specific as to refer to structure, timescales or outcomes sought from joint criminal enterprises such as

financial gain, i.e., it is very broad and gives much latitude to encompass a wide-range of offences and offenders. The definition does not recognise that research from nearly 50 years ago (e.g., Albin, 1971) describes a more networked criminal underworld, made up of individual criminal entrepreneurs coming together on a project basis. This legal definition is problematic in the way that organised criminality is policed by British forces, as the way that groups are scoped will follow strict hierarchical models which do not match with the way crime is being undertaken in communities.

The Serious Crime Act in Section 45(1) also makes it a criminal offence to be a member of a SOC group: 'A person who participates in the criminal activities of an organised crime group commits an offence'<sup>13</sup>. This makes membership of such groups an offence and is an interesting development where academia appears to be mostly silent in relation to how this particular offence has been used by the police to prevent membership of such groups or how offenders are masking their membership to prevent detection. Sergi (2017) states that the intention behind the inclusion of this as a separate offence is to enable the police to target not only the head of criminal associations who may not directly commit criminal offences, but also those who ensure the provision of goods and services to enable the group to flourish and be sustained. The reach and impact of this part of the Act has yet to be assessed as the extent to which successful prosecutions have resulted is not yet known. In the Home Office's Serious and Organised Crime Strategy (2015), organised crime is identified as serious crime (which can feature the use of bribery, corruption, violence and threat) which is planned, co-ordinated and undertaken by offenders working together on a continuing basis. The motivation is often financial gain but can be motivated by other factors too. Organised crime includes child sexual exploitation, drug/human trafficking, cybercrime, high value fraud and money laundering. It thus becomes clear that motivation to participate in serious and organised criminality is not always driven by financial motivation and this is acknowledged in the NCA<sup>14</sup> (2017) report which identifies sexual gratification for children at risk of sexual exploitation

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<sup>13</sup> More at <http://www.legislation.gov.uk/ukpga/2015/9/part/3/crossheading/organised-crime-groups/enacted>

<sup>14</sup> "The National Crime Agency leads the UK's fight to cut serious and organised crime, protecting the public by targeting and pursuing those criminals who pose the greatest risk to the UK" More at: <https://nationalcrimeagency.gov.uk/who-we-are>



(CSE) offences and ideological beliefs for some cyber criminals, i.e., non-material benefits which SOC offenders are seeking. Three years later, the concept has slightly evolved so the Home Office's Serious and Organised Crime Strategy (2018) states that serious and organised crime is defined as 'individuals planning, coordinating and committing serious offences, whether individually, in groups and/or as part of transnational networks.' (p. 11). In outlining what constitutes SOC offences, the strategy now includes the additional offences of illegal firearms, organised immigration crime and modern slavery. Much recognition of heightened vulnerability of individuals, communities and businesses are recognised within the strategy placing the need to address vulnerability centre-stage within the overall framework. In addition, there is an acknowledgement of the structure of the groups being more transient and freely evolving as criminal-business needs evolve.

It is worth outlining how definitions have evolved over time, commencing with those that clearly have Mafia-type models in mind. Finckenaer (2005:75) states that some crimes may be very organized and complex, but not committed by organized crime. He concludes:

What is essential to the definition of organized crime is the ability to use, and the reputation for the use of violence or the threat of violence to facilitate criminal activities, and in certain instances to gain or maintain monopoly control of particular criminal markets. Also essential is that organized crime employs corruption of public officials to assure immunity for its operations, and/or to protect its criminal enterprises from competition. It is these that are the defining characteristics of organized crime and that best answer the question of just what organized crime is. (Finckenaer, 2005: 81–82).

Finckenaer offers the following framework (outlining 8 elements) for conceptualising what organised crime is:

1. Lack of political ideology, i.e., not formed for the purpose of social/political change. However, over time this distinction has become blurred as criminal enterprises may work with terrorist organisations and terrorist groups may commit crimes to fund their terrorist activities. Picarelli and Shelley (2007:40) state that 'As a method of financing, crime provides cash on a rapid and repeatable basis for terrorist groups'.
2. A well-structured hierarchy with leadership roles and other roles; though this is described as the exception, as most are seen to be a loose collection of networks who

collaborate around identified criminal opportunities. The structure is seen to be much more fluid.

3. Continuity, e.g., imprisoned leaders are replaced and the crime group is maintained over time and across diverse crimes, i.e., longevity of the group.
4. Violence and the threat of violence for criminal gains.
5. Restriction of membership, with reference to exclusivity of membership – bonding issues.
6. Illegal enterprises for the economic gain with profit derived from both illegal enterprises and legal businesses.
7. Provision of goods/services that are illegal or in short supply; penetration of legitimate businesses.
8. Corruption of public officials is described as characteristic of organised crime though they may not be employed by every criminal group (Maltz, 1994:27) – enabling immunity via payoffs.

Hence, Finckenauer's theories automatically exclude offences such as serious and organised fraud where no threats of violence are necessarily made to direct victims (though there may be threats made by those SOC offenders who occupy operational roles and coerce those with 'street-level' roles to commit crimes). In addition, the researcher disagrees that corrupt officials need to be deployed for SOC to occur as this may apply to the Mafia model, but not to the UK SOC context. Hence, components deemed to be essential by Finckenauer as defining properties for SOC are not in line with the picture observed in England and Wales. According to von Lampe in 2015, 'Organised crime' may relate to the organisation of crime (e.g., the co-ordination and planning of a crime), the organisation of criminals (e.g., how offenders collaborate or act together) and/or the organisation of power and accountability evident in some organised crime groups such as the Italian Mafia.

It is entirely possible for some OCGs to lack structure despite being well-organised and others to have a well-defined structure while being seemingly disorganised. Reading through the myriad definitions put forward gives the impression of organised chaos amongst commentators! However, some have declared this to be useful as the concept becomes a highly flexible tool which can be utilised to influence public opinion and dictate police resources (von Lampe, 2015).

The U.S. Omnibus Crime Control and Safe Streets Act of 1968 (Public Law 90 – 351) defines organized crime as ‘the unlawful activities of members of a highly organized, disciplined association engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loan sharking, narcotics, labor racketeering, and other unlawful activities of members of organizations.’ (Hagan, 2006:133). This too contradicts other researchers’ findings as many groups may lack the organisational capabilities, capacity and discipline that this definition suggests.

Salerno and Tompkins (1969) present “organized crime” as a continuum from strategic to tactical crimes (e.g., arson and assault which are mostly violent and predatory) to illegal businesses (e.g., cigarette smuggling) to legitimate businesses (e.g., demolition) to big business and government (such as banking). Hagan (2006) also develops this model, adding activities that broadly encompass “transnational organized crime”, bringing cross-boundary offences into the spectrum of offending. There is increasing sophistication as one moves through the continuum, representing more established organized crime groups. Hagan clarifies that these offences may be committed by groups that are organised (i.e., organised crime), and that ‘Organised Crime groups are better and “badder” at committing these crimes on a more successful, persistent and often protected basis.’ (Hagan: 136). This continuum is helpful as it does accommodate a wide range of offences that may fall under the umbrella term ‘SOC’.

Marmo and Chazal (2016) provide some useful differentiations between domestic crimes (cross-border offences where crime committed in one country has implications across multiple countries), international crimes (defined as crime which results in harm against the entire humanity by breaching universal human rights and violating international law concerned with genocide, crimes against humanity, war crimes and the crime of aggression) and transnational crimes (defined as threatening a number of nations’ interests, with global implications as damage to world order). Transnational crimes are often perceived to be a new form of criminality, but Roth, (2014 cited by Marmo and Chazal) states that transnational crimes have been a part of world order for centuries, pointing to piracy, slavery and smuggling in the Middle Ages. However, what is clear is that the sophistication and prevalence of transnational crime has increased with globalisation and digitalisation.

The earlier literature focuses on definitions shaped by an understanding of OCGs as Mafia-type structures with a hierarchical command and control structure, while more recent works describe the structures as composed of loose networks and criminal enterprises which are enabled by globalisation. One notable exception does appear to be around the apparently novel type of offence known as ‘county lines’ – a drugs supply network with major suppliers providing a form of outreach to small rural or coastal areas by exploiting local vulnerable residents in the host areas; here, it is thought that highly defined hierarchical roles exist, with ‘Top Boys’ orchestrating activities from the major supply hubs, ‘Sitters’ who are lower in rank and manage local distribution networks, and ‘Runners’ who work at street level by undertaking the transactions with the end-users (Coomber and Moyle, 2017). This is a relatively new type of offending which is a current drug-related focus by British forces and there is much to learn about how these newly emerging groups are operating, and how they are expanding their reach to infiltrate untapped markets and take over local supply chains. In addition, May and Bhardwa (2018) in their study of organised crime groups involved in fraud, found that there, too, was evidence of hierarchical models and these will be explored in greater depth in the section exploring fraud below. However, in surveying the literature, it is noted that Albin (1971:288) writes: ‘rather than being a secret criminal society, a criminal syndicate consists of a system of loosely structured relationships functioning primarily because each participant is interested in furthering his own welfare.’ Hence, the notion of a strict hierarchy based on defined roles which Albin rejected, has been mooted for a long time, but only achieving some prominence in recent times.

For the first time in the UK’s annual National Strategic Assessment of SOC (2018), the possibility of offenders working in loose networks and a business-as-service model framework are acknowledged, rather than a strict hierarchical model, though this too is referred to, with a particular focus on the importance of family links with the latter model. In this way, it is possible to distinguish networks with a continuing presence and those without, i.e., those that are formed in order to undertake a specific criminal activity. This then does break away from the traditional Mafia-type connotations as a way of viewing OCGs, which appears to have been entrenched in criminological and sociological thinking since the early 20<sup>th</sup> century. Globalisation has resulted in the recognition of these looser networks (Morselli, 2009) as the long drugs trafficking supply chains have involved different OCGs working together to enable

the movement of goods. This has serious implications of how groups are policed and requires police forces to take the structure of the groups into account. Where before, work may have been invested in disrupting the activities of the Principal/head of the group to halt the work of the OCG operations, now a more 'strategic analysis of the structures of these groups in order to target their most vulnerable elements' (Marmo and Chazal, 2016: 119) is required.

More recent official documentation outlines how organised crime is, in fact, not committed in hierarchical groups but networked. Europol<sup>15</sup> was formed in 1998 and is the European Union's law enforcement agency. They support 28 EU member states' in their response to serious international crime and terrorism. The Europol 2015 report states that there are networks of individual criminal entrepreneurs uniting on a project basis utilising expertise as part of a "crime-as-a-service" business model, with criminals diversifying their activities and expanding from cybercrime back to more traditional forms of crime such as drugs trafficking. Wall (2015) outlines that a 'disorganised' or distributed model of organisation is apparent, rather than a hierarchical command and control framework. Hence, there is a loose network of criminal entrepreneurs who conduct their illegal business in a digital criminal world. While the UN Convention against Transnational Crime (2000) has provided a definition of organised crime as a group of three or more acting together in a coordinated effort to commit crime for financial and material benefits, and it continues to dominate policing operations, it no longer reflects reality as described in academic research and the agile nature of such networks.

Allum and Gilmour (2012) state that TOC 'is a contested, controversial, confused, difficult, ill-defined and slippery term' (2012:8). They raise four ideas, initially put forward by Armao (2003):

1. The possibility of thinking about TOC as a continuum with criminals collaborating to commit crime (e.g., robberies) to crime syndicates (with a tendency towards structured hierarchies and entrepreneurship) to more sophisticated criminal groups which have a more political focus to achieve their aims for totalitarian control. This suggests some fluidity in relation to the concept which may be attractive given more recent observations about the functioning of such groups.

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<sup>15</sup> More about Europol can be found at: <https://www.europol.europa.eu/>

2. The components that one chooses to focus on to provide a meaningful definition which reflects the reality of the world inevitably introduces much subjectivity as much depends on cultural context, one's personal experiences, the role of the researcher etc. The epistemological bias of individual researchers is of importance here as a neutral position cannot be adopted. Stovin and Davies (2008) allude to the difficulties arising from the lack of collaboration between practitioners and academic researchers which limits academic developments and limits law enforcement responses. This may, in the researcher's view, apply to a whole host of policing issues, rather than confined to the examination of SOC. However, in recent times, collaborative partnerships such as the N8 partnership<sup>16</sup> are ensuring that law enforcement agencies (primarily the police) and academia form knowledge-exchange platforms in order to make advancements for evidence-based policing but this has yet to extend to areas such as the policing of SOC, with the exception of the current writer's work with Xavier L'Hoiry. It is notable that the latest NCA (2019) National Strategic Assessment of Serious and Organised Crime states, in its opening paragraph by Lynne Owens, the NCA's Director General, that the assessment is 'intelligence-based' (2019:1), i.e., information and data gathered by the police including from community-based sources which is quite different to 'evidence-based', i.e., based on the academic research evidence. This has implications for the extent to which academic developments and advancements feature in the strategic thinking of policy-makers. Allum and Gilmour (2012:10) point out that due to access issues, research 'is always through the lenses of law enforcement agents' with its associated issues in respect of the reliability of the data, personal safety concerns and the police narrative.
3. Conceptual development is affected by the theoretical approach adopted: economic rational choice theory<sup>17</sup> (Varese, 2011) views organised crime as an economic enterprise, the cultural approach focuses on the social, economic, historic and political contexts to understand the development of OCGs, and others view organised crime as a modern corporation (Cressy, 1969) or as a 'ritual brotherhood' (Paoli, 2003) where

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<sup>16</sup> More at: <https://www.n8research.org.uk/>

<sup>17</sup> Cornish and Clark (1987) explain that rational choice theory views criminal behaviour 'as the outcome of decisions and choices made by the offender...however rudimentary on occasions these choices might be' (p. 933).

she makes specific references to ‘brotherhood bonds through which members are connected’ (Paoli, 2003:289) based on her study of the culture of the Sicilian Mafia and the Calabrian Ndrangheta.

4. Allum and Gilmour (2012) refer to Sheptycki (2003) in relation to the use of the TOC concept by politicians to progress their own agendas, drawing examples from immigration, terrorism and drugs being brought into the TOC discussion.

The overall conclusion appears to be that one needs to be aware of how researchers may construct their account in accordance with their own specific orientations and that there is a cyclical phenomenon at play in that the researcher’s work is often shaped by what they are allowed access to from police databases and professionals.

It has become clear to the researcher that there is limited empirical research on SOC in the UK and much has been derived from police acting as filters or gatekeepers providing access to data to researchers though there is also ethnographical research such as that by Dick Hobbs (2013). This inevitably means that there is some bias in respect of what and how information is filtered to those interested in conducting research on serious and organised crime and has inevitably resulted in a dearth of research on who the members of serious and organised crime groups are, how they are formed and how they conduct their crimes. The lack of empirical research on the profile of such groups and their individual members has resulted in the perpetuation of stereotypical images of SOC groups, amplified by the media and maintained by the police. This is in stark contrast to the empirical research on the profiles of other types of criminals and other types of crimes, such as burglaries, where such crimes are not depicted in the same way. This imagery has had a somewhat disproportionate impact on how SOC is perceived and how police resources may be directed to this area of criminality and how such groups are identified as meeting the Home Office-set thresholds for groups being mapped as SOC groups. The varied definitions of SOC inevitably gives rise to challenges in “speaking the same language” when attempting to work across organisational/geographical boundaries and has led to different approaches to tackling organised crime by UK forces.

A practitioner discourse is outlined by Allum and Gilmour who quote Sheptycki (1995:617) who states that ‘most crime is local in character; that is, most police work is grounded in

relatively small geographic locales'. This, the authors claim, may be the crux of the problem as there may be a gap between what the offenders do and what the police do, as the latter are mostly local, and structured around localities. While the National Intelligence Model (NIM), which defines the police's operating model, divides policing response into three levels (Level 1: local crime utilising local resources, Level 2: cross-border crime requiring mostly regional resources, and Level 3: SOC on national and international scales requiring targeted resources by dedicated functions), they conclude that TOC is 'local at all points regardless of its reach' (Allum and Gilmour, 2015:11). Hence, the very concept of NIM is under the microscope as it views crime from the heavily structured infrastructure of policing units as opposed to the loose, global and boundary-less activities of the transnational offender.

Clark (2005:100) notes that victims are omitted from all definitions which he believes undermines problem-oriented policing, particularly in the context of organised crime, which he says is 'parasitical in nature and cannot exist without an institutional host'. Clark offers his own definition, specifically for policing purposes:

Organised crime consists of illegitimate loci of social power, from within a religious, ethnic, industrial or other minority class or group in a society, that have acquired and utilise the knowledge of coercion, compensation and persuasion in a systematic manner to perpetuate or protect their organisations and to gain advantage by acts of criminal victimisation in local, national and transnational environments. (Clark, 2005:105).

He stipulates that this provides a definition by which the police can identify what is or is not organised crime and that definitions which lack the ingredients he specifies are actually gangs. The definitions are framed within a context of social power rather than the use of legal criteria designed to assist the police in the context of securing convictions and prosecutions. He concludes that the major concern is to consider victimisation in any definition. He believes that a victim-centred approach would promote police legitimacy. 'A strong, timely, client-focused approach to the aspect of victimisation erodes the base on which organised crime is built, i.e., the estrangement from government.' (p. 106). The above descriptions of how definitions have evolved demonstrate that, almost without exception, the definitions are offender-focused. Within the RJ context, a victim-centred focus is welcomed and aligns well with its ethos, while supporting one of the aims of this study; hence the inclusion of a reference to the impact of being victimised has much appeal within the context of this study.



This, then, would have the impact of casting actual injured parties (the actual victims) in central roles rather than the state (Christie, 1977) and contribute to the efforts to enable victims to find their own voices and be heard. Clark (2005) outlines that if this definition was accepted, it requires the police 'to become especially skilled in dealing with victimisation issues' (p. 107). There is also an implicit community focus, which also ties in well with the communitarianism evident in RJ principles, i.e., to ensure the involvement of the community members in the response to crime. The NCA Strategic Assessment on Organised Crime in 2019 goes a step further in its explicit stated commitment to involve the community in the fight against organised crime.

A further complexity identified by Mackenzie and Hamilton-Smith (2011) is that communities are not necessarily passive victims and indeed can benefit from organised criminal activities. They believe that 'to simply portray a community as a "victim" of – and normatively opposed to – organised crime is clearly not always appropriate.' (2011:23). This is further supported by Tilley and Hopkins' (2008) work who describe how businesses in their study took advantage of counterfeit goods with "(i) invitations to collude in organised crime" (p.ii) and that offers of such goods appeared to be "a normal feature of business life in the high crime neighbourhoods under review." (p.ii).

UK police forces use Organised Crime Group Mapping (OCGM) as a specially designed tool which maps the defining characteristics of groups and individuals involved in SOC and places each individual within the context of others involved in the organised crime group showing the extent of their criminality in respect of a number of factors such as the reach of the group. This mapping process is based on the definition adopted by police forces to understand the term SOC. As this definition is static, two implications become evident: (i) the mapping fails to capture both the evolution of organised crime networks and forms of organisation and (ii) the mapping also fails to take into account the current research knowledge of such groups. This represents an important and significant disconnect between the view of crime offered by SOC definitions and HO mapping tools and 'the world out there' of serious and organised crime. The hierarchical model which is used by forces may enable a degree of pragmatism in terms of clarifying roles of members, but essentially is flawed in its lack of recognition of the fluid structures evident within organised crime groups. The National Crime Agency (NCA, 2013:17) describes the OCGM activity as 'a process where UK law enforcement agencies

collate and share information in a systematic way to aggregate an overall picture of serious and organised crime affecting the UK.’ The picture produced may not reflect what is ‘going on out there’ due to the breadth of offences which are potentially covered by the all-encompassing adopted definition, particularly if offenders may not be specialists but generalists, notwithstanding that the mapping process itself is designed to ensure that a selective process occurs. Crocker et al. (2017) describe the OCGM database as a record of all known and suspected individuals who have been ratified as OCG members by police and is a tool for prioritising and managing resources. This formal Home Office tool which is used to map organised crime groups recognises three different roles within each group: principals who orchestrate and lead activities at a strategic and organisational level, significants who are integral to crime operations and direct activities, and peripherals who tend to be more transient and carry out the criminal activities. Often, maps are produced of each group which shows the inter-relationships between individuals who are known or suspected of being involved with each other to commit criminal activities as well as connections between related and disparate organised crime groups. Within these maps, the known or suspected roles occupied within the hierarchy are identified and this itself may align to or have connotations of a mafia-like structure characterised by kinship, loyalty and masculinity – all characteristics described by Antonopoulos and Papanicolaous (2018) in relation to Italian structures. Mapping work commenced with a requirement for each force to create local profiles on a multi-agency basis so that a clearer picture would emerge of threats, risk and vulnerabilities (guidance was in the Home Office report *Serious and Organised Crime Local Profiles: A Guide*, 2014). This placed an onus on each force to forge multi-agency partnerships to form local action plans to tackle issues at a local level, while taking into account cross-border offending.

It would appear that part of the problem is that successive commentators have come up with definitions building on the history of former academic work rather than an observation of what is actually happening ‘out there’. This has resulted in a huge variety of definitions with a list of essential ‘ingredients’ as to what constitutes serious and organised criminality. This then, results in definitions treating SOC as a single entity which is simplified into a list of these ‘ingredients’ as theorists attempt to establish a single definition of what ultimately may be a multitude of offence types committed in groups displaying different degrees of organisation and sophistication, and using different systems and processes to gain a wide variety of

benefits such as material gains, power, sexual gratification etc. In line with the Western world's predisposition towards progressive reductions of plurality with continual refinements in order to derive a singular, universal major form, what emerges is an unsatisfactory state of affairs in defining the phenomenon. Perhaps the concept of SOC should recognise that there are several qualitatively different components which comprise SOC and the need to form a single classification of a set of offences in order to deal with them in a particular way within a legal framework. It would appear that the very use of the term 'SOC' continues to conjure up the image of the Mafia model despite much evidence that in the UK this is not what is being observed and described by researchers or by those responsible for disrupting such groups. Perhaps the time has come to 're-brand' SOC, so that distance is created between the reality of how such groups operate and Coppola's 'Godfather' image.

Having surveyed the host of descriptions and definitions, the researcher's own view is that it may not be entirely realistic or even undesirable to have one definition accepted across the globe as there are too many different variations which tend to change on a kaleidoscopic basis. In addition, given the speed with which different structures and models of SOC may emerge as criminals seek/create new opportunities in line with changing demands (service-driven), that a unified definition becomes very limiting and quickly loses contextual meaning, rendering it redundant from an operational police perspective. A common, shared understanding of the phenomena may be more important than a consensus in relation to definitional precision that fails to capture the known diversity of constantly evolving activities, structures and cultures across the world (notwithstanding that the attraction of definitional precision lies in a common language currency between culturally diverse nations to use the same terms to denote the same phenomena). This shared understanding may enable a more agile policing response, which takes into account criminal activities and the changing profile of SOC offenders and consumer demands while taking into account cultural differences. Given that the study relies on current processes which facilitate police forces' mapping of organised criminality using Home Office mapping processes, for the purposes of this thesis, the legal definition within the Serious Crime Act described above is adopted. SOC is described as three or more persons who act or agree to act together for the purposes of carrying out criminal activities within the Act. While this definition is adopted on a pragmatic basis, given the above critique in relation to the breadth of offending which the definition captures and

the rigidity of the roles and lack of fluidity within the networks which is implied, it needs to be borne in mind that the SOC profiles upon which this study rests might not reflect the full variety of SOC offenders in the region or the UK more broadly. .

## **2.5 Law Enforcement Approaches to Serious and Organised Crime in the UK: successes and limitations**

The NCA 2019 strategy identifies that there are over 4,500 organised crime groups (with over 37,000 individuals) mapped in the UK at the end of June 2018 with the estimated cost to the UK economy per year being more than £37 billion. At present, the Home Office has the overall responsibility for the strategy for dealing with SOC and funding, while the National Crime Agency (NCA) has the responsibility for co-ordinating the UK's law enforcement response to SOC. While there are locally formed units within police forces to respond to the SOC threats, there are also nine regional organised crime units (ROCU) which deal with cross-border threats and have the capabilities to disrupt such groups by balancing local and national priorities in their overall response. These units are funded by the OPCVC and as such, are vulnerable to individual, politically-elected crime commissioners choosing to fund these units on an annual funding cycle.

The National Criminal Intelligence Service formed in 1992 was Britain's first centralised policing entity recognising organised crime which until that point had been dealt with on a local and regional basis (Hobbs and Dunningham, 1999 quoted by Woodwiss and Hobbs, 2009). Harfield (2006), in his critique of the inception of the Serious Organised Crime Agency (SOCA), points out that it is difficult to gauge the success or otherwise of such efforts in the absence of reliable and specific data on organised crime; having identified that it is necessary to reduce the fear of crime in a society dogged by fear, has meant that the government was then reliant on estimates to try and convince the public that increasingly more intrusive measures were necessary: 'Government needs there to be a fear of crime in order to justify exceptional measures being advocated for fighting organised crime.' (Harfield, 2006:752). He refers to this dilemma as the government being in a 'catch-22 situation'.

Two years later, Harfield (2008) refers to how the government reconceptualising organised crime as a national security threat (as opposed to a criminal threat only) has diminished local

policing responses as being inadequate to deal with the threats. This has given rise to increasing centralisation with diminishing resources allocated to local policing. Harfield references Hobbs (1998) who points out that cross-border and transnational organised crimes do have local consequences for communities and this is often overlooked in policy-making.

Stelfox (1998) refers to what he terms the “lower level” of organised crime as manifesting itself locally as it is more visible and of great concern to senior police leaders who know of the impact on local communities. The failure to take account of the lower levels of crime inevitably means that law enforcement measures may be inappropriate and under-resourced. His criticisms of centralisation centre on the loss of focus on the local dimension (citing examples such as affluent suburbs being targeted by travelling burglars, or workshops manufacturing counterfeit goods). He recognises the limitations of local policing in targeting those that travel to commit crime but also that regional units tend to only arrest one or two individuals due to limited resources thus reducing their long-term impact. Both are unsatisfactory in Stelfox’s view. He asserts that ‘local policing is probably the most appropriate response to the majority of organised crime found in the UK’ (1998:405) enabling local accountability and harnessing the active involvement of communities (the significance of this being the ability to build intelligence). Stelfox concludes that:

it seems certain that these things will happen more often and more successfully in circumstances when the police have the trust and confidence of the community than when they do not and there is widespread acceptance in the service that locally based and locally accountable policing offers the best means of achieving this. (1998:405).

It is difficult for police to keep up with the pace of changes, particularly against the backdrop of austerity and technological advances exploited by criminals which call for greater policing specialist capabilities to investigate and prosecute such cases. Wall (2015:72) states that if a response does not reflect the reality of how crimes are organised, it can ‘lead to the misdirection of police resources and also researchers’ efforts’.

The National Strategic Assessment of Serious and Organised Crime (2018) published by the National Crime Agency (NCA) utilises the four ‘P’s approach to explain how the government will target and disrupt serious and organised criminals in order to reduce the threat they pose.

- **Pursue** the highest harm SOC offenders and networks through prosecution and disruption

- **Prepare** for when SOC occurs and mitigate the impact in order to build levels of defence and resilience in those who are vulnerable; this is inclusive of communities, individuals, businesses and systems.
- **Protect** individuals, organisations and systems in order to build levels of defence and resilience within vulnerable communities (inclusive of individuals, communities, services and businesses), and
- **Prevent** people from engaging in SOC in order to halt the problem at root-cause level by identifying and supporting those at risk of being recruited in order to engage in criminality.

Straddling across all 4 'P's is the aspiration to establish a single, whole-system approach, expanding the government's global reach and harnessing the specialist skills and expertise within the private sector. While this suggests a holistic framework within which one may be able to assess law enforcement's efforts to identify and respond to and pro-actively address SOC within communities, there appears to be no clear formulae as to the extent to which each strand will be prioritised relative to the other strands. The only indication appears to be the respective resources and financing for each strand as an indication of central government's priorities within the 4 'P's' strategy.

This research is part-funded by the Home Office under the fourth strand (Prevent). This was in the hope that, as a result of offenders and victims engaging in a restorative dialogue, offenders would be prevented from reoffending and engagement by offenders and victims would prevent more people from becoming victims (though arguably in terms of addressing victimology issues, it may cut across other strands of the strategy such as protecting individuals by increasing their resilience post-dialogue).

Measuring the police impact on disrupting and preventing organised crime has been the subject of much debate. Mackenzie and Hamilton-Smith (2011) direct much criticism towards former numerical targets (KPIs) such as the number of key organised criminals arrested or the amount of drugs seized as being unsuitable measures of success as they do not measure impact, undermining the allocation of resources to the right areas of criminal activities and creating perverse incentives. They detail that the measurement of impact has been made challenging by the lack of a clear definition of organised crime and criminals. The KPIs have also led to a focus on Class A drugs and money laundering (and this emphasis may well still

be shaping the identification of OCGs today which appears to have a strong drugs focus), but requires more research to confirm its dominance. They argue that the reduction of harm in communities should be the core focus of measuring success and performance could be linked to harm – though much is restricted to drugs via asset recovery (though this is the value of assets reports seized or confiscated only). Law enforcement efforts are constrained by offender agility and their ability to survive police operations as much enforcement action disrupts the supply chain and temporarily incapacitates key individuals, but only for the short-term. Mackenzie and Hamilton-Smith describe a complex set of factors which undermines police performance, e.g., the amounts seized vs the amounts that may have been available to be seized. This type of measurement cannot capture all the work carried out to affect for example money laundering.

Mackenzie and Hamilton-Smith (2011) advocate identifying ‘an evaluative pathway at the start of an operation’ (2010:19) to assist with resource prioritisation, feedback from partners and formal disruption panels, most of which have been introduced by many UK police forces since this article was published. The establishment of multi-agency disruption panels increases accountability and is a context-sensitive approach to evaluation of interventions, strengthening organisational learning at the same time.

The House of Commons Public Accounts Committee published a report on SOC in September 2019 which states that neither the NCA nor the Home Office articulate a full understanding of the SOC threat to the UK, and they remain unclear as to why it may be rising. The Committee attributes this rise to the lack of police resources, developments in technology which enables crime to flourish online, and the known effects of globalisation which enables internationally driven crimes, though they acknowledge that improved data recording and better reporting of crimes by the public may be confusing this picture. The Committee states that the law enforcement response to SOC is inadequate in that it does not have quality data to measure success and lacks data to assess the performance of law enforcement agencies. Nor is there sufficient understanding of the respective roles within the agencies. This may be deemed to be woeful. If the statutory agencies charged with responding to SOC cannot put in place adequate mechanisms to measure their own success against the 4Ps, and furthermore, are not aware of the roles of others responsible for joint collaborative responses to SOC, then what hope is there of measuring the activities and impact of those

offenders ‘out there’? This is exacerbated by the fact that such offenders know no boundaries and hunt for new opportunities by forming collaborative networks of like-minded criminals in order to readily exploit the vulnerable.

Importantly, the report goes on to declare that: ‘These bodies are focused on pursuing criminals after the crime has been committed, but this has been at the expense of doing work to “prevent” crime from happening in the first place’ (p. 3). This has significant implications for the utilisation of RJ as a prevent-based intervention for SOC offenders. The report concludes that ‘government only spent 4% (£84 million) of its total budget for tackling serious and organised crime on “prevent” activities in 2015–16, a fraction of the 79% (£1.8 billion) it spent on “pursue<sup>18</sup>” activities. We are not convinced that the “prevent” activities that do take place are well enough thought through’ (p. 5). This is, indeed, worrying from a community safety perspective in that offenders’ criminal exploitation of others is allowed to continue and develop (perhaps in sophistication too) as insufficient funds are invested in preventing the crimes in the first place. The response to SOC from a policing perspective is further exacerbated by funding pressures, primarily linked to the short-term nature of annual funding cycles, when responding to some SOC offences inevitably involves numerous years of policing activity. In particular, the future of ROCUs remains uncertain, with much individual discretion given to elected OPCVs to fund the units. The issues are further compounded by the police’s view as detailed in this report that there is pressure to address visible crime (such as speeding) rather than crime which has a tendency to be invisible such as the SOC threat.

The need to work collaboratively in the writer’s view has never been greater, with many senior policy leads highlighting this for responses to specific organised criminality, e.g., in relation to the links between organised crime and terrorist groups within the EU (Makarenko, 2012) where an integrated approach involving all parties at a national and EU level is called for in order to generate an integrated response. The focus on the need for ever increasing needs for collaboration to tackle crimes such as human trafficking and to recognise the cross-border nature of crimes is a feature of many policy and strategy documents published by the UK government departments, e.g., the Home Secretary places emphasis on the need to work closely with international partners as well as those in voluntary and private sectors in the joint

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<sup>18</sup> This refers to the first of the four strands of the NCA’s National Strategic Assessment (2018) which shapes the policing responses to SOC. The remaining three strands are Prepare, Protect and Prevent.



fight against SOC in the Serious and Organised Crime Strategy (Home Office, 2018). The latest NCA National Strategic Assessment of Serious and Organised Crime (2019) outlines how the UK's exit from the EU may affect the policing of SOC as much will be dependent on the terms agreed. The report highlights how OCG members may exploit any new vulnerabilities arising from this at points of entry and even provide new opportunities for certain crime types such as cyber, money laundering and fraud.

The UN Convention against Transnational Organised Crime (UNTOC) and its adjunct protocols giving protection to victims of trafficking are paving the way for multilateral collaboration. In late 2018, the UNTOC 9<sup>th</sup> session took place where the way that the protocols will be reviewed was agreed. This was entitled 'Establishment of the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto'<sup>19</sup> and details the peer review process in respect of 4 key themes: criminalisation, international co-operation, law enforcement and preventative/protective mechanisms. These agreements seem to have implications for national practice, as it ensures transparency between the member states and, as such, while there is autonomy, there is a form of accountability too in relation to how each state and plays it part in the response to transnational crime.

Marmo and Chazal (2016) also refer to the linking of instability and the trafficking of goods leading to a new perspective – instead of punitive responses, this approach attempts to understand the needs of source, transit and destination countries to problem-solve around the root causes of transnational crime and address the issue of supply and demand. In the writer's view, this may result in more balanced, holistic responses to transnational crimes. While concurring with such a view, it can be argued that there is a long way to go in relation to working collaboratively across continental boundaries with systems established on a consistent basis to share intelligence and have joint operations to pursue those criminals who work with others to conduct their illegal businesses before such a holistic vision can be realised. Police forces would need to adapt their mapping processes and take into account the fact that OCGs do not necessarily adopt the traditional Mafia-type hierarchical structures. Police forces need to take note of the academic research demonstrating the enormous

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<sup>19</sup> More at:  
<https://www.unodc.org/documents/treaties/UNTOC/Review%20Mechanism/Resolution/English.pdf>

flexibility and innovation shown by criminals which needs to be matched by a similarly flexible and agile policing response.

## **2.6 Fraud**

Though not as a result of the design of the research methodology used for this study, the primary offence class in this study was organised fraud. Contrary to both police attention and prosecution practices which have a tendency to focus on drug offences as part of their efforts to disrupt OCGs (and this study excluded those offences where victims could not be identified and hence excluded drug dealing where this was the primary SOC offence), this study has focused on fraud offences to a large extent. The aim of this section is to examine the existing literature and identify what is known about organised fraud and dispel the notion that fraud is a victimless crime (Duffield and Grabosky, 2001; May and Bhardwa, 2018). The section will focus on the extent of the fraud threat in the UK, pathways into fraud-related crime, the structure of such groups and the investigative challenges faced by the police and partners to address such crime.

The Crime Survey for England and Wales (CSEW) (Elkin, 2018) found that there were 3.3 million incidents of fraud in the year ending June 2018 and, 12 months later, this figure had risen to 3.8 million (Elkin, 2019). This increase in the volume of fraud offences, according to Elkin, can be attributed to the rise in bank fraud. It is of interest to note that fraud has only been added to the CSEW since October 2015 and suggests that it is relatively recently that fraud has been taken seriously in this context by the Office for National Statistics. This view is also held by Her Majesty's Inspectorate of Constabulary and Fire & Rescue (HMICFR) (2019) who, in their inspection of 11 forces state 'outside those organisations that have a specific national-level responsibility for fraud, it is rarely seen as a priority' (p. 4). The previous exclusion of fraud as an offence category also means that it is much more difficult to decipher trends in fraud-related crime over time. This is further compounded by data quality issues in relation to inconsistent recording by police forces, as ascertained by HMICFRS in their inspection which was published in 2019. Though their inspection is limited to just over 25% of the forces in England and Wales, from the forces surveyed, they found an inability to provide basic demand-related data such as the number of frauds reported as well as

ineffective use of intelligence, lack of knowledge about existing resources (such as authorised professional practices<sup>20</sup> for fraud which govern the work of police personnel) and some forces even finding reasons to not investigate cases despite the availability of evidence and identified suspects. The inspectors quote one of their interviewees to try and shed light on this state of affairs: 'fraud does not bang, bleed, or shout' (p. 5). The impact of this status quo, they conclude, is that victims are left feeling 'confused and disillusioned' (p. 5). Elkin (2018) concludes that that it is 'much more likely for an adult in England and Wales to experience fraud, than a violence offence.' (Elkin, 2019:10). This gives an indication of the prevalence of this offence type. In relation to serious and organised crime, only one out of the eleven forces surveyed in the inspection report referred to above routinely mapped OCGs primarily involved in fraud. This hints at the extent of frauds being committed and that which is being actively pursued, prevented or disrupted by police forces. HMICFR reported that there was scant evidence of fraud prevention/disruption activities among the forces surveyed.

It is notoriously difficult to estimate the scale of money laundering. 'Despite the near-universal recognition that concerted action is necessary to tackle money laundering in the UK, the basic question of how much money is laundered in the UK remains unanswered' (Moiseinto and Keatinge, 2019). The Home Office Serious and Organised Crime Strategy (2018) states that 'there is a realistic possibility that the scale of money laundering impacting the UK annually is in the tens of billions of pounds' (p. 14) which compromises the integrity of the UK financial sector. A year later, in 2019, the NCA in their National Strategic Assessment declare that more than £100 billion represents the likely scale of money laundering impacting annually on the UK and that there 'remains a realistic possibility that the scale of money laundering impacting the UK is in the hundreds of billions of pounds annually' (p. 38). A significant increase has been put forward by central government bodies within that 12-month period and may give credence to Moiseinto and Keatinge's assertions about the difficulties of measuring the scale of the problem. What is clear is that financially motivated crimes (including money laundering, fraud, bribery, corruption and cybercrime) are widespread and

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<sup>20</sup> Authorised professional practice (APP) are usually a series of documents which have been approved by the College of Policing (the professional body of policing in England and Wales) which are designed to assist police personnel to undertake their duties.

their impact pervasive, the NCA National Strategic Assessment 2017 strategy claiming that 'UK citizens are now more likely to be a victim of fraud than any other type of crime' (p. 21).

The NCCA 2017 Strategy states that an increasingly large number of businesses are being targeted by OCGs undertaking (1) business email compromises where criminals access the network and pose as an executive member of the organisation and dupe the more junior staff into transferring funds, and (2) business email spoofing where email accounts of a prominent staff members are spoofed, i.e., impersonated. Clearly, vulnerabilities become apparent when one considers the attacks on adult dating and pornography websites leading to the loss of sensitive personal data.

May and Bhardwa (2018) undertook a 3-year study on OCGs involved in fraud in the UK. The authors highlight that there are significant gaps in our knowledge of how organised criminals are involved in fraud, the pathways that lead to fraud, how cases come to the attention of the CJS and the investigative challenges this presents.

The increases in economic criminality in the UK (ONS, 2016) can be attributed to the 2008 financial crisis, the rapidly evolving nature of technologies and the use of the internet, providing OCGs with ample and easy access to opportunities to commit crime (Home Office, 2013). The use of the internet, in particular, has proved to be an attractive option for SOC criminals due to its globally connective nature, speed, low-risk, accessibility and data-rich basis. In 2013, approximately 1,400 OCGS were involved in economic offences, many of whom were also involved in other serious and organised crimes (HO, 2013). Garner et al. (2016) found that 31–45% of frauds which were committed locally across two police force areas in England were linked to OCGs. This demonstrates the prominence of fraud as a criminal OCG activity including in order to fund other serious crimes (National Fraud Authority, 2013:10)

Addressing fraud-related crime is now given a higher prominence by central government as evident by legislative changes, and signals a change in the priority afforded to fraud offences; indeed, the latest NCA National Strategic Assessment (2019) highlights fraud as one of the priority areas. The Fraud Act (2006), amendments to the Proceeds of Crime Act (2002) in 2015 and the Criminal Finances Act 2017 seek to strengthen the UK response. The Joint Fraud

Taskforce established in 2016 involves a co-ordinated multiagency collaborative effort to address this issue.

What differentiates fraud OCGs from other OCGs involved in other types of criminality? According to May and Bhardwa (2018) who undertook a study involving 31 offenders in the UK, there are four differences:

1. The fraudsters commit a very high number of offences (this would lead one to speculate that this creates multiple victims so interventions such as RJ may be more of a challenge than other options)
2. They facilitate much criminality by others (hence, one may speculate that this widens the net of offenders involved leading to more significant and peripherals per organised fraud OCG)
3. They regularly use the services of those with a defined skill set, e.g., the services of corrupt officials, and
4. They have an impact on local communities which remains unrecognised (compared to other forms of organised offending).

The last point is an important one to note, in the view of the researcher. Recognising the impact may have a direct effect on police resources dedicated to tackling the issue. Gannon and Doig (2010) found that 54% of the forces which took part in their survey (this survey achieved a 47% response rate) stated that they believed that the investigation of fraud cases would be improved with an increase in resources available to them.

May and Bhardwa found that there were numerous pathways into fraud OCGs. Many made a conscious decision to offend driven by the lucrative element of fraudulent offending. This relates back to rational choice theory of offenders actively making choices with a view to gaining specific benefits (Cornish and Clark, 1987). Others were recruited by being targeted (and may be duped and/or bribed) and therefore could be said to have had a 'constrained choice' (p. 31). In addition, some entered into fraudulent activities as a direct result of their social networks which facilitated their pathway, thus 'highlighting how opportunities are exploited by entrepreneurial organised criminals to achieve criminal ends.' (p. 55).

These findings chime with the pathways identified in the NCA 2017 and 2018 National Strategic Assessments which detail a diverse array of pathways for SOC offences. These range from motivation derived from financial gain, while others become involved as a result of coercion or family pressure or financial hardship, though this is dependent on crime types (and may be different for sexual offending or crimes where ideology may prevail as a motivating factor in the offenders' involvement). Opportunities are seized due to the ever-advancing digital age and use of social media. In addition, networking opportunities present significant pathways into SOC offending such as within prisons (including where vulnerable prison staff may be recruited), networking online to preserve anonymity, through collaboration with peer groups and associates, through normalisation by criminal families and also through ethnicity and cultural bonds which may foster trust; the latter is important in relation to growing up in a criminal family. What is clear is that while this relates to a broader spectrum of SOC offending, much is also relevant to the fraud context. The literature relating to pathways into SOC offending is important in relation to law enforcement agencies' efforts to disrupt SOC at root-cause levels from an early intervention perspective and under the 4Ps strategy (Prevent).

As previously discussed, May and Bhardwa found that the different types of structures were determined by the size of the OCG, the type of fraud and the scale of the criminal activities. In fact, multiple organisational structures were reported by the police officers surveyed. Some noted the classic 'hierarchical and pyramidal' (p. 67) form, some had loose networks, some had a global network at European and/or international level and still others had a hierarchical top layer with more fluid lower layers or ranks. The classic hierarchical structure was the most common form of fraud-related OCG, demonstrating that while a Mafia-type structure with all of its associated connotations of extreme violence and intimidation may not be a feature, the basic similar structure can still be evident in relation to role differentiation.

HMICFRS commented that there were instances where decisions were made not to investigate cases, despite the evidence being available and this, too, was a finding by May and Bhardwa in relation to fraud cases. To investigate or not to investigate appeared to be determined by assessments of the magnitude of vulnerability of the victim with age, mental health issues and psychological harm being key to that assessment which led to the case being pursued. Other factors included the value of the fraud, whether bribery and corruption

featured, whether there were cross-border implications or if the offences were linked to more serious forms of criminality such as human trafficking or terrorism. This then, may leave the public and affected victims who do not have their cases investigated feeling dissatisfied and may mean that those perpetrators are left to develop their offending style to become more sophisticated and create more victims – a highly unsatisfactory state of affairs, even in the context of finite resources and police-based austerity.

The difficulties of investigating fraud cases are clear in May and Bhardwa's study with volume (particularly as some fraud cases have multiple victims) and complexity making fraud jobs time-consuming, expensive and requiring highly skilled detectives. The authors observe that professionals find collaboration with their partners in different jurisdictions difficult due to logistical problems and legal requirements which need to be met but 'offenders appear to work and manage their businesses across the globe with relative ease' (p. 77). The difficulties of addressing organised fraud, they lament, is compounded by the fact that

fraud is easy to commit, lucrative, and almost risk free ... it is likely to become a crime of choice for both lone offenders and OCGs, in particular because the likelihood of actually getting caught is relatively slim. (p. 101).

Crocker et al. in their 2017 study found that the victims of organised fraud spanned all ages though the elderly were more subject to repeat victimisation. They found that the financial loss from organised fraud was much higher than from non-organised fraud stating that individuals lost on average half their yearly income compared with a sixth from non-organised fraudulent crimes. Of most significance was that OCGs were not mapped for their engagement in organised fraud, but for committing such crimes in addition to other crimes such as drug dealing or burglary, for which they had originally been mapped. From their study, they conclude that fraud is not viewed by police forces as a local priority and that 'local police see fraud as "beyond their remit", which is concerning given that 35 to 40 per cent of fraud is organised' (2017:4). The authors make a call for the Home Office to commission a full-scale review of how fraudulent crimes are locally policed and for forces to re-examine their allocation of resources to address fraud.

Some OCG criminals may not be mapped formally as investigators lack the necessary skills compounded by the complexity of cases and the volume of offending by each OCG. As a

result, some offenders may not be pursued, especially professional enablers due to the low priority given by police to tackle fraud. May and Bhardwa make a plea for a more local response to the issue.

## **2.7 Victims of Serious and Organised Crime**

The National Strategic Assessment of Serious and Organised Crime (NCA, 2018) outlines the pervasive impact of serious and organised crime, stating that it 'affects more UK citizens, more often, than any other national security threat' with a 'daily impact on the UK's public services, institutions, national reputation and infrastructure' (p. 8), with no sign of such threats abating in the near or medium term. Its opening gambit is from a victimology and vulnerability perspective, detailing the increase in the number of cases of Modern Slavery and Human Trafficking (MSHT), recorded sexual offences against children, firearm offences, drug deaths and fraud offences with an increase in new types of offending such as county lines drug supply networks - the growing trend of drug dealing groups from larger city-based hubs moving to provincial towns to expand their activities and typically exploiting vulnerable people by taking over their homes to conduct their criminal activities – a process known as 'cuckooing' (Spicer, 2019). The NCA Intelligence Assessment focusing on county lines drugs supply (2018) indicated that that children aged 15–17 years (recruited through foster homes for example) constitute the majority of the vulnerable people involved in county lines and the most prevalent adult vulnerability is drug addiction. The impact on individuals and communities is emphasized with either direct or indirect impact or control through threats of serious violence, kidnap and intimidation using firearms and bladed weapons, especially when victims try to leave the offending network. This too hints at the difficulties of exiting such groups.

SOC threats which create enhanced vulnerabilities from a victimology perspective include Children at risk of Sexual Exploitation (CSEA) (with increased opportunities provided by the greater use of social media), modern slavery and human trafficking (with an upward trajectory anticipated of small groups based on social and familial links), and organised immigration crime (with migrants seeking the help of people smugglers and OCGS to assist in crossing



borders and the use of forged identity documents and false travel documentation proving particularly profitable).

Crocker et al. (2017) believe that the public view organised crime as a serious issue, but not as a problem locally where they reside. They conducted research in three English cities and found that the most frequently recorded offences linked to organised crime were drug dealing, fraud and vehicle crime but with a heavy focus on drug-related offending 'while virtually ignoring fraud' (2017:1). They detail that the crimes of *known* OCGs (their emphasis) in the three cities are mostly drug related but the criminal activities of *unknown* (their emphasis) OCGs (i.e., unmapped) tend to be for the newly emerging crimes such as human trafficking, CSE and modern slavery. The young, elderly and newly arrived foreign nationals (many of whom themselves are coerced into committing crimes to survive at the hands of organised offenders blurring the distinction between offender and victim, e.g., county lines) are identified as being at particular risk of exploitation and harm. The young were considered particularly vulnerable often enticed onto SOC pathways due to the lure of easy money, paying off debts or being seduced by initial gestures such as drugs and loans combined with a search for identity, a sense of belonging, status and fear of non-cooperation. They conclude that for some, especially the young friends or relatives of OCGs based on familial ties, the choices are severely restricted.

Individuals acting in groups tend to have larger capabilities to cause harm than lone criminals, with a criminal organisation's capacity being a function of characteristics such as structure, sophistication and reputation as proffered by Finckenauer (2005). Finckenauer cites Maltz (1990) who describes harms as economic (e.g., hijacking goods), physical (e.g., murder of rivals), psychological (e.g., eliciting feelings of powerlessness) and societal (e.g., corruption of officials), with such effects not likely to be caused by lone offenders, but through the impact of organised criminality. Organised crime and corruption have become widespread aspects which are felt by entire communities and which have affected not only less developed countries such as Mexico, Thailand and Laos, but also richer western countries (Marmo and Chazal, 2016). They conclude that

Thus, as we benefit from increased global reach, we are also vulnerable to 'being reached' in negative terms by criminal syndicates who exploit the loopholes of the global 'village' (Marmo and Chazael, 2016:3).

However, Crocker et al. (2017) have ascertained that the impact of OCG activities are 'no different' (2017:28) than for similar offences committed by non-organised and/or lone criminals and that 'Well-planned and organised criminal activity is not inevitably more harmful than unplanned, spontaneous, even chaotic criminal behaviour.' (2017:29). Interviewees described some of the visible impacts caused by organised criminality such as burnt out cars and occasional drive-by-shootings but also some which are covert such as the corrosive impact of fear and even menace and the use of threats, blackmail and extortion by OCGs.

Crocker et al. (2017) consider the impact of fraud on local communities and victims, outlining that some forms of fraud (e.g., doorstep fraud) are committed at local level, often by local offender-residents while other forms of fraud (e.g., insurance fraud) are not; hence the lack of visible impact in local communities makes identification of fraud difficult and is perpetuated by under-reporting. This is made more challenging by the fact that due to the internet, multiple victims can be targeted by one offender with very basic computer literacy required at low cost and low risk. The authors acknowledge that while the losses for individual victims may be modest, the criminal (group) can accumulate substantial wealth. Many victims are too embarrassed to admit that they have been defrauded despite the research demonstrating much financial, social, emotional and physical impact on victims as suggested by Button et al. (2014). Button et al. bust the myth that fraud is a victimless crime having interviewed over 800 respondents. They identify doorstep fraud, including rogue trading, as particularly insidious as the fraudster(s) are physically present and may be more akin to the impact of a burglary with a presumption of additional or different impact on the victim(s).

Button et al. report that financial impact is varied with how much the overall loss is compared to the victim's income and savings but that small losses may be intensely felt by some while secondary financial losses such as bankruptcy or losing their home may also be experienced. Mental-health-related harms extend to loss of self-esteem, shame, stress and even suicide attempts, with anger rating the highest psychological emotion. Physical health (there are references to victims reporting skin-related complaints such as psoriasis) may suffer, as well as a breakdown in family relationships. Changes in behaviour and personal mentality are also noted in quotes such as:

I'm no longer the completely open frank person, naïve person that I was lucky enough to be for the first 55 years of my life. I'm quite a different person now... (Harold, identity fraud victim). (2014:51).

The impact, it appears, can be far-reaching. Crocker et al. conclude in their summary that the fraud committed by OCGs affect victims more than when they are victims of non-OCG fraud. Cross (2015) in her study of online fraud victims in Australia found that victims were perceived to be greedy and naïve with a belief that victims themselves were responsible for their own experiences of victimisation. As such, this breeds self-blame and perpetuates the beliefs, leading victims to become isolated as they feel unable to disclose what has happened to them to those that may be able to offer them much-needed support. In relation to fraud, May and Bhardwa (2018) also note how the notion of fraud being a victimless crime is wrong, with the perception being based on a view that victims are typically recompensed for their lost funds and are not true victims as they are responsible for their own experiences and stupid.

## **2.8 Relevance of Applying RJ to the Serious and Organised Crime Context**

This section will examine the particular challenges which differentiate application between the SOC and non-SOC context when the above points raised by the academic literature and policy statements are considered. There are examples of the application of RJ in post-conflict cases of transitional justice where SOC has been a dominant feature, albeit not in the form of mapped criminality as it is known in the UK. These international crimes include the South African Truth and Reconciliation Commission in the mid-90s which was (though not without controversy) heralded a success as a sound approach to dealing with the gross human right violations and systematic abuse suffered under apartheid and for providing a degree of redress through offenders making admissions and showing remorse (Moon, 2006; Shabodien, 2001 and Jenkins, 2007). Another example is that of the Gacaca Courts in Rwanda in the mid-1990s following genocide where more than 1.2 million cases were heard; offenders were given the chance to confess and ask for forgiveness while some victims were enabled to find a sense of closure. However, despite some successes, there were also serious criticisms in relation to the process put in place and its outcomes (Brehm et al., 2014).

It may be that the option of RA is dismissed for the majority of cases and operations worked on by regional and local policing units due to the imagery of SOC and its continued portrayal

in the media. There may be an assumption of it being inappropriate with risks which cannot be managed by the relevant agencies as the context is deemed to be riddled with complexity.

It may also be considered to be too much hard work by already over-stretched staff and units who are struggling to deal with high priority cases which cause more visible impact on communities. Hence, an assumption of toxic impact regardless of the offender's potential rehabilitative journey or the victim's recovery journey may be made from the outset by the police. In this way, victims of SOC may be denied their rights to have this option to consider for themselves, as the decision may be made for them and they are not aware of their rights to ask for a restorative dialogue in line with the Victims Code 2015.

The lack of a consensus in relation to a definition of SOC may also mean that how police forces map OCGs may be a bit of a postcode lottery and hence, the offer of an RJ option may be made to some and not others dependent on police classification systems. If rigid hierarchal structures only are accepted as the norm and the most prevalent forms of OCGs, then this will dismiss the loose networks of opportunistic criminals and their flexible illegal practices, which means a cohort of OCG members will never be given the opportunity to reform in this way and their victims will be denied this option as a recovery route.

The fact that many offenders may clearly be considered to be victims of organised crime themselves makes participation in RJ more challenging as the restorative dialogue centres around a clear acknowledgement of a "harmer" and the "harmed". This may be particularly true of those who consider themselves, and where professionals consider them, to be exploited individuals who have been coerced into participation in SOC activities. This may have a disproportionate impact on foreign nationals who are considered as particularly vulnerable in the literature.

Complications may be compounded by the fact that some victims themselves may be reticent in taking part in RJ if they are themselves in some way complicit in the criminal actions or supportive of the crimes – if the literature on some victims not being passive victims is to be recognised. This may apply to the county lines scenario described, for instance. Furthermore, for those victims (particularly for fraud offences) who do not report their experiences and feel an acute sense of shame and embarrassment, the opportunities for recovery using this methodology are further reduced if not eliminated.

RJ may be more difficult in respect of identifying both offenders and victims in this context, due to the relatively easy global reach by SOC offenders to multiple victims in a short space of time with minimum risk of exposure. Excellent transport links, digitalisation and globalisation do not lend themselves to local policing, though the impact may be local. Furthermore, the physical distances between offenders and their victims may make face-to-face conferring and other types of RJ interventions trickier from a logistical perspective. In addition, undertaking RJ within prisons may be made more challenging by the fact that the literature highlights the role of corrupt staff who assist OCG members to continue their activities from within the prison walls. If those corrupt staff took on the role of supporting SOC offenders in a face-to-face conference, and such a situation has resulted because RJ staff were unaware of the dynamics within this scenario, then a highly collusive forum would result with power imbalances between offenders and their corrupt supporters, RJ staff and victims.

If those corrupt staff were identified as the criminal's official supporter in any face-to-face conference this may thwart the objectives of such an intervention and undermine the process should this be allowed to unwittingly occur by RJ staff.

The use of RJ is embedded in the Youth Offending Service on a legislative basis. Widening the use to young OCG members may mean that there is the potential for preventative work so that those who may be drawn into SOC due to their need to belong or low self-esteem are diverted due to their engagement with RJ. This is all the more so, as RJ is reported to have the potential to address personal issues, give offenders the chance to be heard and be accepted and to access personal support in ways that they may not have experienced previously. However, given that Francis et al. (2013) reported that the average age of SOC offenders was 32 years, with only 1% under the age of 18 years, the opportunities may be slim but worthwhile. Some caution must be exercised in using these figures, as Francis et al. used the PNC to gather information and not mapped SOC offenders.

RJ may give an excellent opportunity to build resilience and confidence in the communities who have been harmed by SOC and this in turn, may raise trust and confidence in the police as a service, which would increase the reporting of crime. This may be nurtured by local neighbourhood policing units, with RJ being a local policing response to organised crime, where appropriate. The latest NCA National Strategic Assessment (2019) is a public-facing

document aimed at communities in an explicit fashion (and differs markedly from previous annual publications in this regard) and recognises their role in the disruption of organised crime. Harnessing the involvement and commitment of the community aligns well with RJ principles and aims with a high value placed on communitarianism. Yet, while this recognition is good and should improve police legitimacy, it does not go far enough to recognise that within those communities are victims who should be enabled to have a say and be given opportunities in order to deal with the aftermath of the crimes perpetrated against them. It becomes clear that RJ may have the potential to repair harm caused to individuals and communities affected by SOC, while giving offenders a pathway out of organised crime, despite the challenges described above.

## **2.9 Summary and Conclusions**

The picture which emerges suggests that the police's own interpretation of SOC which frames their response to it, from a law enforcement perspective, does not take into account the wide-ranging academic discourse on definitions and the implications for how serious and organised criminality is addressed. There appears to be gaps between the definitions and theory of SOC (which are complex and muddled as described above) and government policies and their operational realisation (practices in line with the 4Ps approach) by police. Overall, it may be that a fabricated concept of SOC is promoted reflecting government rhetoric and policies (which may be affected by political processes) and maintaining a sense of moral panic. Specifically, the almost exclusive offender-orientation evident within policy and practice described maintains the "crime-fighting" aspect of addressing SOC – which is to the detriment of serious and robust consideration of victim needs. This is, in the researcher's view, because the response is influenced by policy and not by the available literature.

It is clear that UK police forces are focused on the supply side of the business of tackling SOC, rather than the demand side, e.g., demand for sex and drugs; while this is the case, the demand for such goods and services will continue and this requires a radical shift in thinking in terms of the overall Prevent strategy. Exploring treatment options to stem the demand may be a better use of limited resources, rather than a reactive service. This thinking has been particularly applied to the drugs context, with the Executive Director (Yury Fedotov) of

the United Nations Office on Drugs and Crime (UNODC, 2012) claiming that ‘drug demand, rehabilitation and reintegration, alternative development, shared responsibility and fundamental human rights – are underscored in the conventions.’ (p. iv) – the conventions relating to drugs and organised crime. The researcher believes that RJ would sit well within this context, with some common aspirations in relation to both process and outcomes for both SOC offenders and their victims. There needs to be a better understanding of what drives demand and an improved understanding of the vulnerability contexts of SOC. Levi and Maguire (2004:457) writing 15 years ago stated that they believed that not many countries ‘appeared to be looking beyond immediate operational goals towards a lasting reduction in organised criminal activity’ and it remains to be seen if this is the case in relation to the views of police SOC experts who participated in this study.

Both the concepts of restorative justice and SOC come with complexity with no internationally agreed definitions among practitioners or academics. This has implications for the way that policy is formulated in the UK and has led to policing practices which are derived in piecemeal ways. Regardless of the particular approaches adopted by police to tackle and prevent SOC, what is clear is that ‘Organized crime feels like a tangible, inescapable issue in today’s world’ (Antonopoulos and Papanicolaou 2008:1).

There are many challenges and even obstacles to applying RJ to the SOC context when compared to the non-SOC context, not least the imagery associated with SOC which may paralyse those responsible for considering RJ to dismiss the option altogether. The stereotypical use of SOC being synonymous with the Mafia imagery needs to be dismissed in the UK context. There are, nonetheless, a considerable number of victims of SOC, particularly in the fraud context, who do suffer the detrimental effects from SOC and who might benefit from RJ.

The importance of the Prevent strategy is paramount if SOC is to be addressed at root-cause levels and is the central aim of this study – to explore the use of one option which may prevent further offending and prevent more people becoming victims of SOC activities. What becomes apparent in the next chapter is how RJ is much more victim-focused at heart – at a conceptual and practical level. However, the tensions of undertaking RJ with SOC is already apparent when one considers the literature review on SOC.

## Chapter 3: Restorative Justice – An Overview

### **3.1 Introduction**

As noted in Chapter 1, restorative justice (hereinafter RJ) has grown exponentially over recent decades and ‘has become a worldwide criminal justice reform dynamic’ (Van Ness, 2005:1). There is no universal agreement on the precise definition of RJ amongst researchers, academics, policy-makers or practitioners, though there is broader agreement in relation to the values underpinning such approaches. This chapter will focus on:

1. the development of RJ through the years to modern times, outlining how the use of such interventions has been expanded in the last two decades globally within the criminal justice sector. The historic development of RJ commencing from its very earliest roots to its developments in contemporary policing practices is charted, with a description of the implementation of RJ within England and Wales;
2. the debate on the definitions of RJ. Attempts to achieve a definitional consensus amongst practitioners and academics in relation to RJ have proved to be elusive and this will be explored in some depth, as it has resulted in much debate and confusion. The choice of definition chosen for the purposes of this study will be explained;
3. the underpinning values, standards and human rights relating to RJ which have enjoyed a greater degree of consensus. A view is presented on the extent to whether idealistic notions can be realistically met in the criminal justice context and in organised criminality specifically. A brief synopsis of the debate centring around RJ vs traditional justice will also be detailed as part of this section;
4. the use of RJ in challenging and complex contexts;
5. the commentary by advocates and critics of RJ;
6. how RJ as a concept may be applied to the SOC context and the tensions that may abound in doing so in an operational context, as well as some reflections on the theoretical evolution of both RJ and SOC as concepts. This includes how RJ is being defined in the context of this study.

This chapter concludes that while restorative practices have received a mixed reception, the studies which evaluate conferences held between offenders and their direct victims include



some compelling evidence to take such interventions seriously – for the benefit of victims, offenders, the community and the taxpayer. Many of the criticisms directed at restorative approaches appear to be about practice which is observed which is in fact, poor, and not undertaken by highly trained, skilled facilitators who have insight into their own actions when working with offenders and their victims. There is an insufficient understanding of offender and victim perspectives in order to work with positive impact on a consistent basis across different police, private and voluntary sectors.

### **3.2 Rationale and Context for Research**

The application of RJ has been extended to new contexts in the last few years within the criminal justice system (CJS), including extending its use to some serious, complex and even sensitive offences such as domestic violence (Miller and Iovanni, 2013; Wager, 2015; Sen et al., 2018) and hate crime (Coates et al., 2006; Walters, 2014). Collins (2015:129) describes how successive governmental drives have encouraged the use of RJ to try to make its desired expansion ‘a reality’. However, despite these emerging uses of restorative approaches in challenging contexts, there is no evidence in research literature that such approaches have been utilised with organised crime offending prior to the researcher’s own published work. Organised crime is thought to have a significant and enduring impact on multiple victims, including whole communities (NCA, 2016; Paoli and Vander Beken, 2014). Organised criminals are often perceived to be long-term career offenders, at high risk of re-offending (Home Office, 2013). It may even be argued that many of the issues faced by victims (and indeed the offenders) of crime are intensified in the context of organised crime: Crocker et al. (2016:1–2) stated that ‘Organised crime can scar neighbourhoods and the people who live in them. High levels of fear, intimidation and violence accompany fierce competition for the control of local drugs markets. Powerful OCGs subvert the rule of law by intimidating victims and witnesses’. Clark (2005) argues that the status quo is primarily located within the way that organised crime is defined with its lack of acknowledgement of the use of social power by such groups, and the omission of a victim-centred focus which does not assist in adopting a problem-oriented policing approach and excludes the active involvement of the community in crime prevention and control. More detailed analysis of the conundrums faced by academics and policy-makers in defining SOC is provided in the previous chapter (Chapter 2).

This study's imperatives are amplified in the context of academic evidence suggesting the use of RJ has an impact on recidivism (Shapland et al., 2008), victim satisfaction with both the process and outcome (Umbreit et al., 2007) and some evidence of cost-effectiveness when compared to the costs of reconviction (Shapland et al., 2008), though there are contradictory views about the efficacy and legitimacy of restorative justice. This research expands on the limited research available to-date and represents the application of RJ in an innovative context, which has received very little attention in the academic literature, reflecting its limited usage in operational contexts. The national government drive as described in the House of Commons Justice Committee's report (Sep 2016) labours an aspiration for there to be equal access for victims at all stages of the CJS irrespective of age, where they reside, and the offence committed against them. This research, in part, contributes to fulfilling this aim, broadening the debate on the potentially transforming possibilities of RJ and its potential applicability in a serious and organised crime (SOC) context, as an alternative and innovative response to such offending and its pervasive impact.

### **3.3 Historic Development of Restorative Justice**

This section outlines how RJ has evolved over time and will primarily focus on the UK context, with some details in relation to the international landscape which has influenced developments across England and Wales. Walgrave (2008) charts the historic development of RJ, describing historical indigenous communities which were self-sufficient in dealing with disputes at a time for mere survival. However, he dismisses some of the rhetoric by questioning the evidence for this in terms of whether this would necessarily have led to harmonious solutions – would it simply have resulted in vigilante-type resolutions? The very first form of RJ (often called 'The Elmira Experiment') is often credited to a probation officer in Canada in 1974 who, together with a judge and a volunteer, decided that mediation between two teenage vandals and their twenty-two victims may have a therapeutic impact (Johnstone and Van Ness, 2007). This led to the proliferation of victim offender reconciliation programmes (Liebmann, 2007).

Several commentators' work has been influential in shaping thinking around the concept of RJ. Christie (1977:4) presented the idea of the state (through professionals such as lawyers

and judges for example) “stealing” conflict from individuals by intervening so that the role of affected parties is, in effect, marginalised. He outlines his thoughts that the affected parties themselves own the conflict and that state-based responses represent ‘theft’ of that conflict. This idea has been pertinent to the conceptual development of RJ, and indeed appears to represent a sea-change in the focus away from an intangible harm-owner (the state) and towards a very personal dimension: individual victims and the community.

In terms of the evolution of RJ, Walgrave (2008) refers to a number of key developments which have resulted in the way that restorative practices have developed:

(a) The importance of the victims’ movement: it becomes clear that RJ increasingly encompassed victims’ perspectives as the focus has steadily increased to empower victims and ensure their voices are heard as part of the sentencing process and also as part of restorative interventions; the increased focus on victim-centred policies is notable in Home Office documentation and in academic writings:

Victims, once on the margins of criminological research, are now a central focus of academic research. As a result, the victim has moved from being the “forgotten actor” to a key player in the criminal justice process’ (Walklate 2007:8).

(b) The emergence of communitarianism which focuses on the ‘revival’ (p. 15) of the community.

(c) The concept of reintegrative shaming (Braithwaite, 1989), i.e., that an important role is played by communicating social disapproval of the behaviour of offenders which results in reduced reoffending. This is tied to the emotions which are induced in offenders and suggests an equation of reintegration vs stigmatisation which is integral to how an offender may respond. Respectful communication which does not label the offender as bad and does not condemn the individual is important within this concept of reintegrative shaming, as is forgiveness. Others have tested this theory and found that there is a relationship between reintegration vs stigmatisation, e.g., Harris (2006) who compared court cases with family group conferences and concluded that the issue in RJ terms relies on offenders’ constructive management of their shame-induced feelings.

(d) A call by others to abolish the CJS and replace it with a restorative system. For Zehr (2002), RJ was a response arising from an emerging sense of failure of the CJS with victims, offenders, community members and professionals expressing frustration due to unmet needs. Zehr (2002:3) concludes that 'many feel that the process of justice deepens societal wounds and conflicts rather than contributing to healing or peace.' It was this very disenchantment with the traditional criminal justice system in New Zealand where young Maori people were disproportionately represented within the system, that led to a call for a change. The Children, Young Persons and Their Families Act (1989) established Family Group Conferences and led to fewer young people going to courts or prison (Liebmann, 2007).

Marshall (1999) describes how the RJ movement arose as a result of a growing realisation that offenders, victims and communities needed to interact and not act independently of each other to resolve matters related to crime. Native American sentencing circles and Maori justice in New Zealand have contributed to the inception and development of family/group conferencing as well as the development of police-led models of conferencing as part of police cautions in the town of Wagga Wagga in Australia. Shapland et al. (2011:5) remark that

To a large extent, disagreement about how best to define restorative justice has reflected the multiple theoretical roots of and influences on restorative justice, which have in turn generated a variety of "visions" of the restorative justice enterprise, each with their own emphasis and ideas about what "counts" as restorative justice.

Shapland et al. (2011) explain that the extent to which RJ has become a mainstream response to crime differs around the globe. Australia's Wagga Wagga model of police-led conferencing as part of a police caution in the 1980s has been extremely influential in developing practices. The conferencing model was developed using a scripted process undertaken by police officers (Liebman 2007). In New Zealand and Northern Ireland, conferencing is an integral feature to responses to youth crime, being the only countries to legislate for a nationally implemented RJ model (Shapland et al., 2011).

In England, in 1994, Thames Valley Police developed restorative cautioning based on the Wagga Wagga police-led conference model and while this has been discontinued (once Sir Charles Pollard, its pioneering champion, departed), it is clear that police-led RJ exists but the provision across the country is patchy (House of Commons Justice Committee 4<sup>th</sup> Report of

Session 2016–17). This picture confirms that in England and Wales, the primary focus was on young offenders who had committed less serious offences. A change was brought about when, following a commissioning process, the Home Office funded three schemes with formal evaluation undertaken by Shapland et al. (2011). This saw a departure from the norm to date, with RJ being developed with adult offenders, who had committed more serious offences such as domestic burglaries and violent offences. Professionals were encouraged to consider all eligible offences to ensure that sufficient numbers were put through to the schemes by the relevant statutory agencies at different points in the criminal justice process, e.g., pre/post sentence.

Liebmann (2007) outlines the developments for youth justice in line with legislative changes which have strengthened restorative provisions. Under 'New Labour', the youth justice system saw restorative principles being brought into sharp central focus as an integral part of the formal process, with the introduction of Reparation Orders and Action Plan Orders (introduced by the Crime and Disorder Act 1998 which set up Youth Offending Teams in every area of England and Wales) and Referral Orders (introduced by the Youth Justice and Criminal Evidence Act 1999). Referral orders culminate in a contract with the young person including reparative elements to affected parties. These two acts were consolidated into the Powers of the Criminal Court (Sentencing) Act 2000. It would seem that RJ is most developed and embedded within the youth justice sector.

In the UK, there are pockets of RJ practice at almost all stages of the CJS – effective policing, diversion from prosecution, sentencing and community/custodial regimes. Shewan (2010:2) describes how restorative policing saw a revival under the new coalition government, describing the development of RJ as a 'victim-focused but low-bureaucratic option for low-level offending as a critical tool within Neighbourhood Policing to assist in problem-solving and meeting community expectations.' He describes how officers previously constrained by the need to meet performance targets for detections saw RJ as a flexible tool which enabled them to return to 'common-sense policing' (Shewan, 2010: 4). This predominant focus on young people is observed by Liebmann (2007:175) who states: 'There is an idea that adult offenders are "too far gone" to try anything restorative'. This may be amplified in the SOC context given the views described in the previous chapter relating to entrenched criminality and criminal careers, suggesting bleak hope for change with this set of offenders.

It is worth noting that the idea of police officers (and perhaps police civilian staff) facilitating RJ is a contentious one, with some advocating against such an approach. Ashworth (2001) believes that the police cannot be impartial due to their investigative roles, and Young (2001) articulates that too much power may be invested in the police as they 'already control the processes of arrest, detention and investigation' (Young, 2001:197), with concerns that they actually empower the police as the facilitators and this may result in punitive outcomes. However, in this study the focus is not necessarily on police officers undertaking RJ with SOC cases, as many RJ services within the police are commissioned by the OPCVC as part of their victim-focused services and would require a referral from the police officer. The current study utilised accredited RJ facilitators and not warranted police officers or civilian police staff which has ensured that the roles of arrest and investigation have been separated from RJ intervention roles. However, all staff who delivered interventions for this study were justice-based professionals (i.e., staff employed in specialist roles outside of police, but working in the criminal justice sector).

Paterson and Clamp (2012) describe how restorative policing has evolved across England and Wales with 33 forces now undertaking some form of RJ for first time offenders (both youths and adults) for minor offences, but also reporting that more recently, practices have developed to encompass more serious offences by more persistent criminals and across all stages of the criminal justice process. This can be undertaken by trained police personnel or through referrals to organisations or bodies who are suitably trained. Despite this development, they warn that there are serious challenges to the police services in embedding RJ. Police need to be able to 'act as facilitators and silent stakeholders rather than as decision-makers, a process which requires police officers to interpret their role in innovative ways' (Paterson and Clamp: 600). These challenges are amplified in the context of austerity and shrinking resource levels. They remind readers that restorative policing requires a 'cultural shift at all levels of the police hierarchy to ensure that implementation of restorative justice is meaningful to police officers' (Paterson and Clamp: 600). To address this, the authors recommend that issues in respect of leadership, training and performance measurement need to be addressed in order to develop the use of RJ and pave the way towards consistent and sustained implementation.

In 2002, Van Ness discusses what he saw as the potential obstacles to developing an RJ model in the UK. If RJ is implemented in an incremental way rather than as a whole system, so that RJ initiatives are attached to existing structures, then its influence would be contained within those entities. 'Finally, there are hard questions about the feasibility and comprehensiveness of restorative justice that may never be answered until serious attempts are made to construct a restorative system.' (Van Ness, 2002:145). He goes on to pose questions about how RJ may be used for serious offences and how the system can accommodate volume cases 'efficiently yet restoratively' (p. 145). This is particularly pertinent when consideration is given to the stipulations outlined in Chapter One in relation to the Victims Code. Acton (2015:120) reports that a 'postcode lottery' exists throughout England and Wales in relation to patchy and inconsistent implementation. More recently, Ratcliffe (2018) in her report outlined the RJC's findings in relation to their work with criminal justice partners and specifically the police and OPCVCs. They summarise that the challenges arise as a result of low referral rates, difficulties in measuring success effectively, and the devolved commission model which leads to much variation on a national basis. The Ministry of Justice (MoJ) funds all OPCVCs for victim services from which individual PCVSSs can choose to allocate funding for RJ services which affords each area much local flexibility to meet local needs (though results in the patchy and varied implementation described). Another issue also arises in funding offender-initiated cases as the MoJ funding is primarily for victim services (i.e., victim-led) which therefore limits the reach for this type of intervention to be utilised. In her discussion of how RJ is increasingly utilised by forces for more serious and complex offences, Ratcliffe refers to the 'demand for restorative justice from victims of serious crime' (Ratcliffe, 2018:23) (which includes victims who have experienced sexual harm and serious violence who self-refer). The challenges to offering RJ in such contexts is identified: increased risks to parties; risk aversion by partners; professionals making decisions on behalf of the affected parties; and the lengthy preparation required for such cases (which renders pre-sentence RJ as unsuitable). The current study sought to test whether similar factors apply to the new SOC context in respect of challenges.

### **3.4 How is Restorative Justice Defined?**

The Restorative Justice Council (2016: online) provides the following definition:

Restorative justice brings those harmed by crime or conflict and those responsible for the harm into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward.

This is part of a wider field called restorative practice. Restorative practice can be used anywhere to prevent conflict, build relationships and repair harm by enabling people to communicate effectively and positively. This definition has much appeal though in the context of this study, only offences (not incidents) would be relevant. Furthermore, it places on the RJ map the debate around the distinction between restorative justice and restorative practices, the latter being where interventions are used which do not involve the direct victim but may involve a proxy victim for example.

For Walgrave (2008), the definition should be confined to options which deal specifically with the aftermath of a crime. He differentiates RJ in other contexts as being very different to the crime context: in a school, there is less of a clear differentiation between offender and victim, both of whom live in the same close community and where the restorative intervention has different purposes. He is not in favour of the lack of clarity definitions which are not restricted to crime contexts bring about and calls for such clarity on the grounds that there are intrinsic differences between crime and other types of conflicts/injustices. There is a loss of significance in its meaning when broadened in such ways and it leads to 'blurred concepts' which lead to research inaccuracies such as 'sloppy variables' (1988:18).

Walgrave (2008:21) considers RJ as 'an option for doing justice after the occurrence of an offence that is primarily oriented towards repairing the individual, relational and social harm caused by that offence'. He argues for a definition that encompasses outcomes and a deliberative process as being more restorative, as expressions of forgiveness for example lead to feelings of being respected. Walgrave concludes that processes that do not lead deliberately to reparative outcomes do not constitute RJ and, in essence, that RJ needs to be strategic in its restorative aims. He argues that restoration could be viewed as the goal while voluntary processes are the tools deployed.

Walgrave expands further by stipulating that RJ should deal with 'crime-caused harm' (Walgrave, 2008:24) and not with pre-existing harms prior to the offence. To do so would bias the intervention as addressing offender needs and the victim would be 'reduced to a tool for



the offenders' rehabilitation' (p. 26). The author does not dismiss the offender's pre-existing needs as irrelevant but indeed very important in determining realistic outcome agreements.

RJ can take several forms (Liebmann, 2007). This can take the form of mediation (a face-to-face dialogue between the parties with an independent facilitator), victim offender mediation (with an impartial third party and can be direct or indirect in the form of shuttle mediation), and conferencing (where parties can elicit the assistance of supporters and community members to take part). She also includes other forms of restorative approaches where direct victims are not engaged such as victim offender groups (with victims of similar offences to that which the offenders have been convicted of) and victim awareness groups (which she says can be used as preparation for conferencing as well as on their own).

A plethora of definitions have been offered over the last few decades but conceptual ambiguity reigns. Marshall (1999) introduces the concept of RJ as a 'problem-solving approach to crime which involves the parties themselves and the community generally, in an active relationship with statutory agencies.' (1990:5). The focus of restorative interventions is an inclusive concern for repairing harm caused to victims and increasing offender accountability and community involvement with due regard to human rights, forgiveness, apology and responsibility.

Walgrave (2008) outlines other terms used synonymously with RJ which include Relational Justice (concentrating on fostering positive relationships), Positive Justice (focusing on a less punitive and more constructive approach) and Reintegrative Justice (based on Braithwaite's 1989 reintegrative shaming theory predicated on the basis that shaming is only positive if the offender respects and is attached to the community). Gavrielides (2005) developed the notion of 'restorative punishment' which 'entails pain and has severe consequences for the offender' (Gavrielides, 2011:12). This appears to be a contradictory phrase at odds with the broadly agreed ethos of RJ.

It may be that some commentators would disagree with the notion of 'reintegrating' offenders on the basis that some law-breakers have never been part of their communities and may not themselves feel that they ever have been – perhaps 'integrating' offenders may be a more accurate notion. However, the key here in the researcher's view is about inclusion, rather than integration/reintegration per se. Hoyle (2010) states that excluded offenders who

have 'become enmeshed in anti-social gangs characterised by defiance or rejection of mainstream norms and values' require resocialisation by the community if they are 'to go straight' (p. 24) so that they can be re-educated in the norms necessary for acceptance. She highlights the potential for restorative processes to contribute to this resocialisation process, concluding that 'only restorative justice can resocialise offenders into, or back into, law-abiding communities and encourage "pro-social behaviour"'. (p. 25). She articulates these to be the main aims of RJ. Furthermore, while RJ proponents refer to offender reintegration as a desirable outcome, there may be situations in the researcher's view, where this may also apply to victims. This may be due to their feelings of isolation, embarrassment and shame, leading one to hypothesize that this breeds mistrust of others and a feeling of being different to others, as a direct result of being victimised. Hence, in this way, RJ may have the potential to promote victim re-integration and restore personal confidence to former pre-harmed levels and promote trust in others and situations. Examples of this sense of closure are evidenced by Hallam's research where her four victims who engaged in RJ commented that they felt:

"'more at ease', 'less dragged down', 'better in myself', 'no longer scared or worried', and that 'the book had been closed'" (Hallam 2015:5)

This may be very interesting in an OCG context, particularly as some OCG members have very strong ties to their criminal family, highlighting issues of loyalty and identity which may present barriers to joining/re-joining society. Their victims tend to be wide-ranging where identifiable, but often tend to be traumatised due to the impact of OCG activities on their lives arising as a direct result of the nature of the crime, e.g., multiple offenders operating as part of a collective which may exacerbate fears of retribution if victims participate in an RJ conference.

Dhami et al. (2009) capture a much broader range of activities as encapsulating RJ in their examination of restorative activities in prisons. They also include prison-based offending behaviour programmes, victim awareness programmes and community service which do not include any dialogue with direct/indirect victims but can include surrogate victims (i.e., victims of similar crimes, but not the prisoners' actual victims). For the purposes of clarity, such practices in this study will be called restorative approaches or restorative practices as they do not involve the direct victim. This falls outside of the definition adopted in this study

which is limited to direct victims using a direct/indirect dialogue. The adoption of these type of programmes under the broad label of RJ may cause confusion not only with staff, but with prisoners themselves who may not identify that they have engaged in a restorative intervention by undertaking community service or attending an offending behaviour programme for example. Dhami et al. conclude that perhaps RJ in prisons appears contradictory given that the aim of prison is punishment which separates offenders from society and the aim of RJ is to bridge a gap between the offender and the victim to repair the damage/harm to the former. However, they point out that there is a shared goal between RJ and imprisonment, namely rehabilitative aims.

Dignan (2005) details that within the raft of restorative approaches, much difference exists, with some having their foundation in legislation and others working in informal environments, but all based on voluntary participation of offenders and victims as a key principle of RJ. Marshall (1999:5) offers a definition which is globally recognised:

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

Marshall lists five objectives of RJ: to fulfil victims' needs (e.g., social/emotional), to prevent reoffending through community reintegration, to enable offenders to take responsibility for their criminal actions, to engender an active community which supports rehabilitation and crime prevention objectives, and to avoid the use of legal justice with its attendant costs. Within these five objectives, there are unacknowledged, substantial power imbalances: words such as 'enabling offenders to assume responsibility' can hint at this being something that is being demanded of an offender or presented as a charitable act enabling an unmet wish to be fulfilled (akin to other similar expressions used such as 'allowing offenders to pay their debt to the community' – a debt most offenders have no wish to pay unless compelled to do so). This may be all the more complex in the organised crime context where perhaps RJ may represent the least worst option particularly given the mixed allegiances that some SOC offenders may have to their criminal family vs the affected communities (i.e., that they will be enabled to achieve something such as assuming responsibility for their actions and the associated harm).

The five objectives Marshall stipulates (1999:6) as the desirable outcomes from RJ can be split into the following three key imperatives and may represent a “business case” for the wider use of RJ in criminal justice contexts:

1. Ethical/moral imperatives to meet victims needs and enable offenders to assume responsibility for their criminal actions
2. Social imperatives to include the creation of a community which supports rehabilitation with a view to reintegration of offenders to prevent re-offending, and
3. Business/financial imperatives to avoid the rising costs of criminal/legal justice and have a system which is more cost-efficient.

However, according to Walgrave (2008), Marshall’s definition does not specify that restorative outcomes should result and that the affected parties should engage in a form of dialogue/communication (which would denote generic restorative practices). Walgrave refers to Zehr’s (2002) definition which includes a reparative element of ‘putting things right’ (Walgrave, 2008:19) despite being a process-based definition, and to Dignan and Marsh (2001) who identified key characteristics such as offender accountability, inclusive decision-making and putting right the harm caused. Bazemore and Walgrave (1999) in Walgrave (2008) offer non-deliberative actions that may have restorative outcomes such as unpaid work or Victim Support schemes (hence, also not constituting RJ):

Restorative justice is every action that is primarily oriented towards doing justice by repairing the harm that has been caused by a crime (Walgrave, 1999:20).

Marshall’s definition has six key criticisms directed by critics, according to Dignan (2005:5):

1. It is only applicable to criminal justice contexts and dismisses the wide-ranging situations in which restorative encounters can take place – such as schools
2. It focuses on process alone
3. It does not focus on outcomes
4. There is a lack of clarity as to who Marshall defines as the stakeholders – are they the ‘offence community’ or ‘community of interest’ (Young and Morris, 1998:10) or the communitarian aspect (i.e., representatives of the wider community)

5. It fails to specify which of these stakeholders that falls within his definition should be invited to participate and how, in order for it to be classed as a restorative encounter, and
6. It lacks detail in relation to the aim of the process: 'Is it an end in itself, irrespective of any outcome...or is it a means to some other end?'

However, others reject the notion of 'action' due to the implications of coercion as forming part of RJ, preferring to focus on voluntary participation.

More recently, the Council of Europe Recommendation (2018: Rule 3) defined RJ as

any process which enables those harmed by crime, and those responsible for the harm, if they freely consent, to participate actively in the resolution of matters arising from the offence, through the help of a trained and impartial third party.

The reference to 'any process' is deliberately broad as to encompass RJ interventions where no dialogue takes place but specifically is loyal to the RJ principles that the Council stipulates. Non-dialogue-based RJ interventions can include new approaches to victim healing, reparation and offender integration. Examples cited include community reparation schemes, victim support circles, victim awareness courses and offender integration ceremonies. This may be an attractive option in any context, but perhaps particularly in the SOC context where one of the parties expresses a wish to engage in a dialogue in order to address some specific needs, but the other does not, e.g., due to fear. However, this may muddy the picture in terms of the debate around achieving clarity of definitions and purpose of RJ, with much confusion already noted about the existence of different terms used. 'Any process' may in fact be too broad a concept and while an umbrella phrase can be attractive, it may reinforce the current status quo where RJ is used to mean interventions involving proxy victims and victim awareness courses where offenders do not have a dialogue with their direct victims. These options support the stipulation that RJ services 'should be as inclusive as possible; a degree of flexibility should be used in order to enable as many people as possible to participate'. This too is of note for this study as it is attempting to explore why RJ may not have been undertaken for those who have been mapped as SOC offenders, nor offered to their victims. However, for the purposes of this study, RJ is confined to interventions involving direct and indirect victims only and not proxy victims or victims of unrelated offences.

Dignan (2005:2) refers to 'conceptual confusion' in relation to definitions pertaining to RJ, while Marshall concludes his paper by stating that 'Restorative Justice still lacks a definitive theoretical statement.' (1999:30), warning that 'There is grave danger that Restorative Justice may end up being all things to all men and women, concealing important divergences of practice and aim.' (1999:30). This may hold as true today as it did in 1999. It would appear that confusion arises from every corner when attempting to define RJ, with some articulating their definition as a process-oriented definition or an outcome-based definition or one based on strategic intentions such as reparation, rehabilitation and satisfaction. Further confusion is brought about by differences in whether RJ should be a voluntary process or have a mandatory component, and whether it is primarily for victims or for offenders, and even who should be involved – just the parties and the facilitators or supporters and community members too? This inevitably has resulted in a plethora of terms to describe RJ, with varied practices and approaches. Perhaps this theoretical confusion is at the heart of the lack of clarity in relation to the implementation of restorative policing as described above.

### **3.5 Underpinning Values, Standards and Human Rights**

It is necessary to pay some attention to the literature on the application of standards for RJ for accountability and quality assurance purposes, as well as the perceived strengths and disadvantages, before turning finally to set out the definition of RJ to be used in the current study, given the divergence in the literature pointed out above. Braithwaite (2002) details that:

State-sanctioned human rights are vital for regulating the tyrannies of informal justice. They are also vital for regulating the tyrannies of the police, of state-sanctioned torture and violence,' (p. 564).

He thus highlights the need to balance competing accountabilities. Braithwaite quotes Kay Pranis (2002) in her assertion that as long as the principle of listening is retained in restorative encounters, empowerment can be safeguarded against state standards (in the belief of the power of listening to individuals telling their stories). Braithwaite outlines that in articulating a set of standards, one must be careful not to stifle innovation or indigenous empowerment while allowing sufficient flexibility so practice can be adapted to cultural differences. Above all, no one party must be allowed to dominate proceedings and action should be taken to

minimise power imbalances, with attention paid to due process. Respect and an equal concern for all stakeholders are necessary with value placed on the feedback given by peers and observers who may be present. The evaluation of a restorative event with feedback from all participants, post-conference, in relation to how the conversations were conducted and the actions of the facilitator(s) is given paramount importance.

Braithwaite (2002) details the UN Human Rights instruments which give guidance on the standards that may be applied to RJ which specifies an anti-punishment stance which Braithwaite hypothesises may pave the way for a more restorative interpretation in criminal justice settings over time. Braithwaite proposes (a) constraining standards which must be 'honoured' (p. 569) such as non-domination, and (b) maximising standards which are recommended or encouraged such as restoration of human dignity and peace which could be used as a benchmark against which to evaluate practices. He further proposes some emergent standards such as an apology and forgiveness so as to actively encourage stakeholders to engage by listening respectfully, without there being an expectation for an apology to be given.

Directive 2012/29/EU of the European Parliament and of the Council (Official Journal of the European Union) Article 12 identifies the rights to identified safeguards in the context of RJ services:

- RJ only to be used if the option is in the interests of the victim based on their informed voluntary consent
- Complete and unbiased information about the process as well as details about the supervision of any outcome agreements should be provided to the victim
- The offender must have acknowledged the facts of the case
- Discussions must be confidential, other than when agreed between the parties or as required by national law.

Article 4 specifies the right to receive information from the first contact with a provider including details of support services and making complaints, and Article 25 further stipulates the requirements in respect of the training for professionals involved in the RJ process. These appear to be sound procedural safeguards to have in place, though the extent to which they are being applied on a widespread basis across England and Wales has yet to be evaluated. A

study undertaken by Zervova (2007) based on a small sample suggests that some of these standards are not consistently applied in family group conferencing with young offenders, and there is, indeed, evidence of some poor practice which these stipulations in the Directive are intended to safeguard against. Zervova reports that despite some positives which were reported by offenders, victims and their supporters, there was some overtly manipulative behaviour by facilitators such as ensuring that a participant who was likely to adversely affect the process was actively marginalised by the seating arrangements. She concludes by stating that 'it is important to resist the temptation to view restorative justice principles as absolute moral maxims applicable in every unique circumstance.' (p. 142).

The six principles of RJ as described by the RJC are widely accepted by practitioners in England and Wales and are used as part of their accreditation process. The six principles are: restoration (restoring harm), voluntarism (through informed choice), neutrality (unbiased practices), safety of all participants including a safe forum for expressing feelings, accessibility (non-discriminatory practices to ensure availability of RJ for all affected parties) and respect (dignity afforded to all parties).

More recently, the Council of Europe Recommendation CM/Rec (2018) 8 outlines eight basic principles of RJ which any RJ process should respect:

1. The focus of RJ should be on repairing harm; this is far-reaching in the SOC context as harm can extend to multiple individuals, relationships and communities which are geographically distant
2. Respectful dialogue, procedural fairness, consensus-based agreements and the avoidance of domination (by any party, including the facilitator) and 'achieving mutual understanding' need to be observed, with the latter aspect being perhaps problematic if there are polarised lifestyles/mindsets/experiences between a SOC offender and their victims from an empathy-building perspective
3. RJ must provide a 'neutral space' so as not to promote the interest of one party over another
4. The process must be entered into on a voluntary basis by the parties
5. Principles of confidentiality should govern RJ processes



6. RJ 'should be a generally available service. The type, seriousness or geographical location of the offence should not, in themselves, and in the absence of other considerations, preclude restorative justice from being offered to victims and offenders'. Hence, offence type should not automatically exclude parties from being offered RJ, which is the case with SOC in England and Wales
7. RJ should be available at all stages of the criminal justice process (though it may be considered that for the most serious SOC offences, RJ should be offered as part of an adversarial process or after sentencing as this would be in the public interest)
8. RJ agencies should be given some autonomy in relation to the criminal justice system.

In the UK, RJ can be used at any point in the criminal justice process – prior to sentencing, as part of a sentence, or after sentencing either as part of a community order or prison sentence. Marshall (1999) details how some advocate completely parallel systems to ensure that legal safeguards are protected such as individual rights, equality and proportionality but that most are in favour of a complementary process as part of an 'integrated' or 'whole' justice model (p. 8) in which communities and statutory agencies work together. There will always be a place for traditional justice where voluntary cooperation has not been secured by either offender/injured party or because the circumstances are not applicable or because mutually agreeable resolutions are not achieved at the end of a restorative intervention. Even a cursory glance at the literature in this area gives the impression that a horns and halo effect is at play whereby many (early) commentators dismiss one system altogether at the expense of the other, rather than advocate a two-tier system/complementary system. This is summed up by Cunneen and Hoyle (2010:3) who describe early advocates as 'aspirational, even evangelistic but rather unsophisticated' with a tendency to reject the traditional system as 'victim-insensitive, state-sponsored vengeance'. The researcher would not advocate an abolitionist stance and believes that the two can run parallel to each other, with much convergence. Hoyle (2010, in Cunneen and Hoyle) argues that restoration and retribution are not necessarily contradictory and indeed, both are necessary in the pursuit of justice for all participants, pointing out that there are retributive elements in restorative processes and restorative components in adversarial sentencing. Indeed, Zehr (2002) argues against a definitive split between retributive justice and RJ as it can be 'misleading' (p. 58), with the notion that pain vindicates in a retributive system and acknowledging and addressing victim

needs in a RJ context. He calls for a balance to be struck as law, due process and human rights need to be observed, but urges focus to turn to the essence of RJ:

Above all, restorative justice is an invitation to join in conversation so that we may support and learn from each other. It is a reminder that all of us are indeed interconnected. (p. 63)

From a cost-effectiveness perspective, some studies have attempted to cost RJ vs traditional justice, but there are many variables at play which vary the level of resources required such as the seriousness of the case, methods of accounting, the use of volunteers vs paid staff etc. However, it would appear that costings show that diversionary RJ is better value than the average costs of prosecution (Audit Commission, 1996). Clearly, these costings would exclude a monetary value being placed on victim satisfaction etc. It could be argued that RJ should not be measured vs traditional justice, particularly for more serious crimes where a complementary system may need to be invoked. However, this may still represent value for money in terms of lessened further offending (Shapland et al., 2011).

Walgrave (2008) asserts that RJ is very ambitious in its attempts to balance moral justice (e.g., perceptions of equity etc.) with legal justice with its safeguards to protect individuals' rights. Walgrave is in favour of some state intervention and believes that if left to the public entirely, it may lead to vigilante-type behaviour, undermining rights and freedoms. Walgrave describes the process of voluntary deliberation between the parties leading to common understandings of harm caused and the subsequent remedial action that is deemed necessary as the 'gold standard' for restorative practices. Offender willingness and motivation is crucial, leading to victim satisfaction, offender reintegration and an increase in public confidence. Imposed reparation may still be necessary where, for example, there is no voluntary cooperation for RJ (with an understanding that any imposed reparation cannot constitute RJ which relies on voluntary engagement), though it may be possible to have restorative procedural elements even where judicial coercion is necessary, according to Walgrave (2003) quoted in Walgrave (2008). However, Walgrave describes that some, such as McCold (2000), stipulate that RJ ends when coercion comes into play.

To ensure that anticipated outcomes are realised, procedural fairness governing the RJ process is key. This needs to be combined with robust quality assurance systems and a

monitoring performance framework against which a set of standards not too prescriptive as to stifle innovation are used.

### **3.6 Use of Restorative Justice in Challenging and Complex Criminal Justice Contexts**

The literature on RJ is clear that over the last two decades, practices have been extended to highly challenging domains such as large-scale violence (Allan and Allan, 2000 in relation to the healing impact of the truth and reconciliation commission in South Africa), homicide (Umbreit et al., 1999), hate crime (Walters, 2014) terrorism (Bueno, 2013), domestic violence (Nancarrow, 2006) and sexual offending (Hudson, 1998; McAlinden, 2008). A few of these examples are discussed below to illustrate the breadth of highly challenging offending contexts in which RJ has been utilised.

McAlinden (2008) is supportive of the use of RJ with sexual offences in the belief that it can impact on recidivism, but acknowledges that its use in this setting is highly controversial due to the potential for revictimisation, the potential to reinforce the power dynamics inherent in such offending, and that it may be perceived to be trivialising the matter.

Liebmann (2007) reports that hate crimes are perceived to be difficult in the RJ context as such offences tend to be predicated on prejudice and deep-seated thoughts and feelings. These entrenched views are assumed to be impenetrable by challenge or any other means; however, she argues that RJ does have the scope to break down such barriers and challenge stereotypes as it encourages offenders to see their victims as human beings. This is further supported by Walters (2014) who states that RJ in this context is not only feasible but desirable, though he acknowledges that this is not without its challenges: there is a lack of appropriate specialist training for police facilitators and examples where victims have felt marginalised from the process. Others too have reported positive findings when RJ is used with hate crimes (Coates et al., 2006).

Some successes reported in these contexts suggest that RJ is a flexible tool which can be used in a broad range of offences, including for serious criminality. However, strong views are expressed by some commentators who believe that the complex and multifaceted nature of victimhood and offending in such contexts confirms the use of RJ as highly inappropriate (Busch, 2002, in the domestic violence context and Filipovic, 2013, who states that the use of

RJ with domestic violence is ‘especially troubling’ and ‘trickier territory’<sup>21</sup>). Some similarities between SOC offending and non-SOC but serious offending are clear in relation to the issues which may make one consider the use of RJ as inappropriate – such as power imbalances, the entrenched attitudes of perpetrators and their apparent remorseless characters. However, there is yet an evidence base to be developed around any examples of the use of RJ in the SOC context (except for the one test case reported by D’Souza, 2019, which related to an organised fraud crime group and their victims).

### **3.7 What do Advocates say about Restorative Justice?**

It is necessary to examine the reported benefits for the state, for offenders and for victims. The benefits to the state (reduced prison population and reduced throughput of cases handled by conventional system) and to the offender (potential reduction in severity of sentence, avoidance of acquiring a criminal record, the opportunity to address the consequences of their offending and make amends) may appear greater than benefits to the victim. However, the benefits to victims are well-documented including health benefits (Angel et al., 2014) who report that post-traumatic stress symptoms were reduced as a result of engaging in RJ compared to a control group. Victims generally welcome the opportunity to be heard and achieve a sense of closure (MOJ, 2014).

Marshall (1999) describes the social benefits of direct mediation as being three-fold: (a) victims’ needs are better served, particularly as they are consulted; (b) each party can view the other as a person rather than a stereotype; and (c) offenders are more affected by the RJ intervention than by traditional justice of prosecution and punishment, while being afforded the opportunity to gain motivation, reform and feel that others are prepared to give them a chance and be accepted. Indirect mediation is less personal and may be less influential in affecting offenders’ motivation to change. Marshall concludes that mediation has multiple benefits and that ‘It is relevant to any offence however serious, as long as there is an identifiable victim.’ (1999:12). This is particularly relevant when restorative practices are applied to the OCG context where there are multiple victims, many of whom are not easily

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<sup>21</sup> Article available online for source quotes:

<https://www.theguardian.com/commentisfree/2013/jan/12/restorative-justice-domestic-violence>

identifiable by the agencies such as the victims of drug-dealing and cyber-crime. He continues to describe other models of RJ interventions including the use of proxy victims in groups which can provide a rich learning environment despite lacking the immediacy of one-to-one meetings (though there appears to be no evidence from his study of their effectiveness nor benefits to victims). Marshall further asserts that he believes that RJ can be 'tougher' (1999:26) in many ways than traditional justice due to the need to assume active responsibility for offending actions, facing up to the victim(s) and concludes that indeed 'Excessive punitiveness does not equate with being tough on crime.' (1999:26). Marshall (utilising Sykes and Matza's 1957 theory of neutralisation) details that being challenged by the victim with the impact the crime has had on them, makes it very difficult for the offender to continue to employ techniques of neutralisation to minimise the harm caused (such as 'they can afford it' for example) and thereby face up to the reality of the impact their actions have had. Victims also perceive mediation programmes as being fair when they have gone through the court process, concluding that with the correct safeguards/measures, restorative solutions may provide a more complete sense of justice for the victim.

Most victims, if offered the opportunity to meet with their offender would like to do so (Marshall & Merry, 1990) and would reflect on their experience as worthwhile. High levels of victim satisfaction are recorded (Umbreit et al., 2007), particularly where there are face-to-face meetings between victims and offenders. Increased feelings of wellbeing are reported, with a lessening of the fear of re-victimisation (Umbreit and Roberts, 1996). Completion rates with reparation agreements are reported to be very high, though timing from a victim's perspective is important – the victim should be ready to participate and not have to fit in with criminal justice timescales. Marshall notes the high rates of indirect mediation in Britain in the late 1990s and hypothesizes that this may be due to the reluctance of victims to meet face-to-face with their offenders, practitioners' concerns that they are putting pressure on victims to take part and being over-cautious, and mediators preferring this method because it is easier/quicker. Marshall states that 'It has to be remembered that many victims may be dubious about the idea at first but in retrospect are usually pleased to have taken part.' (1999:28). This too is particularly relevant in the OCG context, as many victims in D'Souza and L'Hoiry's (2019) study said that they did not want to take part, expressing reservations in the

first instance. However, the experts surveyed repeatedly said that this was to be expected and is often the norm, before victims express a desire to participate voluntarily and willingly.

Strang (2002) details the following positive impacts on victims: feeling safer after conferences, reduced fear and anger, increased sympathy and sense of security, stronger feelings of dignity, self-confidence and self-respect, and allayed desire for revenge. Receiving an apology is also deemed significant.

Hoyle (2010) presents the case for RJ, stating it holds offenders to account, enables community involvement and puts the offence in the wider social context of deprivation and poor education for example, so that recognition of such issues allows participants to see beyond the simple labels of 'offender' and perhaps see the vulnerable individual who too has suffered harm. A respectful culture is fostered so that the multiple harms suffered by participants can be acknowledged and addressed.

Small positive effects on recidivism rates for direct meetings between harmed and harmer have been highlighted in Home Office research, using matched samples of offenders, with offenders being markedly emotively affected by the experience (Dignan, 1992). However, this study did not demonstrate the extent to which such effects last, once offenders return to their routines and peer groups. In the USA, Umbreit (1994) showed a 33% reduction in reoffending over one year when they evaluated four programmes. Marshall cites Morris and Maxwell's (1998) study in New Zealand which found big differences in reconviction between those who felt constructively engaged in family group conferences and those who felt it was a negative and shaming experience, the latter going on to reoffend. Marshall states that the quality of the process is all-important with the feelings of participants being that the quality of the process is crucial. A study undertaken by MacKenzie and Farrington in 2015 found that interventions based on restorative methods are effective as opposed to those based on surveillance, discipline and control. They examined randomised control trials, systematic reviews and meta-analysis undertaken in the decade prior to publication. Sherman et al. (2015) in their study in Australia and the UK found initial reductions in repeat offending for the majority of those assigned to RJ conferences group (relative to the control groups, RJs did not demonstrate it reduced recidivism for property offences, but consistently did so for violent offences), compared to the control group, with nine out of ten successes noted for

cases where there were personal victims, with evidence of reduced trauma and post-traumatic stress. Furthermore, they concluded that conferencing was most effective at reducing reoffending, with police-led conferencing resulting in significant short-term and longer-term benefits for all participants across a range of offence categories and stages of the CJS. The authors also highlight cost-effectiveness in all UK experiments. Miers et al. (2001) also found potential efficiency and cost savings in relation to the use of RJ. The Matrix Evidence (2009) claimed that RJ would result in net benefits of over £1 billion over a decade, while diverting young offenders into pre-court RJ conferences (rather than community orders) would result in lifetime savings to the taxpayer of approximately £275 million – equating to £7,050 per offender. Implementation costs would be recouped in the first year. Rosetti and Cumbo (2010:29) found:

If restorative justice were offered to all victims of burglary, robbery and violence against the person where the offender had pleaded guilty (which would amount to around 75,000 victims), the cost savings to the criminal justice system – as a result of a reduction in reconviction rates – would amount to at least £185 million over two years.

Advocates claim that the alternative of punishment is ineffective at reducing crime as it perpetuates criminal behaviour and does not deliver victim-centred justice, which is overlooked.

### **3.8 What do Critics say about Restorative Justice?**

Johnstone (2002:7) raises a strong note of caution, stipulating that when using RJ, we ‘need to be alert to the ways in which it could make things worse’. RJ as an option may be unattractive to some victims who believe that they have to relinquish their legal rights to a court process to take part, though Morris (2002) highlights that practice guidelines have to be adhered to by practitioners to safeguard against this, and the values of RJ would preclude the erosion of such rights. Others fear that insurance claims may be affected by any potential reparation by the offender, though it is noted that victims do not generally want financial or direct work reparation. Victims consistently tend to want emotional reparation, rather than material compensation, as outlined by Strang (2001). Marshall (1999) suggests some victims feel coerced into taking part (though a universally accepted value is one of voluntary

participation), with secondary victimisation a real possibility due to the offender not accepting full responsibility, expressing remorse or completing the agreement. Cunneen (2010) refers to 'restorative coercion' (p. 135) which may make victims question the sincerity of apologies given and leaves the author wondering about the alleged cathartic impact and empowerment victims are supposed to experience. She further postulates that there is a gap between the theoretical aspiration of placing victims centre-stage and the operational reality, as much RJ occurs without the victim's presence (which would constitute restorative practices, rather than RJ). Walgrave (2008:25) cautions that victims would be 'reduced to a tool for the offenders' rehabilitation'. Many offenders, despite pleading guilty, are heavily defended at the outset of a rehabilitative sentence with justifications and minimisations of their offending - if the offender does not, in fact, accept any responsibility for their offence(s), the victim could experience this as damaging, tantamount to secondary victimisation. However, the justification and minimisations could be addressed as a direct result of participating in the restorative intervention and would not necessarily need to be broken down by practitioners prior to such a restorative intervention. Clearly, victim-centred justice needs to get the timing right, so that there are opportunities for victims at different stages of the process to opt-in to RJ, with real informed voluntary choices about their own level of involvement. Furthermore, critics often point out that RJ is not able to address power imbalances, but Morris (2002) suggests that procedural fairness and challenging the powerful and supporting the less powerful may mitigate against this. In my view, all of these cautions expressed in terms of the victims' experience should be avoidable if competent, skilled, independent mediators operate the process well and prepare victims for the experience. They do not necessarily represent a failure of RJ as a concept.

Historically, RJ appears to have been used mostly for minor offences with a widely-held belief that it is not suitable for dangerous/violent crime, particularly for sexual offences, hate crime and domestic violence as detailed in the House of Commons Justice Committee's 4<sup>th</sup> Report (2016). Its use in domestic violence cases is contested, critics saying that it returns the crime to a private domain, where (male) perpetrators can be expertly manipulative toward their (female) partners. Hence, the eligibility of using this approach for all crimes is not clear-cut and may at first appear potentially limited, though it has been used successfully for homicide and for other serious crime (see Shapland et al., 2011). Marshall (1999) refers to the



perception of RJ being unsuitable for (a) serious offences (b) offences committed by adults, and (c) offenders with an offending history, to be flawed. He points to successes with adult recidivists who have committed serious crime and concludes that participants' attitudes and motivations are more important than characteristics such as age/legal offence. However, Cunneen (2010) makes a strong statement when she says: 'The idea that a victim of serious crime can resolve his or her grief and loss through a meeting with the offender can be seriously misplaced.' (p. 138). She appears to suggest that RJ may trivialise the enormity of the impact of serious offences and the process required to reach a reconciliation.

Marshall describes how cases are normally selected in accordance with offence characteristics, the stage of criminal proceedings and the offender, and how practice is biased towards offenders and not victims, and that, in fact, this should be leaning towards meeting the interests of the victim. Recent legislation such as the Victims Code (2015) and associated guidance stipulates that every victim (regardless of the type of offence that they have been a victim of) should be afforded the opportunity to engage in a restorative option, should they so wish, and not be excluded by professionals by dint of their particular immediate reaction, or the type of offence they have experienced. This is an attempt to change the culture prevalent amongst practitioners and the organisational culture in which they work – to consider RJ in all cases. However, it may be that there are indeed limitations to the applicability of this approach, for example, for those offenders with a diagnosed personality disorder where they are not capable of feeling nor demonstrating empathy for others, though it is suspected that numbers would be very small. It must be noted that this belief is speculative and not based on empirical research.

Shapland et al. (2011) point to the prospects of potential net-widening (inclusion of cases which may not have met the thresholds for criminal justice sanctions in an attempt to refer cases to RJ schemes), the potential for power imbalances to be perpetuated between all stakeholders and the potential for inappropriate use of information gleaned from conferences such as intelligence to inform policing activities. It would appear that in the absence of legislation, it is difficult to consistently regulate individual cases, though state-defined standards can play a key role.

Some critics have cautioned that usage of RJ for minor offences may lead to net-widening, though Morris (2002) cites numerous examples where RJ is used in serious and complex contexts, while not dismissing the notion when used as part of police diversionary schemes (citing Young, 2001). Furthermore, some critics believe that police-led RJ extends police powers so that they become sentencers and prosecutors (Young, 2001, in Morris, 2002). A perception that RJ is only applicable to minor offences may also be a hindrance and Marshall asserts 'practice has shown that there may be even more to gain by working in this way with serious crimes, especially in terms of victim benefits, but also in terms of prevention.' (1999:8–9). Marshall details how it is perceived to apply to youths only and not adults and with first-time offenders and not recidivists, though there has been significant change in the last two decades with the application of RJ to more serious and complex crimes such as domestic violence with adult perpetrators, where patterns of offending behaviour are often entrenched. These are all the more relevant to the serious and organised crime context, where perhaps many may view this type of offending to automatically exclude the use of RJ on the basis of the above.

A report by the Restorative Justice Committee of MPs published on 1 September 2016 pronounced that current RJ schemes were a "postcode lottery" (p. 3) despite the Victims Code stipulating that all victims have the right to be informed of schemes. It further expressed doubts about the use of RJ in the case of sexual offences, domestic abuse and hate crime. It is notable that serious and organised crime is not mentioned in the report – often placed in the "too difficult pile" by practitioners (D'Souza and L'Hoiry 2019) and policy-makers. This is despite the known impact of organised crime activities on (a) multiple victims and sometimes whole communities (in *One Step Ahead a 21<sup>st</sup> Century Strategy to defeat organised crime* published by the HO in March 2004):

Organised crime reaches into every community, ruining lives, driving other crime and instilling fear. At its worst, it can blight our most vulnerable communities driving out innocent residents and legitimate businesses (p. 1), and

(b) the evidenced potential for RJ to reduce reoffending and provide victim satisfaction. This report states that '... while restorative justice will not be appropriate in every case, it should not be excluded simply by reason of the type of offence committed.' (Summary, p. 3) The

report urges the government to 'work towards' (Summary, p. 3) establishing a law that enables *all* victims to access RJ, should they wish to do so.

Marshall (1999) outlines other limitations of RJ, namely the concept of communities, which are no longer as close or cohesive as perhaps they once were, with division between social groups and much heightened inequality and social injustice at play which limits the extent to which communities can be supporting or controlling. Cunneen and Holye (2010) stipulate that communities can be about exclusion, e.g., the rich excluding the poor. They conclude:

Indeed, the problem is that restorative justice can become what it opposes: a practice which excludes individuals because they are without community or without the *right* community. (p. 175).

Shapland et al. (2004) evaluated three UK projects and summarised key difficulties that we can learn from: maintaining an adequate number of referrals, victim involvement is problematic, recruitment of facilitators is challenging, and cash flow is a crucial problem in scheme-survival. They advise that difficulties in receiving referrals indicate that long lead-in periods are necessary to embed practice of referring, i.e., short-term funding is insufficient.

Morris (2002:605) concludes that

A process, no matter how inclusionary, and an outcome, no matter how reparative, is not likely to magically undo the years of social marginalization and exclusion experienced by so many offenders...or remove the need for victims to receive long-term support or counselling. Restoration requires an acceptance by the community more generally that the offender has tried to make amends and the provision of programmes that address drug and alcohol abuse, the lack of job skills and so on.

Marshall (1999) emphasises the importance of the quality of the process being key to success, citing Morris and Maxwell (1998) whose study demonstrated that offenders who felt shamed rather than positively engaged in a family group conference were more likely to reoffend subsequently. Strang (2002) lists lessons to be learned from failed conferences: poor police interventions (e.g., over-estimating degree of responsibility assumed by offender), poor preparation of victims and offenders, poor conference organisation, poor facilitator training,

poor follow up/monitoring of conference agreements and focusing on offenders at the expense of victims.

Marshall also highlights the importance of partnerships, specifying that a superficial/failing one may cause detriment to community confidence vs no partnership at all. Emphasis is also placed on flexibility and creativity in RJ, i.e., having the freedom to deliver a bespoke service dependent on circumstances and issues that pertain to a case.

Furthermore, lack of resources and available expertise may also be problematic. Others fear not only the erosion of individual rights and protection by the law, but also that victims may be encouraged to be involved for the benefit of offenders (Davis et al., 1988). The potential for re-victimisation (also referred to as secondary victimisation) is also a concern as is the timing of conferences to ensure that they meet victim needs. Safeguards that are mentioned must include the voluntary nature of participation for both offenders and victims if both are to benefit from the process.

### **3.9 Two Conceptually Challenging Domains: Restorative Justice and Serious and Organised Crime**

Van Ness (2002:131) discusses what he calls 'degrees of restorativeness' and presents a RJ model as a continuum with different process-based and outcome-based elements, which when combined, can denote that an intervention has been fully, moderately or minimally restorative. The attributes of restorative processes are identified as (i) being inclusive of all affected parties rather than excluding stakeholders (ii) taking into account the interests of all affected parties and not to the exclusion of only one party (iii) being voluntary in nature without a mandatory or coercive element, and (iv) adopting a problem-solving, future-focused ethos rather than a punitive orientation. Restorative outcomes include having a dialogue between parties who have not experienced separation as a result of adversarial processes, making amends through for example an apology rather attempting to make the offender pay for his or her crimes, integration back into society rather than ostracising or alienating by imprisoning or stigmatisation, and a focus on uncovering the complete truth rather than one shaped by the penal system. Using this framework, Van Ness suggests that an opinion can be formed about the extent to which an intervention has been restorative and

may be useful as a tool to evaluate the impact of RJ interventions in both SOC and non-SOC contexts.

Cannito (2008) outlines the difficulties in applying RJ to the mafia context, which *may* shed some light on the UK context, despite very different cultural contexts:

- a) RJ relies on visible participants with clear distinctions between offenders and victims, but in the mafia context, it is not easy to identify perpetrators as mafia organisations tend to be secret organisations, with indistinct or ambiguous alliances and networks
- b) Mafia members may be considered to be victims, often feeling trapped into the very powerful subculture, fearing reprisals if they desist from crime (both to themselves and to their families) and a feeling of powerlessness against the strength of the mafia structures and organisation
- c) There is the potential for RJ not to be successful in overcoming the clear power imbalances, increasing the risk of re-victimisation and potential isolation, and increasing what is termed the '*risk of de-valuing severe traumas*' (p. 126) by engaging in such intervention
- d) There are potential problems when utilising RJ to overcome the significant and deeply-rooted culture of Omerta (described as a '*culture of silence*' (p. 126) which is based on intimidation and discourages those involved in speaking openly about their criminal activities
- e) RJ facilitators would require bespoke training in order to recognise the somewhat unique traumas suffered by mafia victims due to the nature of the complicated social conflicts
- f) The author questions whether RJ can provide the necessary robust security and support measures for the victims (and the researcher would add offenders)

Mannozi (2013:191) outlines how in the Italian context, any attempts to deploy RJ in areas affected by organised crime may be thwarted:

- a) As it may enable perpetrators to employ '*techniques of neutralisation*' to justify their illegal actions and distance themselves from truly recognising the harms caused to their victims

- b) It may create very pronounced imbalances of power between the parties; the “level of violence” to which victims are subjected to is so great that they are generally silenced or inhibited by fears of reprisals, either direct or indirect, and are reluctant to report crimes to the police’ (2013:191)
- c) Offenders may feel “honour-bound” to refuse RJ participation

Both of the views presented above are specific to the Italian/Mafia context, but may arguably be relevant to the British OCG context, albeit not to the same extent. This demonstrates some of the operational challenges of carrying out RJ processes in the OCG context.

It becomes clear that for this study, two conceptually challenging areas are being studied and brought together: RJ and SOC. As discussed in Chapter Two, there is no globally accepted definition of organised crime and much debate continues about what constitutes serious, organised and serious, and organised crime (Finckenauer, 2005). It would appear that there are some similarities in the way that the concepts are being discussed by scholars and this is reflected both in policy and practice:

1. There is an increasing focus on meeting victims’ needs within RJ practices (with the notion described as the victims’ movement) and an increasing focus on vulnerability with how SOC is mapped with the inclusion of county lines, Human Trafficking and such offences which clearly mark the boundaries of SOC offending as high harm and high vulnerability. Hence, both consider the impact of offending, though the conceptualisation of SOC particularly from a legal and government perspective remains largely offender-oriented.
2. In addition, another aspect where the evolution of the two concepts may mirror one another is the extent to which crimes committed are perceived at a theoretical level against the state or against the individuals and communities affected, with the RJ model of conferencing, for instance, clearly responding to crime in the latter sense. The response in relation to the SOC Strategy would suggest that while harm and vulnerability are clearly recognised, the policing response (with a dominance of disrupting organised crime groups) retains the status quo as crimes against the state. Hence, while the direction of travel in relation to the two concepts are the same, the pace of development and emphasis is different.

However, there are some key differences too in the way that the concepts are developing over time. The extent to which community engagement is deemed important is clear in relation to the state's response. With RJ there is much described (see comments above in relation to involving the community and recognising the need to involve community members in restorative interventions) to suggest that citizenship is deemed important as part of the overall response to crime. With SOC, the SOC Strategy is clear that whole communities can be blighted by such crimes and is part of the Prepare strand of work. However, there may be a gap in relation to the overall focus of police experts who may focus more on Pursue and this, in part, may be influenced by the legal definitions described in Chapter Two. Clark (2005) identifies that problem-oriented policing needs the SOC concept to be re-conceptualised in sociological terms so that a more operational response can be articulated in the form of a community-based policing response. Clark states that the definitions have been proffered to make sense for legal contexts and not for the purposes of defining a social response to the issue. He concludes that 'Third party relationships are essential in dealing with the issue of organised crime in the holistic manner required to undermine its power within a community.' (Clark, 2005:107).

A point to note about language is raised by Liebmann (2007:19) who asserts that the words 'offenders' and 'victims' are used, but they are 'roles in situations' and 'not labels for life' which is important if one is to see all the participating parties as holistic individuals who may play several roles in life. This may be important in the overall discussion about integration/reintegration into society for both offenders and victims in both the SOC context and the non-SOC context.

### **3.10 How RJ is defined for the purposes of this study**

Having considered all the forms of RJ set out in the literature review above, it was important to bound what forms or processes of RJ would be included in the current study. For this study, RJ takes the form of a reparative, professionally-facilitated dialogue between offenders and victims in a criminal justice context, and includes letters of explanation or letters of apology, shuttle mediation (with an independent, trained facilitator acting as a conduit between the parties (with identified direct victims), relaying messages and views to enable a conversation to take place) and face-to-face conferencing where each party, should they so wish, has

supporter(s) present to assist them. This is to be distinguished from victim–offender mediation where typically supporters are not present. Hence, this study examines the process and outcomes only where a dialogue is facilitated between offenders and their direct victims. In these forms of RJ, restorative outcomes are often recorded in the form of formal agreements between the parties and can include an apology, efforts to be offence-free, and amends to the victim and the wider community. The process is a voluntary one with the consent of all parties. Hence, from the definitions surveyed here, Marshall’s (1999) internationally recognised definition fits best with the criteria described for this study and is adopted for the purposes of this piece of research.

Given the complexities of working in the SOC context, where offenders may be linked and there may be multiple victims, some of whom may not have been identified by criminal justice personnel, it is necessary to identify the key restorative components which will apply in this study:

- Only offenders who have been convicted and sentenced for OCG-related offences will form part of the sample groups and, as such, the definition is confined to criminal offending (as opposed to wider anti-social/neighbourhood dispute-type cases). Hence the restriction is to offences committed as part of SOC, not to any other offences which a member of an OGC may have committed in any other context or time.
- Those offences where it is not possible to identify a victim by name will be excluded and, as such, the sample of cases being analysed is confined to approaches where an offender and direct victim have the potential to have a dialogue, though this in turn would not be confined to a face-to-face interaction and could include letters of apology and shuttle mediation for example. By necessity, this study and the definition adopted for its purpose will not be concerned with offences that are known to have a community impact (with unknown individuals being affected), but no direct victim. As such, my definition will include interventions such as face-to-face conferencing (where both parties can bring their supporters to the event), shuttle mediation (where facilitators convey information between the parties) and letters of apology, i.e., where it can be determined that a two-way exchange or dialogue has taken place between the offender and their direct victim (though the victim may choose to nominate another individual such as a friend or employee to attend on their behalf to represent



their interests and thoughts). Where victims express a desire to engage in such an intervention and the offender declines or withdraws (as is their right, as one of the defining principles of RJ is voluntary participation), a proxy offender will not be used (i.e., someone else who is not their direct offender but has been convicted of similar OCG offences), as the research evidence suggests that the victim would not be able to derive satisfactory answers about why they were targeted.

- Because of practical constraints and the need to be able to identify whether the offence was committed as part of OCG activity, this study will focus on RJ delivered post-sentence only. Due to the stage at which contact will be made with offenders in prison and the community, RJ pre-court as a diversionary measure or post-conviction and pre-sentence will not be considered.

The wide appeal of the definition by the RJC in this context is noteworthy for its references to positive restorative intentions and conflict resolution, but does not provide the perfect fit for this study for the reasons outlined above; it has been difficult to adopt a published definition wholesale, and for this reason, the following can be noted as directly applicable to this study:

Taking the above requirements into consideration, restorative approaches for this study will be defined as the voluntary participation (key tenet of restorative interventions) between convicted offenders and their direct victims (and/or their nominated supporters) in a dialogue designed to promote a sense of victim-focused justice (perceiving both offenders and victims in this context as being victims in their own right) which relies on procedural fairness (adopted from Marshall's 1999 definition) and utilises a problem-solving approach (taken from Marshall's 1999 definition) to focus on repairing the individual harms experienced (influenced by Walgrave's 1999 definition and Zehr's 2002 definition which includes the notion of 'putting things right') which have been caused by the organised crime offending (influenced by Walgrave's 2008 thinking of interventions being restricted to an option for pursuing justice after the occurrence of an offence). The outcomes sought include increasing offender accountability (taken from Marshall's 1999 definition), encouraging 'pro-social behaviour' (Hoyle, 2010:25) and promoting victim satisfaction and potential victim re-integration (influenced by Marshall's 1999 stipulation of meeting victims' needs).

Despite the lack of consensus and confusion in the literature as to what is RJ and what its benefits may be, what is clear in terms of the values of RJ is that the process adopted in the current study ought to be a process governed by mutual respect which is afforded to all stakeholders, having informed consent, and participants being given the opportunity to exercise choice and safety – this goes far beyond physical safety as it also extends to psychological and emotional safety.

### **3.11 Summary and Conclusions**

Walgrave (2008:16) sums up the views of others about the definitional challenges presented in this chapter:

Given its diverse roots, its broad field of implementation and the current variety of forms, it is not surprising that restorative justice does not appear as a clearly defined set of thoughts and implementations, but as a rather confused, seemingly even incoherent, assembly. Adding to the confusion are apparently similar movements, under banners such as transformative justice, relational justice, peace-making justice and the like.

As Zehr (2002:10) states in his myth-busting section on what RJ is not, RJ is not a ‘panacea’ for problems across the criminal justice system nor designed to replace the adversarial system, but if implemented and resourced correctly, it appears to have the potential to improve a sense of justice for victims and encourage a degree of empathy in offenders. Many of the criticisms appear to be a result of poor implementation/practice, rather than an inherent fault in RJ as a concept. Shapland et al. (2011) make a plea for a balance to be struck between stark idealism and comparisons with retributive justice, a balance which reflects the real world, stating that RJ

... needs to develop practices, legislation and standards which will allow it to function within imperfect societies, with potentially damaged people, alongside the criminal justice system in that society, and still promote as far as possible its major values of inclusively, communication, taking responsibility, problem-solving and healing (p. 68).

Given the sharply contrasting views of academic critics and advocates of RJ, it remains to be seen how these views will be the same or be at variance with the RJ experts and police SOC

experts to be surveyed in this study, as practitioner and managerial perspectives will be sought. It would appear that SOC is one domain of offending which has been precluded from academic RJ discussions within the serious and complex offending contexts, and it remains to be seen if the factors which have led critics to question the viability of the approach in such challenging contexts also consistently applies to the SOC environment.

## **Chapter 4: Research Methodology**

### **4.1 Introduction**

This chapter outlines the research methods and underpinning rationale for the approaches adopted for the various aspects of this study. The research draws on a mixed methods qualitative-dominant design and is summarised in the 'Mixed Methods Approach: A Summary' (Figure 1) at the end of this chapter. The research aims and objectives as well as the research questions will be re-stated before a description of the researcher's epistemological and ontological considerations are detailed. Included are some reflections of the researcher's insider-outsider position as a police civilian employee and a doctoral research student, and strategies deployed to mitigate against "the downside" of this researcher positionality. Detailed explanations of how each aspect of the study was carried out (to ensure replicability) is given, as well as the underpinning rationale behind the choice of methods selected which best answers the set of research questions. How the data was analysed is documented, followed by a discussion of the ethical challenges pertaining to the study. This chapter concludes by outlining some of the limitations of this study arising from the methodological approaches adopted.

### **4.2 Aims & Objectives**

The overall aims of this research were to test whether it was feasible to pursue restorative approaches within the serious and organised crime context, with the unconfirmed speculation that this was not established policing practice and that there may be no/few actual examples of such applications across England and Wales. Having jointly carried out a pilot study (D'Souza and L'Hoiry, 2017) as part of the N8 Policing Research Partnership (a collaboration between 13 northern police forces and 8 universities) as a precursor to this study, it became evident that some of the limitations of the pilot study needed to be addressed. In addition, further research was required so that explorations of the concept went beyond gaining views of the key participants in RJ interventions and stakeholders through perception surveys, but a significant contribution to knowledge was made with regards to developing a model to test the concept in an operational context.

The eligibility criteria needed refinement as the pilot study interviewed any willing SOC offenders including those who had no directly identifiable victims, such as drug dealers, which dominated their sample. The current study limits eligibility to those who had identifiable victims only. Furthermore, the pilot was limited to interviewing SOC prisoners only, and so it was necessary to explore the perception of those SOC offenders living in the community to ascertain whether motivation to engage in RJ would alter if they were no longer being held in prison, were subject to everyday “normal” experiences and community-based stressors and were living amongst their actual and potential victim population. In addition, the pilot undertook a perception survey with RJ experts on a local, regional and national level but excluded the views and perceptions of SOC practitioners and strategic leads and this study sought to fill that gap. The pilot was a perception study and this current research involved asking respondent offenders and victims if they actually wanted to pursue a restorative dialogue and carrying out a small number of case studies if it proved to be the case that some individuals did want to do this. The outcome of further case studies would be to identify the specific practicalities that apply if this approach is adopted, identify what works and what does not, and begin to formulate some good practice guidance around the identification of OCGs and victims with whom this approach is likely to work, the process issues and the likely outcomes of adopting an innovative approach. In this way, the current study sought to address some of the key shortcomings which were identified by the authors of the pilot in its methodology while posing new research questions to develop the body of knowledge around the potential applicability of RJ in this new context. In particular, how SOC offenders and victims respond to the offer of engaging in RJ was of interest to the researcher as well as what may be involved in them participating in interventions which may be different had they been non-SOC offenders and victims.

### *The Research Questions*

The primary research question was: Can restorative practices be applied to members of organised crime groups (OCGs)? This question was based on the conclusion that there were no published examples of such applications in the academic literature. ‘Google Scholar’ as well as searches on the university databases for the Social Sciences and the Web of

Knowledge (StarPlus) using the following combination of key words: ‘serious and organised’, ‘restorative justice’ and ‘restorative approaches’ did not yield any relevant results. There was one reference by the Restorative Justice Council (March 2016:7) which hinted at the potential possibility of SOC being a subset of sensitive and complex crimes, while not using the terminology of SOC and not necessarily being aligned with the Home Office definition of the concept (see Chapter 3):

Sensitive and complex cases are those involving actual (or threats of) serious or sexual violence, vulnerable participants, domestic abuse, risk of continuing harm (or intention to cause further harm), harm caused over a long period (over three years), more than three perpetrators or victims or multiple agencies. (RJC 2016:7)

However, the guidelines do not extend to detailing what may be involved in the context of serious and organised crimes when RJ is utilised or recognise members of OCGs as a distinct subset of those who are involved in perpetrating offences in this way. The researcher speculated that RJ had not been utilised with SOC for a number of reasons: it had simply not been considered or rejected as an inconceivable concept to apply in the SOC context; there is a presumption that it would be impossible to address the real/perceived power imbalances between the parties; that SOC offenders are career criminals that are entrenched in their criminal lifestyles and therefore not motivated to change or willing to admit the extent of their offending; and the impact they have on victims and the community (see Chapter 1). One of the key thoughts around the exclusion of RJ with SOC is that it would be difficult and challenging, if not impossible, to adequately safeguard the victims and that it may even be considered inappropriate to place ‘harmed’ and ‘harmers’ in the situation where a dialogue between them is encouraged as it may lead to re-victimisation and trauma – this time as a direct result of an attempted intervention by well-intentioned practitioners.

In order to answer this broader question, the following subset of research questions were identified:

1. Are there examples of practice or application anywhere in England and Wales known to police or co-ordinated by the police forces, or does this study represent a true innovation in terms of exploring the concept?
2. What are the views of SOC experts about undertaking RJ with organised crime groups?

3. What are the views of RJ experts about undertaking RJ with organised crime groups?
4. What are incarcerated adult OCG members' views of taking part in RJ?
5. What are current and former SOC offenders' views of taking part in RJ? Are there differences in motivation when OCG members are living amongst their actual/potential victim population? What is the potential influence of the OCG itself and the type of OCG?
6. What are the views of victims of OCG activities in relation to taking part in different forms of restorative practices?
7. What happens when offenders and victims are given the opportunity to participate in RJ? Can RJ be used safely in this context? How does each party reflect on what was achieved?
8. What can be learned about the way that SOC is conceptualised and subsequently "policed" through a close examination of the profile of mapped organised crime groups in the north-east which may shed light on the deployment of RJ in this context?

### **4.3 Epistemology and Ontological Considerations**

It is important to know of the assumptions made by the researcher in designing the study and the meaning conferred to events and words spoken by respondents as these fundamentally affect the outcomes of the research. Miles et al. (2020:7) states that how the researcher's personal values, beliefs and attitudes influence research 'cannot be avoided'.

Epistemology is concerned with how we know things and what can be perceived as acceptable knowledge in a specialist subject area, according to Walliman (2006). Its primary concern is about how one should study the social world, either utilising a scientific empirical approach or an approach which accommodates the qualities of people and their experiences. Hence, knowledge can be acquired through:

(a) Theory construction: termed empiricism using either inductive reasoning (going from the specific to the general in order to generate a theory, necessitating the need for specific

observations from which general conclusions can be made in sufficient quantities of observations over time), or

(b) Theory testing: termed rationalism using deductive reasoning (going from the general to the specific to test a theory, necessitating the need to begin with generic statements and utilising logical arguments in order to arrive at a specific conclusion).

This study is neither inductive nor deductive in its entirety. For some aspects of the study, the view is taken that social actors influence the social world and the data collected has been influenced by pre-existing RJ theories, adopting a deductive stance (e.g., that RJ has been successfully applied in many serious and complex crimes and thus it can be deduced that this can be applied to the SOC context). While many qualitative studies are primarily inductive in nature, this study is dominantly deductive as the basis of the thesis has been deduced from existing theories. Hence, this epistemological stance shaped the choice of methods when interviewing respondents; semi-structured interviews were used to engage with experts, offenders and victims so that the researcher could gather their views (particularly as both RJ and SOC concepts are definitionally problematic) and make sense of what they were saying, e.g., experts' views of whether RJ should be attempted in the SOC environment and, if it were, what outcomes may result. Semi-structured interviews and focus groups were used to gain perception data as this most closely answers the research questions in a consistent and coherent manner. The methods used were based on the belief that social reality is 'socially constructed' (Seale, 2018:114) and the result of subjective experiences which are subsequently interpreted; hence, the collection of subjective accounts focusing on individual respondents' insights forms the basis of this study. The focus of this study has been on the process and outcomes for participants – including professionals – and the quest to find out what offenders, victims, RJ facilitators and organisational representatives think in the belief that thoughts and feelings about matters determine actions.

For other aspects of the study, there are inductive elements such as the use of the case studies where participant observations were made over time on a number of specific cases to form some conclusions about the feasibility of utilising RJ in this context. Linked to these epistemological beliefs, thematic analysis was deployed to examine what respondents thought and identify the key themes that were relevant to this subject area in relation to their



world views. In the process of identifying themes which are explored in the existing literature, new themes emerged too such as SOC not being a stand-alone offending context, but in fact part of all serious and complex offending contexts, i.e., a subset of serious and complex offending and ought to be considered as such within RJ theories. This process of identifying new themes had an inductive reasoning component as specific comments made required the researcher to go from the specific to the general to generate the theory that work in this area should be subsumed under the existing category of RJ work. As is evident, the epistemological stance is an evolving one, with different perspectives relating to different aspects of the empirical fieldwork and analysis, though a predominantly deductive outlook is used.

Ontology is about 'the theory of social entities and is concerned with what there exists to be investigated' (Walliman, 2016:12). Hence, two divergent views are that the social world should be studied as being external to people over which they exert little/no control but which influences their cognitive-behavioural functions, or, that people indeed influence the social world in which they live, with that social world being a production of social interaction. Walliman describes two theoretical stances in relation to these two ontological perspectives:

(a) objectivism – where phenomena are not dependent on social actors and therefore focuses on the formal properties of structures as they are independent of those social actors, or

(b) constructionism – where it is believed that phenomena are constantly evolving as they are reliant on social interactions and therefore focuses on the way that people create their own structures of reality.

In this study, a dominantly constructionist perspective has been adopted in that the process of understanding what is going on was an iterative and qualitative process dependent on respondents' actions/behaviour, e.g., how they responded to interview questions and how they perceived being offered an RJ intervention by a police researcher. Other aspects of the study such as the NPCC national survey asking if forces had used RJ in the SOC context relied on a quantitative analysis.

The concept of realism is relevant to this discussion: realism as described by Bryman (2016) refers to two camps of sociological thoughts (a) a belief that both natural sciences and social sciences should adopt the same kinds of approaches to research, and (b) a belief in an external

reality “out there” which should be studied and is, in fact, separate from researchers’ descriptions of it. Where it is assumed that there is a close marriage between reality and the terms utilised to describe that reality, the concept is called empirical realism. This study employs a critical realism approach, a concept commonly attributed to Roy Bhasker in its origins in the 1970s. This recognises the reality of natural order and the need to identify the specific constituent parts that generate those events. Bhasker, in Bhasker and Hartwig (2010), argues that in order to understand these social structures, it is necessary to carry out practical and theoretical work in the belief that even if these separate components are not directly observable, they can be absorbed into theory as their effects can be seen, i.e., that social structures are real existing units with causal properties. Lopez and Potter (2005) explain that this notion is disputed by other theorists who agree with Bhasker that social structures are real, but they reject that they have causal strengths as causality rests with individuals through their narratives. As such, a positivist perspective is rejected on the basis that such work cannot be value-free and objective. The researcher adopts an interpretivist perspective (Seale, 2018) for some elements of this research as it was necessary to interpret the actions of offenders, victims and practitioners and view the social world from their respective perspectives. However, these interpretations of the spoken words and the actions of respondents, as well as the analysis of the data, were filtered through the researcher’s own lens, i.e., as a mature (in her 40s) Asian female police employee, and this epistemological stance inevitably shapes what is reported as part of this study. Hence, the interpretivist process is not without difficulty and this is further discussed in this chapter in the section exploring reflexivity.

For evaluating the RJ interventions which were undertaken as part of the case studies, a realist evaluation methodology was adopted, which, in fact, provides a complementary qualitative/quantitative blend in its approach (Pawson and Tilley, 2004:13). Both theorists encourage the use of both of these philosophical perspectives as the approach is “content to be pragmatic” (Pawson and Tilley, 2004:23):

Qualitative methods are often crucial to the elicitation of promising theory amongst programme architects and workers. Equally, they are often important in checking participants’ means of interacting with programmes. These do not, nevertheless, exhaust sources of theory or active ingredients of programmes or sources of information on programme outcomes. Documents, official records of various kinds,

observational material, survey-findings and so on can all find their legitimate place. In that sense realist evaluation is an inclusive approach. (Pawson and Tilley, 2004:23).

However, the analysis of NCA data of the profile of SOC offenders in the north-east has distinct positivist overtones as it does try to give a broad indication of the national picture of how OCG groups are mapped and conceptualised. In addition, part of the process of analysing interview transcripts involved quantification, e.g., frequency counts of the appearance of certain phrases or themes or words or code assigned to chunks of data. This is not unusual as most qualitative studies also include quantitative aspects (Fielding, 2016).

Critical realism suggests that observation of phenomena alone is insufficient to understand the existence of a natural order in events, but that interpretation is required so that concepts can be developed. For this study, a predominantly interpretivist stance has been adopted in the belief that the world is subjectively defined by the respondents as is evident from their actions and words spoken which are inevitably value-driven and judgement-based. A less deterministic approach is perhaps more comfortable when studying human beings in their own social settings.

As is evident, the ontological stance adopted is also an evolving one, with different perspectives relating to different aspects of the empirical fieldwork and analysis, though a predominantly constructionist outlook is used. Other qualitative methods were rejected on the basis that they would not yield the most concise answers to the set of research questions. A topic guide which could have been used to govern the commission of unstructured interviews for experts, offenders and victims would have yielded much information, but, as a very narrow set of questions had been articulated, semi-structured was deemed to give the correct balance between answers sought and giving respondents the space to explore their own views. Likert scales were used for experts to determine the strength of their views in relation to whether RJ should be tried in the SOC environment so that the overall magnitude of views could be ascertained. Broadly speaking, the same set of questions were asked of both sets of experts and of both offenders and victims to ensure comparability and divergent views could be identified and analysed with ease, without stifling responses with closed questions.

Thematic analysis was the main method of analysis adopted for this study for the analysis of transcripts. A constructionist perspective was apparent as the researcher wanted the views of experts, offenders and victims and the meanings that they ascribed to events. As new themes were formed as a result of the coding framework, which had not been previously identified and not featured in existing literature, an inductive stance was utilised. As such, a highly interpretivist stance was adopted in analysing findings with a heavy reliance on making sense of what was being said.

The mixed methods approach adopted has exposed the researcher's differing epistemological and ontological orientations as well as her dominant beliefs in how the social world should be investigated and what exists to be explored by social scientists. Bryman (2016) summarises the oppositions of theorists who believe that each method selected by a researcher communicates their epistemological and ontological position so that if one deploys a combination of approaches, a conflict about how the social world should be explored becomes apparent. When both a quantitative and a qualitative component is utilised in the same study, the two paradigms are perceived to be incompatible with each other. However, he believes that each method should not necessarily be firmly wedded to an epistemological implication and that they 'are best thought of as tendencies rather than as definitive connections' (Bryman, 2016:621). It may be that it is indeed possible to have a "fused" epistemological and ontological perspective which is context sensitive so that some methods are better suited to investigate certain problems in specific environments as is argued to be the case for the current study. Furthermore, the important role triangulation plays in confirming or refuting key findings may be compromised by the adoption of a fixed view. Hence, the researcher's view concurs with Johnson et al. (2007:113) who posit that 'the primary philosophy of mixed research is that of pragmatism' and confirm the place of mixed methods as a viable third major research paradigm, alongside qualitative and quantitative methods.

### *Reflexivity*

In the spirit of research integrity and transparency with a view to strengthening the ethical aspects of this study, it is important to consider the researcher's own position (e.g., her own

biases, personal experiences etc.) to examine how this may have affected the research process, outcomes and interpretation.

Questions about reflexivity are part of a broader debate about ontological, epistemological and axiological components of the self, intersubjectivity and the colonization of knowledge.... It means turning of the researcher lens back onto oneself to recognize and take responsibility for one's own situatedness within the research and the effect that it may have on the setting and people being studied, questions being asked, data being collected and its interpretation. (Berger, 2015:220).

As mentioned earlier in the chapter, the interpretivist perspective adopted is influenced by the researcher's own personal characteristics (as a mature Asian woman who works for the police) and inevitably shapes how offenders, victims and experts' words and actions have been interpreted and the data generated analysed. Perhaps the interpretation and analysis may have yielded different ideas if the research had been undertaken by a young Caucasian male, or a researcher whose personal characteristics were a close match with those of any of the sample groups.

The researcher's various identities made her an 'insider-outsider' (Dwyer and Buckle, 2009). She was simultaneously a PhD researcher and also a member of police staff employed by Durham Constabulary, who was at a relatively senior level. This led to her enjoying several advantages, but also experiencing some distinct disadvantages as a result of this dual identity.

Two main benefits were enjoyed as a result of this insider-outsider position at a very practical level: easier access to potential respondents and easy access to personal safety measures. The challenges of access to hard-to-reach groups such as organised crime group members, both living in prisons and in the community, are considerable and documented by Hobbs and Antonopoulos (2014). The researcher's insider position made this easier with ready access to those who could enable access to the data and to the prisoners themselves on a practical basis, i.e., gaining access to go into prison and interview offenders. The Ministry of Justice (MoJ) letter of approval for this research greatly assisted the access to prisons and probation personnel and data. However, there were still some complexities to navigate in relation to access and this was most evident when working with SOC experts. Information-sharing in relation to the release of highly restricted data and access to SOC offenders and their victims

was not easy and still appeared to be a “closed” world even with insider-status as a vetted police employee who had the endorsement of the project at chief executive level. Hobbs and Antonopoulos (2014) refer to the relationship between academic researchers and law enforcement agents as ‘crucial’ (p. 99) as much information (inclusive of official data and accounts) is controlled by them and filtered before it reaches the academic, placing ‘a huge question mark on the critical faculties of academic researchers’ (p. 99). The researcher, while being a police employee, became acutely aware of this, as she presented herself as a researcher first during the course of this study and observed much ambivalence and even complete refusal to share information with her on the basis that it was restricted information and that her directly contacting respondents would cause more harm than good – something the research disproved leading to formerly reticent officers becoming strong advocates for RJ. Access to such data and respondents was only gained through gaining the confidence and trust of a high-ranking police officer in the SOC unit who then directed staff to release information. It may be that police culture and hierarchy were also at play as the researcher is not a warranted police officer with specified powers and status but is a civilian officer who may not have been afforded the same privileges on an automatic basis. Mawby and Wright in their discussion of police culture and ‘hierarchical rank structure’ (p. 234) note:

... in the development of the police organisation, civilian support staff have historically been treated as second-class citizens. (Mawby and Wright, 2008:236)

Loveday (2006) also refers to the various HMIC reports which highlight the views of police officers towards civilian staff, though this is not an issue which was particularly felt by the researcher, whether this factor was at play or not. Access to SOC and, to a lesser extent, RJ experts, was made very easy due to the researcher’s insider position and is reflected in the pleasing response rates.

There is also the need to have ready access to safety measures in order to interview those who may have aggressive tendencies towards many groups of people including those in authority and black minority ethnic (BME) individuals in a safe manner (the researcher would self-identify herself as British Asian). This too was made much easier due to the insider position so, for example, it was unproblematic to identify someone to accompany her to

community-based interviews in offenders' homes where necessary. However, on some occasions, despite being accompanied by plain clothes police officers/police community service officers, showing the police lanyards for identification purposes may have resulted in some of the attrition rate for community-based offenders who were not keen to be involved with the police.

Researcher positionality was also relevant when considering that the insider position created some differences in terms of social power between the researcher and her captive audience (prisoners). There may have been a potential power imbalance between the community-based offenders and victims cohorts and the researcher based on authority and the fact that she tended to be accompanied by a criminal justice professional and carried a laptop and dictaphone (there were several questions about how the researcher had managed to get such equipment into a Category A prison for example). There may have been an assumptive perception that the researcher in her police role could influence processes such as the outcome of deportation appeal hearings. This potential power imbalance was mitigated as much as possible by the researcher, details of which are in the Ethics section. Addressing potential power imbalances was particularly relevant when interviewing those who have experienced power imbalances in relation to the experiences which are to be discussed (experiences of victimisation by SOC offenders) and the researcher was careful not to replicate, exacerbate or contribute to such dynamics. Pillow (2003) uses the term 'uncomfortable reflexive practices' (p. 175) to make a case for moving away from comfortable uses of reflexivity, while expanding that 'reflexivity is situating the researcher as non-exploitative and compassionate toward the research subjects' (Pillow, 2003:178).

The fact that most prisoners were interviewed in the Legal Visits suites was a barrier for some too, citing that they were being viewed as "assisting the police" and were fearful of reprisals or repercussions as a result. This was mitigated as much as possible by transparency of purpose and intent in the research, details of which are in the Ethics section. For example, the Information Sheet for imprisoned offenders detailed that participation would not affect their prison status/privileges or impact positively or negatively on decisions made by the Parole Board. The Information Sheet also detailed that if, for example, interviewees disclosed new offending or further offending including during the currency of their sentence, that this

would be reported to the relevant authorities. Transparency of potential actions that the researcher may need to take arising from her police role and/or from an ethical perspective were important considerations in this study.

When interviewing imprisoned offenders, the researcher wore a police lanyard in relation to her role or showed the lanyard as proof of her identity when interviewing at homes and community centres, and this insider position with the police may have affected responses and how she was perceived by interviewees. On one occasion at a prison where she had an established routine for interviewing offenders, a rumour was evident that she was a Criminal Investigation Department (CID) officer from a neighbouring police force and this dramatically affected the response rate on the day (including from those who had already been interviewed, had given consent and were merely being followed-up to progress the research), with a clear mistrust of her. It was possible for her to allay fears using her own police force lanyard and other documentation to demonstrate that this was not true.

It may be perceived by police peers including warranted police officers and civilian staff that undertaking a significant academic research project as an employee is a luxury and not “real work” that should be carried out in work-time, but this was not experienced by the researcher; most senior leaders within the organisation were supportive of this venture, made positive comments about the research and its potential to influence national policy, and wished the researcher a safe journey, particularly at the start of the PhD, as the researcher had just completed a successful pilot. This did change over time, as momentum to retain the enthusiasm for the project waned internally with a potential view of the work been seen as being of personal benefit to the researcher rather than meeting wider organisational and nationwide goals under the Prevent strand of the SOC strategy. In part, this was due to demands inherent within the researcher’s substantive role as a civilian police officer where she is a strategic manager within the police custody division. However, she was fortunate in having the necessary support to complete the study.

Of note, may be factors that may have influenced the researcher’s dialogue with offenders and victims in terms of similarities and difference: age (older than most of the offender cohort and younger than the victim sample), gender (all offender respondents were male and it is difficult to assess any potential impact of this, but perhaps one may assume that some would



find it easier to relate to a member of the same sex) and ethnicity (most offenders and victims were white British while the researcher is Asian British which may have been a barrier that is difficult to assess). On one occasion, the SOC expert warned the researcher that the victim held racist views, and this was considered as part of the risk assessment process prior to the home visit. It would be easy to use stereotypical views of offenders to draw conclusions in relation to personal dimensions which may have assisted or hindered the interview and the case study process, but what is clear is that there appears to have been significant dialogue with the researcher and much openness. The use of interpersonal skills and relationship-building know-how is key to such a process where dialogue may centre around thoughts and feelings as well as about honesty and harm caused and harm experienced. These emotive factors need to be handled sensitively and, hence, a degree of emotional literacy is required.

Finding solutions to these types of issues was actually made easier by the researcher's insider-outsider position as an employee and a doctoral student. The support of the Chief Constable as well as the Deputy Chief Constable who was responsible for approving research ethics applications and the Assistant Chief Officer undoubtedly assisted the researcher in gaining the support of others to work with her. In addition, having a study funded by the College of Policing, the MoJ and the University of Sheffield may also have added credence to this study, aiding access and participation by professionals. This was only possible due to the researcher's employment status as a police civilian officer. However, this may also have led to a degree of researcher bias reducing the scope for an independent evaluation (McGuire, 2016) of whether RJ can be successfully applied in the SOC context as she may have been influenced by the prevailing internal view of senior leaders. However, she was aware of this and proactively mitigated against this by having an open mind.

One additional aspect that may have influenced others to have confidence in the researcher was an internal reputation for tenacity and "getting the job done" as well as knowledge that she was a former probation officer and middle manager well versed in risk assessment and confident interacting with offenders and vulnerable adults before joining the police force as a senior leader. As the researcher is a trained cognitive-behaviourist, this not only affected the choice of methods utilised for this study, e.g., the type of questions asked and responses sought, but also shaped her ability to engage with RJ experts. Specific knowledge of the SOC world through working as an intelligence analyst in a former role as well as being a guest

observer during SOC operations as part of a publicity drive by the police increased knowledge in this field, while being a trained RJ practitioner may have won the vote of those in that field. Specific knowledge and use (and understanding) of police jargon may too have played a part in the openness evident when interviewing SOC experts.

In order to navigate through a complex partnership landscape involving a diverse range of public sector organisations in austere times (over-stretched staff working in under-resourced circumstances) and over significant geographical distances, who are being asked to work on this project in a voluntary capacity, a range of skills are required as a researcher. This extends to the ability to influence and negotiate as well as the ability to motivate others and work as a team despite the challenges of different disciplines, different outlooks and different organisational philosophical aims (for example, some officers have been primarily immersed in pursuing/disrupting organised crime groups, others work in organisations primarily set up to rehabilitate and others to restore harm to victims and support them in their recovery). The ability to address the hearts and minds issue has been key to this research project and much personal and professional energy invested in persuading those who were cynical to engage in the project, release relevant information and indeed commit resources to this project in order to explore the possibilities of using RJ in the SOC context. This may have been much more difficult if it had not been for the somewhat unique insider-outsider position which the researcher enjoyed.

#### **4.4 Mixed Methods Research**

This section will start by summarising the methods used to answer the research questions. National surveys, self-administered semi-structured interviews, audiotaped interviews, telephone interviews, focus groups, case studies, document analysis and participant observation were used for the various aspects of this study.

Johnson et al. (2007) offer a tentative definition of qualitative-dominant methodology:

Qualitative, dominant, mixed methods research is the type of mixed research in which one relies on a qualitative, constructivist-poststructuralist-critical view of the research process, while concurrently recognizing that the addition of quantitative data and approaches are likely to benefit most research projects. (Johnson et al., 2007:124).

A qualitative-dominant methodology was best suited to answer these research questions due to the fact that so little is currently known about the subject area of whether RJ should be tested in the SOC context, and if it is trialled, which specific dynamics are at play which may fundamentally impact on risk and assessments in respect of eligibility and viability to engage in an RJ intervention. Gerring (2017:20) states the following, which relates well to this current study:

First, qualitative data are likely to be more important when not much is known about a subject and when the goal of the researcher is to develop a new concept, uncover a new hypothesis, or shed light on unknown causal mechanisms. Qualitative data are ideal for exploratory analysis. More generally, one might argue that social science knowledge typically begins at a qualitative level and then (sometimes) proceeds to a quantitative level.

However, he does state that he believes that 'No qualitative observation is immune from quantification' (p. 19) due to the coding process where identified themes which emerge are grouped and quantified for analytical purposes. Hence, it may be asserted that even a handful of case studies can be useful in shedding light using quantitative lenses, as captured by Gerring's sentiment that 'the plural of anecdote is data' (p. 19).

However, using one single method would be unlikely to have answered all the research questions, hence necessitating the use of multiple methods to answer the diverse range of the subset of research questions. Due to the complexity involved with a diverse range of subset questions involving an equally wide-ranging set of stakeholders (offenders, victims, SOC experts, RJ experts, multi-agency partners involved in delivery etc.), it was highly unlikely that one single method would provide a comprehensive range of answers; hence the use of a number of methods which has enabled triangulation of the data gathered. When referring to triangulation, Miles et al. (2020:294) state that 'the strategy is pattern matching, using several data sources' to provide repeated verification. Denzin (1970/1978) in Denzin and Lincoln (2018) originally distinguished four different types of triangulation: by data source (e.g., combination of different data sources investigated at different places and times), by method (e.g., within methods such as different subset questions in a questionnaire or between methods such as interviews, document analysis and participant observation), by different investigators/researchers (to reduce subjective biases by individuals) and by theory (the use of a range of theories to assess their relative merits for the data set in question). To this framework, Miles et al. add another type of triangulation – by data type (e.g., audiotapes, texts, qualitative data). They state the aim is to pick triangulation types that offer differing

strengths so that they complement one another so that 'their combined effects *build* on each other to compose a more three-dimensional perspective of the phenomenon.' (Miles et al., 2020:294). This study uses methodological triangulation by employing a variety of different methods to examine the same phenomena, e.g., contemporaneous field notes, typed transcripts, focus groups, telephone surveys, participant observation, semi-structured interviews, case studies research and evaluation research. This enabled the researcher to gain a rich perspective on the feasibility of applying RJ in the SOC context and answer the research questions within the limitations of her study and in a way which will usefully assist police forces to develop their practices. Gardner (1990) in his book review of Denzin's third edition of the *research act* articulates Denzin's belief that methodological triangulation is the 'most acceptable approach' (p. 241) on the basis that each research method results in distinct aspects of empirical reality being exposed so that no one method can uncover the complete reality. This not only leads to the need for triangulation, but also results in what he coins 'sophisticated rigour' (p. 241) to describe research utilising multiple methods employing a number of diverse sources of data and leading to rich interpretations.

This study proactively stepped away from the usual confinements of social science studies in the following innovative ways:

1. It sought to articulate these common research methods and approaches with the norms, processes and ethics of RJ practice and established RJ frameworks for assessments and interventions.
2. This, in turn, shaped the research in important ways which relate specifically to the context of this research and which differentiate it from other social science research projects. For example, due to the length of time it may take to successfully undertake a RJ intervention from inception to conclusion, it was necessary to facilitate and co-ordinate completion of such work outside of the timeframes of the fieldwork phase; this was due to ethical imperatives for offenders, victims and their supporters as well as continuing to support RJ facilitators undertaking complex and challenging work particularly in a new context. Clearly, it would be morally wrong to guillotine work to suit the research project and fail to meet the needs of all participants engaging in a restorative dialogue.

3. Furthermore, it was necessary for the researcher as a police employee to remain compliant with practical policing priorities though there was very good synergy with normative research principles, such as: duty of care towards participants, honesty and integrity.
4. At the same time, conversely, from an ethical point of view, the researcher had to ensure that other police personnel did not use their access to subjects to harvest intelligence to further investigations or open up new lines of enquiry. While this did not pose problems in the main, there were occasions where the researcher had to be clear with those accompanying her on her research interviews that pieces of information, data and observations could not be utilised if they were outside of the boundaries agreed from the outset, e.g., a suspicion that a very expensive car owned by an offender with a history of fraud (and parked outside his small terraced home) was the proceeds of crime, and the car registration details should not be entered on the intelligence database against his record.
5. It was also necessary to engage sensitively and productively with research practices that lie at the periphery of ethical boundaries and social science methods in that a degree of deception was involved in not divulging to offenders that their membership of OCGs was known to the researcher and that was one of the key eligibility criteria for their selection for participation in the study. This was done within the ethical frameworks that justified the deception on the basis that revealing this information may cause more harm (for example if offenders then told other members of this police knowledge and subsequently more covert methods of offending were used to continue the operational activities of the group or the participant suffered harm as a result of other members perceiving that they had become police informers).

#### **4.5 Details of methods used**

##### *NPCC Survey for Anecdotal Evidence of RJ Applications in the SOC Context*

It was necessary to explore whether this study would truly represent a RJ application in an untested area of policing practice. This was ascertained through a formal request (Appendix 1) placed on the National Police Chief's Council (NPCC) net portal asking forces to identify any

anecdotal evidence of such applications in their organisational memories. The portal is an established method of communicating with the 43 executive offices of all English and Welsh police forces. Communications are placed on the portal by a central lead (the NPCC's Internet Manager) at the Chief Constables' Council in London. Each executive office would then pass this request onto the relevant force leads for consideration. All forces were informed that their individual responses would not be made publicly available. The researcher's home force area data were also considered, but separately, to provide a complete picture within England and Wales.

The letter was sent out in the Chief Constable's name (as the NPCC Lead for the Crime Operations Co-Ordination Committee which accommodates the SOC portfolio), with a two-week response timescale. As the initial response rate was lower than anticipated (probably due to the fact that it was placed on the portal just before Christmas 2017), a second letter was published on the portal in the New Year, which significantly increased the response rate within the following two weeks. The option of a response by phone was also offered in an attempt to ensure that opportunities to participate were maximised and this was taken up by a small minority of forces. Responses were received over a 12-week period (November 2017 – February 2018).

The results were analysed utilising a table with the list of forces who responded and using a 'Yes' or 'No' response to the question 'Does your force recall having undertaken any restorative approaches between mapped SOC offenders and their victims?'. Thirty-two out of forty-two (inclusive of forces which have amalgamated) participated resulting in a 76% response rate (excluding the researcher's home force area).

#### *Consulting SOC Experts – the police*

A letter was placed on the NPCC portal (Appendix 2) inviting forces to participate in the survey with a two-week timeframe within which to respond in January 2019. The letter was sent out in the Chief Constable's name and placed on the portal by the NPCC's Internet Manager. All attachments were included in the communication, including the Information Sheet for SOC Experts (Appendix 3a), Consent Form (Appendix 4a) and the SOC Expert Survey (Appendix 6a). Many contacted the researcher to apologise for missing the deadline and asking for an extension, which was granted. In total, respondents participated over a 6–8-week timeframe,

with many scheduling in telephone appointments and cancelling and re-scheduling due to their work commitments. Some forces sent in multiple replies, with a combination of SOC and RJ experts. In total, 34 forces (79%) participated in the survey and there were 9 forces from whom there was no contact at all. Willingness to take part was noted, with one respondent taking part while handling a siege operation as a commander.

Secondly, the researcher emailed all respondents directly from the previous exercise where she had asked for anecdotal evidence of the application of RJ in the SOC context. Many responded saying that they had changed roles, and some referred the matter to their Force Lead for SOC.

Thirdly, an email was sent to the heads of the 9 Regional Organised Crime Units (these are officers who are seconded to their regional units from their home forces). The email addresses were obtained from the police staff officer for the NPCC Lead for SOC. All attachments were included in the request with an offer of a telephone interview to give choices about how officers wanted to respond. This resulted in three interviews, one electronically and two by telephone-based surveys and these three interviews are captured in the total figure quoted above.

Hence, three methods were used to consult experts about the feasibility of undertaking restorative justice with SOC-connected cases, achieving a total of 36 respondents, all of whom signed a consent form to signify their voluntary participation. The survey (Appendix 6a) was piloted with one respondent in the researcher's home force area and one change was recommended and resulted in a minor change to one of the questions (Question 4) where a box was inserted to clarify the scale number chosen by the respondent. A choice of ways of participating was given in order to improve engagement rates. 22 participated by sending the completed survey electronically and the remaining 14 chose to take part through a telephone survey, which was subsequently transcribed by the researcher. All signed a consent form to indicate the voluntary nature of their participation.

All 36 police SOC experts (from a total of 34 separate policing organisations which is a 79% response rate) were senior warranted ranked officers working in their respective Serious and Organised Crime Units: 1 detective sergeant, 6 detective inspectors, 12 detective chief inspectors, 15 superintendents and 2 chief superintendents. A strategic and operational

perspective was provided as many were/had been tactical operators. One provided a response on behalf of two forces, as it was a joint SOC department. Three of these respondents provided a regional perspective as they were local force officers seconded to their regional serious and organised crime units (1 detective sergeant, 1 detective chief inspector and 1 detective chief superintendent). One of the 36 SOC experts was a respondent who had delivered the RJ interventions which the researcher conducted as part of an N8 study (D'Souza and L'Hoiry, 2019), referred to in Chapter 1, between a SOC prisoner and three of his direct victims. It is unclear whether or not his/her more detailed knowledge of what is involved had any material impact on the results.

Police SOC experts tended to be the Force Lead for SOC in their respective force areas and included roles such as Director of Intelligence/Head of Crime Operations/Head of Specialist Operations or the Lead for Gangs and Guns, CSE, large scale drug/firearms supply, fraud and asset confiscation, cyber harm reduction, modern slavery or responsibility for covert operations/surveillance units. Some had been transferred to SOC specialisms relatively recently while others had 3–4 years to 10 years' experience in this area. What was clear was that they held a significant amount of specialist knowledge and experience in the field of policing SOC as highly qualified, trained and experienced professionals and had much expertise in key offence types, or covert operations with both proactive and reactive investigations.

The 36 surveys were analysed using thematic analysis, details of which follow below.

#### *Consulting RJ Experts*

Three methods were used, achieving a total of 17 respondents, all of whom signed a consent form (Appendix 4b) to indicate the voluntary nature of participating in this research. All were also given an information sheet (Appendix 3b).

Following a presentation to members of the national Restorative Justice Council (RJC), a focus group was delivered with members opting to attend one of six workshops. Five RJ experts (from a variety of backgrounds including two in criminal justice settings) attended the focus group on offer by the researcher. All signed the consent form and took part in a group discussion using the pro-forma questionnaire (Appendix 6a), facilitated by the researcher.



The information gathered was recorded in writing by the researcher as the discussion took place, with the notes being written up within the next 3 hours as a contemporaneous record of the discussion. The exercise was used as a pilot, but no adaptations needed to be made to the research instrument.

Following this event, a letter was placed on the RJC newsletter by their Policy and Communications Officer, inviting members (939 email addresses) to contact the researcher by phone or email if they were interested in taking part in a survey or telephone interview as part of this research and giving a one week timescale within which to respond. Five individuals took part, with three submitting questionnaires electronically and two opting for telephone-based interviews. All five RJ practitioners were ones who were involved in delivery for serious and complex offences, with one working for probation, one for youth justice and two for charities/not for profit sectors.

A further 7 responses were received from RJ experts who worked in services commissioned by the Office of the Police, Crime and Victims' Commissioner (OPCVC) representing over two-fifths of the RJ expert sample and had been referred by their police forces; this was as a result of the letter placed on the NPCC portal in 2019 inviting SOC experts to participate in the survey as part of a national exercise. SOC experts who had received the request sent the documentation to the commissioned services, asking them to respond to the researcher.

In total, 8 RJ experts took part from OPCVC commissioned services, with another two from criminal justice backgrounds; the remaining 7 respondents were from the voluntary sector and had previous experience of working with serious and complex cases, not necessarily involving crimes. Two respondents from the above groups were part of the multi-agency groups formed by the researcher and indeed delivered some of the RJ interventions described in the case studies section in the next chapter. Hence, they had a detailed knowledge of what was involved, how the challenges were overcome and the bespoke risk assessment processes. It is unclear whether or not their more detailed knowledge of interventions had any material impact on the results. The RJ expert respondents had between them a wealth of specialist knowledge and experience, ranging from practitioner to supervisory/managerial and trainer roles within their respective organisations, with current and previous experience both in the UK and abroad. Some sent their full CV-based information charting their RJ career histories

and achievements in this field. All had significant experience of working in the criminal justice sector, including those who worked for charities and the third sector; their work experiences included their roles in peace and reconciliation initiatives in a range of settings including schools and the workplace. A couple of RJ experts identified themselves as retired police officers who had then become accredited practitioners and knew about the mapping process for SOC within police forces.

The 17 surveys (inclusive of the data gathered at the focus group) were analysed using thematic analysis, identifying core common themes which emerged with each question in the survey.

#### *Use of self-administered semi-structured interviews, Telephone Interviews and Focus Groups to Gather Expert Views*

The questionnaires used open and fixed response questions to gather the relevant data. As discussed by Walliman (2016), self-completion questionnaires are a great way to receive responses without having to have a dialogue with respondents representing a very flexible tool which is quick, easy and cheap to administer while minimising or even eliminating the personal influence of the researcher. Reducing bias as a result of the interviewer's personal characteristics is given much importance by Bryman (2016); this aspect was significantly reduced through the use of self-administered questionnaires. Accuracy can also be enhanced when surveys are undertaken by written responses by respondents as there is time for considering each response, while also being a convenient way for respondents to engage with the research (Walliman, 2016), though this clearly did not necessarily apply to the SOC Expert sample as over a third chose to participate by phone citing it was more convenient and less time-consuming for them (though most interviews lasted one to one and a half hours). However, some limitations are also evident with self-administered questionnaires as probing and prompting were not available where clarity may have been advantageous (Bryman, 2016).

Kempf and Remington (2007) detail the challenges posed by telephone interviewing with the decline of fixed-line telephones and the increase in answering machines and caller ID contributing to a fall in response rates and increased costs to using this method of interviewing. However, these challenges were not experienced during this study, as experts

frequently cited their mobile numbers as the best number to use and email communications were used to fix dates/times for the interviews. Those RJ and SOC experts who were interviewed by telephone enabled the researcher to ask for points of clarification and expansion on answers, with the length of time of the calls indicative of the rich data gathered as the opportunity to prompt and probe was made possible. Both self-administered questionnaires and telephone interviews proved to be convenient as the samples were geographically dispersed throughout England and Wales (Bryman, 2016).

There may be a qualitative difference between the electronic surveys and the telephone surveys for experts (see Mixed Methods Approach: A Summary at the end of this chapter) in relation to the information gathered, as many found themselves asking uncomfortable questions and questioning their own previous stance during the course of the telephone dialogue – a feature that would be difficult to compare with the surveys sent electronically. Block and Erskine (2012) state that most studies conducted by telephone tend not to use a semi-structured schedule and gives examples of studies that switch from face-to-face interviews to telephone interviews as a way of increasing convenience for interviewees; here the data collected is described as ‘equally robust with respect to breadth and depth’ (p. 432) and this may apply to this study which gave alternative ways of engaging (electronically or by phone). The researcher is confident that had those telephone surveys been digitally recorded (there was an opportunity to do this through a free app on her mobile phone), she would not have received the candid replies that she did, as SOC experts particularly expressed their thoughts and feelings in relation to the prospects of applying RJ to their own working contexts. Walliman (2016) states that the rate of responses can be challenging to control, particularly if there are no follow-ups (the researcher did 2–3 follow-ups with experts in order to encourage participation) and this is concerning as it can have detrimental effects on the validity of the sample by introducing bias into the data collected. Mangione (1995:60-61) focused on postal questionnaire returns as to how response rates can be judged:

Table 4.1: Mangione (1995) – Assessment of Response Rates for Postal Questionnaires

RESPONSE RATE	ASSESSMENT OF RESPONSE RATE BY MANGIONE (1995)
Over 85%	deemed “excellent” and “would need a peculiar set of circumstances to throw off your results by very much” (p. 60)
70 – 85%	deemed “very good”
60 – 75%	deemed “acceptable”, but one would “begin to be uneasy about the characteristics of non-responders” (p. 60-61)
50 – 60%	deemed “barely acceptable”
Below 50%	deemed “not scientifically acceptable”

While this may not specifically relate to the type of surveys used for this study, it may be considered a very good response overall from the forces as a very broad indication (76% for the survey asking forces for evidence of anecdotal applications of RJ to SOC and 79% for the SOC Expert Survey).

A focus group was chosen as an efficient method of engaging with a group of RJ practitioners hosted by the Restorative Justice Council. Bedford and Burgess (2001) define focus groups:

We define focus groups as a one-off meeting of between four and eight individuals who are brought together to discuss a particular topic chosen by the researcher(s) who moderate or structure the discussion. (Bedford and Burgess, 2001:121)

Hence, a focus group is defined as being different to the types of groups which are routinely brought together such as scheduled work/university meetings, a point emphasized by Hopkins (2007) in his study of Muslim men in Scotland where he considers a host of issues that may arise as a result of deploying focus groups inclusive of the timing, location and researcher positionality, all of which may impact on results.

The main aim of focus groups is to glean insights by listening to representatives from the target group (Cronin, 2016). The size of focus groups can be important as too big a group may

translate into an unmanageable one, with Cronin stating that over 10 members may result in some not feeling that they need to speak up and the usefulness being limited if the group is too small. Cronin concludes that one should 'be prepared to substitute quality over quantity' (p. 308).

It may be that group members were influenced in their responses by each other as no doubt group dynamics played a part as it may be that the group felt that they had to reach a consensus rather than present their own individual views. Hence, there may have been pressure to conform to majority opinions, though this is difficult to gauge (Walliman, 2016). MacDougall and Baum (1997:532) discuss groupthink as 'the impact of censoring and conforming' and support Janis (1982) in his initial recommendations to researchers to use devil's advocates to mitigate against this notion. Devil's advocates roles would be to present different views from other members, to pose questions in different ways and to introduce new questions, for example. In the absence of the researcher not having appointed any devil's advocates, this may have impacted on the overall analysis when compared to the individual surveys which were undertaken by RJ experts. Bryman (2004) refers to the benefits of holding focus groups as this develops a good understanding of what people think and why with members being able to propose ideas that perhaps the researcher may not have anticipated interactions mimicking 'real-life process of sense-making and acquiring understanding.' (p. 15). As the RJC sample of 5 respondents was from a variety of backgrounds (but all with experience of serious and complex RJ applications), this too has impacted on the results and has required differentiation between the responses from those with criminal justice backgrounds and those who worked in other settings. Two interviews were undertaken by telephone and this too may impact on the responses given as a dialogue may produce greater levels of detail and enable the respondent and the researcher to "delve deeper" into each response given. Overall, as a variety of methods were deployed, rich data have been gathered.

The common themes which emerged in relation to points of agreement and disagreement between RJ and SOC experts were identified, with a view to establishing barriers, obstacles and opportunities to applying the approach in the SOC context.

### *Eligibility Criteria for Selection of SOC Offenders*

The agreed eligibility criteria for selection of offenders in prison and the community were:

- They must be males over the age of 18 years
- They must have been mapped as part of an OCG, either as a principal, significant, or peripheral participant (see Chapter 3 for a description of these) or unknown
- They must not be on remand or bail for further OCG offences or be part of ongoing current investigations
- They must have an OCG-related offence as their current or recent past offence. They did not have to be subject to any community penalty at the time of the research – just living in the community as an offender who was known to be an OCG offender and had been subject to a penalty (either prison or community sanction) for an OCG-related offence.

Organised crime group nominals were selected regardless of the position they were thought to occupy within the OCG, i.e., whether they were the principal(s), significant(s) or peripherals (see Chapter 2 for full explanations of the hierarchical structures used by police to denote different roles within an OCG).

All drug dealers were excluded from the study due to the lack of an identifiable direct victim, as this would have rendered most forms of RJ interventions such as letters of explanations, shuttle mediation and face-to-face conferences impossible to do (though proxy victims can be used to represent the community), i.e., a direct dialogue with affected and harmed parties would be difficult and challenging in such a context.

### *Offender Interviews in Prison*

In order to draw a sample of SOC offenders in prison, it was first necessary to gain access to the prison estate and then to identify relevant offenders. Having applied to the Ministry of Justice for permission to undertake this study, a letter of endorsement was provided for the researcher to use to demonstrate this formal approval to gain access to prison and probation services. This letter of approval was shared with the No. 1 Governor and the Head of Security for every prison where research access was required, with the understanding that it was the

personal decision of every prison as to whether they allowed the researcher to undertake the study there or not. Separate approval was gained for bringing in the laptop and dictaphone. Nearly all interviews took place in Legal Visits.

Identifying OCG criminals within the prison estate in the north-east was done via the Chief Inspector at the North East Regional Specialist Operations Unit (NERSOU<sup>22</sup>) which is responsible for the disruption of OCGs who operate across geographical boundaries. The Chief Inspector directed his team of Prison Liaison Officers (PLO who were police officers) based at each of the four chosen prisons to identify the OCG cohort within the prison. For the purposes of selection, the eligibility criteria were shared with the PLOs and they paved the way for the researcher to gain approval to work within the prison by sharing the approval letter from the MoJ with the No 1. Governor and Head of Security to ensure that approval was gained to bring in the necessary equipment. With some of the prisons, the Regional Forensic Psychology Department had to be involved as they coordinated research undertaken within the prisons which fell under their remit and the No. 1 Governor always referred the request on to their Head of Forensic Psychology. This process was repeated for every new prison when offenders in the sample were transferred during the course of their prison sentence. Approval from the MoJ had to be attained every time a new prison was involved (all prisons could not be specified on the original application as it was impossible to identify where a prisoner respondent may be transferred to). This approval process produced lengthy delays which may have impacted on offender and victim motivation to remain engaged and willing to pursue a restorative approach, though it was noted that once either offender or victim opted to pursue such an approach, in the main, they remained unwavering in their motivation levels to an impressive level. Three offenders and two victims waited nearly a year to have their intervention.

With one prison, where the researcher did not have direct access to the wings to speak to offenders, a prison-based conduit was used, arranged by the Governor and facilitated by the Integrated Offender Management Team. The conduit (a prison officer) was given a specially written briefing note from the researcher outlining the purpose of the research, the approval levels for the study and what was being asked of him/her. The Information Sheet (Appendix

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<sup>22</sup> More at: <https://www.nersou.org.uk/home/about-us.aspx>

3c) inviting prisoners to participate was hand-delivered to potential participants by the prison officer. This resulted in one offender electing to take part, with the remaining 18 refusing to participate. With the remaining prisons, the researcher was given the names of mapped SOC offenders who met the eligibility criteria by the Police Liaison Officer based in the prison and proceeded to interview those who agreed to see her. All interviews took place through the Legal Visits function on a one-to-one basis. The researcher was sometimes accompanied by a police service officer or a criminal justice professional, but most were conducted by her as there were no specific risks identified to her either by the prison or through her own checks, e.g., using police databases to explore previous criminal histories for each individual. All research interviews were audiotaped and transcribed for the purposes of analysis, using thematic analysis (see below for the method of thematic analysis).

The above methods resulted in 12 respondents agreeing to participate from a total of 41 OCG offenders who were approached to take part. All interviews were audiotaped using the semi-structured questionnaire (Appendix 6b) and subsequently professionally transcribed by a vetted service (in case offenders inadvertently revealed any restricted information). All offenders signed a Consent Form (Appendix 4c) were shown a YouTube clip of *The Woolf Within* and given a Briefing Sheet (Appendix 5) to help explain what RJ is about.

Over the course of 18 months, the researcher approached 41 offenders from 7 prisons across the north-east and north-west to take part in the research (inclusive of the initial research interviews and subsequent case studies). Grimwood (2015) states that Rule 7 of The Prison Rules<sup>23</sup> (1999) consolidated in 2010 allows for the categorisation of adult male prisoners in England and Wales in accordance with their assessment of risk, with due regard to the potential consequences of escape. There are 4 broad categories: Category A is reserved for those prisoners where escape would be very dangerous to the public and/or a risk to state security, Category B is where prisoners need to be held in conditions where escaping would be very difficult, Category C is for prisoners who lack the resources and/or motivation to attempt an escape, and Category D is for low risk offenders who can be managed safely in

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<sup>23</sup> Prison Rules SI 1999/728 (as consolidated January 2010) available at <https://www.legislation.gov.uk/uksi/1999/728/made> (last accessed 30/5/19)



open conditions. It may be worth noting that while the 7 prisons were located across the north-east and north-west, the sample of offenders did not necessarily originate from those regions; numerous offenders originated from elsewhere in the UK and will be released to their originating home and probation areas where their offending may or may not have taken place. Typically, offences were committed by offenders in the same region, but across geographical boundaries and creating dispersed pools of victims across the UK.

Some individual offenders were interviewed at more than one category of prison (up to 3 different prisons). This re-categorisation was typically to a more closed and restricted status of prison rather than a move from a higher category prison to an open prison and was in line with known changes in their individual circumstances, such as a need to keep them safe, changes in their risk assessment during their sentence or a prison's need to move some prisoners to manage numbers across the prison estate. Interviews for this piece of research took place in two Category A prisons, three Category B prisons, one Category C prison and one Category D establishment. At the point at which the initial offer to take part in the research was made, 19 prisoners were housed in the Category A prisons, one was in a Category B prison, 19 were in a Category C prison and two were held in a Category D prison. Some were moved to prisons where no research interviews took place, but where RJ assessments and interventions were undertaken as part of the case study approach.

Out of the 41 offenders, 12 agreed to take part in the research and were interviewed on audiotape using the semi-structured questionnaire. Out of these 12 offenders, one was from a Category A prison which resulted in a case study, two were from a Category B, both of which resulted in case studies, 7 were from a Category C of which one resulted in a case study and 2 were from a Category D, both of which resulted in case studies. While it would appear that the attrition rates for engaging in this piece of research (approximately 70%) were significant, differences in the way that offenders were invited to take part may be relevant. It is of note that in the Category C prison, a direct approach to 19 offenders was made by the researcher who went through the Information Sheet and discussed the project, resulting in 7 research interviews (i.e. over a third agreed to take part). In the Category A prison, where an approach was made to 19 offenders, contact was facilitated by a prison-based gatekeeper who was given the Information Sheet and tasked with approaching the eligible sample; this resulted in one interview. The researcher may well have lost control over what pieces of information

were discussed with the prisoner and how the discussion was shaped by the gatekeeper resulting in a high attrition rate as the other 18 offenders were not interviewed or seen by the researcher.

The sample consists of 4 Principals, 1 Significant, 3 Peripherals and the remaining 4 were classed as 'Status not known'. The age range for these prisoners was 24–50 years, with an average age of 34 years. The average age for Principals was 39 years, the Significant was in his early 20s, the average age for Peripherals was 34 years and Not Knowns was 30 years. Francis et al. (2013) found that the average age of organised crime offenders was 32 years when they analysed PNC data. Hence, this sample were older by 2 years and the inclusion of the slightly older, more heavily convicted Principals may account for this, as they will presumably be more advanced in relation to their criminal careers. Prisoners were all at different stages of their sentence, some having been relatively recently sentenced and some having been in prison for a long time, including serving sentences for previous SOC and non-SOC offending which ran concurrently to their current OCG-related offending.

The offence types varied among the 12 OCG prisoners with some serving sentences for multiple OCG-related offences. The following offence types featured among the sample: 3 offenders were serving sentences for fraud, 2 for violence/robbery with another for attempted robbery and possession of an offensive weapon, 3 for assault occasioning grievous bodily harm/wounding and another 2 for burglary of a dwelling/conspire burglary with intent to steal and conspire robbery. From an examination of their Police National Computer (PNC) prints which detail their previous criminal convictions, reprimands and warnings issued by the police, the following became clear: the Principals were the most heavily convicted with the longest criminal histories (perhaps explained by the fact that they were the oldest subset of offenders) and half of the sample had experienced incarceration as teenagers when they were first given a prison sentence. In addition, while the "journey" for each offender showed that there was much diversity in relation to offence types (e.g., drugs, violence and different forms of acquisitive crime), there was a generic pattern evident in each "story", i.e., a predisposition to commit a particular type of offence and this tended to be the type of offence for which they were serving their current sentence, i.e., their OCG linked crimes. This finding concurs with Macleod et al.'s (2012) assertion that '*serious offenders do not in general specialise wholly in serious offences*' (2012:90) but may specialise by offence type, though their overall

conclusion is that the ‘tendency for all offenders is towards versatility’ (2012:106). Francis et al. (2013) found that in examining the previous conviction histories of organised crime offenders, very little specialisation was apparent in relation to specific types of offending. Furthermore, Klein (1984) points out that the common assumption (primarily by practitioners) is that juveniles demonstrate specialisation by offence types and that this is probably due to the labelling of such individuals, the example cited being an ‘auto-thief’. It may be that similar assumptions are made by police SOC experts as a result of the mapping of such a group and the members of that group being subsequently ascribed the label of ‘Serious and Organised Crime Group member’ or ‘Organised Crime Group member’. They conclude that there is a lack of empirical support for this prevailing belief and it may be that what was asserted in 1984 still holds true today – for SOC as well.

#### *Offender Interviews in the Community*

The North East Regional Specialist Operations Unit (NERSOU), Durham Police, Northumbria Police, Cleveland Police and Northumbria Victims First (commissioned by the Northumbria Office of the Police Crime and Victims’ Commissioner) were approached to identify offenders living in the community. The letter of approval from the Ministry of Justice was shared with the probation services in order to gain access to offender details. The researcher worked closely with probation officers, probation service officers and victim liaison officers to ensure a robust risk assessment process was followed. At all times, only secure email systems were used to communicate with partners. After a thorough search by the respective organisations, Durham Police OCGM (Organised Crime Group Mapping team) were able to identify an eligible cohort consisting of those who were primarily known to the Financial Investigation Team (fraud). Cleveland Police’s intelligence unit also assisted. The researcher was accompanied by warranted officers for each of the community-based visits, which took place in respondent’s homes and a community centre.

This method resulted in 5 research interviews, with 15 offenders having been approached to participate. All interviews were audiotaped using the semi-structured questionnaire (Appendix 6c) and subsequently professionally transcribed by a vetted service (in case offenders inadvertently revealed any restricted information). All offenders were given an Information Sheet (Appendix 3d) and signed a Consent Form (Appendix 4d). All offenders

were shown a YouTube clip of *The Woolf Within*<sup>24</sup> and given a Briefing Sheet (Appendix 5) to help explain what RJ is about.

Fifteen current and former OCG offenders across three police force areas were approached by the researcher, with contact details having been provided by the force areas in which the offenders lived. Five of them agreed to be interviewed with the remaining 10 not showing a willingness to engage by not picking up their mobile phones or not responding to letters or knocks on their doors if they had initially shown an interest in participating. One withdrew after meeting the researcher at his home address, saying 'it's not my kind of thing'. Another offender, who the researcher did not meet but communicated with him via his partner, told her that he had put all his offending behind him and 'it's not him anymore', suggesting that he now had a non-offender identity, and had desisted from offending and taken on responsibility for looking after her disabled child while also working. LeBel et al. (2008) found that self-identification as a 'family man' appeared to be a positive contributor to the desistance process and that a positive mindset accompanied by cognitive changes may precede the occurrence of other external events such as a long-term partnership or the responsibilities of fatherhood. Perhaps timing may have been an issue as it would appear that he had moved on and derived a sense of closure through other non-RJ means. Four out of the 5 expressed an interest in undertaking RJ. However, 3 of them disengaged by not following it through: two stopped responding to any form of contact including through their probation officers and one withdrew after very careful consideration with his partner and other family members saying he felt it would be futile as he would never be forgiven and was trying to rebuild his life in other ways. The remaining offender who had expressed an interest in undertaking RJ resulted in a case study.

Hence, from the 15 offenders approached to take part in this study, five interviews were done and one resulted in a successful RJ intervention. The sample consists of 2 Principals, 1 Significant and 2 Peripherals. The age range was 23–70 years, with an average age of 39 years (so some 5 years older than the average age of the SOC prisoners). An examination of the PNC prints revealed that both community-based Principals were first-time offenders who received prison sentences (with one of them receiving a suspended prison sentence).

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<sup>24</sup> Available at <https://www.youtube.com/watch?reload=9&v=A1s6wKeGLQk>

Violence did not feature in their offending histories, with the Peripherals being the most heavily convicted with 7–55 previous convictions on their records. Only one offender (the youngest) had not experienced receiving a prison sentence.

*North-East Regional Prison and Community Organised Crime Group Profile: Documentary Analysis*

NERSOU provided a spreadsheet which detailed the following information as a snapshot in time (1/3/19): OCG offender name, the primary criminality of the OCG, the offence for which they were currently serving a prison sentence, their status/standing within the group if known, the prison where they were currently serving their sentence, and their release date and details if they were living in the community (either at large, being pursued or post-prison/probation sentence). From this, it was possible to draw up a profile of the OCG offenders in prison and living in the community through quantitative analysis of the data and shed light on the SOC mapping process and give broad indications about the generalisability of this study to SOC on a national basis.

Scott (1990) outlines the different classifications of documents in relation to access, ranging from closed, restricted and open. The document used for this study was restricted, described by Scott as ‘accessible on an *ad hoc* basis, under specified conditions to those outsiders who are able to secure the permission of insiders’ (Scott, 1990:14). This definition gives rise to an interesting dimension in respect of researcher positionality for the current study, as the researcher is clearly deemed an outsider as she had to secure the permission of the Head of NERSOU to secure access to the document.

Hobbs and Antonopoulos (2014) are critical of the lack of transparency about how some quantitative and economic analysis produced by government departments and law enforcement agents are derived, going so far as to say that some estimates which are deemed to be credible by those in law enforcement and politics are ‘produced on the basis of a vague methodology that is either not mentioned, hardly explained, or can be seriously challenged’. (Di Nicola and Cauduro, 2007, p. 100)

One such example of the extent to which official data may be blatantly inaccurate is captured in the second edition of the Home Office (2018) *Understanding organised crime April 2015– March 2016 (Research Report 103)* publication which revises a number of estimates from the first edition, e.g., the total scale of SOC is revised from £20 billion to £13 billion.

Scott (1990:6) proposes 4 criteria by which to assess the quality of official documents: (1) authenticity – ‘is the evidence genuine and of unquestionable origin?’ (2) credibility – ‘is the evidence free from error and distortion?’ (3) representativeness – ‘is the evidence typical of its kind, and, if not, is the extent of its untypicality known?’ and (4) Meaning – ‘is the evidence clear and comprehensible?’ The document was an official spreadsheet owned by the NCA and requiring the input of several professionals to ensure its accuracy and therefore is deemed to be an authentic document. However, the information inputted into the spreadsheet can only ever be as good as the quality of the information the data analyst has access to and, as such, it is difficult to comment on the comprehensiveness of the data as the researcher did not have access to the specific instructions given to the data analyst/inputter. Moreover, guarantees of accuracy cannot be given as the data has been entered by staff and may be subject to human error. However, following discussions between the researcher and the data analyst at NERSOU, it became clear that several checks and balances are in place to ensure that the document is up-to-date and captures the work of the unit in relation to their throughput of SOC cases.

### *Victim Interviews*

The research did not aim to find the victims of the offences committed by the offenders participating in interviews, but instead looked for victims of offences committed by SOC offenders in general in the area. NERSOU provided the details of eligible victims and made contact with them on behalf of the researcher where possible; where there was no response from the victim, the researcher wrote to them citing the police officer in the case’s details for confirmation of legitimacy and contact was established in this way for a research interview. All were fraud victims who had been victimised in the two years preceding this study. The researcher was accompanied by a non-participating criminal justice professional for some of the interviews which took place in victims’ homes. All interviews were audiotaped using the

semi-structured questionnaire (Appendix 6d) and transcribed for the purposes of analysis, using thematic analysis. All victims were given an Information Sheet (Appendix 3e) and signed a Consent Form (Appendix 4e). All victims already knew that they had been victims of offenders who had been committing criminal activities as part of a group of criminals.

This method resulted in 6 research interviews, with 10 victims having been approached to take part. All interviews were audiotaped and subsequently professionally transcribed by a vetted service (in case victims inadvertently revealed any restricted information). All victims were shown a YouTube clip of *Repairing the Harm*<sup>25</sup> and given a Briefing Sheet (Appendix 5) to help explain what RJ is about.

Nine victims of OCG offences across 3 force areas were invited to take part in this research with one additional victim having been interviewed as a result of an offender in the community requesting an RJ intervention. As this victim was one who had previously taken part in an RJ intervention as part of the N8 pilot work described (see Chapter 1), she did not take part in the initial perception questionnaire but agreed to be part of this study on the basis that she received the RJ intervention. Hence 6 out of the 10 victims engaged in the initial questionnaire, with 4 opting to participate in RJ, resulting in case studies. All 10 victims had been victims of fraud and knew that a group of offenders had worked together to commit serious fraud-related crimes. Victims' ages ranged from the 50s to 80s with four women and three men taking part. For the remaining three victims, a variety of reasons were cited for not wishing to take part in the research, with two stating that they had "moved on" (hence, timing of such an offer is once again significant in the sense that the offer may have been too late) and one agreed to be interviewed but withdrew after meeting the researcher at her home address saying that she no longer wished to participate.

#### *Use of Semi-Structured Interviews to gather the views of Offenders and Victims*

In total, 23 face-to-face semi-structured interviews were conducted with the offender and victim sample combined (see Summary of Methods Infographic). Due to the potentially emotive nature of what may be said during the course of interviews, the covert element of the study (see discussion of ethics below) and potential safeguarding considerations (which

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<sup>25</sup> Available at <https://www.youtube.com/watch?v=14lOGtoLxTY>

would have had resource implications), this method was chosen over having focus groups of offenders and victims; this also ensured that respondents were not influenced by others in their responses. It may be that focus groups for victims would have achieved a very low participation rate, as many victims may not want to engage in this way, particularly if they do not perceive themselves as victims and may feel embarrassment and shame. The same might have applied to offenders and, in addition, the researcher would not have wanted to introduce current/former OCG members to one another.

Face-to-face interviews enabled the researcher to make assessments of any needs (including support needs) which offenders and victims may have had that could have arisen as a result of engaging in the research process as well as overcoming any issues in relation to literacy so that the Information Sheet and Consent Form could be fully explained. It also gave the researcher reassurance that the subject of interest was the one being interviewed (as opposed to someone else), which a self-administered questionnaire or telephone interview would have been more difficult to confirm. Telephone interviews were not offered to offenders and victims as, not only did the researcher want to ensure a baseline knowledge of RJ among potential participants (through the use of the RJ Briefing Sheet and screening of the YouTube clips), it would have been difficult to acquire the most up-to-date mobile number details for potential respondents. Block and Erskine (2012) detail that telephone interviewing may present difficulties in establishing trust between researcher and interviewee due to the physical separation and confirmed by Mann et al. (2000) that face-to-face interactions play an important part in generating this necessary trust. In addition, offenders and victims may have experienced difficulty in this context to assess the researcher's credibility particularly as confidentiality assurances were all given in person in line with agreed ethical codes for this study. Kraus and Augustin (2001) underline how telephone interviews can be experienced as impersonal and may directly lead to the interviewee's beliefs about the researcher's willingness to keep their promises in respect of confidentiality. In their study comparing self-administered questionnaires with telephone interviews to examine patterns of (problematic) drinking, they found that respondents found the former easier to report their use/misuse. However, one advantage of telephone interviews in the current study is that it would have reduced the amount of time taken travelling to different venues (de Vaus, 2014).



The interview schedule contained primarily open-ended questions. Using open-ended questions enables a wealth of information to be gathered, enabling the researcher to ask secondary follow-up questions, provide clarification and enable respondents to explore their insights, views and opinions freely. An entirely unstructured interview was rejected on the basis that answers were sought which would concisely answer the research questions and enable the researcher to form aggregated data with relative ease (Bryman, 2016). Each set of surveys were piloted before being used across the offender and victim sample, not leading to any changes. The impact of audio-recording all interviews and many shuttle mediations may have materially impacted on the responses given by offenders and victims, though those that took part in shuttle mediations were very complimentary about being given such an opportunity to hear each other's voices prior to meeting face-to-face or engaging further in continued dialogue. For those offenders who were accustomed to being interviewed by police officers using taped facilities as part of the investigative process, taking part in this research may have been reminiscent of that, which may have impacted on their response (e.g., one community-based offender agreed to take part in the research, but refused to be audiotaped). Facilitators also commented on this being a novel approach, which they intended to offer as an option in their own future work.

Finally, it is worth noting that no incentives were offered to offender and victim respondents for taking part. In particular, financial incentives were deemed inappropriate as the researcher could not police its expenditure. Miles et al. (2020) express a concern that incentives may influence respondents to be falsely positive about matters and not give a true indication of their feelings/perspectives. If incentives had been offered, then the response rates may have been higher, particularly as both SOC offenders and victims are perceived to be "hard to reach" groups. Williams (2003) states

It is important to stress that the non-response in particular groups is often a function of their partial exclusion from civic society in the first place. (Williams, 2003:99).

It may be that this is particularly relevant in the SOC context.

## Case Studies

### 1. Why was a case study approach chosen?

A case study approach was primarily chosen so that if any of the respondents expressed an interest in pursuing RJ, the mechanisms were in place to ensure that the options could be explored and this was deemed to be an ethical imperative, i.e., that if such an expression was forthcoming, it would be wrong to say it simply was not possible from the outset, particularly given the provisions in the Victims Code 2015. A case study approach also appeared to be the best way to trial a small number of cases and start to develop a working model for this study where offenders and victims were fully consenting to have a dialogue of a restorative nature. This builds on the previous pilot case study undertaken by the researcher as part of an N8 partnership initiative (D'Souza, 2019). The researcher was of the view that the small cohort of eligible research participants (offenders and victims) may provide a unique window of opportunity for those wishing to pursue a restorative intervention, having taken part in the research interview and been given a briefing sheet and shown *The Wolf Within* or *Repairing the Harm* YouTube clips. It was also perceived to be an ideal way of testing whether qualified accredited practitioners and a diverse range of external partners would willingly and voluntarily engage on an innovative untested area of practice.

While case studies do yield extensive and in-depth data necessary to understand the complexity of what is involved in undertaking RJ in this context, the use of this approach can reveal researcher bias. In his critique of the approach, Yin (2014) documents how the case study approach can be misused to attempt to confirm a preconceived perspective or opinion so that evidence is sought which supports/reinforces those preconceptions/beliefs and dismisses evidence which does not. This may be levelled at this study despite the researcher's attempts to be as objective as possible to truly test the concept in this new context, given that the Chief Constable was a very strong proponent of the use of RJ for all contexts (including non-criminal) and RJ policy has had a very high profile and is strongly supported by senior police leaders within the researcher's employing organisation.

Furthermore, Yin (2014) states that the case study approach can yield findings which are challenging to generalise to additional case studies and contexts. However, this can be mitigated by using a multiple-case design though this can be resource-heavy and time consuming and can be 'beyond the means of a single student or independent research investigator' (Yin, 2014:57). While multiple-case designs increase generalisability so that they are less 'idiosyncratic' (Miles et al., 2020:95), difficulties can still be experienced when making comparisons. 'Each case must be understood on its own terms, yet we hunger for the understanding that comparative analysis can bring.' (Miles et al., 2020:95). While the current study uses a multiple-case design, there are some limitations in relation to generalisability with other case studies and other contexts which are discussed at the end of this chapter.

## 2. The Multi-Agency Model

All offenders and victims were interviewed on a one-to-one basis by the researcher using the surveys in the Appendices. The research interview, which ended in an offer to take part in an RJ intervention, was audiotaped and if the respondent indicated a willingness to participate, an accredited RJ facilitator experienced with serious and complex cases was assigned the case by the researcher to assess the individual, whether they were an offender or a victim. Following this assessment, contact would be made by matching the offender to their victims or matching the victim to their group of offenders in the OCG. Separate assessments would follow by the RJ practitioner in the presence of the researcher. It was important for an RJ practitioner to be involved as early on in the case as possible, so that the offender and/or the victim would receive the offer of an RJ option in a way which was appropriate and enabled them to make a decision based on high quality information.

In order to ensure a consistent approach was adopted for all case studies, due attention was paid to the following methodological considerations where it became necessary to have a matched sample between an offender and a victim because one party had elected to pursue a restorative approach.

For victim-initiated requests, all offenders who were housed elsewhere in one of the UK prisons, a fresh application was made to the Ministry of Justice (MoJ) as part of the formal approval process for this research to continue at the new prison.

For offender-initiated requests, their victim(s) were approached to take part in the study by the Officer in the Case (OIC) or the investigating officer. In part, this was due to the fact that it was believed by the researcher that it was better for victims (particularly fraud victims who had been duped by strangers calling them by phone or attending their home addresses) to have initial contact by someone that they already knew and trusted and also because it paved the way for the researcher to subsequently establish contact. Where the OIC was not able to contact the victim, despite repeat attempts, the researcher wrote an introductory letter to the victim to their home address with details of the OIC so that the initial contact could still be with the criminal justice professional with whom they were most familiar. Most chose to contact the researcher directly, rather than the OIC.

For each case study, a bespoke multi-agency forum was convened with the relevant professionals involved for the purposes of sharing information held by each agency and for discussing the eligibility and appropriateness of pursuing an RJ option for both the participating offender and their victim(s). For each one, the following agencies were invited to participate where relevant: the police Officer in the Case (typically from the regional SOC unit who investigated the OCG or arresting officers from within a force), the probation officer in the prison, the probation officer in the community, mental health workers, Victim Liaison Officers, prison officers who were either keyworkers, personal officers or supervising officers and the restorative justice practitioner and managers. The researcher subsequently chaired the meetings and produced a set of minutes which were shared with the group, clearly recording risk, vulnerability and actions as well as documenting defensible decisions.

The format adopted for such forums was for each agency to present their information held by their agency and outline their experience of their “client” before a discussion would take place in respect of eligibility and suitability. Much of the latter was dependent on the RJ expert’s view as well as the Victim Liaison Officer’s views. A collective and comprehensive risk assessment plan was formed for each case, taking into account factors which related specifically to the SOC context. Once a decision was made to pursue an RJ intervention, the researcher allocated the case to the RJ facilitators and accompanied them for all assessments and interventions.

This forum was either convened in person with professionals attending where possible, or by telephone conference or a combination, particularly where long distances between professionals were an issue precluding their physical attendance. Where attendance was not possible by any one agency, the researcher requested a written report in advance of the meeting, which was sent to her only with an agreement that the contents could be shared in advance and with the group members. The researcher co-ordinated the work of several practitioners and acted as the conduit between the offenders and victims where practical and necessary so that the researcher was the single point of contact between all parties, enabling the triangulation of a wealth of information.

Throughout each stage, the researcher kept in touch with the multi-agency team to keep them informed of developments and progress and ensure that she kept herself up-to-date with new developments not just in offender/victims' lives, but also from an OCG perspective, as not all OCG offenders were prosecuted and/or caught (notwithstanding that there will have been inevitable gaps in police intelligence). It was acknowledged that the activities of members of OCGs could rapidly evolve and the risk assessment would need to be continually updated to ensure that the latest intelligence was being used to inform this work to assess the potential impact on participants, their families and supporters and professionals, as well as assessing any potential impact on the local community.

Atkinson et al. (2005) outline factors which determine the success of multi-agency frameworks: commitment at strategic levels to ensure sustainability, diverse range of professionals with different backgrounds who are 'like-minded' (p. 15) and have sound interpersonal skills as well as shared budgets/resources. In this study, the researcher relied on voluntary engagement by partners which may have compromised sustainability in the long-term, as support was not secured at senior leadership level within the respective organisations. In addition, often there were a variety of opinions about the feasibility of RJ for the case, with some voicing strong opinions one way or the other – the 'like-mindedness' referred to by Atkinson et al. was not always present and needed careful navigation by the chair. There was no shared budget as this study was fully funded by external bodies. Hence, many of the factors deemed crucial to multi-agency frameworks were missing from this model, though it is believed that strong commitment by RJ facilitators, robust chairing and

compelling arguments about what was the right thing to do in any one scenario led to accomplishing what the researcher set out to achieve.

For all the case studies, written consent was obtained from all offenders for relevant information to be shared in line with data protection legislative requirements and for any onward transmission of data/information. In addition, some agencies also visited their “client” and sought written permission from their own agency’s perspective, so that some offenders (and victims) signed forms multiple times for different agencies in order to be considered for an RJ option. Consent was only obtained from victims if the case was considered to be eligible for RJ and the offender had expressed a request to participate in an RJ intervention.

Letters of explanations, shuttle mediations and face-to-face conferences were undertaken as part of this research, with the RJ practitioner assisting those wishing to participate to understand the options open to them and negotiate methods of interventions between offenders and victims where appropriate. All support for participants was co-ordinated and agreed prior to any intervention taking place, from the point of the offer being made to post-intervention.

### 3. Capturing the Data

During the course of the case studies, a variety of methods were deployed to capture the dialogue, including participant observation, contemporaneous note-taking, fieldwork notes and audiotaping.

Participant observation took the form of attendance at RJ interventions such as writing letters or shuttle mediations. Gold (1958) identifies different levels of observations:

- complete immersion as observer with a detached role where others ignore the researcher;
- observer-as-participant where the researcher does the interview but also observes;
- participant as observer where the researcher is fully engaged and other participants are aware of her role as observer; and
- complete participant where the researcher plays a full part and is a covert observer.

According to Gold (1958: 218), 'Every field work role is at once a social interaction device for securing information for scientific purposes and a set of behaviours in which an observer's self is involved.' For the face-to-face conference, the researcher audiotaped the conference and a full transcript was produced; an unobtrusive a stance as possible was adopted and she sat outside of the main circle as participants were sat in a semi-arc with no table in between them. No words were spoken by the researcher other than a brief introduction at the beginning of the event. For other observations, the researcher played a full and active part where appropriate as she was fully engaged but all participants were aware of her role as observer-researcher. Handwritten notes were made contemporaneously during the course of the intervention and typed up afterwards and shared with the professionals by written consent of the respondents where appropriate. This was an excellent opportunity to see how practitioners worked with offenders and victims throughout the lifespan of each intervention enabling the researcher to collect rich qualitative data.

Several advantages were enjoyed as a result of deploying participant observation as part of the case study approach: many hours were spent in the setting which promoted familiarity and enabled the researcher to gain rich understandings from each respondents' perspective. Furthermore, it enabled access to issues which she may not have had access to simply by listening to the ensuing conversations between respondents and accredited RJ facilitators and between facilitators themselves (such as how they planned to work with a particular case). However, the impact of being physically present may have affected interactions between participants and indeed affected the interventions, particularly as the researcher often used a hand-held recording device. As such, participant observation is frequently documented as potentially intrusive (Bryman, 2016).

#### 4. Evaluation of Case Studies

This method of undertaking case studies resulted in one face-to-face conference (where the victim requested an RJ and the offender was subsequently traced by the researcher with the help of NERSOU's extensive contacts throughout the country), four shuttle mediations (with the offenders requesting an RJ) and two letters of explanations (with the offenders requesting an RJ). Further consideration was given by the multi-agency team in another two cases where the request was made by the offender for a face-to-face conference, but this did not result in

any interventions being pursued in the form of case studies. In another two case studies, the victim withdrew mid-way through a shuttle mediation which was being undertaken as part of a staged approach, with the aim of leading to a face-to-face conference as was the original intention. One other offender who had requested a meeting with his corporate victims with a view to learning more about the impact of his actions and to hold the victim to account for the way that they do business did not lead to an intervention of any kind, including one of a restorative nature.

The researcher undertook a formal evaluation 2–3 weeks post-intervention, though the RJ practitioners undertook their own specialist agency evaluation within 2-3 days which tended to focus on generic offender/victim satisfaction with the service provided by the specialist RJ provider. This differed from the researcher's own evaluation which focused on satisfaction levels, but also whether the respondents achieved what they wanted to from the process (respondents were asked what they thought they would like to achieve if they engaged in RJ as part of the perception questionnaire and the evaluation process used this as a benchmark to see if they did achieve what they sought from the process). This was done in person wherever possible, but some were also undertaken by phone where significant geographical distances were involved. Contemporaneous field notes taken by the researcher, inclusive of participant observation of the interventions, contributed to the analysis of each case study.

Each case study was written up separately with the offender, victim and professionals' journey from the point of the initial research interview to the conclusion of the intervention with the formal research evaluation. Each method of intervention (letters of apology, shuttle mediation and face-to-face conferences) were analysed as a group of interventions, with the key common themes being identified using the inductive approach and thematic analysis as part of the evaluation for each intervention.

#### **4.6 Thematic Analysis**

In line with the dominant epistemological and ontological orientations of the researcher, thematic analysis was deployed once the data gathering process had been completed and the raw data had been transcribed. Clarke and Braun (2017:297) define thematic analysis as 'a method for identifying, analyzing, and interpreting patterns of meaning ('themes') within



qualitative data'. Braun and Clarke (2006) and Clarke and Braun (2013) outline the stages involved introducing a 6-step framework to undertake the analysis. The key terms used are 'codes', 'sub-codes' and 'themes' which form a fundamental part of using this framework. Saldana (2016:3) defines a code as 'most often a word or short phrase that symbolically assigns a summative, salient, essence-capturing and/or evocative attribute for a portion of language-based or visual data', while Clarke and Braun (2017:297) describe codes as the 'building blocks for themes ... underpinned by a central organizing concept'. A theme is described by Saldana (2016:13) as 'an outcome of coding, categorization and analytic reflection.'

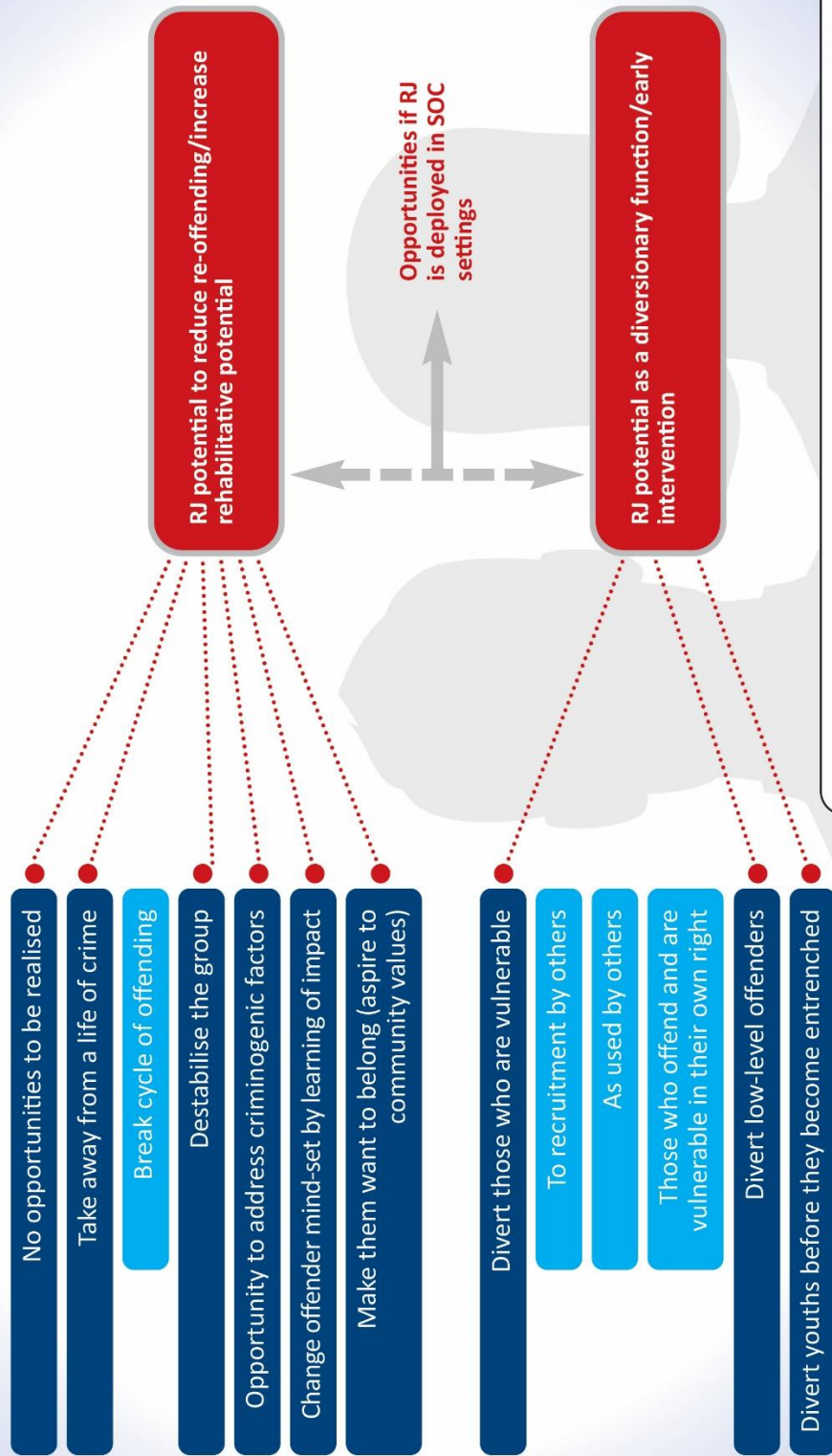
The main coding frame was based on the interview schedule, covering the key topics referred to above. The stages are described below, using an example presented in Figure 4.1 which outlines the process of identifying codes, sub-codes and themes from the data generated when asking SOC experts to talk about potential opportunities presented by offering RJ in the SOC context.

1. Familiarity with the data/transcripts where each set of transcripts for experts, offenders and victims and case studies were re-read; if further clarification was required, the original audiotapes were listened to in order to ensure familiarity with the data. Points of interest were noted during this initial stage of the process. In this example, the transcripts for SOC experts who responded to the question in relation to potential opportunities which may be realised if RJ was offered to relevant affected parties were scrutinised with this purpose in mind.
2. Initial coding by labelling chunks of similar data; this coding process in effect reduced significant amounts of data into small chunks with broad similarities. Hence, codes (and sub-codes) were assigned to chunks of data to enable recurring patterns to be easily identified, e.g., 'divert offenders who are vulnerable away from offending' as an overarching code was identified, with the following sub-codes within that code generated as 'divert offenders who are vulnerable to recruitment by others' and 'divert offenders who are vulnerable as they are used by others'.
3. Turning similar codes with common features into themes, which reduces the overall number of codes (using colours to denote the same/similar codes and sub-codes between the different sets of respondents, e.g., between SOC and RJ experts or

between prisoners, community-based offenders and victims). In the example given below, the following theme emerged: 'RJ potential as a diversionary mechanism'.

4. Identification of sub-themes: From these emerging patterns, similar codes were grouped together to establish a number of themes, e.g., 'Opportunities presented if RJ was utilised in the SOC context' which was based on the interview schedule.
5. Exploration of links between concepts/variables: for example, it was clear that other opportunities being cited by SOC experts related to RJ's potential to reduce re-offending and that this linked with its usage as a diversionary tool.
6. Writing a narrative framed around the research questions; this formed the basis of the chapters describing and discussing the findings.

**FIGURE 4.1: OPPORTUNITIES: SOC EXPERTS**  
**SNAPSHOT OF ONE STAGE OF THE THEMATIC ANALYSIS**



**CODES**      **SUBCODES**      **THEMES**

## 4.7 Ethical Considerations

The complexities of ethical considerations are summed up by Williams (2003:169):

Being ethical is, then, not like being numerate where there are clear and measurable criteria. Being ethical is a much more personal and subjective quality and it is about the realization of oneself as a moral agent and being able to reflexively evaluate the consequences of one's own actions on the lives of others.

The MoJ, the University of Sheffield's Ethics Board and Durham Constabulary's Professional Standards Board all needed to consider the ethical implications of this research and all required reports to be prepared by the researcher as part of established protocols. The key issues from an ethical point of view relate to obtaining informed consent from potential participants, the personal safety of the researcher, the safety of respondents and respondent anonymity. Ethical issues prevailed throughout the course of the study and were particularly relevant when undertaking the case studies; hence, this is separately considered below. Issues in relation to data handling are also detailed.

Sieber (1992:45) explores how privacy, confidentiality and anonymity differ from one another. Privacy is described as people's 'interest in controlling the access of others to themselves' in relation to protected information and only becomes an issue if such relevant information is revealed. Confidentiality is described as a data handling matter so that, again, respondents can control access to information about themselves. Anonymity centres around data handling/storage issues so that data generated lacks unique identifiers that would reveal the identity of respondents. The researcher gave assurances of confidentiality and anonymity to the respondents and so both are discussed below.

### 4.7.1 *Obtaining informed consent from potential participants*

Each potential participant who had given a preliminary indication of interest in participating in the study was given an information sheet which the researcher went through as part of her introduction to the invitation to participate; this was done to ensure understanding but also to address any unknown potential literacy issues. The Information Sheet detailed the purpose of the research with a very brief outline of what restorative justice is about, the potential

benefits and value of taking part, what the respondent's role would be if they chose to take part and giving assurances of confidentiality (clearly outlining the boundaries and limitations necessary if for example individual safety or prison security were to be compromised) and anonymity (including that the contract with the professional transcribing service would include a confidential agreement). The various committees that had granted the researcher formal approval to undertake the study were detailed as well as how the respondent could access support if required and make a complaint if they so wished at any stage.

Restorative justice requires voluntary participation from both offender and victim, having been given sufficient information about the research. The principle for the research was therefore that all potential participants would be given information and make an informed choice as to whether to participate in both the research and any restorative justice intervention. The Consent Form asked respondents to confirm that they had been able to access the information detailed in the Information Sheet, that their participation was voluntary and they could withdraw at any stage without any negative consequences (including after the interview and prior to publication), that they understood that their personal data would be kept confidential and that they agreed to the use of audio-taping. It became clear that consent is a constant process of engaging in dialogue and negotiation throughout the lifespan of the respondents' involvement in this study and not a one-off event at the commencement of the first contact. This was evident in the fact that respondents had been informed verbally and in writing that they could withdraw at any stage. One example of this was a victim who withdrew on more than one occasion just before a face-to-face conference was due to take place. In this context, the impact of this right or entitlement goes beyond the research project, as it clearly had emotive implications (frustration and disappointment for example) for the offender who had undergone intensive preparation in order to be able to constructively engage in a RJ conversation.

Miles et al. (2020:54) advise researchers to 'Be an open book with your project; this will help develop a sense of trust between you and the setting's individuals. If you have something to hide from participants, it better be for a good reason.' These statements are clearly in support of both the British Sociological Association (BSA) Statement of Ethical Practice 2017 which states that covert elements can be 'resorted to only where it is impossible to use other

methods to obtain essential data' (p. 5) and the Economic and Social Research Council Framework (ESRC, 2016: online) which states that

Deception (i.e., research that deceives or purposely misleads or misinforms the participants about the nature of the research) and covert research should only be used when no other approach is possible, where it is crucial to the research objectives and design.

The BSA statement (2017:5) elaborates that 'covert methods violate the principles of informed consent and may invade the privacy of those being studied.' However, it does acknowledge that exceptions may be justified where 'access to spheres of social life is closed to social scientists by powerful or secretive interests.' (2017:5).

One aspect of the research was of a covert nature, namely that offenders had been selected due to their membership of a mapped serious and organised crime group. Incarcerated offenders were told that they were being interviewed as a result of the offences for which they were currently serving a sentence. Offender participants in the community were told that they were being interviewed within the context of their criminality. The researcher did not have the freedom to inform offenders in relation to this restricted piece of information, which only those who are vetted to the appropriate level can have access to. Knowledge that they were members of organised crime groups was not disclosed for a number of reasons including that they may inappropriately inform other members of the group whom are not known to the police, or members who were being investigated for their activities but not yet brought to justice, i.e., that it may adversely impact on wider policing actions/disruption activities or have unintended consequences for the interviewee and other members of the group. In addition, not all mapped offenders will have necessarily known that the police knew of their membership of such groups and indeed, some interviewees told the researcher that they had acted alone (or said that they committed the offence in a group but were not happy to discuss the involvement of others). Victims already knew that they had been harmed by members of OCGs as part of the police investigations. All respondents had signed to say that they understood that they could decline to answer any questions (which also included the

question asking offenders if they had acted alone or in a group to commit their last offence) or they also could exercise choice and lie (which some did).

No incentives were offered to any offender, victim and expert respondents. Prisoners and community-based offenders were informed in writing that taking part in the research would not affect their privilege levels or have an impact on any decisions which may be made by the Parole Board or the Immigration Services in relation to any deportation issues, for instance. The key principle was on voluntary engagement with this project as successful RJ dialogues rely on voluntary participation between consenting parties.

#### 4.7.2 *The Personal Safety of the Researcher*

From the outset, it was acknowledged that there may be risks of physical threats/abuse and/or psychological harm as a result of threats or accusations of improper behaviour made by participants (both offenders and victims). As Miles (2020:55) acknowledges: 'Harm cuts both ways' so that potential for harm to the respondent must be addressed, but so must the potential harm to the researcher. Miles cites the tale in the *New York Times* where a reporter asks a drug dealer if he felt OK about being open and honest to which the dealer replied 'Sure, if I don't like what you write, I'll kill you.' (Miles, 2020:55).

For interviewing prisoners across the differently graded prisons, a trusted gatekeeper such as a prison officer/probation officer was consulted prior to the interview so that any risk issues could be identified. Information and intelligence available on police and prison IT systems were also accessed prior to the interview taking place (primarily via a PNC check undertaken by a suitably trained staff member), for the purposes of selection for the study and risk assessment. If any risk to the researcher was identified, the interview did not take place and this only happened on one occasion where the prisoner would have needed to have been accompanied by four prison officers and required a senior prison officer's approval for the interview to take place. Furthermore, personal alarms were available and all Legal Visits interview rooms are alarmed for researcher safety with easy access to prison security personnel. A sense of additional security was also derived from the fact that all interviews were audio recorded.

Interviews also took place in OCG offenders and victims' homes and community facilities as part of this research. Police databases were utilised to gather relevant information to inform the risk assessment process; where significant risks were known, no interview took place. Furthermore, the researcher was accompanied by another professional either from the police or a partnership agency where appropriate. The professional was not in uniform and was an observer who did not take part in the interview but contributed to the assessment of risk. All professionals involved in this way were instructed prior to their involvement in this project that the opportunity to observe could not be used for the purposes of intelligence-gathering or to inform operational activities. When interviewing on her own in the community, the lone worker practices/precautions were utilised (informing colleagues of her whereabouts and approximate time of return as well as the participant details such as name of participant and address of meeting, use of mobile phones and simply exiting the situation if there were any beliefs/perceptions/discomfort regarding personal safety. Interviews took place, with easy access to the exit).

#### 4.7.3 *Safety of Respondents*

The following was detailed in the Information Sheet: information about the study, securing voluntary informed consent and the right to withdraw at any stage including after the interview. Assurances of anonymity in terms of being identifiable in any report or publication for the purposes of the semi-structured interviews was given to all offenders and victims. For those who sought restorative solutions, this was modified so that they could potentially meet face-to-face with their offender/victim, restorative practitioners and their home police force, where relevant, and brief details of the restorative event were recorded by the restorative justice provider in the normal way. All good practice guidelines were followed in respect of undertaking restorative conferences including the securing of written informed consent. Details outlining the boundaries of confidentiality were also given prior to the interviews, e.g., the necessity to divulge information such as child protection issues, potential breaches of prison security and prison welfare-related issues including where any risk of future harm was identified. Care was taken as to how the admission of further offences was handled during the course of the fieldwork. Clearly the nature and specific details shared determined the responses. Two senior police officers (a DCI from her force area and a DCI from NERSOU) were



appointed by the researcher for the purposes of discussing any such incidents to determine what action, if any, was required. Both were required at different stages of the project albeit not to deal with risk issues but to enable access to data from OICs.

Any restorative conversations/conferences which were conducted as part of this PhD were carried out by qualified, experienced restorative justice practitioners. They were unlikely to have experience of undertaking restorative approaches with organised crime group nominals as the previous case study described above under the N8 partnership (see Chapter 1) represents the only one in the country to-date, as far as known. However, careful selection of facilitators was key (all approached were experienced practitioners accustomed to working routinely with serious and complex offences), as was preparation by those professionals. All lessons learned and the model developed in the first case study were utilised and further developed. Restorative conversations of any type were not pursued where identified risks could not be mitigated, whether those risks were to offenders, victims, other individuals such as offender and victim supporters, communities or staff or would potentially represent a reputational risk to Durham Constabulary, the University of Sheffield, the supervisors or the researcher. Furthermore, support needs that were identified were acted on, particularly where the OIC alerted the researcher to aspects of potential respondent vulnerability prior to any interview taking place. Durham Constabulary's duty of care overrode any other assessment, i.e., if risks could not be addressed/mitigated or there was a likelihood of unidentified risks, an RJ approach was not pursued. This tended to be a decision made by the multi-agency partnership group. Specialist support was sought via Victims First Northumbria where appropriate. Each multi-agency team was a bespoke group involving those directly responsible for working on the case, either on a historical basis or currently. This typically involved accredited restorative justice practitioners, a representative of the officer in the case from the police (including from NERSOU and force areas within the north-east and north-west), Northumbria Victims First and someone from the OPCVC. Mental health workers and prison and probation staff were included where relevant. Adopting this intelligence-led information-sharing and pooling of expertise ensured that there was individual accountability (as related to each agency's protocols) but also collective responsibility for decision-making and safeguarding all respondents, including the professionals themselves.

There were no offenders with known mental health issues or issues suggesting that they would lack the capacity to understand or where consent would have been compromised and, as such, this study did not present such challenges. All respondents spoke English even if this was as a second language; hence, the services of Language Line were not a necessity.

Imprisoned offenders and those living in the community, as well as victims, were informed that they could make a complaint if they were not happy with any aspect of their contact with the researcher, either formally or informally. The message was given that all complaints would be treated seriously and referred to Durham Constabulary's Professional Standards Department, as is the norm. Details of how to make such complaints were given in all cases and they were also informed that they could access University procedures.

For those who were then identified as vulnerable (regardless of whether this was due to the impact of being a victim of an organised crime group, or some other unrelated issue arising from being a victim of crime), support pathways were agreed with relevant service providers.

For victims of organised crime activity, heightened levels of vulnerability were assumed from the outset, with varying responses to the same type of offences. All necessary attention was paid to factors that might potentially lead to feelings of 're-victimisation' (i.e., an individual being adversely affected by revisiting the crime they were a victim of) or a victim feeling vulnerable as a result of taking part in this project. In one case, where the bespoke group decided that the victims were too traumatised and so would not be approached, much of the discussion which was initiated by the researcher centred around who has the right to decide – the professionals who mean well and are knowledgeable within the remits of their own roles, or the victims – the question asked was 'do we have the right to make decisions on behalf of victims or do they have their own agency to decide?'. There were no easy answers to such ethical conundrums.

It was not envisaged that experts would feel distress/anxiety as a result of their involvement in this study, though consent was secured and the message relayed that they could withdraw their consent at any time, including after having taken part (though not if the research had already been published). If they withdraw in the future, but before publication, their data will

be destroyed, in line with MOPI (Management of Police Information) guidelines and the University's research ethics policy.

#### 4.7.4 *Respondent Anonymity*

Whether contacted formally or informally, all participants – prior to the commencement of interviews – were provided with an information sheet about the research and were asked to sign a consent form (a copy of which they retained). The opportunity to ask questions was made clear at every stage.

The limits of confidentiality were outlined to all participants from the outset, by discussion of the Information Sheet, which respondents were able to keep. The DUTY OF CARE aspect overrode all other considerations so if the potential for self-harm or harm to others or to security was identified, this was shared with appropriate agencies/departments within the police and prison settings. The necessity to share information with others was outlined to the participant before information was shared, unless this compromised individuals, staff, and agencies or compounded the situation in some way. If offenders were to reveal information such as admission of serious offences (whether SOC-related or not), then the researcher was clear as to what she told offenders about what she would do with such information (tell relevant authorities) and this formed part of the initial discussion.

Efforts were made to ensure that this study did not deliberately or inadvertently inform intelligence-gathering/operational policing activities. This was done by ensuring that relevant personnel such as operational police officers and staff did not have access to such information during the course of interviews or afterwards. Where any professionals from the police service or partner agencies accompanied the researcher to an interview, they attended as observers only to ensure that the interviews were not materially affected in any way or the information used to inform any activities beyond meeting the study's aims and objectives. Each observer outlined this to the respondent from the outset, so that role clarity was achieved from the beginning of the interactions.

Experts were informed that while anonymity in relation to publications or reports could be guaranteed, their agency may be identified and consent was secured on this basis. They were aware that the agency may be identified as a stakeholder with an interest in restorative practices, but that their names and other personal identifiers would be protected and not identified in any presentations/publications. In order to aid analysis, their position such as leader/manager or front-line practitioner needed to be identified and this too was highlighted, as it may potentially increase the risk of identification. This may have presented difficulty for those who work in very small organisations, but, at all times, it was informed consent that determined whether professional experts chose to participate or not in this study.

As per the University's ethical guidelines and the BSA ethical code of conduct, participants who had given informed consent were granted the right to retract any and/or all of their statements prior to publication. Participants were assured of anonymity and told that their personal details would be changed, so that each participant was allocated a unique reference number only. In future publications of the research data, participants will be referred to according to their participant group (Offender, Victim, and Expert) and no individual biographical details will be used which could identify the participant. Only the researcher has access to confidential data.

For experts, their positions within their organisations and also their agency are potentially identifiable and this was emphasized to all experts willing to take part. A full audit trail was established. Recordings have been kept in line with MOPI<sup>26</sup> (Management of Police Information) rules and guidelines.

#### 4.7.5 *Ethical Considerations in respect of the Case Studies*

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<sup>26</sup> The College of Policing website states: "The principles of management of police information (MoPI) provide a way of balancing proportionality and necessity that are at the heart of effective police information management. They also highlight the issues that need to be considered in order to comply with the law and manage risk associated with police information". More at: <https://www.app.college.police.uk/app-content/information-management/management-of-police-information/>

Ethical issues were considered in respect of who raises the prospects of RJ with the other party once an offender or a victim has stated that they wish to pursue an RJ option – the facilitator, the researcher or the professional involved such as a prison liaison officer? At what point should the researcher inform the interviewee that they want to do a research-based interview with them as well as offering them a restorative intervention? Or for all case studies, should the focus only be on undertaking/facilitating the intervention and no research interview takes place?

The principles used to answer these questions were that any restorative-based work with a strong focus on being victim-centred should always come first as the primary concern and the research needs second. To this end, the following was adopted:

- If either party (offender/victim) said that they wanted to undertake a restorative dialogue in some form, this was pursued by the researcher, i.e., attempts were made to identify and contact the other party.
- All interventions were undertaken by appropriately qualified practitioners.
- Discussions about what is involved in RJ were undertaken by RJ qualified practitioners.
- When offenders and victims requested an RJ, subsequent face-to-face contact (where possible and appropriate) with the other party was only made with a qualified RJ practitioner present.

Where the victim had requested the RJ, the researcher located the offender/offenders to ascertain whether they were based in prison or in the community via the OIC at NERSOU. If the offender was in prison, the researcher made contact via the regional office in the local area of the prison where the offender was based. This was with a view to the local office paving the way for the researcher to speak with the Prison Liaison Officer and the Offender Manager to find out information about sentence length remaining, the offender's current remorse levels, courses accessed while in prison and their behaviour (inclusive of any evidence of further similar offending while serving the current sentence). Once the professionals' thoughts had been gathered, if appropriate, a request was made for prison-based personnel (who were guided with a script) to speak to the offender and ask for consent

to be interviewed by the facilitator and the researcher. During the interview, the focus was on restorative-based work first and the research second. Information was given about restorative practices and the victims' wish to participate in an RJ intervention communicated. Honesty prevailed in that the reason the offender was being interviewed (because the victim wanted an RJ intervention) was clear and emphasis was placed on voluntary consent and choice. Regardless of whether the offender then consented to exploring the option or not, the offender was then given the choice of whether they wanted to be interviewed as part of this research study. The choice was entirely theirs and was offered regardless of whether they wanted to meet their victim(s). If the offender was living in the community, the same process applied, but contact was via the probation service, if known to them, or via NERSOU.

Where the offender had requested the RJ, contact with victims was made via NERSOU. If the victims consented to speaking with the researcher, the researcher made contact and visited the victim jointly with the qualified RJ practitioner. The restorative-based focus came first and not the research-focus. Honesty prevailed in that the reason the victim was being interviewed (because the offender wanted an RJ intervention) was clear and emphasis was placed on voluntary consent and choice. This was to ensure that the victim did not feel in any way coerced into taking part to meet an offender's needs. Whether the victim then consented to exploring the option or not, the victim was given the choice of whether they wanted to be interviewed as part of this research study. The choice was entirely theirs and was offered regardless of whether they wanted to meet their offender(s). In the instance where the victim was approached and declined to take part, some complex discussions took place within the multi-agency forum as to how best communicate this to the OCG prisoner who had requested the intervention without placing the victim at any greater risk. The decision was made to communicate this to the prisoner to say that a decision had been made that, because of the severity of the impact of the offence (the victim was unable to feed himself on a permanent basis and had developed serious life-changing health implications), it was not appropriate to pursue an RJ approach. The researcher attended with the prison officer in person to communicate this to the prisoner, but in reality the prisoner presumed it was the victim who had rejected the offer and the prison officer immediately said it was not; it was the collective decision of all professionals who had met and taken his request seriously. She carried out some offence-focused work during the course of this meeting, which clearly

built empathy in the offender and he appeared to leave in a calm manner accepting of the situation and asking questions about what he should do if there was a chance meeting with his victim in the street on release.

As is evident, many ethical dilemmas had to be considered in order to undertake the case studies both from a practice/operational perspective and also from an academic congruence stance in not having a gap between what the researcher stated was her ethical stance and what she actually did in practice.

#### 4.7.6 *Data Storage*

Data were stored securely on a Durham Constabulary server (on the researcher's personal drive and not a shared database) and only accessed by the researcher. Information and data were not placed on shared drives, but on her own personal drive. Analysis of the data only took place on university or police premises or her home address. Data were anonymised at the point of transcription. All manually held data were stored securely, in a locked cabinet at home or in the secure locker at work. Identifiable data were stored separately from recordings and transcripts.

Short YouTube clips were shown to all offenders and victims; care was taken to ensure that no other content was shown/visible to participants and they did not have any access to any other information/data on the laptop. The laptop and Dictaphone were not given to the participants but were in the researcher's possession at all times.

The data may be used for future publication, but this was made clear to participants and assurances of anonymity given. All records have been stored in line with MOPI (Management of Police Information) and will be kept only as long as is necessary for the purposes of this study and subsequent dissemination via presentations and publications.

## **4.8 Limitations of the Study**

Walliman (2006) explains that validity is concerned with the degree to which research findings can be said to be true and quotes Seale and Filmer (1998:134) in differentiating three different types of validity: (a) measurement validity which is about the extent to which measures such as survey questions can successfully demonstrate concepts; (b) internal validity which is the extent to which causal statements are verified by the research; and (c) external validity which is about the extent to which research findings can be generalised to populations and other settings outside of the specific research setting. Walliman also states that replicability is important, i.e., whether the research can be repeated and if it would achieve similar outcomes to ascertain the objectivity of the experiment, reflect on its integrity and its lack of bias in the way the study has been undertaken. Generalisation (whether the findings are applicable to a broader range of populations and situations) is key as this is a project with implications on the national stage from a Prevent perspective. Issues in respect of reliability (the degree to which are results are repeatable over time) are also important for the same reasons.

As this is a small-scale study (and it was not possible to use random sampling and purposive sampling usually provides a weak basis for generalisation – Miles et al., 2020), it has not been possible to achieve representative sample groups of offenders and victims nor representative offence types from a SOC perspective. Many social science researchers consider that the ideal gold standard evaluation research uses a randomised control trial (RCT) as impact between test and control groups can then be evaluated (McGuire, 2016), though this may lead to objections on ethical grounds and perhaps in this context to statutory-based obligations under the Victims Code. The OCG offender sample in the prison, the community and the victim sample cannot be said to be representative of the OCG population across the north-east as they were inevitably “hand-picked” by the (mostly) reticent OICs who were concerned in relation to safeguarding issues for victims and the potential for the project to be used by offenders to further their criminal purposes. As such, fraud appears to be the chosen type of criminality for which the approach has been piloted, notwithstanding that there are offences of a violent nature within the sample groups and that the action of committing fraud can also use threats of violence, intimidation and physical coercion. Hence, the samples cannot be said to represent the OCG prison and community population and cannot be generalised to a wider population of OCG offenders and victims or be applicable across different offence types



(notwithstanding that there is a common assumption primarily among practitioners that offenders show specialisation in offence types as stated by Klein (1984) in his study of juveniles and refuted by Macleod et al. (2012) who posit that on the whole, offenders tend to be versatile rather than specialised).

The small number of case studies (which has implications for generalisability as they are not a representative group: respondents were self-selecting for consideration for an RJ approach) also suggests limitations in relation to the extent to which inferences can be drawn about the relative successes or challenges of trialling different RJ approaches with different OCG members occupying the different hierarchical positions within a group across different offence types and using different RJ methods such as letters of explanations/apology, shuttle mediations and conferences – some of the most fundamental research questions posed at the outset of this study. However, the case studies do demonstrate applicability of RJ in the SOC context and this has much strategic significance. Each case study used multiple sources of evidence relying on interpretive strategies to analyse the data generated. In the end, a pragmatic approach needed to be adopted and using the case study approach proved to be an interesting way to explore a complex field. An alternative view is presented by Pawson and Tilley (2004) who believe that realist evaluation is a better way of evaluating interventions based on their epistemological perspective that social actors have designed the intervention in the first place, i.e., that ‘Commissioners of realist evaluations should thus expect the research to take cognisance of the subjects’ characteristics, their relationships, their organisational position, their economic conditions and so on’ (Pawson and Tilley, 2004:4–5). This is explored further in Chapter 7.

Given the high response rate for police SOC specialists, the sample is likely to have given views representative of those who work in the specialist units at both operational and strategic levels. The RJ experts were unanimous in their views and, while the sample is small, the views were highly consistent with each other (and with the views of the 15 RJ experts who engaged in the N8 survey, which taken together would include the view of 32 experts in total). Hence, it can be concluded that the experts are highly likely to have given representative views of those who work in the same fields.

Limitations are evident in that this study does not explore the longer-term impact of using RJ with organised crime group (OCG) cases in terms of reoffending/reconviction rates, reintegration and community cohesiveness and longer-term satisfaction overall by both offender and victims.

Finally, some limitations (previously noted in this chapter) arise from the reflexive process described in respect of adopting an interpretivist perspective. The very nature of the epistemological stance has meant that the researcher has exercised choices, e.g., what materials to attend to and which to exclude and what interpretations are made from the data collected, and these aspects will also have influenced the process of analysis. The researcher's personal characteristics (in respect of age, gender and ethnicity, for example) and experiences of working within the criminal justice sector will have shaped her own biases and perceptions of what she saw through the participant observation and what she heard respondents say to her during the course of interviews. Even which pieces of data she chose to select from the documentary analysis will have been shaped by these personal elements as she excluded much data generated during the course of this research study. However, while these aspects may be deemed to be limitations of the study, they were counterbalanced by some excellent benefits which have assisted the research process, enhanced understanding of complex criminal justice processes and resulted in much rich data (e.g., the fact that there was relatively easy access to highly restricted documents such as maps of organised crime groups and MG5<sup>27</sup>s as a police employee).

#### **4.9 Summary and Conclusions**

This chapter has outlined and justified the use of the methods for the various aspects of this study as well as considered the ethical, epistemological and ontological challenges and opportunities presented to the researcher as a result of her insider-outsider position. This has been with a view to fully exploring untested areas of policing practices potentially leading to new approaches under the Prevent strand of the SOC National Strategy (see Chapter 1). Gerring (2017:32) concludes that 'To honour the contributions of qualitative research in social

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<sup>27</sup> The MG5 is a police report which can be disclosed to the defence and the court and is a case summary. Further information and a blank copy of the MG5 can be found at: <https://www.judiciary.uk/wp-content/uploads/2015/09/bcm-mg5-how-to-complete.pdf>

science is to honour the role of exploratory research in the progress of social science', justifying the use of mixed methods for this project.

#### Figure 4.2 Mixed Methods Approach: A Summary

As is evident from the summary below, the study involved 109 respondents in total (33 individuals responded to the first national NPCC survey in relation to examples of anecdotal evidence of applications, 53 experts participated in the survey exercise and 23 offenders and victims were interviewed). In addition, the views of criminal justice professionals were gathered on an informal basis during the course of the case study evaluations, as part of a reflective exercise.

## FIGURE 4.2: MIXED METHODS APPROACH: A SUMMARY

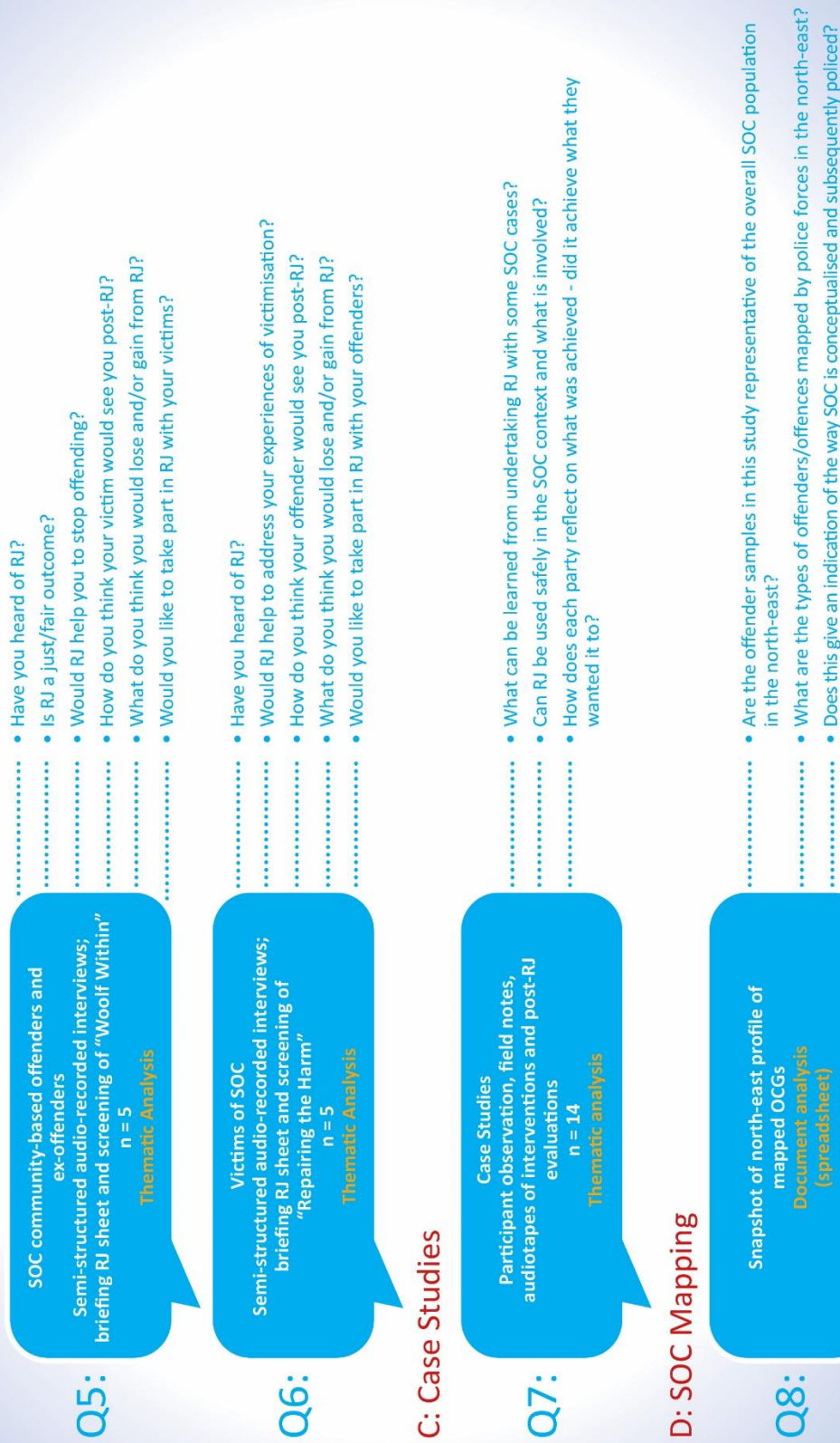
### A: National Police Survey & SOC Expert Perception Survey

- Q1:** National Police Chiefs Council (NPCC) National Survey  
n = 33  
Analysis of Responses using a Yes/No framework
- ..... Is this innovative?
  - ..... Has it been tried before?
  - ..... If so, supply details with anecdotal examples
- Q2:** NPCC National Survey: SOC Experts  
Semi-structured interviews completed electronically (n = 22) or by telephone (n = 14); total: n = 36  
Thematic Analysis
- ..... Why has RJ not been tried in the SOC context?
  - ..... Do you think it should be trialled?
  - ..... What are the opportunities and challenges if it was tried?
- Q3:** Restorative Justice Council (RJC) and NPCC referrals: RJ Experts  
Semi-structured interviews completed electronically (n = 9) or by telephone (n = 3)  
Focus group hosted by RJC (n = 5); total: n = 17  
Thematic Analysis
- ..... Why has RJ not been tried in the SOC context?
  - ..... Do you think it should be trialled?
  - ..... What are the opportunities and challenges if it was tried?

### B: RJ Parties (Offenders and Victims) Perception Study

- Q4:** SOC Prisoners  
Semi-structured audio-recorded interviews; briefing RJ sheet and screening of "Woolf Within"  
n = 12  
Thematic Analysis
- ..... Have you heard of RJ?
  - ..... Is RJ a just/fair outcome?
  - ..... Would RJ help you to stop offending?
  - ..... How do you think your victim would see you post-RJ?
  - ..... What do you think you would lose and/or gain from RJ?
  - ..... Would you like to take part in RJ with your victims?

## FIGURE 4.2: MIXED METHODS APPROACH: A SUMMARY



## **Chapter 5: Results and Discussion – The National Police Chief’s Council Survey and Expert Interviews**

### **5.1 Introduction**

This chapter details the thematic findings from the National Police Chief’s Council Survey and the industry expert interviews in order to answer research questions 1–3 (see Figure 4.2 in Chapter 4). The key methods utilised for these aspects of the fieldwork are summarised below.

1. The National Police Chiefs’ Council (NPCC) Survey asking police forces for evidence of any examples of RJ in the SOC context
2. The findings from engagement with RJ experts from the Restorative Justice Council (RJC) and from force areas’ specialist commissioned units in an attitudinal study
3. The NPCC request for SOC experts to engage in an attitudinal study electronically or by a telephone interview.

This chapter will begin with discussing the findings from the NPCC Survey, followed by a brief reminder of the groups of eligible respondents who were approached by the researcher. A detailed discussion of the key themes which emerged from the interviews with the RJ and SOC experts follows, before a discussion of the implications of these findings for policy and practice.

### **5.2 NPCC Survey for Anecdotal Evidence of RJ Applications in the SOC Context**

From the outset of this study, it was presumed that there were no or very few examples of the application of RJ between mapped serious and organised crime (SOC) offenders and their victims. However, it was deemed necessary to confirm this assumption and the data collection exercise described below sought to shed light on the extent to which there may be anecdotal evidence held by the English and Welsh forces. This will then reflect on the true extent to which this study represents an innovative approach notwithstanding that there appears to be no published data on this subject.

As a result of a request sent to all 43 forces<sup>28</sup> via the NPCC intranet asking for any anecdotal evidence of RJ being utilised in the SOC context, 32 responses excluding the researcher's home force area (76%) were received. All stated that they did not use RJ in this context and were, thus, not able to cite examples where RJ had been used with mapped organised crime groups (OCGs). This confirmed the researcher's belief that this study represented an innovative venture by utilising RJ in an untested area of policing practice.

One force where the commissioned Restorative Justice Manager initially reported the undertaking of RA in the SOC context confirmed that every victim was afforded the opportunity to undertake an RA where applicable and/or eligible from those that were referred, and gave the researcher two examples of commencing the process of undertaking RA with groups of offenders and their victims, both of which were at assessment stage. No interventions had been delivered at the point of speaking to her. The groups concerned robbery (with associated hostage taking) and burglaries of dwellings. While discussing the specifics, it became clear that the RJ Manager was not aware of the potential specific aspects which needed to be considered in the SOC context, such as; risk assessment to the offender participants and their victim from other remaining active members from the same group (in respect of fear of reprisals), or ethical considerations and requested that the researcher keep in touch with her to share the model being developed. When asked to find out if either of the two groups were members of mapped OCGs, her attempts to find out were not successful and one can only assume that this is because membership of such groups is restricted police intelligence which is only shared with partners and commissioned services on a need-to-know basis and an assumption had been made by the police plan owners that this information was not required for specialist assessment purposes or, indeed, neither of the groups were mapped organised crime groups, meeting the specific thresholds required to be mapped as such.

This clearly implies that RJ experts may be "working in the dark" as information relevant to their risk assessments is not being shared with the associated risk to offenders, victims, the community and practitioners themselves not being considered with the full and relevant

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<sup>28</sup> There are 39 forces in England and 4 in Wales (Dwyfed-Powys, Gwent, North Wales and South Wales). Excluding the researcher's home force area, a total of 42 responses were requested. Some forces have amalgamated and this is reflected in the results.

information. Process-based safeguards which could be put in place may not be due to their gaps in intelligence – data and information held by the police.

Three forces specifically expressed reservations about the applicability of RJ in this context, specifying a variety of reasons:

- a) Most of their OCG offending was drug-related and therefore it was difficult to identify direct victims (this may reflect the mapping process undertaken where this particular form of SOC offending is considered a priority target)
- b) That they were unlikely to use RJ as an alternative to prosecution for SOC offences, though this was a presumption made about the stage at which such interventions may be deployed, i.e., that it would always be instead of a court-imposed sentence
- c) That RJ was not considered for CSE or homicide OCGs due to the nature of the offending and the subsequent judicial penalties imposed (though this was a presumption made about not using RJ post-sentence and that there is established practice and good practice guidelines for applying RJ to serious and complex offences), and
- d) The perception that the approach would not be productive as it reduces the number of adversarial options (and should only be considered post-conviction, not as an alternative to charging and only where the threshold for charging was not met).

In considering the above responses, it may be that the following reflections are relevant: Shapland et al. (2017) ascertained that there was some confusion even after training in relation to at what stage it was best to make an RJ offer. It may also be that there was a police presumption of RJ being more suitable for non-serious offences/minor offences rather than serious and persistent crimes committed by juveniles and some confusion between RJ and informal street-level interventions compounded by 'active resistance and more passive inertia' (see work by Shapland et al., 2017:83). Attitudes and the culture of the police organisations may have been evident in these responses, with a predominant focus on offender-related disposals rather than victim needs, cited in the same study.



These views, while in a minority, may signal that not all forces may be receptive to using RJ in the SOC context, thereby denying victims a potential sense of closure and offenders the opportunity to desist from their OCG activities.

### 5.3 The Respondents

#### *The RJ Experts*

Seventeen RJ experts took part in the consultation exercise and expressed their views in relation to the viability of deploying restorative approaches in the SOC context. Five of them engaged by participating in a focus group hosted by the Restorative Justice Council, with another five members taking part subsequently in response to an invitation sent by the RJC on the researcher’s behalf. Seven RJ experts from police forces (usually as part of a service commissioned by the respective Office of the Police, Crime and Victims’ Commissioner (OPCVC)) also participated as part of the researcher’s request via the NPCC mechanism, as some of the SOC experts referred the researcher’s request onto their commissioned services. Three individual respondents participated by telephone interview. The table below summarises where the respondents came from so that where quotes are used, it is clear as to whether the RJ expert was from a criminal justice/police background or a charity/third sector. The table also summarises how the focus group and each RJ expert responded when asked if RJ in the SOC context should be trialled and to indicate the strength of their opinion using a Likert scale ranging from 1–10 with 1 being “definitely worth a try” and 10 being “it should not be tried”.

Table 5.1 RJ Experts and their Responses to Whether RJ should be trialled in the SOC Setting

	SOURCE	Code	SHOULD YOU TRY?
	<b>RJC EXPERT FOCUS GROUP (pilot) X 5 respondents</b>		
1	Youth Offending Service	RJ(F) <sup>29</sup>	Yes <sup>30</sup>

<sup>29</sup> Those who participated in the focus group were not assigned individual codes. RJ(F) refers to focus group participants.

<sup>30</sup> Focus group respondents were not asked to indicate the strength of their opinion using a Likert scale. They either responded with a yes/no in relation to whether they thought RJ should be trialled in this new context.

2	Youth Offending Service	RJ(F)	Yes
3	Youth Offending Service	RJ(F)	Yes
4	RJ Service	RJ(F)	Yes
5	RJ Service	RJ(F)	Yes
	<b>RJC EXPERTS X 5 respondents</b>		
6	Probation	RJ6	1
7	Probation	RJ7	1
8	Youth Offending Service	RJ8	1
9	RJ Charity (telephone interview)	RJ9	1
10	RJ Charity (telephone interview)	RJ10	2
	<b>RJ EXPERTS FROM POLICE X 7 respondents</b>		
11	Police	RJ11	1
12	Police	RJ12	1
13	Police	RJ13	2 or 3
14	Police (telephone interview)	RJ14	1
15	Police	RJ15	1
16	Police	RJ16	1
17	Police	RJ17	1

### *The Police SOC Experts*

As a result of the NPCC request sent to all 43 forces via the Intranet, 36 police SOC experts took part in the consultation exercise, with 24 (two-thirds) sending the questionnaire back to the researcher electronically and another 14 (just over a third) choosing to participate by telephone interviews. The table below summarises where the respondents came from and their rank, so that this can provide a more comprehensive picture of the analysis. It also indicates the strength of their opinion in relation to whether RJ should be tried in the SOC

context using a Likert scale of 1–10, with 1 being “definitely worth a try” and 10 being “it should not be tried”.

Table 5.2 SOC Experts and their Responses to Whether RJ should be Trialled in the SOC Setting

Code	RANK	SHOULD YOU TRY?
SOC 1 (telephone interview)	D/Superintendent	1
SOC 2	D/Chief Inspector	8
SOC 3	D/Chief Inspector	4
SOC 4 (telephone interview)	D/Chief Inspector	1
SOC 5	Inspector	6
SOC 6	D/Chief Inspector	10
SOC 7	D/Chief Inspector	7
SOC 8 (telephone interview)	Superintendent	6-7
SOC 9	D/Superintendent	1
SOC 10	D/Superintendent	3
SOC 11	D/Chief Inspector	5
SOC 12 (telephone interview)	D/Superintendent	1
SOC 13	D/Superintendent	3
SOC 14	D/Superintendent	7
SOC 15	D/Inspector	1
SOC 16	Superintendent	4
SOC 17 (telephone interview)	D/Inspector	6
SOC 18	D/Superintendent	3
SOC 19	D/Inspector	6

SOC 20	D/Superintendent	10
SOC 21 (telephone interview)	D/C/Superintendent	Depends on crime
SOC 22	D/Inspector	1
SOC 23 (telephone interview)	D/Chief Inspector	7
SOC 24 (telephone interview)	D/Inspector	5
SOC 25 (telephone interview)	D/Superintendent	2
SOC 26 (telephone interview)	D/Chief Inspector	2
SOC 27 (telephone interview)	Superintendent	1
SOC 28	D/Chief Inspector	4
SOC 29 (telephone interview)	Superintendent	2
SOC 30	D/Superintendent	1
SOC 31	D/Superintendent	7
SOC 32	D/Chief Inspector	8
SOC 33	D/Chief Inspector	7
SOC 34 (National Role)	D/Chief Inspector	8
SOC 35 (Regional Role) (telephone interview)	D/Sergeant	3-4
SOC 36 (Regional Role) (telephone interview)	D/C/Superintendent	9

#### 5.4 What did the experts say?

The following themes emerged from the fieldwork with the RJ and police SOC experts:

1. Their differential understanding of RJ as a concept
2. Their views about why RJ has not been established in the SOC context across the police forces

3. Their views about which offences, offenders and victims may be suitable for trialling
4. How they would address risk and vulnerability and what specialist skills may be required when using RJ which may be different to the non-SOC context
5. What they see as the opportunities presented by using RJ as a response to SOC and how they may be made into a reality across the police forces and RJ services and
6. Their views about whether RJ should be trialled in this new context.

#### 5.4.1 *Understanding of RJ as a Concept*

##### RJ Experts - Understanding of RJ as a Concept

The understanding by RJ experts of RJ concepts was very high, as expected, given their expertise in the field. For some, their knowledge extended to an awareness of the academic literature, with some citing results of research findings which demonstrate the impact of RJ from a rehabilitative and victim satisfaction viewpoint for more serious offending. One summarised RJ as about giving both parties ‘a restorative space to be heard’ to ‘help them come to terms with the incident or allow them to move on’ (RJ 8). The respondent referred to previously believing that RJ was only suitable for some cases, but now felt that it was applicable to all cases, ‘but the people involved need to be in the right place to engage’ (RJ 8). Most detailed a primarily values-driven range of interventions with a focus on mutual respect, listening and fair treatment of all by giving victims a voice through a facilitated process, reflecting stated values in RJC guidance. RJ had been used by this group of respondents (albeit not for SOC) in a range of cases, from an out-of-court disposal for low-level offending to post-sentence for more serious offending as either offender or victim-initiated interventions. Three referred to the changes that they had observed as a result of the implementation of the Victims Code (2015) in line with cultural changes about the approach to RJ:

In the past, I feel RJ has primarily been utilised for crimes disposed of outside of court; however, I have seen a significant shift in this over recent years which I feel is down to better Victim Awareness work within prisons and better access to RJ services for victims due to an increased focus with PCCs. The current Victims Code and scrutiny of adherence to this helps hugely with the provision of services. (RJ 13).

The same respondent also explained how assessment practices have changed so that there is now more of a focus on victims' needs which then impact on whether an offender may be deemed suitable. Historically, a remorseful offender who had accepted full responsibility was sought, and for some victims this might be important. However, if a victim wants to meet an offender to talk about the impact only, then all that is required is an agreement by the offender to attend a meeting. 'There is a real shift to looking at what a victim needs and the minimum required from an offender.' (RJ 16). The fact that RJ is considered for sexual offences was cited as the example where barriers between services have eroded resulting in opportunities which did not exist before.

These findings corroborate with D'Souza and L'Hoiry's (2019) findings in relation to the experience and knowledge detailed by the RJ experts in their study.

#### SOC Experts - Understanding of RJ as a Concept

Six SOC experts indicated that they lacked knowledge of RJ or that they were aware of the concept but had never dealt with any such cases or had any involvement or experience with RJ. Another six experts had either used RJ in non-SOC contexts (including for homicide, domestic violence – where the respondent reported that they thought it had been an inappropriate use of RJ – and a fraud case where it just became too difficult to pursue any further due to staffing issues and time constraints) or had personal experience of being offered RJ by the police force for being themselves assaulted while on duty. All unanimously reported very negative experiences, particularly the two respondents who had tried to engage in RJ, one of whom reported that 'it left me feeling disappointed and undervalued' (SOC 32) and that he felt it was not an appropriate outcome.

While none of the RJ experts reported any personal experiences of participating in a RJ intervention, it is noteworthy that nearly a third of the SOC experts either had negative personal experiences of RJ, had had personal involvement in cases where RJ was used but felt to be inappropriate, or lacked knowledge about what was involved in RJ. The rest of the findings need to be placed against this backdrop.

The remaining two-thirds of SOC experts understood RJ as a dialogue between offender and victim. Victim benefits were discussed by four individuals from the sample of SOC experts

including helping them (help is undefined), preventing re-victimisation, answering “Why Me?” questions, and regaining control following the aftermath of their experiences. However, 3 respondents alluded to SOC being a victimless crime, that it would be difficult to identify SOC victims, and that victims would not be willing to engage anyway. One respondent felt that RJ was offered due to current system failures and referred to the ineffectiveness of prisons in reducing reoffending. One third of respondents (12 respondents) conceptualised RJ as an alternative to the criminal justice system for resolving low-level offending by young offenders/low-level punishment to prevent criminalisation of children as a diversionary measure, i.e., as an out-of-court disposal and another saw the benefit of RJ as an additional strand to the court process while another two respondents felt that assessments should be made on a case-by-case basis, with one concluding that (s)he would ‘be open to considering wider application’ (SOC 30). One also thought that it reduced the cost to the taxpayer compared to the costs of prosecution/court, while another referred to it as ‘good old fashioned bobbying’ (SOC 17). One elaborated that RJ was not appropriate for sexual, violent and exploitative crimes and another gave an example of the sort of offence he thought typified use of RJ – a ‘kid smashing a window’ (SOC 29).

## SUMMARY

RJ experts’ knowledge was detailed and value-driven, with some of it based on the evidence of the academic literature. Their understanding had evolved over time as practices have developed so that there is now a greater consideration of serious and complex offences (which had been previously dismissed as inappropriate) and a greater focus on victims’ needs with detailed knowledge of the Victims Code. A third of the police SOC experts either lacked knowledge of the concept or had negative experiences of the application of RJ. While SOC experts showed some understanding of RJ processes, it is clear that many had a narrow concept of RJ as a diversionary out-of-court disposal for youths for low-level offending. Another point of note is that police-based RJ representatives and police SOC experts were expressing different views, both from within police forces.

### 5.4.2 *Views about why RJ has not been established in the SOC Context*

#### RJ Experts - Views about why RJ has not been established in the SOC Context

RJ experts were asked to consider why RJ was not established practice in the UK. Five broad themes emerged:

(1) The right RJ model was not in place across the UK to enable this to happen and needed to be re-configured: there was a lack of community engagement so that local people who would be seen to be credible by the offenders and victims did not play a centre-stage role in RJ:

The kind of person who will have the credibility to facilitate in the shadows will often not have the language needed to meet the criterion for commissioning/accreditation required by the formal sector (RJ 9).

There is a lack of agency links between partner agencies and referral pathways are not established. There is a need for voluntary partnership commitment to make a SOC case work. Furthermore, one respondent also felt that victim-related benefits were difficult to quantify to funders and this too posed resource-based challenges.

(2) There is a perception among staff within organisations that it is simply not suitable to use RJ in the SOC context for a variety of reasons, though primarily the focus was on risk management. It was felt that negative views created ‘unnecessary boundaries’ (RJ 6) between organisations and that people avoided utilising RJ in the SOC context (RJ 6) due to the perceived unmanageable risks, e.g., from the remaining OCG members. These views are supported with comments such as: people were once ‘horrified’ at the thought of using RJ with murder cases and ‘shied away from DV and sexual abuse, and now we’re starting to open this up’ (RJ 10).

Much like practice in relation to the use of Restorative Approaches within the contexts of Hate Crime, Domestic Abuse and Sexual Violence, I think professionals have shared a reluctance to offer RJ and a fear that this is “too serious” or an inappropriate intervention in this context (RJ 11).

The fear of getting it wrong due to these risks was clear in the response: ‘in my experience, we’re very wary of trying something new when the cases are so serious for fear of getting things wrong’ (RJ 15). Respondents also felt that RJ in this context was not established/trialled due to professionals not giving participants the opportunity in the first instance and that staff tended to be ‘risk averse’ (RJ 9) leading to exclusions. A degree of paternalism is evident in these responses, which continue to limit empowering individuals to make their own choices,



rather than have those in authority decide for them. RJ 14 expressed the view that (s)he believed that it simply had not been considered, in part due to the steady throughput of referrals for non-SOC cases not causing any issues from a business point of view, all others discussed the challenges they felt were inherent in any such initiative.

(3) There were numerous difficulties encountered working with the police: Almost half of the sample (including the focus group) referred to difficulties working specifically with the police. The reluctance of police who were identified as the gatekeepers of the relevant information and withheld such information was key in the range of responses. Hobbs and Antonopoulos (2014) refer to this dilemma in their synopsis of the difficulties of researching in the field of organised crime: 'The problem is even more pronounced if we accept that the forces responsible for creating organized crime are also the gatekeepers to that data that confirm its existence' (p. 110). Reference was made to their reluctance to refer and their lack of belief in RJ as a credible disposal/intervention. A lack of awareness and education within organisations was necessary and currently missing according to the RJ experts. Access to police-held data was often cited as the key obstacle, with some saying that it was difficult enough with non-SOC cases and this, they believed, would be accentuated for SOC cases. The difficulties reported included gaining access to both offender and victim data relevant to the RJ eligibility/suitability to take part in RJ, risk assessments and RJ processes as well as aftercare. One respondent stated that perhaps his organisation was already working with mapped OCGs, but the police were simply not informing the specialist service!

We never get to know about mapped OCG offenders – so you may have done RJ with them, but you simply don't know. I have dealt with xxx (name of force area) group of offenders involving firearms and they might have been an OCG (RJ 14).

This view was also unanimously supported by the focus group with comments such as: 'we just don't know that they are OCGs' and 'police do not tell us' (RJF) It was also felt that the police do not prioritise RJ related work and were busy with more "urgent" work. ('I feel it is right to let them get on with it, but time ticks on', RJF) and this thwarts the timescales within which an RJ could reasonably take place. The following quote captures the essence of the views of the RJ experts: 'The biggest challenge will not be the RJ providers themselves, but rather those statutory services which may struggle to see the benefit of RJ through a lack of knowledge.' (RJ 16).

(4) The SOC context itself was imbued with difficulties when attempting to use RJ, facilitators speculated. Two respondents said that they thought it may be difficult to differentiate between offenders and victims as required by the RJ model with some victims who may be offenders (RJ 17) and some low-level offenders who may be victims (RJ 9). This notion is supported by Strang who suggests that the two groups are not mutually exclusive groups, stating that it should not be assumed that ‘victims are the virtuous “us” and the offenders the culpable “other”’ (Strang, 2001:76). Furthermore, one RJ expert was concerned that some offenders would engage with their victims who may also be OCG members as part of a revenge act to re-victimise them (RJ 12). Difficulties in identifying victims due to online offending and drug dealing offences, much of which it was felt dominated SOC offending, also presented challenges, as well as a perception that it would be difficult to find willing victims.

(5) Using RJ in the SOC context was considered just too difficult, with a protracted preparatory phase necessary in order to undertake a ‘very in-depth and exhaustive risk assessment’ (RJF) which needs to be frequently revisited. This was further compounded by the ‘transient nature of the offending population’ (RJ 11) which would exacerbate the timescales/wait for victims, during which time the ‘restorative window’ (RJ 8) may be lost. One respondent explained that it was the job of the RJ facilitator to ‘recalibrate’ (RJ 10) the inherent power imbalances in relationships between offenders and victims and he suspected that this may be a time-consuming process when used in the SOC environment. The view that power imbalances hinder the victim from taking part effectively is discussed by those who have studied the use of RJ in offences such as domestic violence (Busch, 2002), but there is also a view that ‘by creating forums that privilege the victim’s voice .... the distribution of power between victim and offender can be rebalanced.’ (Curtis-Fawley and Daley 2005:621–622), supporting the view of RJ 10 that it is the trained facilitator who manages the environment to forge a more equitable communication dynamic. Shapland et al. (2011) report that facilitators believed that supporters in non-SOC contexts tended to reduce power imbalances between parties ‘because supporters could encourage more taciturn or nervous participants’ (2011:188). In addition, Shapland et al. (2011) cite Strang (2002) who also supported this finding, i.e., that increasing the numbers of participants at conferences redresses power imbalances as the responsibility for ensuring that one party is not able to dominate is shared and not the sole responsibility of the RJ facilitators, thus demonstrating the potential for supporters to address

one of the key concerns of applying RJ in SOC settings. The logistics of undertaking RJ in this context extended to practical considerations such as where the intervention would take place and how victims can gain entry to prisons, complicated by the fact that typically, there would be multiple offenders and multiple victims in an OCG.

One respondent ended by stating that a discussion in relation to all of the barriers identified 'would be a good start' (RJ 17) and it would appear to be a necessary step before any force considered a trial in this area of potential work.

#### SOC Experts - Views about why RJ has not been established in the SOC Context

'would a victim wish to see a suspect that has trafficked them or pointed a gun in their face again?' (SOC 11)

'I would like to know where the support for the decision is. Is your chief constable, Mike Barton, a trailblazer or a lone wolf?' (SOC 29)

'SOC, by its very nature, does not correlate to restorative approaches' (SOC 29)

'I struggle with this as it is something I fundamentally disagree with' (SOC 32)

SOC respondents detailed numerous challenges which explained why RJ was not established in the SOC context and why it would be difficult to do so. Their responses centred around six core themes; the first four areas identified being shared with their RJ counterparts:(1) Experts described difficulties in the CJS model which does not enable considerations of such interventions in the SOC context: those who were in favour of trialling such an approach, felt that the systems and processes were not in place to enable them to consider such interventions. There is a lack of appropriately qualified staff (which would have its own resource implications) and lack of capacity (as well as time and efforts required) within organisations. The structures, processes and ownership issues would need to be addressed to make this a reality, as commitment is required. One wondered who within a police force would authorise the use of RJ with an OCG and whether senior officers would have the support of government and the NPCC. One complained that no model was available to enable consideration of its use (SOC 23), exacerbated by the lack of centrally-allocated funding to support innovations such as this. The type of issues considered here reflect much on policing culture and leadership to implement restorative policing, rather than on the nature of RJ itself. Clamp and Paterson (2013:301) argue that 'leadership needs to be present at all levels

of the policing structure for effective policy implementation, particularly when adopting a restorative model that dramatically changes the modus operandi of policing.'

(2) The seriousness of SOC offending and associated impact in line with how SOC offenders are conceived of by SOC experts: nearly all of the respondents felt that the magnitude of the harm caused to victims and communities precluded any consideration of RJ and that it would not be possible to manage/mitigate such risks. These risks were perceived to be greater than in conventional situations due to the network of offenders which may have serious consequences (SOC 9); the risk to participating offenders from the wider group (particularly if seen to be a 'grass or snitch' (SOC 18) and the risk to victims from offenders who had ulterior motives to continue to exploit them. One respondent also worried that Principals could manipulate those lower down the chain to engage in further OCG criminality as 'you would get off with RJ ... you go off and do this for us, because all you'll get is an RJ option' and concluded that RJ would be seen to be 'a bit of a joke' (SOC 17). This further supports the same vision of RJ as being better suited (if at all in the SOC context) for those who are lower down in the hierarchy and for diversionary purposes only. SOC offenders were construed as experienced, professional lifestyle criminals who made a living via SOC having made the active choice to do so, though in theory, these generic statements should not apply to new recruits and peripherals as they are not perceived to be lifestyle experienced criminals. The message given to the researcher was that their criminality was entrenched to the point of no return:

These are on the whole organised and highly motivated criminals who seemingly care very little if at all for the damage they inflict upon their victims (SOC 7).

With Children at Risk of Sexual Exploitation (CSE) and human trafficking, it was thought that vulnerable victims were targeted from the outset for profit and sexual gain, using threats and intimidation to cause misery and exercise control; hence with this exploitative mindset, with SOC offenders being 'four or five steps removed from a drug overdose' (SOC 36), RJ would not be suitable as it would not have the desired impact:

RJ is not for this group of people. They must have a sense of shame for RJ to be successful, and the people we deal with have not got a sense of shame for their offending, and a sense of shame is key here. (SOC 21).

Barriers to using RJ appropriately strongly focused on the view that SOC offenders view victims as 'commodities and assets to be put to work and not human beings' (SOC 12). This was the typical view adopted by human traffickers in Mehlman-Orezco's (2017) study where self-identities of such offenders were explored; they acknowledge themselves that they managed relationships with their victims on a strategic basis, using highly-honed manipulation skills. This subset of offenders 'couldn't lie straight in bed, so they will continue offending till they die' (SOC 17), and

...the orchestrators at the centre of organised crime groups are lifestyle career criminals. I think you'd be hard pushed to get them to pursue an RJ. I don't think it's likely or realistic to expect change. (SOC 25).

Offenders' willingness (particularly for principals), commitment and whether motivation would be genuine were questioned, particularly when much of SOC is profitable:

You didn't start out as a principal, but lower down, then you saw the profit, saw how lucrative it is. You saw the misery at some point climbing up that criminal career path. So, it's difficult to see the benefit of a direct intervention here. (SOC 36).

It is noteworthy that this thinking is not supported by D'Souza and L'Hoiry's (2019) study where the SOC prisoners interviewed were mostly enthusiastic about pursuing RJ if the option had been available to them, so these views refute that assumption of non-compliance. One SOC expert stated that use of RJ may lead to witness protection issues and that in itself would increase costs and demand, so that while this would be undertaken with the right intentions, it may do 'more damage' (SOC 23) at times of austerity. One respondent also stated that there may be risks to RJ facilitators from SOC groups and that a safety plan would need to be in place. Three respondents referred to their view that RJ had not been trialled in the context of SOC because it simply had not been considered. Hence, when discussing why RJ had not been established in the SOC context, most SOC experts tended to immediately think of the directors and orchestrators of organised criminality (who they deemed not to be suitable for RJ due to their lifestyle choices) to the exclusion of new recruits (for example, peripherals) who tend not be perceived as lifestyle experienced criminals.

(3) Views of SOC experts in relation to their beliefs about RJ and its potential for positive outcomes: RJ was perceived to be too lenient a sentence for SOC offending, which was described as so serious as to warrant lengthy prison sentences, i.e., it would be a

disproportionate response if used as a stand-alone disposal rather than as part of a sentence. (This also demonstrates the lack of knowledge among police SOC experts in relation to the idea that RJ is a sentence in its own right which can stand alone for more serious offending such as some of the SOC profile offences, i.e., not as an option that could run alongside prosecution and court-based sanctions.) SOC experts felt ill-informed about RJ with references to the need for education/awareness-raising within police forces and one felt that there was a lack of understanding that volume outstrips pursuit capabilities and so alternative approaches should be considered. Some felt that traditional law enforcement views dismissed RJ without understanding it (SOC 9). Most referred to a perception of RJ being suitable for low-level offending, those at the cusp of joining OCGs and at the start of their criminal careers (an example cited was for a 14-year-old who has been exploited by an OCG and bullied into crime – SOC 36). One referred to prisons being effective as it prevents further victims being created (SOC 2).

(4) The make-up of OCGs posed problems: SOC experts believed that it would be very difficult to identify victims given the dominance of drug-related SOC offending, and some questioned whether victims would be willing to engage. Dignan (2005:166) in his review of low victim participation rates at restorative interventions from other studies states that 'Part of the reason for the disappointingly low victim participation rates almost certainly has to do with implementation problems, including....a degree of cultural resistance on the part of some of the agencies involved' with some comments made being symptomatic of the views expressed in this study. One respondent (SOC 8) also highlighted that complexity was thrown into this mix as some victims may also be offenders and another (SOC 36) alluded to the fact that for some OCGs there may be hundreds of victims compounding identification issues. Practical difficulties also lay with the fact that with many OCGs, there are multiple offenders, with size being a key issue for one respondent (SOC 10). The emotional distance between the offenders and victims decreasing the likelihood of an offender having empathy with their victims was also discussed by one respondent. In order to meaningfully engage with RJ, one respondent felt that the key challenge would be for the offender to overcome their need to be part of a group (SOC 10) and that if a 25-year prison sentence was not enough of a deterrent, then RJ certainly would not be. This suggests that, in the view of this SOC expert, there is perhaps no or little hope for any sentence of any description to have an impact on a SOC offender once

they have reached the higher echelons of criminality. It also suggests little is known about the potentially transformative impact that restorative justice can have on individuals who then proceed to make significant positive changes in their lives. Indeed, such a disposal may encourage offending as warned by SOC 17.

(5) How SOC is conceptualised by forces which affects how it is mapped and policed: It is clear that an offender-dominated focus exists as *the* key way of tackling SOC to the exclusion of a more preventative approach. Hence, a heavy degree of emphasis on the first objective of the strategy published by the National Crime Agency (NCA) is apparent, i.e., the persistent disruption and targeted action against those who are causing the highest harm. This is described more fully as part of the Pursue strand of the strategy in Chapter 2. Several experts admitted this priority-focus with one stating:

SOC jobs are jobs which are complex and long-winded, it can go on for ten years. People get caught up in the loop of getting the file together in a format that can be understood. We're talking about 180 pages of an MG5<sup>31</sup> and the complexity of a drug dealing operation. Restorative justice is the last thing the investigators are thinking about (SOC 8).

This statement, as well as many others, clearly reflect the focus on the Pursue strand of the 4Ps strategy described in Chapter 2.

SOC work was considered a niche area of policing business, with one respondent recognising the need to move away from the concept of what (s)he called "Mr Big" (SOC 12), alluding to the mindset of the SOC detective:

The detective's mindset is that restorative justice is for low-level offending between neighbours and shoplifting, not thinking about the bigger jobs that we deal with SOC is an area where we need to embed that consideration a bit more, because we simply have not thought about it (SOC 8).

(S)he recognised issues with the national mapping process: 'RJ for SOC should not be pigeonholed as this would miss out a whole set of other serious and organised crime which is not mapped' (SOC 8). The perception of the Mafia/Mr Big character precluded a

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<sup>31</sup> The MG5 is a police report which can be disclosed to the defence and the court and is a case summary. Further information and a blank copy of the MG5 can be found at: <https://www.judiciary.uk/wp-content/uploads/2015/09/bcm-mg5-how-to-complete.pdf>

consideration of RJ with one referring to the 'traditional macho approach to OCG work' (SOC 33) while another opposed such a view stating that what was required was 'a broader sword and shield approach' (SOC 34). One dismissed the possibility as (s)he believed that no evidence existed for the effectiveness of RJ in the SOC context (SOC 18), while another felt that there was a perception among police officers that rehabilitation and prevention were the remit of other organisations specifically the prison and probation services (SOC 2).

(6) Public perception of RJ as a "soft option": Several respondents felt that RJ had not been established as an option for SOC due to the public's support for imprisonment for such offending and their perception of RJ as a soft option as captured by the following comments:

...the public want to see us put such individuals through the criminal justice system. So, we have to respond to what the communities want because we serve the communities. We have to deliver what the communities want. Principals and significantants – the way we treat them, well, that has to be driven by what the public want (SOC 4);

I think using RA.... would get bad press from the community. They would feel it's a soft punishment. (SOC 5).

It would seem that many SOC experts were not aware that RJ can be carried out in prison (e.g., in some homicide cases where bereaved survivors have undertaken RJ prior to the offender's execution with excellent self-reported benefits – Umbreit and Vos, 2000). It is clear that prison sentences and RJ are not mutually incompatible as demonstrated by a robust evaluation of 3 schemes in England which included a prisoner-based sample (Shapland, 2008). It would appear that not only do the words "SOC" immediately conjure up the most serious end of such criminality committed by ruthless profiteers and criminal orchestrators, but the words "RJ" were also assumed to be a youth diversionary scheme for many police experts, rather than being recognised as an additional disposal/intervention alongside or in addition to the criminal justice route. Shapland et al. (2017) in their study across three police forces conclude that it is not widely known that RJ can be offered at a later point in the criminal justice process and a lack of knowledge is apparent.



SOC experts worried that that the financial cost of bringing a SOC offender to justice would be disproportionate if RJ was used, particularly as this was 'a voting issue' and the public would want a robust approach to responding to SOC.

... the public view is that the more serious the crime, the more serious the penalty should be .... public expectation is that we come down hard on serious and organised crime (SOC 21).

One worried that there would be 'a backlash' if an offender continued to commit SOC offences post-RJ intervention (SOC 5).

## SUMMARY

RJ, both sets of experts felt, is not established in the SOC context as the right model, is not in place to enable such considerations, and cultural change and leadership are required; the structures, processes and ownership issues have not been worked out. There is a widespread perception that risks to all parties are unmanageable and that the affected parties are not given the opportunity to engage in the first place due to a lack of consideration of such cases in relation to suitability for RJ. RJ experts complained that police personnel were not receptive to RJ as an intervention and were reluctant to refer and share information, which the police SOC experts confirmed by their responses. A lack of education and awareness-raising of the potential that RJ may have was suggested by the experts as a gap acknowledged by all. The very make-up of SOC groups was thought to produce some challenges with typically multiple offenders and multiple victims, the size of some OCGs, the blurring of boundaries between offenders and victims, and the difficulty in identifying victims due to the nature of much mapped SOC offending. RJ experts used their own experiences to speculate that working in this context would come with additional challenges with prolonged preparation necessary and resource-intensive risk assessments combined with practical logistical difficulties. SOC experts used their own experiences of working in this field to describe how the way that SOC has been traditionally conceptualised has affected the way that such groups are mapped and policed (i.e., Pursue-driven approaches rather than Prevent-

led approaches with resourcing affecting how workstreams are prioritised from an operational perspective). Finally, the SOC experts referred to their views that the public would consider RJ to be a soft option and the onus was on police officers to deliver what local communities wanted – just, proportionate responses to SOC which blights the lives of many – views which some of them held themselves. It is highly probable that these beliefs are based on some of the stereotypes of SOC offences discussed in Chapter 2 (see Woodiwiss, 2017 who describes the way that organised crime is depicted by official accounts creates misleading and even false public narratives). This may shed light on the general public’s lack of knowledge and awareness of what these types of offences are in practice.

#### 5.4.3 *Are some SOC offences, SOC offenders and SOC victims more suited to RJ than others?*

##### RJ Expert Views: Are some SOC offences, SOC offenders and SOC victims more suited to RJ than others?

‘Members of OCGs are people at the end of the day –  
if I’m happy, then face-to-face is OK’ (R 14)

When asked if there were particular offence types that lend themselves to a restorative approach in relation to suitability, not a single RJ expert identified any specific offence types, with much support) for assessments to be made on a case-by-case basis. For RJ experts, suitability must be determined by the needs of the participants, particularly victims, to assess whether RJ has the potential to meet those needs. Hence, suitability criteria were determined by assessments of individuals and not offence types as summarised by one respondent: ‘I have found that it is not the offence type that decides suitability and success of an intervention but instead the preliminary work that is done in advance’ (RJ 6). One respondent stated that what may be necessary in the SOC context was an adaptation of practice so, for example, letters could be used which may pave the way for further restorative work (RJ 15). Respondents were not keen to identify specific offender characteristics or victims’ traits that may determine suitability for engaging in an RJ intervention as this would limit opportunities for engagement, in effect having a “in” and “out” pile. Comments made in relation to offenders’ suitability included emotional maturity and the need to assess their sincerity and

motivation to engage; comments made in relation to victims included timing of offers and intervention dependent on their stage of recovery. There were some comments which suggested that RJ experts had not had the opportunity to consider the SOC context or any contexts of group offending before taking part in this research such as:

I am sure that there are factors that may preclude consideration from a restorative approach, but I have no experience of RJ with groups – but I do feel you could use this approach in such situations (RJ 10).

However, this did not dampen their enthusiasm for trialling such an approach. Furthermore, only one respondent alluded to power imbalances and associated vulnerability (by making a comparison between domestic violence cases and SOC) stating that they felt uncomfortable in using RJ in the domestic violence context and concluding with ‘but I can’t think why we would exclude anyone or any offences though’ (RJ 14). Curtis-Fawley and Daley (2005) in their study of the use of RJ in gendered violence situations describe how some believe that power imbalances may be exacerbated in this context thereby re-victimising the victim, though advocates of RJ believed that RJ afforded victims some positives which the adversarial system did not, such as having a voice and participation in decision-making, thereby empowering the victim. Overall, it would appear that for RJ experts, all offence types should be considered (in line with the statutory obligations explicitly stated in the Victims Code 2015) and the preliminary work is what should be in place to enable this carte blanche consideration. This preparatory work focused on undertaking robust risk assessments, which utilised all relevant information held on all parties, consideration of safety and appropriate safeguarding measures and working in partnership with the police and probation to ascertain wider risks and the likelihood of re-victimisation.

#### SOC Expert Views - Are some SOC offences, SOC offenders and SOC victims more suited to RJ than others?

‘We have the image of a ruthless, amoral criminal, and I think this is an assumption of SOC crimes, and perhaps we need to broaden the way that we think about SOC’ (SOC 12)

‘I cannot think of a scenario in my command where it would be appropriate’ (SOC 21)

‘one size does not fit all’ (SOC 26)

'I think restorative justice would work in principle, but I'm not sure it would work in practice' (SOC 26)

'I would find that quite abhorrent – I really would find that abhorrent' (SOC 27) (comment made when referring to the application of RJ for any SOC offences)

When asked about their views in relation to the suitability of using RJ in this context, six experts stated that a case-by-case approach needed to be adopted with each case being considered on its own merits, with a further two respondents stating a tailored approach was required to consider suitability and two others stating that it was not appropriate to identify offence types as it depended on the views of the victim and on practitioner assessments. The approach was considered suitable mainly for peripherals (with one citing significant too) and for younger SOC offenders who had committed low-level SOC offences and were vulnerable, having been groomed into SOC offending, typically at the beginning of their criminal careers.

We want to target low hanging fruit and starve those higher up the chain, those principals and significant who make significant amounts of money, we need to thwart their business model and their businesses by starving them of their peripherals. (SOC 27).

Another supported this view, stating that there was scope to adopt an early intervention model if the next generation of organised criminals could be identified so that awareness and empathy could be instilled from a young age (SOC 33). Crawford (2015) explicitly links RJ to early intervention with its traditional focus on young people.

It was thought that RJ may be particularly useful for younger SOC offenders who had been groomed and involved in knife/firearms crime, as being faced with the victims and/or their families may prove to be a powerful diversionary tool for those less entrenched (SOC 2). RJ was deemed suitable for low-level, finance-related crimes, low-level cyber OCGs, distraction burglaries, robbery OCGs including armed robberies against businesses, Asian Gold burglaries (on the basis that RJ had been used for such offending in the non-SOC context) and large-scale fraud against the elderly. Counterfeit goods were also mentioned, though it was reinforced that this meant multiple victims and the overall harm deemed was described as low. Cyber-related crime in relation to anti-virus companies was also mentioned as companies would welcome RJ as a disposal as they do not want to advertise that their systems had been

compromised and to prevent publicity of this fact. It becomes clear that offences identified by the SOC experts are ones which historically did not carry a SOC label but do now and reflects on the formal definitions adopted which are very broad and lack definitional precision; the argument that SOC is a social construct in response to public responses for example discussed in Chapter 2 may be a contributory factor here in relation to the set of offences identified by the experts.

Blurred definitional boundaries between offenders and victims complicated which set of offences were considered suitable or not in the SOC context, e.g., county lines (cuckooing<sup>32</sup> victims), modern day slavery and boiler room set-ups. Butera (2013) surveys the literature on cuckooing where vulnerable victims' homes are taken over by drug dealers in order to pursue their criminal endeavours: victims find themselves complicit in offending and unable to report their experiences to the police as a result of the consequences. Similarly, Davidson (2006) reports on prostitutes who are forced into the industry but, when rescued, become subject to deportation as they are treated as illegal immigrants and lawbreakers. Victims-turned-offenders were classed as unsuitable by some as self-preservation was required and they may become vulnerable to being exploited further by those higher up the chain. Some deemed them suitable as there was vulnerability evident (particularly where membership of the OCG replaced family and kinship ties) and victims were identifiable (as opposed to drug-dealing). Others thought that RJ was unsuitable due to the exploitative nature of the offending. Gang-on-gang violence also received a mixed reception with those in favour stating that it was suitable post-sentence (presumably because vulnerability may be reduced). On-line romance frauds were deemed suitable by one respondent but unsuitable by another as it would be difficult to identify the perpetrators for UK-based victims. Drug-dealing was deemed unsuitable by some due to the difficulties in identifying victims, but thought suitable by others who felt that if victims could be identified, there were some possibilities (though one respondent expressed concern that this would encourage further offending if it meant a prison sentence could be avoided). Principals were universally thought of as unsuitable for consideration for engaging in RJ and victimless crimes tended to be excluded too. Only two respondents stated that RJ was not appropriate in any SOC crimes. One concluded: 'The

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<sup>32</sup> The term "cuckooing" is a reference to the cuckoo bird that invades another bird's nest.

complex nature of organised crime groups, and their size, the complexity, all goes against the use of restorative justice' (SOC 35).

## SUMMARY

RJ experts were not in favour of identifying any specific offence types or individual characteristics which may be more or less appropriate for RJ considerations, instead advising that a case-by-case approach be adopted with suitability determined by the needs of participants. A fifth of SOC experts agreed that a case-by-case approach was best and with tailored interventions. The remaining four-fifths identified the approach as being potentially suitable for peripherals/significants, young SOC offenders at the beginning of their SOC careers, low-level offences, and where there were vulnerable SOC offenders who had been groomed themselves into offending. It was deemed suitable for many acquisitive offences and ruled out for principals and victimless crimes. The picture, they felt, was complicated by the blurring of boundaries between offenders and victims leading to mixed views in relation to county lines, modern day slavery and boiler room set-ups, i.e., where vulnerability and exploitation was evident side-by-side. Some SOC victims challenge the stereotypical notions of victimhood, e.g., women who are typically perceived to be victimised by human traffickers do not view their work as criminal, but a lucrative, valued and highly satisfactory profession as concluded by Siegel and Yesilgoz (2003) quoted by Hobbs and Antonopoulos (2014). Siegel and Yesilgoz interestingly differentiate between forced prostitution which is controlled by organized crime and voluntary prostitution as 'a form of business, chosen by the women themselves' (P. 80).

### 5.4.4 *Addressing Risk and Vulnerability*

#### RJ Expert Views: Addressing Risk and Vulnerability

In relation to addressing risk and vulnerability in the SOC context, experts raised concerns in relation to victim safety, victim supporter safety and offender safety. None of the RJ experts alluded to any risks to themselves from SOC offenders as a result of their involvement with them and facilitating any interventions between them and their victims. The heightened risks

to victims was highlighted throughout the range of responses, with empathic responses from the focus group who alluded to the 'huge unknown' (RJF) for victims, 'you don't know what you are letting yourself in for' (RJF), the potential risks to them from the wider OCG members and identifying cuckooing victims as a group of individuals who are particularly vulnerable. Supporters being present at conferences also meant that there was a risk to them (e.g., the victim's families who may be in a supportive role) as they then became visible to the OCG offender through the RJ process. Offender risks were confined to risks to them from other non-participating OCG members.

A host of practical ideas were put forward by the focus group and individual respondents to address these safeguarding issues: adaptation to working practices included working in pairs for every stage of the process to ensure accuracy of assessments and accessing regular supervision for SOC cases, and forums for sharing/reflecting on practices. Working with the police Officer in the Case, prison, and probation to undertake dynamic risk assessments was construed as very important as there was a recognition that the assessment picture could change quickly. These adaptations were not put forward to safeguard practitioner safety or accountability, but to ensure that the work undertaken was of a high standard and that they would be able to protect vulnerable individuals, be they offender, victim or supporter. Using shuttle mediation to protect all parties, as opposed to face-to-face conferencing, won favour among the focus group. Some emphasis was placed on using Adverse Childhood Experiences (ACE) tools to identify vulnerabilities for all parties, particularly with young people who may be vulnerable to recruitment into an OCG and subject to negative peer influences. Quigg et al. (2018) clarify what is meant by the term ACE. They explain that it is used to describe wide-ranging stressful occurrences that children may experience in their developmental years and can include physical, sexual and verbal abuse as well as neglect; exposure to domestic violence, parental separation or parental incarceration are such examples of events which can adversely affect an individual's life chances impacting on health and social outcomes. Use of youth clubs employing trusted community members was mentioned by one respondent who felt that this could incorporate a restorative approach. Factors relevant to assessing suitability but also assessing risk/vulnerability included assessing the emotional abilities of all parties and their support networks. Respondents wanted practitioners to work with OCG

participating members on an individual basis and find out how they operated as a group, including their respective roles within the group:

Within the group, there will be those that are responsible for causing harm to others within that group, therefore many of the group members may be victims in their own right. But part of the way that the group works is that this has to continue (RJ 10).

One respondent suggested that OCG prisoners were carefully vetted/screened for suitability and that prisoner communications were monitored to identify further vulnerabilities to parties. Target hardening<sup>33</sup> practices to safeguard victims and the use of surrogate victims where it was not possible/desirable to use the actual victims were put forward as practical ideas to ensure that the opportunity was afforded to parties, where deemed to be suitable.

Furthermore, some RJ experts advocated the adoption of a particular mindset which accepted that there were no 'quick fixes' (RJF) and that ample time would be required to undertake a thorough preparation as it was believed that this would take longer than in a non-SOC context. Healthy scepticism was recommended when assessing offender motivation and their potential 'ulterior motives' (RJ 6) for wanting to engage in RJ.

#### SOC Expert Views - Addressing Risk and Vulnerability

Bespoke risk management plans which were robust and thorough were suggested, with a careful assessment of the offender's motivation to engage so that they would not merely be paying 'lip service' (SOC 3) to such an intervention. Offenders would need to be very carefully selected and information gathered about the profile of all the OCG members, not only the ones participating in any RJ scheme. An 'equation of risk vs benefit' (SOC 8) would need to be weighed up and the threat from non-participating OCG members to all participating parties considered. Others suggested the use of relevant flags on police systems to highlight risk and another suggested an adaptation of the Cambridge Harm Index (Sherman et al., 2010)<sup>34</sup> to be applied to this context. The risk to a participating prisoner was highlighted due to a mix of bravado, jealousy and reputational risk (lest the prisoner was seen to be a 'grass' – SOC 4) –

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<sup>33</sup> 'Target hardening is a term used to describe the process of increasing the security of a property to make it more difficult to burgle, thereby increasing the effort needed by the offender to gain entry to a property. The intended outcome is ultimately to deter the offender from burgling an individual property' Hirschfield et al. (2010:321)

<sup>34</sup> The CHI is a weighted method of measuring harm using a single index, developed by Sherman et al. (2010).



a situation that may be difficult to manage due to prison understaffing and violence being commonplace. There were also heightened risks to those offenders who may be deemed to be victims in their own right. One further consideration was the risk of disclosing police operational tactics inadvertently during the process which was highlighted by one pragmatist (SOC 36).

Consideration of the risks to victims led to discussions in respect of the issuing of alarms, entry into the Protected Persons Scheme<sup>35</sup> (two respondents highlighted the need for this), a need to protect their location, their networks, their work and their identity – particularly if they had already changed it. It was necessary for the threshold of risk to be low for consideration of using RJ as much resource is dedicated to protecting witnesses and achieving anonymity in SOC prosecutions. Concerns were expressed about SOC prisoners who may participate and then subsequently pursue a victim on release, with the potential for intimidation and re-victimisation and its associated mental health impact. The use of proxy victims was an answer for one of the respondents while another considered the use of technology with live links to protect victims' identities. One also raised the issue of the potential to assess the victim's motivation carefully in case they were seeking retribution. Not a new issue in RJ critiques as some researchers have found that, in some cases, despite the assumption of power imbalances between the offender and the victim, boundaries can become blurred so that the victim assumes some offender-characteristics. Curtis-Fawley and Daley (2005) in their study of gendered violence, refer to the fact that even those who were advocates of RJ for gendered violence, referred to victims who became 'abusing and punishing' (P. 626). A full support plan which identifies support before, during and after the RJ intervention was proposed, to be undertaken by RJ facilitators who had received some training in SOC issues (particularly in relation to the hierarchy within groups) and who gave due consideration to the selection of appropriate venues. It should be borne in mind that these were of course hypothetical questions which were posed to respondents and hence, they will inevitably have been considered against their own views, beliefs and indeed stereotypes. In addition, given the

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<sup>35</sup> The NCA state that 'The UK Protected Persons Service provides protection to people judged to be at risk of serious harm and in need of specialist protection arrangements. This may include witnesses, victims of crime facing significant threats or individuals in some way helping with the investigation of serious crime.' More information available at <https://nationalcrimeagency.gov.uk/news/new-national-protected-persons-service-starts-work>

dominance of drugs within SOC crime profiles, it will have been difficult to conceptualise the use of RJ in the absence of identifiable victims.

These risk assessment plans and support plans needed to be undertaken against the backdrop of effective and sustainable partnership platforms. Partners included prison, probation, local authorities (including adult social care), regional intelligence units and specialist support providers. Once again, the need for a matrix using predetermined criteria about what was suitable in the SOC context for consideration and what was not, was asked for. One warned that such an approach would require significant time and capacity to undertake well while another advocated the mandatory consideration of RJ for all cases at the point of closure of the case/archiving of the OCG, but with the proviso that robust scrutiny was used (SOC 16). Yet another pleaded for there not to be any national targets for RJ interventions in the SOC context or 'pressurising' forces to deploy RJ (SOC 7).

Two respondents felt that safeguarding issues were no different in the SOC context to a non-SOC context, and that a case-by-case assessment should be made with a tailored approach.

It becomes clear that to address the risks posed to offenders themselves, the victims, their families and support networks (as well as potentially RJ practitioners), a lot of work is necessary to ensure safety as it is 'very muddled in the SOC context' (SOC 36) as one respondent concluded.

## SUMMARY

Experts identified multiple risks to offenders, victims and victim supporters including from non-participating OCG members of the same group. A range of practical measures were suggested to ensure participants' safety with bespoke risk management plans and support plans for parties. RJ experts suggested adaptations to their usual practices to ensure accuracy of their assessments and partnership work. The SOC experts agreed that it would be necessary to work with others in partnership and were specific about the need to assess both offender and victim motivation to take part. An evaluation of risk vs benefit was suggested in terms of whether to proceed with such an approach.

### 5.4.5 *Specialist Skills*

## RJ Expert Views - Specialist Skills

When asked about the specific skills that RJ practitioners would require to work in the SOC context, many respondents referred to the need for specialist training in relation to SOC and an awareness of the formal mapping process and associated policing processes. Some were in support of a specialist module designed specifically to learn about SOC and what may be involved in order to confidently and safely deliver the interventions. RJ experts (almost half of the sample) also asked for more specialist SOC knowledge and enhanced/specialist RJ training and felt that only experienced facilitators should attempt work in this area and have experience of working with serious and complex cases as a minimum. The comparison made was with RJ work in domestic abuse and sexual abuse cases, where a number of respondents reported having received specialist training to recognise specific risk factors in those contexts. One respondent concluded that, in fact, all serious and complex cases come with some risk; it is up to the RJ professional to recognise and then address or mitigate risk as appropriate. (S)he stated that where this was not possible, RJ should not be undertaken (RJ 15). The focus group felt that there should be a formal recognition that working in the SOC context was perhaps not suited to all practitioners due to the complexities involved, the gravity of the seriousness of the offending and its impact; they felt that only experienced facilitators who have had training in serious and complex cases should work on SOC cases. Some of the comments made reflect earlier research (D'Souza and L'Hoiry, 2019) where a clear confidence deficit was apparent amongst practitioners highlighting their perceived lack of appropriate knowledge and skill sets to facilitate such processes in the SOC context. The specific skills referred to include:

- the ability to undertake thorough risk assessments taking into account the specific risk factors (but to be 'risk aware and not risk averse' as stipulated by RJ 15)
- the ability to undertake offender assessments (with specific references to the ability to consider the OCG network, to be able to identify all those that may need to be included from the OCG and knowledge of the options available for OCG members to exit the group and leave criminality behind), and
- sound communication skills.

One respondent from the third sector felt that, in order to deliver in the SOC environment, an RJ facilitator should be one who was 'naturally restorative' (RJ 10) and had a belief in people's ability to change. Another two respondents gave outlier responses, stating that no specific skills were required (beyond an awareness of how people may get drawn into SOC): 'with OCG members it is not particularly difficult. I don't see them in any other way. It just hasn't been considered' (RJ 14). Hence, for this individual, it was just a case that RJ and SOC had not been put in the same sentence before.

### SOC Expert Views - Specialist Skills

'RJ is not a path SOC specialists should consider' (SOC 6)

While two respondents believed that no specialist skills were required to apply RJ in the SOC context, the others were unanimous that a greater awareness of what RJ involves was required with a plea for structure, e.g., a gravity matrix<sup>36</sup> for assessing risk/thresholds for referrals and a process flowchart to assess understanding of what the process involves. These types of tools are widely used in the police youth offending contexts and it may be that the view of RJ as a youth diversionary intervention shaped this request; regardless of this, what emerges through this request is the repeated notion focused on offenders and not on victims. Identifying suitable candidates for RJ was the primary source of concern with a self-confessed lack of knowledge around suitability criteria, risk thresholds and the points at which an RJ may be offered during the lifespan of a SOC case. One stated that s(he) believed that it was about getting offenders at the correct point in their life when they may be starting to question what they were doing, rather than at the point of prosecution, or at the point of arrest – a point that suggests timing is as important for offenders as it is for victims. However, this also highlights a lack of knowledge that the RJ process itself can have a transformational impact in

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<sup>36</sup> The National Police Chiefs' Council (NPCC) in their 'Gravity Matrix' publication for Charging and Out of Courts Disposals define a gravity matrix as 'a decision-making tool to assist in deciding if an adult offender can be dealt with by the use of an Out of Court disposal. It is based on the offence committed, taking into account any aggravating or mitigating factors, as well as the harm that the offender may present based on their previous offending history. In addition, where the victim's views are obtainable, these should be taken into account' (2019:1). The youth equivalent is published as the Association of Chief Police Officers (ACPO) Youth Gravity Matrix (more at: <https://yiresourcehub.uk/yjb-effective-practice/youth-justice-kits/item/625-acpo-youth-gravity-matrix.html>)

making people think (and subsequently change their behaviour). Awareness-raising about RJ was key within police forces, with two respondents requesting examples with success stories, e.g., we 'need examples and stories to bring it to life...I think storytelling is very significant in terms of making staff aware of this option.' (SOC 36). One proclaimed 'Firstly, and most importantly, an understanding of the power of RJ is needed. If this isn't present, there's no point in continuing' (SOC 9) and perhaps this could be tied in with the suggestions in relation to storytelling. It was felt that training around victim and witness care would be required with the ability to refer to specialist sources of support for victims. Furthermore, an open mind was required by SOC experts, 'rather than going into it with scepticism' (SOC 25).

Many SOC experts felt that RJ facilitators needed to learn about how OCGs operate, the roles played within an organised group and about hierarchies, different SOC offence types and the mapping process as this would affect their risk assessment process – which the RJ experts agreed with themselves. It may be that within any educational programme, research evidence would need to be utilised so that the fluidity of agile and loose networks was accentuated, as well as the shifting roles occupied by members. Some felt that RJ facilitators would also need to learn about coercion and control training and have expertise in both traditional and complex safeguarding issues. Offender management skills were required as were interpersonal skills, such as: communication skills, listening, empathy development, reconciliation and specialist skills in gaining acceptance and trust. These types of skills are very necessary according to Clamp and Paterson (2013:294–295) who state that police officers require skills such as 'communication, problem-solving, leadership and relationship-building' to adapt to changes in their role to embrace RJ. However, it is interesting to note that these are the very skills the College of Policing denotes are required from investigative officers as embodied within the PEACE<sup>37</sup> framework. The skills include establishing a professional relationship through building trust and rapport. Leahy-Harland and Bull (2017) in their analysis of 56 audio-taped serious crime suspect interviews from eleven police forces state that while practices conformed to PEACE in the main, 'there continues to be room for improvement' (2017:150) with, for example, the need to establish rapport and better use of open questioning being identified as areas to be targeted to improve practices. One expert in

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<sup>37</sup> PEACE is an acronym for planning/preparing, engaging/explaining, accounting, closing and evaluating denoting the discrete steps for an investigative interview. More can be found at: <https://www.app.college.police.uk/app-content/investigations/investigative-interviewing/>

the current study warned that there may be risks to practitioners who may be 'naïve' and think that victims would be safe because their offenders were in prison (SOC 17). Four respondents identified the importance of partnership working and the need to work with professionals with different skill sets to enable RJ to take place in the SOC context. One stated 'we need educating by the RJ experts'.

## SUMMARY

It would seem that a small minority of experts felt that no specialist skills were required over and above those needed for non-SOC contexts, but the majority of the RJ experts wanted to learn more about the SOC and mapping processes in order to make informed assessments and deliver the right interventions, while the majority of SOC experts felt that they would need to learn more about RJ. The SOC experts wanted a range of tools to assist them in identifying the correct and suitable offenders and groups (such as gravity matrices, process flowcharts and success stories). Hence, it would seem that the police SOC experts were saying that they needed to learn from RJ experts and, in turn, they needed to learn from the police SOC experts.

### 5.4.6 *Opportunities presented by utilising RJ in the SOC Context*

#### RJ Expert Views - Opportunities presented by utilising RJ in the SOC Context

Despite the challenges described above in using RJ in the SOC context, numerous opportunities were identified if RJ experts were given the opportunity to make this a reality. Opportunities/benefits which could be realised by OCG members may be reduced reoffending/RJ as a deterrent to further offending, an increased understanding of the impact of their offending on victims and the community as it would put the 'human element' (RJ 12) back into the equation, particularly when such offenders are 'dehumanised' (RJ 12) and a chance to 'break the cycle' (RJ 12) of entrenched attitudes held by OCG members. One respondent also identified that this may provide alternative options for fulfilling the needs that membership of a gang holds for offenders in the absence of 'their family' (RJ 10), i.e., the OCG.

There were numerous opportunities for victims should they be given the chance to engage in RJ such as gaining closure to traumatic events and the process assisting their healing/recovery. A chance to tell the offender the impact their offending has had on them and having their questions answered was perceived to be very important, as this would enable them to 'regain some control of the narrative they have become a part of' (RJ 8). Furthermore, it was perceived that applying RJ to the SOC context may present an opportunity to enhance community involvement through the use of 'restorative communities' (RJ 9) in instances where it was preferable to use indirect victims or proxy victims. Finally, one respondent stated this would give an opportunity for services to be 'truly inclusive and accessible to all victims of crime, regardless of the offence committed and the potential challenges of this to the professionals supporting/working with those involved' (RJ 11). It would appear that practitioners favoured the use of RJ on the basis that a bespoke service could be delivered to victims, as captured by this respondent: 'Justice is very individual and for some that is through a lengthy prison sentence, for others it might be the need to regain the power and control which is likely to have been lost during the offence.' (RJ 16).

#### SOC Expert Views - Opportunities presented by utilising RJ in the SOC Context

A myriad of opportunities was identified by the 36 SOC experts, including by those who were not in favour of such an approach overall: the opportunities related to reductions in offending, diversion from crime, victim-related benefits, community benefits, enhancement of policing activities and wider benefits from a criminal justice system perspective.

Much consideration was given to the potential for RJ to reduce reoffending and increase the prospects for rehabilitation, with two respondents stating that they thought this would be the case especially for acquisitive crime and fraud, particularly as 'some OCGs are not particularly organised and not well disciplined' (SOC 20). This may give offenders the opportunity to address some criminogenic factors and take up opportunities not previously offered to them, and subsequently break the cycle of offending. It may also change their mindset as they learn about the impact that their offending has had on victims. The link was made between this outcome and the community in that they may then aspire to adopt community-based values that make them want to belong to that community.

SOC 28 summarised that s(he) felt that the opportunities were not only post-conviction, but also pre-escalation in the form of the potential for RJ to provide diversionary opportunities for offenders. One captured the view of many in stating 'Prevention is better than cure' (SOC 26). Users and dealers who are being used by others could be diverted, though this came with this caveat: '...however, there would have to be a strong guarantee that they would engage with the process and not return to offending' (SOC 5). It is notable that such stringent requirements such as a guarantee of desistance is not required as a minimum eligibility threshold for any other disposal or intervention including prison or probation rehabilitation requirements. Many statements were made about the true potential for RJ to act as a diversionary mechanism which came with caveats: *if* deploying RJ led to preventative work around SOC, then this 'would be a massive opportunity not to be missed' (SOC 25) and '*if* you can find these very small numbers of cases where there's a strong likelihood of RJ working, then it's definitely worth doing' (SOC 25). Those who could be diverted from crime included those vulnerable to recruitment into an OCG who had committed low-level offences, youths before they adopt entrenched attitudes, and those who were vulnerable as they were subject to exploitation, e.g., county lines and Children at Risk of Sexual Exploitation (CSE) perpetrators who become groomers on behalf of gangs. The connection between diversionary potential for SOC offenders and their own victimhood was clear.

Many focused on opportunities to be realised by victims of SOC offending (who were not offenders themselves, i.e., not in the context described above). Ten individuals referred to increased victim satisfaction, a sense of closure and being given 'a voice' and have their questions answered. One also felt that this may enable myths to be dispelled in relation to how SOC offenders are perceived as they would learn that they are 'dysfunctional individuals' rather than 'all really nasty individuals':

I think with SOC offenders, there's a lot of immaturity around it, they've failed in other areas in their life and they fabricate an image that has made them feel really powerful, and sometimes the absolute opposite is true of that....This may be an opportunity to address that they're overgrown little boys involved in serious and organised crime (SOC 12).

Perhaps this recognises that not all SOC offenders are equal in status and brings into sharp focus the inaccuracy of the imagery of 'Mr/Mrs Big' signifying all SOC.



It was also felt that such an initiative would give officers the opportunity to signpost victims to other sources of support and demonstrate flexibility in offering an additional option which may reduce their fear of repeat victimisation and allow them to move on.

Many felt that if RJ was deployed in the SOC context, that it may enhance policing as a service: there may be opportunities to gather intelligence about OCG activities and a greater understanding of what motivates SOC offenders from an investigative capacity, with the potential to gather more information about offenders that may usefully inform the overall risk picture. While there are serious ethical implications for using RJ in doing this (see RJC principles of practice), it is interesting to note that some officers perceived this as a golden opportunity to learn 'hard to access' pieces of information which may be impossible to gather in any other way. However, some did believe that trialling such an approach also gave police forces the opportunity to explore alternative and additional options to create an evidence-base for what works, as prison clearly does not, as well as being able to demonstrate to the community that the police are proactively seeking to create new options which may meet their needs.

Several community-based options were discussed by the respondents. Some referred to the fact that if county lines victims could receive such a service, it would increase the impact that police forces can make, that using proxy victims including professional witnesses from the community (which may increase the likelihood of offender engagement than if actual victims were used), then overall risks may be reduced within the community with consequent sustained public protection.

These community-based opportunities also related to an impact on the overall criminal justice system, with some stating that such an option may prove to be cheaper with reduced costs overall, may take less time than current processes and be an additional tool which can redress the balance in the focus by the media from sentencing outcomes to the impact on victims. Only three respondents claimed that were no/minimal opportunities to be realised and this does not represent the majority view as there was support to varying degrees in the responses, with one stating: 'Before today, I wouldn't have considered RJ in a SOC context. You are educating me' (SOC 26).

## SUMMARY

Experts identified benefits to three groups: offenders, victims and their respective agencies. The experts agreed that there was potential for offenders to reduce their SOC offending and break cycles of offending and entrenched attitudes. RJ experts also identified that RJ may give offenders an opportunity to fulfil the need for gang membership in an alternative way and SOC experts additionally identified that offenders may be given the opportunity to adopt pro-social community values and act as a diversionary mechanism. Both RJ and SOC experts also agreed on the opportunities for victims with them gaining a sense of closure and having questions answered. SOC experts also referred to victim satisfaction, being given a voice and RJ participation enabling myths about SOC offenders to be dispelled, while giving an opportunity to the police to enable them to access support services. Experts also agreed that there would be benefits to their own agencies, with one RJ expert viewing the provision of RJ services to SOC offenders and victims, giving RJ specialist services the opportunity to be inclusive, and SOC experts believing that there may be wider benefits in the delivery of criminal justice services by being cost-effective and potentially less time-consuming. Another aspect mentioned was the opportunity to gather intelligence and learn about the criminal activities of the members and also to contribute towards the national drive to create an evidence base around policing responses.

### 5.4.7 *How can these opportunities be realised across the police forces?*

#### RJ Expert Views - How can these opportunities be realised across the police forces?

The researcher asked about the potential for these opportunities to be realised and the responses centred around the need to instigate a cultural attitudinal shift in how RJ is conceptualised and thought about. The majority of respondents cited the need for a change in professionals' opinions about the viability and suitability of utilising RJ in the SOC environment and a need, first and foremost, to increase awareness of RJ within statutory criminal justice agencies. The need for working jointly on a multi-agency basis was acknowledged. This would involve much promotion/awareness-raising work among partners so that the appropriate referral pathways could be established for all parties: 'this cannot be done by the police alone and should be in line with any strategic Home Office guidance on

offender management' (RJ 15). One thought that every prison should prioritise RJ for prisoners, prioritising those who cause the most harm and/or are serial offenders. There was a need to increase awareness of the potential benefits with offenders and victims too, and some urged that every victim should be made aware of the availability of RJ as a statutory right that they possess, though this was acknowledged as 'challenging' (RJ 15).

One urged the need for national leverage to any such initiative with the need for central government support, additional resources inclusive of funding (potentially from the Office of the Police, Victims and Crime Commissioners - OPCVCs) and trained, skilled, knowledgeable staff (with an understanding that this had resource implications), though one thought that volunteer practitioners should be deployed as they would be trusted more than public professionals.

Finally, some practical suggestions included using a staged approach to sequence the RJ interventions on offer, victims having the opportunity to access victim groups to rebuild their confidence prior to conferencing, and virtual conferencing prior to face-to-face meetings. Overall, there was much enthusiasm expressed by the RJ expert group and is reflected in this comment: 'Twenty years ago, we wouldn't have even considered domestic violence. Now we do it almost as a matter of routine. I think the same may apply with SOC' (RJ 10).

#### SOC Expert Views - How can these opportunities be realised across the police forces?

The world has changed, SOC has changed. If you do what you've always done, you're going to get what you've always ... had. I think if victims are getting the answer to 'Why Me?' isn't this what we're about as a police force, to help victims? I would love for us to do a pilot within our force because I think that we can do that. Please do get in touch when you're ready to do so (SOC 26)

Are you seriously considering offering it to for example the head of a county drugs lines who has offered serious violence and exploitation in order to expand a network and create a new market? The Albanian OCG member who is paid regardless of being active or imprisoned? The family group keeping persons in unpaid servitude? The OCG involved in the kidnap and subsequent torture of an individual over debt or turf? (SOC 32)

Many SOC experts were naturally drawn to problem-solve and propose suggestions about how to make the idea of using RJ in the SOC context work. This included those officers who

fundamentally disagreed with the concept (though this may also have been due to the design of the questionnaire which specifically asked how the initiative could be upscaled). Four or five respondents stated that this was not desirable and there were no opportunities to be realised as using RJ within SOC contexts was inappropriate, and that there would be a lack of public support due to the gravity of the offending. The difficulties in considering implementation were captured by one respondent: 'Many in SOC work in a bubble. They deal with their job and they move onto the next one .... you always know that, within SOC, the next job is waiting, you're chasing the Pursue' (SOC 23), confirming the priority given to this strand from the 4'P's strategy.

Some stated that there was now a need to be more victim-centric as 'we are too focused on going to court and charging because it's a quicker win' (SOC 8), reflecting the lack of victim focus which is evident in the definition adopted by the NCA as described in Chapter 2. Hence, cultural change was required and a 'hearts and minds' issue was at play, requiring an awareness raising campaign within police forces, through an internal educational plan for police officers with impactful briefings which detailed success stories and examples where RJ had been deployed successfully. Research and an evidence base were required, which would also assist in securing this buy-in. Two respondents asked for an evidence base and research focusing on what works in this area of policing business, specifically identifying offence types and measuring recidivism. An external marketing campaign was necessary to secure the public's support, with an interactive App on each police force's website which is highlighted every time a crime is reported and with RJ information displayed on force pages and online resources for the public. Specific awareness-raising for victims was also profiled by the respondents as well as for partners. Greater resources and specially trained staff were required if this buy-in was to be secured. Resources needed to be secured with the buy-in of police, crime and victims' commissioners as a specific vehicle for securing this. Well trained specialist staff were required (with a recognition that this was resource-intensive) and the remit of RJ hubs expanded to incorporate SOC cases. Dedicated staff were necessary as it was perceived that any applications should not be 'an add-on' (SOC 17) to existing provisions, with the additional resources needed due to the size of some OCGs. Securing the support of Regional SOC Coordinators to support forces with the design and delivery of RJ as part of the Prevent Strand was proposed. Work needed to be done with government, which was

described as a 'sea change' in RJ policy, and be accepted and resourced adequately and with the NPCC so that forces could be supported in considering such an initiative. Hence, an awareness raising campaign internally within police forces, with partners, with OPCVCs, victims and the public needed to be undertaken as well as a central government drive.

The offer could be made to peripherals (in the right circumstances and carefully selected) and for those vulnerable to being recruited into an OCG. However, some warned that selecting peripherals brought risks as they are easily replaced and this would, in effect, widen the net as more offenders get drawn into SOC. Two respondents suggested that RJ should be offered to all victims (one specifically referring to the mandatory requirements under the Victims Code) though one stated that s(he) believed that 'numbers identified through a risk/harm-based process would be very small when compared to the proposal of all victims and offenders having an opportunity for RJ' (SOC 3). One stated that s(he) was specifically completely against the idea of all offenders having the opportunity for participation in RJ. Proxy victims could be used instead of actual victims to address the risk and vulnerability issues discussed above.

Practical ideas related to having processes and systems in place to ensure that adequate and robust risk assessments could take place and that the necessary tools were designed to assist SOC and RJ officers to consider the option. A staff safety plan to ensure the security of RJ practitioners would need to be considered. A call was made for policy and guidance to support decision-making (with one proposing the use of the National Decision Model so that this would overlay any RJ model used, i.e., so that every decision would be subject to a review). Another asked for examples of where RJ had been successfully used in the SOC context and that it was necessary for at least one force to provide 'a roadmap for others' (SOC 29) and initiatives presented on national platforms to raise awareness. A risk matrix could be drawn up so that the correct resourcing levels could be secured and the most vulnerable could be identified as well as a triage process for assessing suitability. RJ as a tool needed to be embedded in the four Ps approach as 'Restorative justice crosses all the aspects of the four Ps' (SOC 4) and that any such initiative would need to be driven from the top to the bottom. An in-force panel was proposed which would consider relevant cases/OCGs and RJ flags being highlighted at the point where an incident is recorded as a reminder to consider the option. Any initiative would need to feature on force strategic planning documentation. Process

flowcharts and simplified referral processes were called for, with Home Office issued guidance, suggesting the reliance by police forces on official centrally-derived documentation to shape local policies; hence the need for these official documents to take research evidence into account in their formulation of central plans for addressing SOC. Some asked for pilots and trials and urged for funding to be applied for from the Police Transformation Fund.

## SUMMARY

All RJ experts identified opportunities which could be made into a reality, but 4-5 SOC experts stated that there were no possibilities and that the nature of SOC and the current CJS set up would present as significant challenges. Experts believed that in order to realise the ambitions behind the opportunities that they had identified (detailed above), cultural attitudinal change was required among agencies, achieved by increasing awareness of RJ and its potential in this context. The SOC experts suggested the need for an internal marketing campaign and an external one for the public and victims. They highlighted the need for research and an evidence base that could demonstrate the potential benefits. Both sets of experts also referred to the need for partners to work together and for national leverage to ensure the allocation of resources and trained/dedicated staff. RJ experts suggested that in order to realise the potential opportunities, sequencing of staged interventions may be of benefit. SOC experts suggested the need for policy and guidance documents and a host of tools to assist them in navigating through such processes, e.g., roadmaps/process flowcharts, risk matrices, referral pathway processes, force-specific implementation plans etc. Taken in isolation from other responses, much enthusiasm for trialling something new in this context was noted.

### 5.4.8 *Should RJ be tried in the SOC Context?*

#### RJ Expert Views - Should RJ be tried in the SOC Context?

Police RJ force representatives and their partners within this sample (probation, youth offending services and RJ charities and third sectors) were unanimous in their view that SOC offenders and their victims should not be excluded from such an approach and that, in fact, efforts should be expended to ensure their inclusion. This applies to both the focus group and all 12 individual respondents. The focus group was not asked to come up with a collective

view to indicate the strength of their views in respect of whether RJ should be tested in the SOC context, but the individual respondents were. Ten of the 12 individual respondents scored a “1” on the Likert scale to say that they felt strongly that this was ‘definitely worth a try’ while the remaining two respondents indicated a 2/3. This suggests a very strong belief that RJ should be trialled in this context.

The basis of their beliefs centred around the notion that ‘No offence should be precluded from this process.’ (RJ 16) and almost half of the respondents believed that every case should be assessed on its own merits, i.e., on a case-by-case basis, primarily due to what was termed ‘the power of restorative approaches’ (RJ 13), i.e., its potential transformative impact. Their responses centred around three key stakeholder groups: victims, offenders and practitioners themselves, in that order, and that it would be ‘hugely satisfying’ (RJF) for all involved. Adherence to the Victims Code was often (six RJ experts) cited in line with the notion that every victim should be afforded the opportunity to see if the process would meet their needs. If a victim was willing, then the opportunity should be explored was the key message, with benefits being victim satisfaction in respect of closure (feelings of positivity and being able to tell the offender the precise impact their actions had on them), and recovery (gaining an understanding of what had happened and taking back control, i.e., feelings of empowerment). Offender benefits included the potential for RJ to have a rehabilitative impact as they would ‘face up to their actions’ and gain an understanding of the impact of their actions and this could help in ‘shifting entrenched views that many OCG members hold’ (RJ 12). Finally, it was felt that practitioners would also derive satisfaction through this process and that including SOC contexts would enable them to adhere to the RJC principles of accessibility and neutrality so that a fair and unbiased service was offered regardless of offence type. One summarised the views of others: ‘The more interventions I have undertaken, the stronger my belief that RA should be accessible in all contexts’ (RJ 11). The respondent stated that defensible practices in this context rely on completion of robust assessments of risk and need, an informed decision-making approach for all involved parties and solution-focused approaches by professionals:

In addressing factors which I may previously have considered to be a potential block to the progression of communication between the harmer and harmed...I personally feel that to offer a truly accessible, indiscriminate and inclusive service, this should be

a consistent approach across offence types and at whatever point in the individual's journey through the Criminal Justice System that Restorative Approaches are considered. (RJ 11).

One of the key messages which was echoed by 3 respondents (including one from the focus group who bravely voiced an opinion which the others did not necessarily subscribe to) was that applying RJ to the SOC context would in practice be no different to the non-SOC context. The focus group questioned how SOC was defined and many thought that the only difference was that it would take more preparation, more safeguarding considerations, additional resources, more partnership work, more robust information-sharing processes etc. The message given to the researcher was that all the usual difficulties experienced by RJ practitioners would merely be accentuated in the SOC context, but otherwise the principles were the same.

This corroborates with Stockdale's (2015) findings that practitioners, or those responsible for delivery, were predisposed to think about the logistical practical issues in respect of delivery – and that was in the context of delivery for non-SOC offences as that case study concentrated on one police force focused on RJ delivery with focus groups and interviews with those who were not based in units/departments solely responsible for SOC. Furthermore, two of the individual respondents in the current study also believed that it was worth a try, but only if there was buy-in from the police forces and senior policy leads (with references to the 'reticence and ignorance' by police officers not knowing 'the power of RJ' – RJ 13), as well as a change in the governance infrastructure, so that community action was galvanised and community engagement was a key component of the response to SOC from a RJ perspective. Similar levels of almost unanimous enthusiasm were observed in D'Souza and L'Hoiry's (2019) perception study, with 14 out of 15 RJ experts believing that RJ should be tried in the SOC context on the basis of innovation, with encouragement given to take RJ in the SOC context off the 'too difficult pile'. It is also noted that regardless of whether the RJ expert came from a criminal justice background or "other" background (such as education), a similar mindset can be observed – a belief that all offenders and victims "deserve" to be considered for RJ. If the RJ experts from D'Souza and L'Hoiry's study and the current study (all different individuals from 2015 and 2018) are combined (32 RJ experts in total), the results are the same with strong support for the notion of using RJ in SOC contexts and knowledge of the Victims Code.



## SOC Expert Views - Should RJ be tried in the SOC Context?

While approximately three-fifths of the SOC experts broadly indicated that utilising RJ within the SOC context was worth a try, with 21 experts scoring 1–5 on the Likert scale, there was a clear mismatch between this scoring and some of their responses. In part, this may have been because engaging in the interview process itself appeared to stimulate thought and create a change in attitudes later on in the survey. The remaining fourteen respondents indicated a lack of support for the notion and their comments were aligned with this scoring. 12 experts (a third of all SOC experts) indicated a 1–2 (very keen and enthusiastic for the possibilities of applying RJ to the SOC context) and three indicated that it was an entirely implausible suggestion (3 respondents indicated a 9–10 on the scale). This is based on 35 responses in total, as one stated that (s)he could not use the Likert scale for all SOC offences, as this is a broad spectrum of offending and continued by giving specific examples of SOC offences and the extent to which (s)he would support an RJ application to each set of offence types.

It is clear that these results are in stark contrast with the RJ Expert group who were unanimously enthusiastic in their views that RJ should be tried in the SOC context.

Sixteen SOC experts felt that a new approach was required as a preventative or diversionary response to SOC, primarily with young SOC offenders who were at the brink of SOC careers, less experienced and open to positive influence, vulnerable to being recruited, or were vulnerable themselves as offenders who had been coerced into offending by those higher up the chain. Many expressed frustrations with current outcomes, citing that the outcomes would remain the same if new things were not experimented with, with one expressing his/her enthusiasm with 'We have nothing to lose by trying, but everything to gain!' (SOC 10). Others also cited shortcomings within the current adversarial system quoting costs to the taxpayer; it being an expensive system and prison not working to reduce reoffending in the SOC context due to evidence of continued offending during the prison sentence. The frustration with the current status quo was summed up by one respondent who claimed that 'we are unlikely to arrest our way out of the problem' (SOC 30) and another advocate who stated:

The evidence base for RJ is very strong. Theoretically, this should apply to SOC. However, the data or resources may not always make it practical to conduct RJ safely

due to limitations on resources. However, the investment in resources may be justified where SOC offenders' behaviour is changed as a result of RJ (SOC 9).

One also said that (s)he would support such an innovation on the basis that it could be considered in the first instance and then rejected if it proved to be inappropriate in any given case. Six respondents expressed the view that a pilot with a select number of cases would be a good idea and that they would support such a trial within their own force with the researcher's assistance, if she was willing: 'Give it a go and see what outcomes you get. I'd be happy to trial it and set up a pilot with you' (SOC 26). Another stated that it was worth a try, but 'I am balancing the score against my belief of it working and the cost and time to give it the trial it would need' (SOC 11). The call for an evidence base was clear among those who were open to the notion of utilising RJ with the need to identify specific success criteria and measurements, with one respondent stating that the concept of applying RJ to SOC contexts should not be based on 'mere professional intuition' (SOC 18). Some advocated a case-by-case assessment to screen OCG members in or out of any RJ scheme:

...definitely worth a try ... because it's got to be the right person under the right circumstances that has to be under consideration (SOC 4).

This corroborates findings from Banwell-Moore's (2018) study where she explains that professionals who had direct contact with victims pre- and post-sentencing as part of updating victims on the progress of their case, decided which victims were offered RJ and which were not depending on their characteristics such as if they displayed altruistic tendencies. Hence, much professional discretion was used. Most of those experts who suggested the case-by-case approach were clear that this should apply to younger, less experienced members and those with character traits that were suitable for such interventions, i.e., not 'a blanket approach' (SOC 19). Those who supported the notion felt that it may make offenders think about the impact of their offending and act as a deterrent, with 4 experts citing that this would be the case if combined with an adversarial process or other Prevent-based activities.

For some, the notion of using RJ in any SOC context was not perceived as a good idea, or limited to low-level SOC offences; the main reasons cited for a general lack of support were due to the gravity of the offending and the magnitude of the impact on individuals, families and the community. One respondent captured the views of many who were not in favour of

applying RJ: 'For some jobs, I would say it's an absolute no-no' (SOC 8). Levels of risk, harm and vulnerability were cited frequently among those who felt that the idea was not a good one, particularly as much SOC offending incurs long sentences:

It is hard to envisage many scenarios where it would be palatable set against this context and the threat, risk and harm posed and caused by these types of individuals and groups (SOC 7).

I'm not really an advocate of RJ in this context because prison could be more of a deterrent (SOC 17).

These quotes suggest that for those SOC experts, the first image which is considered is that of the most dangerous individuals who tend to be thought of as the 'Mr Bigs', who perpetrate 'unimaginable horrors' and that other offence types captured under this umbrella term of SOC are dismissed.

SOC 5 considered that while RJ may be suitable for street-level organised drugs dealing, it may actually encourage offending rather than deter it as it would avoid attracting a prison sentence. Two specifically stated that they felt that RJ facilitators may be manipulated by offenders and that some SOC offenders lacked the emotional literacy required to engage with vulnerable victims. A very small minority worried that offenders would see that as 'an easy way out' (SOC 25), that victims would take a 'dim view' of RJ as an administrative process (SOC 25), and that the intervention would not be perceived well by the public as a response to SOC offending due to its reputation as a 'soft option' (SOC 27). One respondent mentioned that their view was shaped by a lack of policing resources and that the idea was one of balancing police resources against the benefits for the victims (SOC 8). RJ was viewed by this specific subset of SOC police experts as a disproportionate response to SOC offending and that if it did apply to SOC contexts, it would be for a very small cohort of offenders. If applied in the wrong cases, respondents were concerned about the impact: 'Otherwise, I think it's dangerous. I think, perhaps, it's appropriate for one out of ten SOC offences' (SOC 36). It is clear that the SOC experts were concerned about the potential harms to victims if they engaged in a restorative dialogue with their offenders. While an overall offender-focused approach to policing SOC emerges, at the heart of many comments in relation to offering RJ in this context were SOC experts' concerns that victims would come to more harm.

Furthermore, there were differences in views within the hierarchical ranking structure for the SOC respondents. Police managers (n = 19 consisting of Sergeants, Inspectors and Detective Chief Inspectors) and police leaders (n = 17 consisting of Superintendents and Chief Superintendents) discussed the notion of applying RJ to the SOC context very differently, with the general trend being that the senior leaders were more supportive of such applications than their managerial colleagues:

Table 5.3: Differences in Views about trialling RJ in the SOC Context across the Police Ranking Structure

RANK	LIKERT SCALE SCORE <sup>38</sup>	RESULT
Middle Managers (n = 19)	1 – 3	26%
	8 – 10	21%
Senior Leaders (n = 17)	1 – 3	59%
	8 – 10	12%

This suggests that those closer to the “coal face” and more operational may be more Pursue-focused (prosecution focused) giving clues as to why a more Prevent-focus has not been adopted and highlighting the crucial importance of the middle manager grades who are in effect the buffer between senior leaders and front-line personnel. It is little wonder that RJ is not being utilised as widely as it ought to be given the opinions and orientation of the police middle manager grades who are responsible for supervising, managing and leading operational staff. Stockdale (2015), in her study of the implementation of RJ in a small force in the north east of England also found differences in the overall approach to RJ between senior leaders, middle managers and front-line staff with each rank ‘oriented towards different issues’ (2015:222), as did Shapland et al. (2017) who report that differential interpretations and rationales for using RJ were evident between the different ranks within the police forces where they undertook their research.

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<sup>38</sup> with 1 being ‘definitely worth a try’ and 10 being ‘it should not be tried’:

## SUMMARY

This account suggests that while RJ experts unanimously thought that RJ within the SOC environment was a good idea (with some surmountable reservations) on the strength of their belief in the agility of utilising RJ across a broad spectrum of offending and their knowledge of the evidence of its transformative powers for offenders and victims, SOC experts were very mixed in their perceptions. Those in favour referred to being generally disenchanted with the shortcomings of the current criminal justice model, processes and outcomes with a value-for-money framework for taxpayers. They also liked the idea from an innovation perspective and called for an evidence base for the effectiveness of RJ for serious offences, though this should be confined to younger, less experienced SOC offenders. This is in line with much current emphasis on evidence-based policing<sup>39</sup>. Those not in favour expressed concerns in relation to the gravity of the offending and its serious impact on victims, as well as how such a disposal would be perceived by the public and by victims in particular.

### 5.5 What are the implications of these findings for policy and practice?

#### *Innovation – RJ Application in a New Context*

The NPCC Survey related to the first research question (see Figure 4.2 Mixed Methods Summary in Chapter 4): Are there examples of practice or RJ applications in the SOC context anywhere in England and Wales known to police or co-ordinated by the police forces, or does this study represent a true innovation in terms of exploring the concept?

This study appears to represent a ground-breaking venture in the use of RJ in a new and challenging context. RJ for SOC offenders and victims is not currently offered by the police forces who participated in this research. This failure of provision runs against some of the core national values espoused by NPCC in providing fully inclusive services. A form of discrimination, either consciously or unconsciously, is taking place organisationally within police forces and by individual officers who have direct contact with potential service-users. Furthermore, statutory obligations to victims in particular are not being met as the Victims

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<sup>39</sup> The College of Policing define evidence-based policing **as an approach whereby police officers and staff create, review and use the best available evidence to inform and challenge policies, practices and decisions.** Available at: <https://whatworks.college.police.uk/About/Pages/What-is-EBP.aspx>

Code specifies that all victims should be given information about RJ and clearly SOC offenders (and victims) are currently routinely excluded. However, the attitudes and views of RJ experts and some SOC experts suggests that there is motivation to narrow this gap in service provision and meet the needs of victims by meeting statutory obligations.

#### *Knowledge held by the Experts about Restorative Justice*

RJ experts were, as expected, very knowledgeable about their own industry but a few were also able to cite the academic literature and pinpoint what they knew about what works (e.g., the success of RJ with more serious offending). They described how their practices had changed over the years to embrace increasingly more serious and complex offending contexts and a greater focus on vulnerability and safeguarding within that (e.g., in the domestic violence scenario). They appeared ready to 'take on' yet another new challenge – helping SOC offenders and their victims engage in restorative dialogues, yet their capacity to do so was clearly hampered by their reliance upon police to make referrals and, even then, for the referrals to contain the necessary information upon which they could make full and informed professional assessments.

SOC experts were experienced professionals from an operational perspective (though with one exception, no one made any academic citations or referred to knowledge about what works other than requesting information about an evidence base for RJ in the SOC context). SOC experts were less knowledgeable, with knowledge gaps extending to what the purpose of RJ is, who the beneficiaries of RJ are, the research evidence base about effectiveness, the processes and ethical principles pertaining to RJ, and at what points in the criminal justice process RJ can be used. Much basic information about this form of justice was lacking. This has significant implications for practice, as it means that police SOC experts do not make referrals to RJ experts, and, if referrals are made, the necessary information may not be relayed to enable robust risk assessments to be made, i.e., some RJ experts suspected that they may be facilitating RJ with such cases, but in the absence of relevant information, i.e., they were working in the dark.

SOC experts' work appeared to be dominated by a Pursue-focus and any Prevent-based knowledge was limited to diversionary functions for young people in a non-SOC context for low-level offences, though the research questions prompted them to think about who within

the OCG hierarchy may benefit from RJ, leading some to identify peripherals and new recruits. It would appear that the Prevent strand of the SOC National Strategy (2018) is not a key focus for the sample of SOC experts who were primarily self-confessed Pursue-based operators. This was particularly accentuated for principals who were considered to be a group of offenders for whom there was little or no hope of desistance – a view particularly prevalent in the middle management group. As the average age of SOC offenders in Francis et al.'s (2013) study was 32 years, if SOC experts are excluding all with entrenched pro-criminal attitudes, one can presume that this would then apply to most SOC offenders, particularly as only 1% of the SOC offenders were under the age of 18 years in Francis et al.'s study. When discussing their work, SOC experts clearly displayed an offender focus and at the same time they were protective of their vulnerable victims by being keen to ensure that they did not come to further harm at the hands of organised criminals. However, this consideration of the victim also had paternalistic overtones and the protective focus tended to be about prevention of further harm and excluded other important aspects, such as: victims deriving a greater level of satisfaction from their criminal justice experience, gaining a sense of closure, and emotional healing/wellbeing (with its associated health-related costs). Hence, SOC experts are fully immersed in protecting communities and preventing the creation of *new* victims by catching SOC criminals with a view to taking them out of circulation (even if only for periods of time and notwithstanding that many will continue to offend while in prison (the National Strategic Assessment of SOC 2018 makes references to the power of criminals networking whilst in prison who offend together on release, for example). This then means that they are not involved in victim-focused strategies for *existing* victims in respect of gaining closure, healing and victim satisfaction. The status quo may be shaped by their lack of knowledge as discussed above, e.g., that RJ can be used alongside or in addition to adversarial options instead of as an alternative (which given the gravity of SOC offences would clearly serve the public interest). However, this does put a spotlight on the responsibility taken by police officers and police staff in relation to serving this subset of the public – the victims of SOC - through their decisions to not proactively consider this option for the victims of such offences and the responsibility taken to ensure that they are fully knowledgeable of the range of options available and the potential outcomes when such options are pursued in line with requirements specified in the Victims Code.

### *Working in the Dark – the Implications for Practice*

RJ experts highlighted the difficulties that they experience as the police are the gatekeepers of the required information and data, and some referred to their belief that they may be undertaking RJ with SOC cases but not be aware. This may also be an issue with other partners such as probation where such information about criminals operating in a group context does not emerge and fundamentally affects risk assessments and the design of interventions, for example. Police are necessarily the gatekeepers of such information; the issue is more around the not sharing of information on a “need to know” trusted basis. While GDPR guidelines and other data sharing protocols may complicate matters, it can be persuasively argued that the principle of “needing to know” ought to apply.

The Council of Europe Recommendation CM/Rec 2018 (8) states that if uncertainties prevail in any one case, a dialogue should take place between the referrer and RJ provider to enable the trained professional to collaboratively make decisions regarding suitability. This is of note, given that RJ experts reported that they were not being afforded this opportunity by SOC experts. One of the recommendations specifically states that the facilitator ‘should be informed of all the relevant facts of the case and provided with the necessary information by the competent judicial authorities or criminal justice agencies.’ Clearly, this is a potentially thorny issue in the SOC context as it would appear that both sets of experts do not routinely communicate on SOC cases, i.e., the communication channels between them are not established. However, it may be that it is not just the case that referrals are not forthcoming, but that they are without the necessary facts to enable a robust risk assessment such as an offender’s membership of an OCG. Hence, police practices may be placing people at risk through a lack of information-sharing.

### *How SOC was conceptualised by the experts*

When discussing SOC, SOC experts tended to focus on the “high-end” criminality to the exclusion of those SOC offenders who may not be lifestyle career criminals – hence, dismissing the potential for all SOC offenders. Though the mapping process takes account of factors such as risk, reach and impact in terms of a group of individuals, when thinking about individuals SOC offenders, there appears to be a tendency to think exclusively of the most serious and organised individuals as signifying the full range of SOC offenders. This may be a



reflection of the definition adopted for SOC by official guidance. This means that there are missed opportunities (including for diverting peripherals) and this, in turn, may mean that it enables SOC offending to continue – clearly, “foot soldiers” are required for the continuation of SOC businesses. Furthermore, the police response to SOC is framed as a service to the local communities which involves catching and convicting offenders: to what extent do SOC experts believe that it is their job to similarly provide a service to victims (as a subset of the local community and as citizens with a statutory right to be informed of RJ and to learn of the availability of such services)? This may warrant further reflection within the context of police values and culture.

From receiving SOC Expert questionnaires and speaking to them by telephone, a picture emerges about the very gradual change in focus of the type of SOC offender now being pursued, the general trend being a greater emphasis on vulnerability and safeguarding. The snapshot profile would suggest that only a handful of SOC prisoners and just over a fifth of those living in the community were eligible for direct conferencing opportunities as they were likely to have had identifiable victims. This picture is likely to change if this trend continues, with an increase in human trafficking, modern slavery and county lines police operations. This focus on vulnerability may lead to shifts in the way that such groups are recognised and subsequently mapped, leading to more RJ opportunities due to the increase in the numbers of identifiable victims. It also highlights the need for specialist safeguarding/vulnerability expertise to be brought into local and regional SOC units in order to adequately recognise and deal with the relevant issues for both the Pursue and Prevent strands of the national strategy. It would appear that there are parallels between RJ experts reporting that they now receive referrals for more serious and complex offending contexts such as domestic violence and hate crime, leading them to make more complex risk assessments and safeguarding practices and police forces mapping more SOC contexts where vulnerability and safeguarding implications are enhanced – such as human trafficking and children at risk of sexual exploitation.

Many SOC expert responses were framed with a conceptualisation of RJ as a youth diversionary measure, with many not knowing that RJ can be effective for more serious offences with a potentially transformative impact and that it can be offered repeatedly (if appropriate) at multiple points in the CJS journey to both offenders and victims (if the time is right for both parties, if indeed such a time arises for either). In addition, SOC experts were

answering hypothetical questions on SOC and given the extent to which drugs features within SOC profiling, it must have been difficult to think of RJ when it is difficult to think who the offenders would have a dialogue with.

RJ experts, in the main, answered the research questions with the overall view of considering SOC as a set of offences dominated by power imbalances and with heavy risk implications for the parties involved. With a few exceptions, where references were made (e.g., by the focus group) that some practitioners may choose not to work with SOC cases due to the responsibility involved in managing risks and the magnitude of the violence and intimidation used (which falls under the spell of the mafia type image), most RJ experts tended to view SOC as an offending context where consideration could be given to its deployment. This was not to say that RJ experts were expressing the view that RJ was possible in every case – simply that each case could be considered, and if all conditions (such as adequate safeguarding, robust risk assessment processes and consent) could be appropriately and ethically secured, then the option may be a feasible one.

#### *Complexity due to Blurred Boundaries*

Other issues highlighted by the experts remain unresolved, e.g., what to do in respect of blurred boundaries between offenders and victims when RJ clearly demands a “harmed” and “harmer” label as part of its framework, i.e., one party admits to a degree of culpability of causing harm to the other. Perhaps what matters in such instances is that preparatory work with both parties assists them to come to a view/stance about their own role in the incident/crime and the focus then is on a mutually respectful dialogue that recognises the complexities. The role of the facilitator then is to also help navigate through any power imbalances (without getting caught up in the dynamics themselves as facilitators) which may be particularly relevant in the SOC context as described in Chapter 3. Hence, the resolution may lie in competent preparation of both parties by facilitators and a keen focus on outcomes sought by each party to ensure protection against re-victimisation by the “offender” and retribution by the “victim”. The fact that the issue of blurred boundaries was repeatedly raised by SOC experts demonstrates the extent to which thinking around SOC and associated vulnerability is changing.

*Commonly Held Assumptions: Police SOC Expert Views – do some of their views mirror public perceptions (or views of lay individuals)?*

While many SOC experts supported the idea of trialling something new as a preventative tool against SOC primarily for younger, less experienced low-level offenders, some of their objections to its use mirror those that have been used for not using RJ in other non-SOC contexts such as domestic violence. Here, it is commonly perceived that there are power imbalances that are insurmountable, or even exacerbated, in RJ dialogues between the offender and the victim, where there is re-victimisation potential, and that the process is too informal with overly-lenient outcomes which make the process disproportionate to the seriousness of the offence (Stubbs, 2002 and Busch, 2002). Over a third of SOC experts in the current study had negative personal experiences of RJ or lacked knowledge of RJ and a significant proportion of the remainder had very mixed views which mirror public opinions, namely:

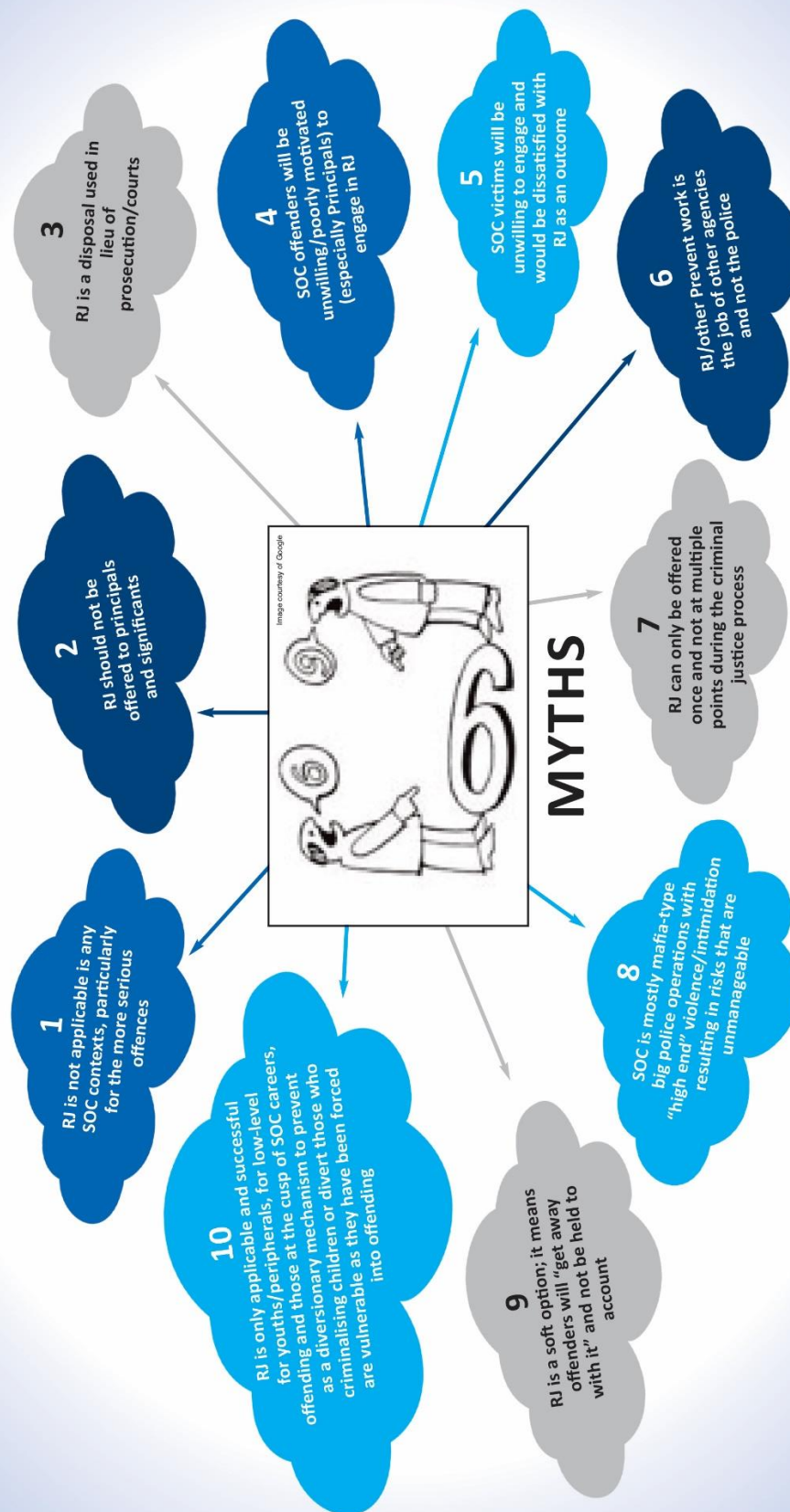
- RJ is a soft option as it does not hold offenders to account and is construed as offenders 'getting away with it'
- RJ is most suitable for youths (or those peripherals on the fringe of SOC, or those who are groomed/coerced into co-offending and as such present with vulnerabilities)
- RJ is most suitable for low-level offending which would score low on assessment of harm thresholds
- RJ is a useful diversionary tool particularly to prevent the criminalisation of children to the exclusion of its use under Prevent activities more widely
- RJ is not for serious and organised offending due to the nature of SOC, the magnitude of harm caused to individuals, and the community being able to render its use as a disproportionate response
- SOC offenders will be unwilling to engage as they have entrenched criminal attitudes and tend to be heavily convicted
- SOC victims will be unwilling to engage.

The current study challenges some of these commonly held views not concurring with some of the SOC expert views and also not bearing true when the case studies are considered, e.g., a principal of an OCG engaged in a face-to-face conference with one of his victims who had

requested an RJ (details of which follow in the next chapter). The public may not find information about the potential benefits and efficacy of RJ very accessible to them and hence, this may contribute to explaining their views conflicting with research evidence, but police SOC experts are well paid professionals with an obligation to acquire the relevant knowledge which the average citizen is not obliged to acquire. There is a duty to be properly informed and demonstrates poor compliance with the Victims Code and the national policy in relation to this.

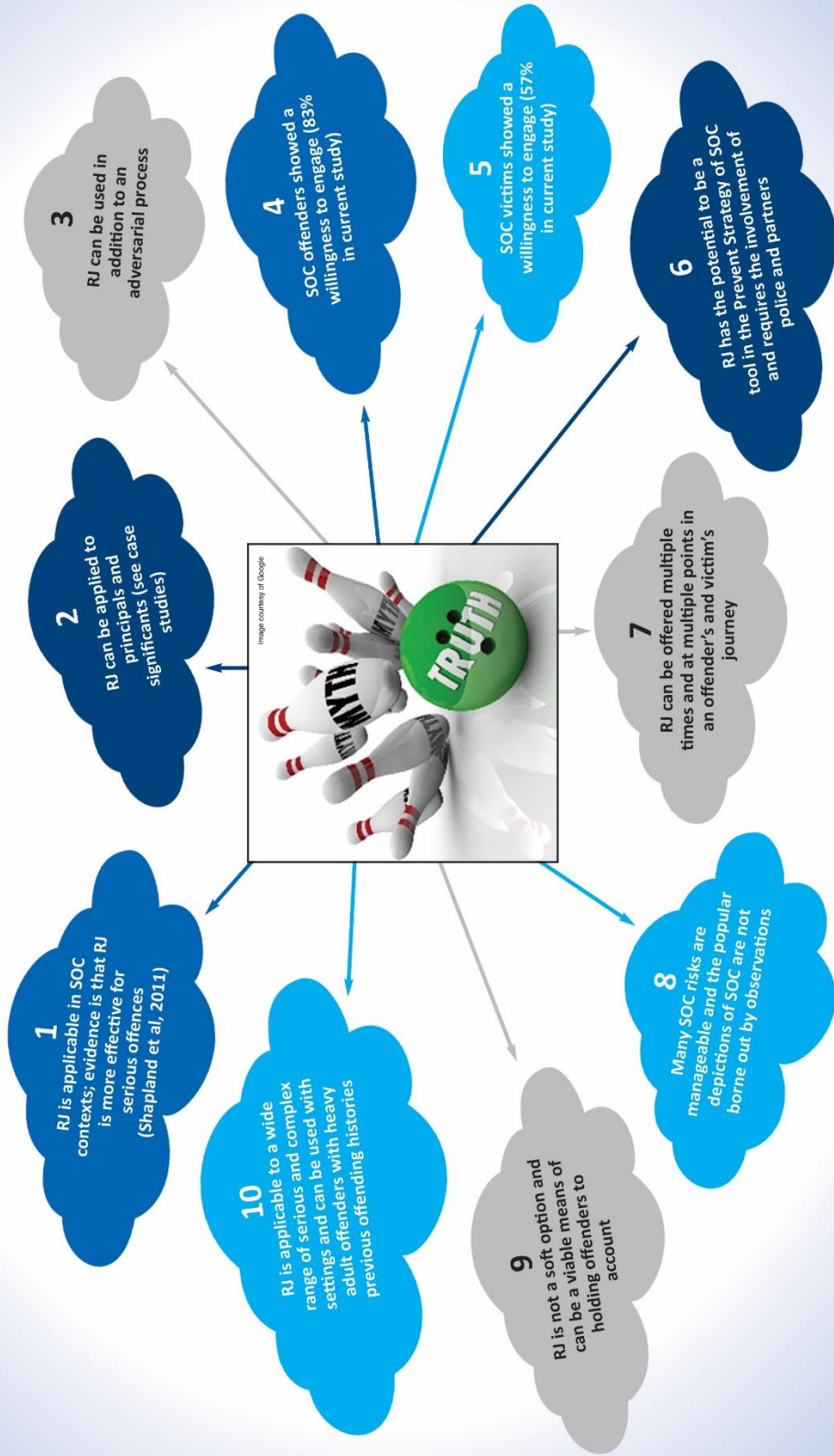
Some of these commonly held views are summarised below in Figure 5.1, along with a consideration of some evidence which contributes to dispelling such myths.

**FIGURE 5.1: TEN COMMONLY-HELD ASSUMPTIONS**



These assumptions and views inhibit the use of RJ and its wider appeal to a broader range of offending contexts. These assumptions/myths were not held by all respondents in this study or held equally amongst the different groups.

**FIGURE 5.2: REFUTING THE TEN COMMONLY-HELD ASSUMPTIONS**



While clearly not all SOC experts held these views and made these assumptions in the absence of knowledge of what works, many did, and some were quite vociferous in their assertions that such an application came with significant risks. These comments have not been made to be unhelpful (in fact, the researcher would assert that much investment was made by SOC experts to engage in this study through dialogue with her and their investment in time), but a genuine attempt to try and identify which SOC offenders and victims should be offered the opportunity and who should not.

### *National Implications for Implementation*

#### The Right Model and Infrastructure is not in place

The Council of Europe Recommendation CM/Rec (2018)8 makes several recommendations about how RJ should be undertaken, some of which can be explored for relevance to this research. Some of the complexities which emerged from the thematic analysis of the transcripts for experts revealed that experts believed that the right model was not in place for RJ referrals to be made. One of the recommendations made is that organisations should indeed have the right infrastructure and processes in place for referrals to RJ services ‘whenever possible’.

Tied to notions of not having the right infrastructure in place, is the issue of culture, police values and the role of policing services, which is further explored in the final chapter (Chapter 7). The extent to which policing services can be said to be about serving victims (rather than catching and convicting criminals to protect the public) is now under question in terms of the focus of the service. This is despite the recent efforts to make policing services more victim-centric and ensure that the voice of the victim is heard through, for example, Victim Impact Statements. However, the purpose of these is very different (to ensure that their views and the impact of the offence at that time is taken into consideration in the sentencing process) to that intended by the facilitation of a restorative dialogue – to achieve closure and increase the satisfaction experienced. This cannot be said to be achieved if victims (of SOC offences) are being denied the opportunity to learn about RJ in the first place. The fact that police-based/commissioned RJ services had somewhat different views to some of the SOC experts despite “belonging” to the same organisation may have implications for how an overall vision is communicated, owned and implemented internally. The same applies to differences in

views between different ranks within police, e.g., senior leaders vs middle managers (and perhaps front-line staff had they too been included in this study). A harmonised or common set of principles or values is not evident, which may explain the “patchy” implementation of RJ services across England and Wales (Acton, 2015:120) and the differential quality of services observed in her (now former) role as the National Policing Manager for Restorative Justice.

#### Need for Education and Awareness – Hearts and Minds

As advised by the experts in this study, clearly there is much work to be done in relation to educating offenders, victims and staff across the statutory criminal justice sector to learn about RJ and its potential to have a transformative impact that may prevent the creation of further victims and pave the way towards safer communities. As part of this study, the giving of quality information (such as screening YouTube clips of *The Wolf Within* and *Repairing the Harm* and sharing the RJ Briefing Sheet with participants as well as designing a Briefing Note for OICs) assisted in others’ learning about RJ in ways that promoted understanding and assisted in enabling them to learn of the potential benefits. Above all, the researcher believes that using a personal approach (which tended to be face-to-face, though not with all OICs) yielded the greatest benefits.

### **5.6 Summary and Conclusions**

What the findings show is significant scope for partnership work and for RJ and SOC experts to learn from one another. Competent, well informed staff with the ability to learn are key – whether they need to learn more about RJ processes or how SOC operates. There appears to be much that SOC experts and RJ professionals can learn from one another. This would improve understanding of the issues and break down organisational boundaries between the professionals to build trust and confidence in each other. While it is not assumed that one set is suspicious of the integrity and competence of the other, and the other set is highly protective of the data they have generated themselves as highly classified information, the study does demonstrate that there may be some work to do in respect of relationship-building – the very ethos involved in RJ! Joint work could pave the way towards building an evidence base, early intervention, collective problem-solving and intelligence-designed interventions to promote dialogue between individuals and groups in conflict. Furthermore,



this partnership platform may assist on a practical basis in the design of tools to help each other, including those specifically requested by SOC experts (e.g., flowcharts, roadmaps, risk matrices, referral pathways etc), though these would be largely redundant if one accepted the view that police forces should be complying with the Victims Code and referring all cases so that all victims of adult offenders received the relevant information.

So, what if the police were to take up this challenge and start to use RJ in the SOC context? What is clear is that if the police decide to take up the challenge (perhaps as SOC being a subset of offences that come broadly under the umbrella of serious and complex cases), they would undoubtedly have the support of RJ facilitators and managers. It would appear there is merit in further exploration of the use of RJ as a SOC Prevent tool and bring this more centre-stage.

## **Chapter 6: Results and Discussion – Offender & Victim Interviews and Case Studies**

### **6.1 Introduction**

This chapter details the thematic findings from the offender and victim interviews and the case studies in order to answer research questions 4–8 (See Figure 4.2 in Chapter 4). The key methods utilised for these aspects of the fieldwork are summarised below.

4. Results from interviewing (a) SOC prisoners, and (b) SOC offenders and ex-offenders living in the community who engaged in an attitudinal survey and were asked if they wished to pursue an RJ option for their current/last SOC offence(s); analysis from non-responders
5. Findings from a snapshot in time of the profile of OCG prisoners and OCG offenders and ex-offenders living in the community in the north-east to shed light on the representativeness of the offender samples used for this study and form views about the way that OCGs are mapped by police forces and regional units
6. Results from interviewing victims of SOC offences who engaged in an attitudinal survey and were asked if they wished to pursue an RJ option with their offender(s); analysis from non-responders
7. A description of the case studies undertaken between SOC offenders and their victims.

This chapter will begin with a brief reminder of the groups of eligible respondents who were approached by the researcher, followed by the results and discussion as a result of analysing the data in relation to the profile of SOC offenders/ex-offenders in the north-east. A detailed discussion of the key themes which emerged from the interviews with the offenders and victims follows, as well as full descriptions of all case studies where either party indicated an initial willingness to pursue RJ. The chapter concludes with a discussion of the implications of the findings for policy and practice.

It is noted that the interviews with offenders and victims did not generate as much data as the interviews with experts and therefore can give an impression that significantly less rich information was attained. However, this scenario is the result of the fact that offenders' and victims' only reference points were their own individual experiences with no comparable data, so inevitably could only provide comparatively less in-depth responses than the experts.

## 6.2 The SOC Prisoners

The table below summaries the key information in relation to the 12 prisoner respondents. The prison identified is the one they were housed in at the time of the initial research interview. Prisoners were also asked if they acted alone or in a group to shed light on whether they would admit to being part of an organised crime group and if they wished to pursue RJ. If they did, whether this resulted in a case study is also indicated. In order to further safeguard against identification of individuals, in the absence of formal guidance which gives a broad indication of what may constitute a short, medium or long-term prison sentence, the following bands have been used for the purposes of this study:

1 – 5 years: short term sentence

6 – 10 years: medium term sentence

11 years plus: long term sentence

Table 6.1 SOC Prisoners – Key Information

Code	PRISON CAT-EGORY	OCG OFFENCE	OCG STATUS	ACKNOWLEDGE OCG MEMBERSHIP	RJ OFFER	DID IT RESULT IN A CASE STUDY?
P001	Cat D	Money Laundering: short term sentence	Significant	Yes	Very keen to pursue RJ	Yes – letter of explanation and shuttle mediation
P002	Cat C	Causing grievous bodily harm and Destroying and/or Damaging Property: medium term sentence	Not known	Yes	Not very keen to pursue RA	No

P003	Cat C	Wounding/inflicting grievous bodily harm: short term sentence/indefinite restraining order	Not known	Yes	Very keen to pursue a RA	Yes – multi-agency meeting convened but no intervention
P004	Cat C	Burglary and theft (dwelling) – medium term sentence	Peripheral	Yes	Prepared to pursue an RA	No – RJ interventions not delivered
P005	Cat C	Attempted Robbery and Possessing offensive weapon – short term sentence	Not known	Acted alone	Prepared to pursue an RA	No – RJ interventions not delivered
P006	Cat C	Non-dwelling burglary, Dwelling burglary/theft x 2, Theft of Vehicle x 4 and Conspire robbery – long-term prison sentence	Not known	Yes	Not at all keen to pursue an RA	No
P007	Cat C	Grievous Bodily Harm and Destroy/Damage Property – medium term sentence	Peripheral	Acted alone	Prepared to pursue an RA	No – RJ interventions not delivered
P008	Cat C	Robbery and Possess knife/sharp pointed article in a public place – medium term sentence	Peripheral	Yes	Prepared to pursue an RA	No – withdrew consent

P009	Cat B	Conspiracy to Defraud – short term sentence	Principal	Yes	Very keen to pursue an RA	Yes – face-to-face conference
P010	Cat B	Making false representation Fraud Act) x 13, Possess/control identity documents with intent and Handling Stolen Goods x 3 – medium term sentence	Principal	Yes	Very keen to pursue an RA	Yes – but no RJ resulted
P011	Cat D	Conspire/make false representation to make gain for self/another (Fraud Act) – short term sentence	Principal	Yes	Very keen to pursue an RA	Yes – shuttle mediations
P012	Cat A	Robbery – very long prison sentence (OCG offence)  Conspire/supply heroin and conspire/supply crack cocaine – medium term sentence (consecutive – also OCG related)	Principal	Yes	Prepared to pursue an RA	Yes – multi-agency forum convened but no intervention

From the 12 prisoners who were interviewed, 10 expressed an interest in wanting an RJ intervention, though three later (after the audiotape was switched off and a natural conversation was pursued) reflected that they would like to undertake RJ but at a later stage.

Credible, plausible and insightful reasons were put forward such as having too many things to deal with at the same time (e.g., one offender was applying for access to his children while accessing mental health care and addressing other personal difficulties). Much of the academic literature focuses on timing issues for victims such as whether they have sufficiently recovered from their victimisation in order to engage in an RJ encounter with their harmer(s) (Morris et al., 1993). Crawford (2015) in his discussion of temporality with RJ, discusses timing of interventions for the parties concerned including the offender. He takes into consideration issues such as youth (with developmental stages being significant in terms of how time is experienced) and the time it takes from making a decision to being able to describe your account (i.e., tell your story in order to be held to account). However, the academic literature is silent on timing for interventions for offenders in other respects, which also includes a degree of closure for offenders. For example, in this study, while offenders may have assumed a degree of responsibility for their offending actions, they too need to have arrived at a point in their lives where they can constructively engage with the people that they have harmed – taking responsibility on its own is not enough as there is also an emotional journey attached to readiness to participate in RJ.

Six case studies were pursued originating from a request by the prisoner to engage in an RJ intervention, with three resulting in no intervention following assessments due to issues in relation to their victims such as refusal to participate. Another 3 case studies resulted in letters of explanations and shuttle mediations.

Hence, from the 41 offenders who were approached in total, three successful RJ interventions took place).

### **6.3 The SOC Offenders in the Community**

The table below provides a brief summary including whether they acknowledged offending as part of a group and whether they wished to pursue RJ.

Table 6.2 Community-based SOC Offenders and Ex-Offenders: Key Information

Code	OCG OFFENCE	OCG STATUS	ACKNOWLEDGE OCG MEMBERSHIP	RJ OFFER	DID IT RESULT IN A CASE STUDY?
C001	Handling Stolen Goods - Receiving and Driving Disqualified x 5 and Uninsured x 5 (suspended prison sentence)	Peripheral	Yes	Prepared to pursue	No
C002	Handling Stolen Goods, Intentionally Encourage/Assist Commission of Offences (suspended sentence)	Principal	Yes	Not at all keen	No
C003	Conspire/facilitate acquisition and/or acquire criminal property (on licence)	Principal	No	Prepared to pursue	No
C004	Burglary/theft – non-dwelling (suspended sentence with rehabilitation activity requirement)	Peripheral	Yes	Prepared to pursue	No
C005	Fraud (Community Rehabilitation Order)	Significant	Yes	Very keen to pursue	Yes – letter of explanation and shuttle mediation

#### **6.4 Profile of SOC Prisoners across the North-East Prison Estate and Community-based Offenders and Ex-Offenders subject to regional disruption**

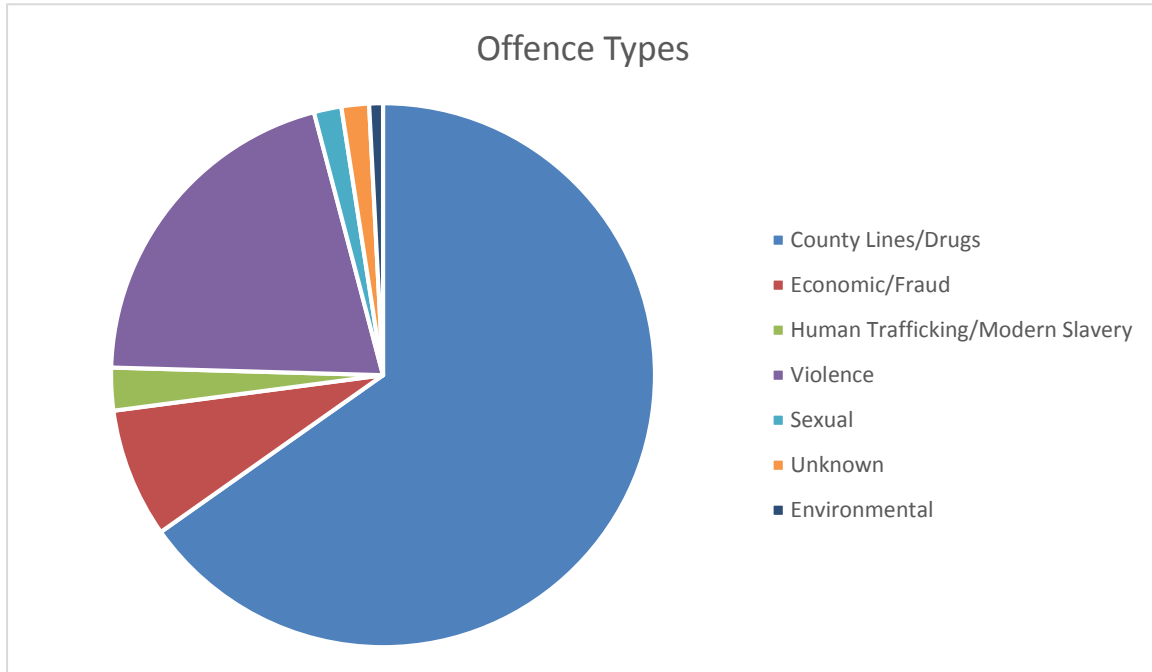
The researcher wanted to know if her sample of 12 prisoners was representative of the overall imprisoned NE SOC population and if the 5 community-based SOC offenders presented any stark similarities and/or differences with the wider SOC offender/former offender community in the NE. This would provide information in respect of the generalisability, reliability and validity for this study as well as potentially throw light on the type of offenders and types of offences which are mapped by police.

The researcher requested information in relation to the profile of all prisoners across the north-east prison estate as a snapshot in time, relevant to the timescales of this study, i.e., one that would identify the current sample of prisoners who agreed to participate in this research and those who did not. She also requested details of all known OCG offenders and ex-offenders living across the north-east who had, at one point in the preceding 12 months, been mapped as a SOC offender and been subject to regional disruption by police and partners. This too was a snapshot in time, as the picture is subject to constant change as the SOC population can be a transient one. NERSOU provided a document graded Highly Restricted which identified the names of all mapped prisoners and offenders and ex-offenders in the community, their OCG status and their primary OCG offences for which they were currently serving prison sentences. All categories of prisons across the north-east were included and the following analysis is based on this rather than only for those prisons in which the research interviews took place, particularly as these were not confined to the north-east.



There were 765 offenders on the spreadsheet as of 1/3/2019. Of these, the offence profiles were as follows:

Figure 6.1 Mapped Criminality in the North-East by Offence Type on 1<sup>st</sup> March 2019



As is evident, drug-related offences accounted for nearly 80% of all mapped OCGs in the prison and in the community. Furthermore, 86% of all prisoners were incarcerated for drug-related offending, with over 77% of offenders living in the community having been mapped for their drug-related organised criminality. As drug-related offending was excluded from the study, it becomes clear that this significantly reduced the pool from which the samples could be drawn, leaving only 14% of eligible prisoners and 23% of those in the community. The pie chart highlights the type of offences prioritised by the police regional unit, with a heavy investment in drugs.

Just over 9% covered economic crime, money laundering and fraud-related offences for both prisoners and those living in the community. 6% of OCG prisoners were serving sentences for economic crime/serious acquisitive crime and money laundering offences, while 9.4% of those living in the community had been mapped for fraud-related offences. This may explain the dominance of fraud-related crimes in the samples as 50% of interviewed prisoners were

in prison for acquisitive/fraud-related offences and 100% of those interviewed in the community had been mapped for fraud-related activities.

For all mapped offenders, a further 3% were convicted for human trafficking and modern slavery while just under 3% were convicted for violence, 2% for sexual offences, and a further 2% were unknown in relation to their primary criminality and the remaining 1% were convicted of environmental offences. There appeared to be a relatively recent focus on vulnerability, pursuing those offenders who conduct their criminal activities in much secrecy and with victims who are largely hidden from community eyes and invisible to the police. This renewed focus was highlighted by some of the police SOC experts interviewed for this study.

Some 18% of all offenders were principals (with 18% of those in prison), 37% of all offenders were significant (with 15% of those in prison), and 40% of all mapped offenders were peripherals (of whom 12% were in prison). The remaining 5% are unknown in relation to their status within the mapped group. The numbers of overall offenders may naturally reflect the make-up of most organised crime groups, with a bigger, mostly transient peripheral population, a slightly smaller number of significants and very few at director/principal levels. The numbers that were either imprisoned or in the community may be a reflection of the data being a snapshot in time, as many of those in the community may have served prison sentences and were subject to licence conditions, though it is noted that between 82–85% of all mapped offenders across the 3 strata of offenders were living in the community. 82% of principals in the community suggests a lower success rate of catching and convicting those that direct, manage and co-ordinate the activities of other criminals, though no doubt some may have been mapped, sentenced and released, or subject to licences. The offender samples for this study included 6 principals (just over a third of the sample), 2 significants, 5 peripherals and 4 unknowns. Hence, the sample contained a higher number of principals and unknowns and lower numbers of significants and peripherals compared to the overall representation of mapped offenders/ex-offenders in the north-east. As it was commonly assumed that those who are at the top of the hierarchy have entrenched criminal attitudes with long criminal careers, the small number of case studies may not be such a surprise given the higher representation of principals in these samples.

These findings have implications for the way that police map SOC groups with a clear preference for chasing drug-related jobs as part of a national imperative, though the focus appears to be changing to recognise vulnerability. Hobbs and Antonopoulos (2014) refer to the SOC researcher being ‘vulnerable to shifts in politically motivated renditions of a constantly shifting cluster of often disparate activities’ (p. 96). This signals the extent to which SOC is a socially constructed concept (Lavorigna and Sergi, 2016) potentially leading to mapped offence profiles being those which are visible and where partner and community intelligence shapes what is mapped, rather than that which may not be visible and potentially masking serious vulnerability.

### 6.5 The SOC Victims

The table below gives a brief summary outline of the victims who participated in the study, reflecting a high proportion of those approached and who had been carefully selected by the officer in the case and referred on to the researcher. The cases selected by the officers are all for fraud and it is noted that, as such, cases were not randomly selected by them:

Table 6.3 SOC Victims – Key Information

Code	AGE	GENDER	OCG EXPERIENCE	RJ OFFER	RESULT IN A CASE STUDY?
V001	80s	Female	Fraud (doorstep of home; bogus tradesmen)	Not at all keen	No
V002	70s	Female	Fraud (doorstep of home; pretending to be police)	Not at all keen	No
V003	70s	Male	Fraud (doorstep of home; bogus tradesmen)	Prepared to	Yes (face-to-face conference with Principal)
V004	80s	Male	Fraud (doorstep fraud)	Prepared to	Yes (letter of explanation and shuttle mediation as part of staged

					approach with Significant)
V005	70s	Female	Fraud (doorstep fraud, pretending to be police)	Don't know	No
V006	50s	Male	Fraud (doorstep fraud, pretending to be police)	Very keen	Yes (shuttle mediation with two Significants as part of staged approach)
V007 No research interview	60s	Female	Fraud (online banking fraud)	Prepared to	Yes (letter of explanation and shuttle mediation as part of staged approach with Significant C005)

#### 6.6 What did the offenders in the prison and in the community and SOC victims say?

None of the offenders and victims had been offered RJ prior to the research interview. This finding is consistent with D'Souza and L'Hoiry's (2019) study where all 16 SOC offenders and 13 SOC victims reported that they had not been offered RJ previously (though one of the victims had participated in RJ for a non-SOC offence but had not recognised that she had taken part in a face-to-face conference with her offender). The following themes emerged from the fieldwork with the offender and victim respondents:

1. Their differential understanding of RJ as a concept and which offenders/victims/offences were considered suitable for RJ using which forms of intervention
2. Offenders' sense of justice/fairness when outcomes are agreed at the end of interventions
3. Offenders' views as to whether RJ would help them to desist from further offending and address the impact that their own criminal lifestyle had on them
4. Victims' views as to whether RJ would address their experiences of victimisation

5. Their views as to who they would want as their source of support during RJ interventions
6. How each party thinks the other would perceive them post-RJ intervention
7. Offenders' and victims' views about what they stood to lose and/or gain from RJ, and what they believe the other party stood to lose and/or gain, and who would benefit the most from such interventions, and
8. Their views as to whether they believe that others who have had similar experiences would want RJ.

As discussed in Chapter 4 (Methodology), offenders were not informed that the researcher knew that they were members of OCGS and that this was the primary reason for their selection for this study. Hence, as the researcher needed to be oblique in relation to her main interests around SOC, the questions posed to the offenders inevitably needed to exclude references to SOC.

#### 6.6.1 *Understanding of RJ as a Concept*

##### Offenders - Understanding of RJ as a Concept

Nine out of the 12 prisoners had heard of the concept prior to the research interview, with 7 having learned of it through prison-based courses (with two specifically referring to having watched *The Wolf Within*) and word of mouth within the prison, 2 from the probation service and one from TV (*Inside Out Programme*). Three outlined that their understanding of RJ was that it was about meeting indirect victims and not from their own offences, and for offences not related to their own with one being perplexed by this: 'which I find a bit unusual because you're never gonna be able to relate to that, are you?' (P004). From the community-based offenders, 4 out of the 5 had not heard of the concept and the one who had prior knowledge, described his understanding based on a previous prison sentence where proxy victims would come to prison for a RJ intervention. Hence, it would seem that for this sample of offenders, their understanding was limited to RJ being about meeting indirect victims and often for offences not related to their own and that this may have reduced the impact for some and, indeed, made them question the relevance of the session for themselves.

After watching *The Woolf Within* and learning about the different forms of RJ intervention that are available (e.g., letters, shuttle mediation, compensation and face-to-face conferences), prisoners detailed their renewed understanding of RJ as being about:

(1) having the chance to rectify matters with their direct victims (as opposed to meeting proxy victims) by making amends and to apologise in order to seek forgiveness. Finding peace in their own lives, finding a solution to re-offending and enabling empathy by meeting victims which 'gives you a sense of guilt' (P010) also featured in their responses

(2) victims having the chance to find closure, to ask questions, address their fears to feel better/more comfortable and to find peace in their lives.

None of the 5 community-based SOC offenders elaborated on their understanding but all confirmed that they understood the concept.

The potential for RJ in prisons appears high, particularly as the victim awareness courses that many SOC prisoners referred to, appear to be an excellent foundation for RJ with direct victims. This is discussed more fully below in the section entitled "Is the prison setting ripe for RJ interventions – a timely opportunity to encourage desistance?".

#### Victims - Understanding of RJ as a Concept

Three victims had heard of RJ prior to meeting the researcher. They understood the concept of RJ as being a victim-centred option to show offenders the impact that their offending had on victims and a method of inducing guilt and shame in offenders by informing them of the psychological impact.

#### SUMMARY

The majority of the offender samples had prior knowledge of RJ (nine prisoners and four community-based offenders) based primarily from knowledge of proxy victims coming into prison for offences unrelated to their own. After being given information about RJ (*The Woolf Within* DVD and the RJ briefing sheet as well as verbal explanations from the researcher), the community-based offenders confirmed their renewed understanding and prisoners detailed their knowledge in relation to making amends to result in victims' sense of closure and reducing their risk of reoffending.

## 6.6.2 *Are some offences, offenders and victims more suited to RJ than others?*

### Offenders - Are some offences, offenders and victims more suited to RJ than others?

Two prisoners believed that RJ was suitable whenever there was a direct victim and hence this applied to the majority of crimes and those in the community tended to agree explaining that RJ was applicable whenever a direct victim was affected who felt worry and stress. Opportunistic crimes inclusive of assaults and acquisitive crime such as theft, burglaries, robberies and fraud/deception were deemed suitable by both samples of offenders. There were mixed views in relation to murder and robberies among the prisoners while the community-based sample differed in their views in relation to sexual offences with 3 out of 5 considering that using RJ was suitable and one considering it not to be, particularly if the victims were children. The prisoners were united in their belief that sexual offences were not suitable as such offenders were 'born predators' (P004) who did not deserve the opportunity to apologise, as it would be too difficult for victims – particularly for child victims. One prisoner also ruled out domestic violence on the basis that these types of offences were not 'one-offs'. Drugs supply and white-collar crimes were also excluded, the latter being cited by two prisoners as it was not considered suitable for corporate organisations unless there was an identifiable victim. Those in the community ruled out car thefts (as too petty) and drug-dealing. Hence, it would seem that in their assessments of suitability, offenders took into consideration issues relating to vulnerability – victim vulnerability.

### Victims - Are some offences, offenders and victims more suited to RJ than others?

Victims thought that RJ would be suitable for young people and not for adults as they were 'beyond reach' (V001), and one also thought RJ was suitable where victims were frightened old women. Suitable offences included violent attacks as victims would need to 'get it off their chest' (V001) while it was deemed unsuitable for murder and also for driving offences. Mixed views were expressed for acquisitive crime, with some considering that thefts with an individual impact were suitable but not for large-scale fraud from supermarkets and car

showrooms. One felt that the lack of suitability was due to the fact that such fraudulent offenders have 'it built into them' and as such, it would be a futile exercise. Sexual offences also received a mixed reception with some saying such offences were suitable and others exercising caution as they felt that such victims would too angry, particularly if a face-to-face conference was proposed:

If it was me, I would want to jump over the table and punch his lights out if he done something to me or my family like that ... I think I would be too angry to have a face-to-face for that sort of thing' (V006).

The views may have been shaped by the knowledge that they were victims of serious and organised crime, as they had been informed of this at the point of reporting their experiences or during the investigation; it may be that the popular imagery associated with SOC (Wall and Chistyakova, 2015) may have then subsequently shaped (or distorted) their view of the group of individuals who had offended against them with the view that they were ruthless men who were indeed 'beyond reach' (V001).

## SUMMARY

In their responses, offenders focused on different types of offences expressing views which suggested that in the main, RJ was suitable where there was a direct victim who had suffered an impact (but excluding domestic violence and sexual assaults despite some mixed views). Victims tended to focus on individual characteristics, deeming RJ suitable for young offenders and vulnerable victims while also expressing some views about suitability where there had been an impact suffered by victims.

### 6.6.3 *What forms of RJ lend themselves to which type of offences?*

#### Offenders - What forms of RJ lend themselves to which type of offences?

Prisoners evaluated the various forms of RJ, with two respondents declaring a face-to-face method as the best form of intervention compared to other forms:

I think ... you can't see the emotion of the person you're writing to ... whereas if you're talking to someone and they're telling you exactly how you've made them feel, I think that's a lot different than you just imaging it, that's what I mean, I think it'd have more an impact on you than just imagining how they're feeling (P002).



Violence and other offences against the person were considered suitable for face-to-face conferences (but not for serious assaults and domestic violence), as well as theft/fraud (excluding corporate organisations). One considered all offences to be suitable for face-to-face, except sexual offences.

Letters were perceived to be a good way of engaging if the victim was too scared to meet with them though there were concerns about an ability to express oneself in writing, and another respondent who was dubious about its merits said: It is 'just writing on a bit of paper. They don't even know if I've written it' (P012). However, the letter was seen to be suitable to use for all offences, where appropriate.

Compensation was not viewed positively by prisoners on the basis that it does not demonstrate 'any real form of sorry' (P002) with one even saying that it may be a way of getting out of making an apology, though one respondent did comment that it may make offenders think twice.

Shuttle mediation was perceived to be a good way of engaging in RJ if the victims were too scared and was considered suitable for violence (including sexual offences) and acquisitive crimes.

Three prisoners suggested a staged process to accommodate both offender and victim needs, so that 'you work up to it', i.e., commencing with letters/shuttle mediation and then progressing onto a face-to-face conference. One respondent concluded that the form of RJ should 'always be on the victim's terms' and was happy for their preferences to be considered if engaging in an RJ intervention.

Those in the community did not identify any offences for which RJ would be unsuitable, and considered that face-to-face would be effective for all offences, including car-related crimes and racism. Letters were also deemed a good idea for addressing the aftermath of racism and compensation was viewed as only suitable if sanctioned by a court. Shuttle mediation was considered a good alternative if face-to-face was not possible (including for hit and run incidents, drink-driving and racism), though one respondent dismissed this form of RJ as he felt that it meant that the parties could not have much to say which would be meaningful.

Three out of the 5 community respondents felt all forms of RJ were suitable for all offences and one suggested a staged process.

#### Victims - What forms of RJ lend themselves to which type of offences?

Many victims questioned the viability of utilising RJ for offending as their first response to this question, wondering if the offenders' apologies would be sincere, if participation would be 'all top show' (V001), and if they were capable of change as they are 'such good con artists'. The concern was that the offender would now be presented with additional opportunities to deceive (V003). However, some empathic statements were made by the 6 victims too, such as V001 stating that it was important to learn why someone had committed offences 'because I think if you know the answer to that, you can probably help them to change' (V001) and it could do offenders 'a lot of good' (V003) if they could be helped to change their ways and that RJ would give offenders the opportunity to learn about the impact of their actions. One victim felt that RJ interventions were better suited to women as 'women are more forgiving and compassionate and it might settle their minds a bit' (V004).

Victims presented an evaluation of the different forms that RJ can take, with one stating that none of the forms applied to any type of offending. However, others stated that letters were suitable for all offences, compensation orders where victims had not been reimbursed and shuttle mediation where victims were fearful of meeting their offenders. Letters and face-to-face conferencing were suitable for all assaults. It was clear that the reticence expressed at the beginning of their responses to this question prevailed despite some suggestions about which forms of RJ may lend themselves to which types of offences with references to RJ being only suitable for those offenders who are not heavily convicted.

#### SUMMARY

Both offenders and victims were in agreement that letters and shuttle mediation were good options where fear prevented a face-to-face conference. Offenders favoured the face-to-face approach for emotional transparency between the parties, and both offenders and some victims were in support of a sequence of staged RJ interventions culminating in a face-to-face conference, should the previous interventions go smoothly.

#### 6.6.4 *Offenders - Sense of Justice – Outcome Agreements*

Agreements are made at the end of an RJ intervention as to what the offender can do to make amends for the victim, over and above an apology if one is being sought and if the victim wishes to accept such an apology. Shapland (2016) discusses how forgiveness within RJ is rare with adult offenders in England, and distinguishes between the notion of forgiveness and acceptance of an apology (with victims usually accepting apologies). Of particular relevance to serious (and organised) offences is the observation that ‘English victims of serious crime rarely spoke about forgiveness’ (2016:111).

Such agreements need to be agreed by all those taking part. However, for the same type of offence, very different outcome agreements may be reached dependent on the effects of the offence on the victim. The same offence may have a very different impact on different victims, with one perhaps becoming a recluse, another angry and yet another who may have been able to re-build their life successfully straightaway. This notion is supported by victimology studies, e.g., Shapland and Hall (2007) who surveyed numerous longitudinal studies over three decades and found that there is a relationship between the extent of symptoms experienced (such as anxiety or fear) when considering different offence types at one point in time with another point in time, so that those offences which produce more victims who suffer multiple effects and of a greater severity suffer significantly more long-term effects. This section explores what offenders think may be fair when RJ is used given these types of issues which rely on offender consent (as opposed to a stand-alone court-imposed sanction).

Approximately two-thirds of all offenders thought that it was a fair outcome if there were different agreements arising from the fact that some victims may be more forgiving than others, with 8 out of 12 prisoners and 3 out of 5 community-based SOC offenders thinking this. It was felt that victims should be consulted about what they seek as an outcome, with one stating ‘who are you to say what is right or wrong for that victim to want from you’ (P012). Support for a bespoke model with agreements subject to negotiation and discussion in line with victim wishes was deemed appropriate. It was acknowledged that every victim was an individual with different needs and that an offender has the choice too – the choice to disagree (and to propose).

Just over a third of all offenders thought that this was an unsatisfactory state of affairs, with community-based offenders believing that the same outcomes should result from broadly similar offences and that an independent person should be involved to ensure a sense of fairness. Prisoners who thought this was unfair were vehement in their views, one stating that victims could be nasty people too and so 'obviously you couldn't put the power in their hands, certainly not!' (P003). Clearly, some respondents did not understand that they would need to agree to any outcome and that outcomes are a process of dialogue and negotiation and not imposed on offenders. Others also referred to victims who may take advantage and may be offenders themselves, with a focus on proportionate outcomes for the offences committed.

In relation to how this may compare to previous research (in a non-SOC context), Shapland et al. (2011:154) did follow-up interviews some 10 days post-intervention and sum up with 'There were very few second thoughts about the outcome agreement.' This shows that offenders, and indeed victims, were content enough with what had been agreed at the conclusion of conferences in order to make amends.

#### 6.6.5 *Offenders - Would RJ help to Desist from Offending and Address the Impact of Offending on Offenders Themselves?*

Prisoners reported numerous adverse effects that their own offending had on them apart from one who stated that there had been no intended effects of his offending on himself as he chose to opt for prison as life was easier than living in the community (P006). Five stated that their offending had resulted in relationship breakdown, with 2 specifically mentioning that their local communities had been affected. A third talked about how their offending had reduced the likelihood of living a 'normal life' with adverse impacts on their employment prospects, finances and mental health. Loss of liberty and the impact of lengthy sentences featured heavily, with one saying he missed drugs. Only one mentioned being affected by the knowledge of how victims had been affected (P001), which had created a desire to make amends. Those living in the community reported similar effects, primarily loss of liberty during imprisonment, relationships harmed by separation, effects on health, and three-fifths stating that their employment/career prospects had been affected due to having a criminal record. A deterioration in physical/mental health was noted by one respondent. Finally, half

of the prisoners reported that their offending had had a significant impact on the significant others in their lives – notably their family, their children and their friends. This aspect too was detailed by two-fifths of the community-based respondents who reported that others in their lives were affected by the constant worry and the repeated knocks on their doors by the police.

Two-thirds of all prisoners reported that if they had been offered RJ as an option as part of the sentencing process for their current offences, they would have chosen to engage, with the vast majority making references to their victims in their responses, e.g., to address victims' feelings:

When I'm like this ... I do have feelings. I do care, I don't want people to be hurt ... I don't want anyone to be worried or scared .... but when I'm drunk, I just don't give a shit about anything, that's the only difference with me, but when I'm normal like this, I don't ... I wouldn't hurt a fly, you know what I mean, Nikki? (P005).

Other references to victims included the need to apologise and learn more about the impact that their actions had on them. One felt he would have wanted to take part in order to sort his life out while another felt that he would not have had anything to lose if he had. The remaining third of all prisoners believed that they would not have taken up an RA offer previously as their victims would not have viewed themselves as victims, that corporate victims would not derive a sense of purpose from RJ and that the victims themselves are prone to lying and exaggerating. One said that he would have refused the options as he would not have felt any connection with his own emotions – a necessity for RJ to be successful, he felt: 'because there's something switched off in me in the moment stopping me feeling one way or another. I can think one way or another, but I can't feel'. All community-based offenders stated that they would have taken up an offer of RJ with similar comments in relation to victims such as enabling them to develop empathy with their victims, have the opportunity to apologise to their victims, learn of their views, and one specifically said he was curious to know if victims were able to claim on their insurance and get their goods replaced. Benefits to themselves included assisting them to think more before offending again and two specifically cited being able to tell their side of the story. One felt it would have helped his court case.

Over half of all offenders stated that if RJ had been offered to them, it would have made a difference to their offending cycle and, consequently, contribute to addressing the impact that their own offending had on them. This is much lower than in Shapland et al.'s (2011) study which found that with one of the schemes evaluated (JRC), 80% of offenders said that RJ would either very much affect or have some effect on the likelihood of their reoffending. Seven prisoners felt that participating in RJ would have been a very good option, with the majority stating that it would have made a difference to them as they would have played a part in being able to comfort their victims, express care, apologise and learn more about how victims have been affected by their offending. Another seven prisoners felt it would have been a good achievement while they were serving their prison sentences as it might have made them feel better if they had had a positive impact on victims. Approximately two-fifths of those saying participation in RJ would have made a difference to their offending specifically expressed the view that it would have reduced their risk of re-offending: 'It might have got me out of this cycle, give me a wake-up call' (P007), and 'might have opened doors for me, changed my way of thinking; people can see you are trying to change for the better' (P008) and referring to the potential power to 'shock you into change' (P008). The remainder of the prisoners felt that RJ would not have made any difference to their offending and the impact on themselves as they found it difficult to empathise with their victims, and one felt he would not have been emotionally ready. Two out of 5 community-based offenders believed that RJ would have made a difference to their offending by curbing their offending if they were confronted by victims and the RJ process making them think before acting and specifically enabling them to think of other people. The remainder felt it would make no difference as they were not guilty of the offences for which they had been convicted (which would have rendered them ineligible for RJ) or that if they had been offered it sooner in their criminal justice journeys, they would not have been able to make use of the opportunity as they were younger, always getting into trouble and had older peer influences.

In terms of the potential for RJ to address/reduce the impact that offending had had on their lives, prisoners referred to (a) increased knowledge and understanding (e.g., knowing that offending was in fact not worth it in the long run), (b) change in perception and feelings (e.g., finding a sense of peace, addressing feelings of guilt, stress and fear and one offender referred to RJ participation addressing his recurring flashbacks at night in his cell where he would think

to himself 'Oh God, I can't believe I've done that' (P003), and (c) the potential to change their path in life, with one offender stating that he did not want his child to follow him in his footsteps. Finally, two offenders felt that RJ presented them with an opportunity to turn a negative into a positive: 'It could be, like, putting something back into it instead of, like, obviously, just doing your time, getting out'(P007), and 'Try to make a positive from a negative; If I can help somebody, I will.' (P010). Those living in the community were divided in their views, with 2 out of 5 believing that participating in RJ would be likely to assist in addressing the impact of their offending by learning about the impact of their actions on others, and the remainder not being sure or believing that it would not.

#### 6.6.6 *Victims - Would RJ help to Address their Experiences of Victimisation?*

The fraud victims described how their experiences had affected them. The overwhelming majority expressed being angry, saddened and upset with themselves, with a unanimous feeling of stupidity and embarrassment at being duped: 'I felt ridiculous. I felt stupid' (V001), and 'I couldn't believe I was so gullible ... I've never been fooled like that...I felt really embarrassed ... I was angry at myself ... I just feel so stupid' (V003), and 'I was vexed at my own stupidity' (V002). Cross (2015) reported that victims of online fraud were widely perceived to be 'greedy and gullible' with 'an overwhelming sense of blame and responsibility levelled at them for the actions that led to their losses.' (2015:187). While her study was focused on online fraud, it may be that this could also apply to other types of fraud, including face-to-face (as will be explored later in the case studies section). Victims in this current study who were unanimously full of self-blame were no doubt affected by such perceptions which in turn shaped their own personal responses. It may be speculated that RJ may play a role in challenging this perception and change the self-talk clearly playing a part in the self-blame culture. Self-blame continued to feature strongly despite the passage of some time with many stating that they had developed a lasting mistrust of people (ranging from all people, to those who came to the door). Two-thirds of victims interviewed stated that if they had been offered RJ as an option during the investigation/sentencing process, they would have engaged in order to confront their offenders, have their questions answered and detail how they had been affected. One victim said he would have taken part at the time for the

purposes of retribution: 'we would have ended up in prison as we would have done something extremely violent as they were due to come back a second time'. The remaining two victims felt that they would have rejected an offer of RJ as they were not interested in the offenders and just wanted them to be 'taken off the streets because there is a lot of vulnerable people about' (V001), and another felt that punishment for such offences was the only solution. If they had engaged in RJ, two-thirds felt that it would have helped to address some of the impact that their experiences had had on them as they would have the answers to unanswered questions (3 out of the 4 victims who said it would be helpful cited this) and others felt that it may have eased things for them to enable them to avoid the constant worry and to feel that something good may come out of their adverse experiences. The remaining third of the victims felt that participating in RJ would not address their adverse experiences as they would not trust the offenders and would have continued to feel stupid for their own actions.

These findings are limited to fraud victims only and as such, do not corroborate findings from other studies described in Chapter 2, though victims have reported a sense of closure derived from having their questions answered etc. (see Shapland et al., 2011).

## SUMMARY

Offenders reported very similar experiences of how their own offending had affected them. This included an impact on their relationships, employment, mental health, finances and adverse effects on the significant others in their lives. Two-thirds of prisoners and all community-based offenders would have engaged if the option had been presented to them for very similar reasons: to make amends and apologise. It would seem that RJ would have acted as the trigger experience to prompt them to reflect on their offending and break their own cycles of victimising others. For those who would have rejected the RJ offer, a variety of reasons were put forward, including claims of innocence, victim blaming and not being emotionally ready to be influenced in such a way. Victims detailed an enormous emotional impact as a result of being victims of fraud, with two-thirds engaging in order to detail how they had been affected, to confront their victims and to find answers to questions. The remaining third sought imprisonment and felt that if they had engaged, they would continue to feel duped and stupid.



### 6.6.7 Sources of Support for RJ Interventions

#### Offenders - Sources of Support for RJ Interventions

Shapland et al. (2011) found that a variety of individuals were chosen as supporters in the non-SOC setting, ranging from family members, friends or colleagues with a minority choosing professionals, though some also attended without any supporters. The key issue was one of trust (2011:113). As discussed in Chapter 2, the role of supporters is an important one to consider as they are often active participants and can contribute to the dialogue about outcome agreements and be an encouraging influence for both parties. Shapland et al. note that victim supporters can also actively encourage the offender to desist from offending and thereby increase their rehabilitative potential. In this study, six prisoners and two of the community-based offenders stated that they would not like to have an identified supporter during an RJ process, preferring to engage on such an initiative by themselves. This is a new finding compared to previous research which suggests that offenders prefer to have personally known, trusted sources of support. This may be linked to feelings of shame and embarrassment as admissions made would need to be made in the presence of those that they believe may judge them for what they have done and the beginnings of a realisation of the magnitude of the harm that they have caused. In addition, this may also reflect on (a) the extent to which they may not enjoy close relationships with those usually considered to be “the significant other” in one’s life (e.g., family members such as spouses or parents), and (b) the extent to which membership of an OCG fulfils these needs to be part of a family. Three prisoners and two the community-based offenders identified a person in authority such as a probation officer or offender supervisor. The remainder identified people in their personal lives such as partners and parents which supports findings from previous studies in the non-SOC context (e.g., Shapland et al., 2011).

#### Victims - Sources of Support for RJ Interventions

Many victims chose multiple sources of support with two-thirds identifying family members, and a third identifying authority figures such as the police or the researcher herself. Only one stated that they would not want a person to support them as they would not want to involve anyone else at all (this was related to their own feelings of stupidity and shame). These

findings are not surprising. Morris et al. (1993) state that family and friends usually provide victims with the most support and 'are usually the most valuable because they are known and trusted' (p. 318).

## SUMMARY

Six prisoners and two of community-based offenders and one victim would choose to have no source of support if they undertook an RJ intervention over and above those involved in facilitating the intervention. The remainder would choose figures in authority or family members.

### 6.6.8 *Offenders - What do Offenders think about how Victims would perceive them after an RJ intervention?*

Offenders were asked what they thought about how victims may view them after they had taken part in an RJ intervention with them. While one community-based offender said he simply didn't know as it would depend on the offender's remorse levels, the others made references to victims seeing them for the people they are ('a hard grafter' and 'a genuine lad' – C003) and 'they would see what I am like that is different to the image in their heads, they would think "I wouldn't expect you to be into crime"' (C005), hence dispelling such myths.

While one prisoner felt that he simply didn't know, as all of his victims were strangers, the others all showed some evidence of being able to put themselves in their victims' shoes with references to victims' seeing them 'in a different light' (P004) with two others stating that their victims would 'see me as a nice family man' (P006) and that 'I'm not a bad, greedy person inside' (P009). While there were thoughts expressed about how victims may feel after an intervention – such as feeling thankful, more confident and relieved (though one said 'They wouldn't be scared but scared of the idea of what I have done and memory of what I have done' – P008), the majority believed that victims would see their regret and that they were trying to change, though some felt that victims may be suspicious of their motivations (that they might be engaging in RJ for themselves and not for the victims' benefit) and may even be disgusted by them.

It becomes apparent that some SOC offenders either saw themselves as 'good people' or wanted others to view them that way; however, many talked about their reputations in the

local community and thought of themselves as powerful and influential (even where police intelligence did not identify them as being of a high status within the OCG). As their SOC membership of the group was a covert element of this research, this was not fully explored but it may be, that for some, their self-identity was closely aligned to the 'Mr Big' image

#### 6.6.9 *Victims - What do Victims think about how Offenders would perceive them after an RJ intervention?*

Victims were asked how offenders may perceive them after engaging in an RJ intervention with them. Half of the victims felt that their engaged offenders would see them in a derogatory fashion with unchanged views of them following RJ participation: 'I think they would think I was a silly old woman ... stupid...for falling for it' (V001), and 'I think how he would see me now would be as just another victim, another mug' (V003), and 'Oh, look at that idiot over there' (V004). One victim felt it would not have any impact on the offenders and would fail to make a difference in changing perceptions while another felt that perhaps they may think 'fair dos' (V002). One felt that the only reason offenders would engage would be to receive a shortened sentence.

#### SUMMARY

Offenders mostly felt that they would be perceived positively by victims and indeed change entirely the way that they may think about those who have perpetrated crimes against them (perhaps reflecting the way they saw themselves or would like to be seen), effectively dispelling myths about them; a minority felt that victims may continue to feel suspicious of them. Victims (in this specific fraud context) felt that offenders' views about them would remain unchanged and described a host of negative beliefs that offenders would continue to hold about them – which reflected how they described themselves to the researcher: as stupid, duped fools. This may relate to the victim's views of SOC offenders as those who have a set of entrenched, unshakeable, pro-criminal attitudes which cannot be positively influenced – and this extends to the views that they would have about them if they engaged in any form of restorative dialogue. The image of a SOC offender as a ruthless remorseless character prevails; one whose strongly held beliefs are impenetrable by the efforts of anyone (including trained professionals) and anything (including well-designed sequenced

interventions as part of a wider response to SOC). This may mirror the views held by some police SOC experts.

#### *6.6.10 Offenders - What do Offenders stand to lose or gain from engaging in RJ?*

Ten prisoners felt that they had nothing to lose by engaging in RJ while the remainder felt that there may be a loss of face ('because you'd have to be more honest' – P004), pride, and a loss of respect by others. Some felt that their losses would only equate to a loss of their criminal life, losing the chance to help somebody and losing credit on the wings with other prisoners. P004 elaborated by adding that he felt he would also lose his defence and his "shield" which keeps him safe to avoid getting hurt himself.

Three community-based offenders felt that they had nothing to lose, with one stating that he did not know if he would lose anything by engaging, and one stating that he would lose out financially if the victim wanted compensation.

One prisoner felt that he had nothing to gain from engaging in RJ as he had made a proactive choice to offend and already felt knowledgeable about the impact of his actions on his victims, but all others identified numerous benefits, with the majority of comments made in relation to gaining an understanding of the impact of their actions, gaining new insights into how victims feel with one offender stating that 'if you're seeing someone's face who's done nothing wrong', it may act as a "trigger" to promote a new way of thinking. One offender with corporate victims felt that he could use RJ as an information-gathering process to learn about the impact that his fraudulent actions had on companies and their customers. Prisoners also made references to gaining by being forgiven, finding peace and gaining confidence so that they would not feel as if they were "on the run" and gaining in the knowledge that at least they had tried. Similarly, the 5 community-based offenders made references to finding peace, stopping offending, learning how victims feel about what they had done and getting their life back on track.

#### *6.6.11 Victims - What do Victims stand to lose or gain from engaging in RJ?*

Two victims felt that they would not have anything to lose, while one felt that (s)he would not tolerate any of the offenders and only felt disgust for them (though adding that time was a

healer). One worried about re-living the experience while another said that it may enable him to 'lose the hate' he felt for the group of offenders.

Victims felt that there would be benefits to engaging in RJ, such as RJ providing them with a learning experience (to prevent re-victimisation), achieve clarity for both sides and 'to find out whether he's a good person who made a mistake or a bad person' (V003). Furthermore, one victim felt it may humanise the offender, and two victims felt that by participation, they may help other victims. One felt that it may dim the memory of what had happened to enable her/him to feel calmer.

## SUMMARY

Ten prisoners, three community-based offenders and two victims felt that they would not have anything to lose which they could identify; prisoners felt that they may lose face, pride and respect while victims worried about having to re-live their experiences. Offenders were in agreement about the potential gains: an opportunity to gain new insights into the impact of their actions which may trigger thought and action about their offending behaviour, gains from being forgiven, finding peace in the knowledge that at least they had tried. Victims felt that they could use RJ to ensure that they had learned not be re-victimised, achieve clarity for themselves and also about the offender and that it may have a "humanising" effect in terms of their perception of their offender. Feeling calmer and potentially helping other victims were also cited as gains.

### 6.6.12 *Offenders - What do Offenders think Victims stand to lose or gain from engaging in RJ with them?*

There was much agreement between the offender groups about the benefits for victims in engaging in restorative dialogues with their offenders. Five prisoners and 1 community-based offender said that RJ would provide the forum to have the "Why me?" questions answered with one saying that these were the answers to questions which perhaps only the offenders themselves would be able to answer. The knowledge that they were not personally targeted would be helpful to victims, with one prisoner citing this and three community-based offenders referring to this. The ability to get on with their lives and derive a sense of closure featured as a response with five prisoners who felt that venting frustrations and detailing the

impact of the offence would lead to that very sense of closure. This is an important point often overlooked. Shapland et al. (2011:164–165) discuss that in their samples of participating offenders who were very satisfied overall, many spoke about being able to answer questions and apologise and find closure as particularly helpful: ‘The restorative justice literature has tended to emphasize the possibility of closure for victims, but we would suggest that it is even more important for offenders.’ Dispelling myths about what the offenders were like was important to both sets of offenders: ‘They might have an image in their head of me as a villain and it might humanise me a bit’ (P002). Other victim gains related to finding peace and obtaining an apology and that taking part may show victims their own strengths and help them to know that by taking part they may prevent someone else from being victimised. Finally, one prisoner felt that victims may benefit as the RJ intervention would take place in a controlled environment rather than a chance meeting in a street where they would feel unprepared.

Again, there was much agreement about the potential costs to the victims of engaging in RJ, though two offenders from each set stated that the victim would not suffer any losses and one felt he simply didn’t know as all his victims were strangers to him. Victim losses typically related to a whole host of negative emotions that they may feel, including fear, upset and anger – particularly if they believed that the offender was unrepentant or that they had been psychologically damaged to the point that their mental health had been affected (numerous references related to fear, nervousness and paranoia). Re-living their traumatic experiences in order to engage in RJ may make matters worse, according to two prisoners.

#### *6.6.13 Victims - What do Victims think Offenders stand to lose or gain from engaging in RJ with them?*

One victim felt that whether offenders would benefit or lose by participating in RJ depended on their own particular characteristics such as if they were brutal/devious or if they had a human side to them. Three victims did not feel that offenders would benefit due to their entrenched criminality though speculated that they may feel shame as well as reduce/halt their offending once they learned of the true impact of their actions, and one stated that offenders may gain psychologically. Only one victim felt that offenders simply wouldn’t engage. Three victims felt that offenders would not lose anything by engaging in RJ though

they may feel a degree of discomfort, while one victim wondered if they may lose their 'evil streak' thereby gaining in the process.

## SUMMARY

Offenders felt victims stood to gain numerous benefits which they had detailed themselves: gaining a sense of closure/peace, dispelling myths about offenders and helping other victims. In addition, offenders also felt that victims' "Why Me?" questions would be answered; they would gain if they found out that they were not personally targeted and if they received an apology. However, victims struggled to identify benefits for offenders primarily due to their views about their entrenched criminality though one did mention that they may derive psychological benefits. Offenders felt that victims may lose by dint of having to re-live their trauma, an aspect that victims had mentioned themselves. In addition, offenders also identified that victims may experience a host of negative emotions. Victims agreed with the offenders that the majority would not have anything to lose and that they may experience shame/discomfort when engaging in RJ with their victims. Victims' struggle to identify what offenders may gain from engaging in a restorative dialogue may have been shaped by their beliefs about this impenetrable, entrenched, pro-criminal attitude (while offenders were able to readily identify a host of gains and indeed losses for their victims if they chose to have a restorative dialogue with them).

### 6.6.14 *Who benefits most from an RJ intervention?*

#### Offenders - Who benefits most from an RJ intervention?

Four of the five community-based offenders felt that both offenders and victims stood to benefit on a mutual basis, with one stating it would 'help them to help me' (C 004), and 'Both could. I'll feel better for saying it. Because of what I have to say, they may feel better. Both can benefit' (C005). One offender said he hoped that the most benefit would be reserved for 'Hopefully – me...it is up to them if they believe me' (C003). Six the prisoners felt that participation would have mutual benefits (though one mused that perhaps it would not be equally beneficial). One prisoner felt that offenders would benefit the most and another didn't know as he felt that it depended on the individuals. Five prisoners felt that victims would benefit the most.

### Victims - Who benefits most from an RJ intervention?

While one felt that whichever party benefited the most would be dependent on each case and each individual, two of the six victims felt that no-one would benefit as they were 'hard-skinned' (V001), with two stating that they hoped it would be the offender and one stating that it would be the victim.

#### SUMMARY

Ten prisoners and over half the community-based offenders felt that there were mutual benefits to be derived and both parties would benefit; none of the victims described any mutual benefits. Shapland et al. (2011) found that each party said that the other would benefit. In both offender samples, one offender felt the offender would gain the most as did a third of victims. Five prisoners felt that victims would benefit the most as did a third of victims themselves. In both the prisoner and victim samples, one person felt it was dependent on the individuals concerned as to who would derive the most benefits. A third of victims felt no-one would benefit from RJ. Previous studies exploring this notion are of interest here: Shapland et al. (2011) found that each party said that the other would benefit and Van Camp (2013) discusses 'pro-social motives' in her exploration of factors which lead to victim satisfaction in the violent crime context, i.e., that RJ not only met victims' needs at an individual level, but also their needs to contribute for altruistic reasons with societal benefits. Examples cited include contributing to offenders' learning about the impact of their actions on victims and leading to desistance. Clearly an element of civic responsibility is also at play here in respect of motivation to take part, with Van Camp concluding that 'pro-social needs were combined with personal needs' (2013:134).

This study contrasts with Van Camp's findings in that none of the victims felt that mutual benefits could be derived from RJ, and a third of them stated that no-one would benefit from such an intervention, nor cited benefits that could relate to discharging a sense of civic responsibilities.

6.6.15 *Offenders - Would other offenders who are similarly convicted share your view?*



Three community-based offenders felt that others similarly convicted would be prepared to pursue the opportunity to participate in RJ in order to put their story across, with one stating that he believed that such offenders would be 'very keen' and another one not knowing. Three prisoners felt that such offenders would be prepared to pursue RJ with their victims, with a further two stating that such offenders would not be very keen on the basis that they may feel intimidated and be nervous by such a prospect, preferring to serve their sentence only. This does not support the predominant SOC experts' beliefs that offenders would be unwilling to engage in RJ. The remaining seven prisoners stated that they did not know as it very much depended on individual preferences and each case would be different. Some stated that many offenders may be motivated to take part if they were seeking a move to a lower category of prison and would not have any incentives to engage – a concern which arose during the course of the case studies.

In Shapland et al.'s (2011) study, overall, the offenders reported that they would recommend RJ to others. Hence, it would appear that offenders broadly support the concept.

#### 6.6.16 *Victims - Would other victims who have had similar experiences share your view?*

Two-thirds did not know how other similar victims might react, as they felt that this would be up to individual victims. Characteristics such as age and vulnerability were relevant and it very much depended on which group member wanted to engage and the role that they played within that group. The remaining third felt that other victims would not be very keen to engage in RJ, particularly if they were elderly and that they may also perceive that such offenders 'are past the stage of redemption ... they're never going to reform ... reform a short time, but they'll drift back into ... that life of crime' (V004).

#### SUMMARY

With the exception of one community-based offender who did not know, the remainder thought that other offenders would be prepared to pursue RJ or be very keen; three prisoners felt that other offenders would be prepared to pursue RJ but the majority felt that it was dependent on individual motivations – a view shared by two-thirds of victims. A third of victims felt other victims would not be very keen to engage (again due to their entrenched criminality).

This chapter so far has focused on exploring the perceptions of the various groups of respondents and their responses to a set of hypothetical questions about what they thought and what it may feel like to participate in RJ. It is now necessary to turn our attention to what actually happened when either the offender or the victim said that they wished to participate in RJ.

## 6.7 Case Studies

All offenders and victims who took part in the research interviews were asked if they wished to take part in a restorative justice initiative. If they did, their harmer or harmed person were traced by the researcher by contacting the officer in the case from the originating/arresting police force or regional units. All other methodological details are described in Chapter 4. For ease of reference, the case studies are summarised at the end of this chapter (Table 6.4) in all the cases where the offender or the victim expressed a will to pursue a restorative justice intervention which resulted in a form of intervention taking place, but also where no such intervention resulted. In total, 10 out of the 12 prisoners interviewed gave an initial indication that they were prepared to pursue RJ and 4 out of 5 community-based offenders gave a similar indication. As described in Chapter 4 (Methods), half of the prisoners had been sentenced for primarily violent OCG offences and the other half for primarily acquisitive OCG offences. Ten prisoners in each of the two categories indicated an initial willingness to pursue RJ, suggesting no difference in relation to offence type and initial willingness to consider participation. However, it was clear that acquisitive SOC prisoners were much more enthusiastic about such a prospect with four of five) indicating that they were 'very keen' to pursue RJ while four of five of the violent SOC prisoners said that they were 'prepared to' pursue RJ. It may be speculated that this is due to the shame attached to the nature of violent offending and the potential discomfort of engaging in a dialogue with someone harmed in such a way (notwithstanding that some research suggests that fraud victims are affected to such an extent that it can be comparable to being victimised violently). Hence, in this way, the gravity of perceived harm by offenders may be a direct component affecting the motivation of prisoners to engage in RJ. Nearly a quarter of all offenders who took part in this research received RJ interventions and over half of all victims who participated in this study engaged in RJ interventions, with the same percentage having initially expressed an indication that they were prepared to pursue RJ. Hence, 4 offenders and 4 victims in total took part in some form of RJ.

It is of interest that the prison sample consisted of 4 principals, all of whom expressed an initial willingness to pursue RJ (two of whom proceeded to receive RJ interventions in the form of a face-to-face conference and shuttle mediation) while the remaining two did not

receive RJ interventions despite their repeated and enduring willingness to do so (one because the victims all refused to engage, and another because the multi-agency panel decided that an approach would not be made to any of the victims). From the prison sample, when the previous convictions are considered, it becomes clear that the principals were the most heavily convicted with over 40 convictions each on average (with no age correlations, i.e., not because they were necessarily older as the age range was 20s, 30s, 40s and 50s between the 4 principals). This challenges the assumptions made by SOC experts and victims about the willingness of those who are directors and orchestrators to engage in RJ. This is a very cautious finding, given the small sample numbers. Of note also, is that within the prison sample, three (two peripherals and an unknown) cited personal reasons for not proceeding with their initial stated willingness to pursue RJ, and one such individual (a principal) in the community-based sample. When previous conviction histories are considered for those who expressed an initial willingness to undertake RJ, but did not pursue it for personal reasons or withdrew, the average number of convictions per person averaged 37 previous convictions – a figure that is not too dissimilar to the number of convictions the prison principals had accrued. Due to small sample numbers, these observations are made with some caution but are outlined in order to attempt to consider if there are any patterns with variables often associated with desistance such as age (e.g., Hoffman and Beck, 1984, who confirm the importance of age as a factor in desistance for those being released from prison) and criminal career stages (see for example Carlsson, 2016, for an exploration of the relationship between human agency – motivation to be offence-free, accompanied by tangible efforts to be so – and criminal careers). An exploration of various criminal justice databases revealed no research in relation to desistance and status within an OCG.

Fictitious names have been given to all participants with no regard to popular/common names from a particular generation or ethnicity etc., in order to further protect anonymity of individuals and groups. Names have been given for the purpose of discussing the case studies only. All participating parties subsequently took part in a formal evaluation which focused on immediate and short-term outcomes. This section concludes with a discussion of the broad themes which emerged from this small selection of case studies.

The case studies described build on one previous case study undertaken by the researcher as part of an N8 funded experiment with similar findings to the current study in respect of one fraud case (D'Souza, 2019).

### *Case Studies – Full Descriptions*

POO1 James<sup>40</sup> was serving a short-term prison sentence for money laundering, as part of a large sophisticated OCG leading a series of courier frauds involving vulnerable, mainly elderly victims. He acknowledged that others were involved in the commission of these offences. Around 50 victims were targeted to the police's knowledge, with some handing over significant sums of money (including their entire life savings). The offenders were convicted and sentenced on the basis of the evidence of 4 of these victims, all of whom were considered by the researcher for inclusion in this study. The offender requested the RJ. Purporting to be police officers investigating local bank employees for fraud, victims were made to go to banks and withdraw their funds and hand them over to the fraudsters. Most, but not all, victims were reimbursed by their banks.

James's co-accused were Robert (PO11 – the Principal) and Alfie (C005 – a Significant) who also played key roles in the commission of these offences. The OCG had some confirmed global reach and a police suspicion of wider orchestration of the group's activities from a higher Principal from abroad. Due to the fact that these victims were elderly with multi-faceted vulnerabilities of a complex nature, the OIC was initially extremely reticent about the prospects of re-contacting them following the conclusion of court matters, particularly because the offenders came to their doors and these were offences where face-to-face contact was made with victims. The OIC concluded that 'the more we have talked about this, the more reservations I have.' The researcher approached a higher-ranked officer who authorised the release of relevant details. Contact was established with the co-accused, which also forms the basis for Case Study PO11 (Robert had pretended to be senior police officer) and Case Study C005 (Alfie who was the driver to the addresses). These 3 offenders formed part of the key structure of the OCG in the UK, orchestrating activities, though it was acknowledged that others were involved who were not caught and not convicted. Great care

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<sup>40</sup> All individuals have been given pseudonyms. Some details have been deliberately made vague to ensure non-identifiability.

was taken when making contact with the victims with the offer of formal support from the outset and ensuring that they were not re-victimised either by the offenders themselves or by the researcher/professionals with whom they would now have contact as part of this research.

During the course of the study, James moved prison several times, from a Cat D (where the initial research interview took place) to a Cat B, then on to a Cat C (where the RJ assessments and interventions took place). This meant changes in geographical locations with changes in supervising officers and RJ practitioners. The interventions took over 18 months and have yet to be concluded, with delays experienced due to the need to apply for relevant approvals from the Home Office and the prison governors on each occasion for each prison, as well as the need to identify and allocate the case to another RJ practitioner due to changes in staffing.

Four victims were approached:

The first victim was very fragile with all communications with the police taking place with a second party throughout the investigation. The researcher and the RJ practitioner decided that due to heightened vulnerability and frailty, it was best not to re-establish contact with him/her.

The second victim (in her late 80s) was the primary victim and was not contacted as all police contact took place with a relative during the police investigation and she too was deemed to be highly vulnerable. The researcher contacted the relative, William (V004), who requested an RJ for himself as he had many unanswered questions and confirmed that the primary victim was now too frail to engage in an RJ. William took part in the research interview. Following the necessary preparatory work, a face-to-face conference was planned to take place in prison, but he cancelled two days before, explaining that he had a crisis to sort out at home. In due course, a second conference was planned (this time with a new RJ facilitator) and William withdrew a couple of days before the planned event again, this time explaining that the primary victim had been inadvertently informed by another family member about his participation in RJ. The victim, in effect, withdrew his consent without formally stating that this is what he was doing. The possibility of re-engaging was left open in the last written communication by the researcher and offers of support to William and his family made explicit should they wish to access local resources available to them. James was left

disenchanted on each occasion having undertaken extensive preparatory work and some (albeit limited) forms of shuttle mediation which took place as part of the preparatory phase prior to the planned face-to-face conference. James made a taped recording as part of the initial shuttle mediation, which William never heard and has not been used for RJ purposes. In this audio-recording, James responded to all of the questions that William had, but also detailed how he was recruited into the OCG himself. The by now fully engaged officer in charge of the case (a keen advocate of RJ in the SOC context) believed that the late withdrawal on each occasion may be due to the victim's own concerns about assaulting the offender. William appeared to change significantly during the course of the preparatory work, appearing calmer and more engaged, reflecting on his experiences and what he needed to say and how he wanted to get his views across. A formal evaluation did not take place as William had stopped all communications with the researcher. He did participate in a shuttle mediation with Robert (PO11), which is described below. The impact that this work has resulted in with this prisoner is detailed below.

The third victim (V005) took part in the research interview and decided that she felt too vulnerable to engage in any form of RJ as the offenders knew her home address and she feared their return. A support package was put in place for her with local Victim Support services commissioned by her local force and she was very pleased to have taken part in the research and to be able to access support which may not have been afforded to her at this particular stage.

The fourth victim (Richard – V006 and in his 80s) took part in the research interview and engaged in receiving a letter of explanation from James. Having read the letter, Richard said 'I forgive him in any case. What he's wrote is very good' and acknowledged how difficult it must have been to write the letter, showing much empathy with James. Richard subsequently took part in a shuttle mediation and wished the offender well, expressing many sentiments about his hopes for James's future. He reflected having benefited from this experience, particularly as he had not disclosed his experiences to anyone other than the police due to feeling ashamed and embarrassed. He was approached to receive another letter of explanation from Alfie (C005), but he felt that his needs had already been met by receiving the first letter from James (P001) and the communications relayed between him and this

prisoner. James reported therapeutic benefits to having engaged in the process and by being forgiven in particular.

James, with whom the researcher had much contact over 18 months, is now highly motivated to further make amends for the harm caused, not only to the victims but also to other affected parties as well as seeking work on release. James appeared to be genuinely contrite and sought forgiveness from the outset which he maintained throughout his contact with the researcher. As part of the audiotaped shuttle mediation, he says:

I hope that he finds it in his heart to forgive me, anything he wants to say to get it off his chest and not hold back and say it because I'm ready for it .... I know I've done wrong and he has a right to say what he has to say.

James decided that he wanted to have an RJ intervention with his mother, who had been deeply affected by her son's actions and which subsequently affected him; he appeared haunted by his mother's responses in court while victims read out their Victim Personal Statements and much of his shame related to that. Cultural factors were at play, with the family being shunned by their local community and his mother being acutely embarrassed as her profession involved working with elderly individuals – her son's target group. James wrote a letter of explanation to his mother in which he acknowledged her pain and hurt and how he had descended into a life of crime. In it, he details the work he had undertaken with the researcher's assistance and the insights he had developed as a result and thanks his mother for her support during the entire criminal justice process and his prison sentence. James attributed new insights to the process of writing a letter of explanation for one victim and making an audiotape for another as fundamental to his renewed motivation to be offence-free.

One of the main things I've done is RJ. RJ has given me the opportunity to contact the victims to see if they would like to hear my apology and also the reason why I committed the crime. I have managed to write a letter of apology to one of the victims and I have a reply of him saying he forgives me which makes me at ease in some way. Also, I've done a recording for another victim explaining why I did the crime and also asking for forgiveness. This whole process has made me realise this is not the life for me. I just want a normal hard-working life and looking after my family and to make you proud of me one day.



He subsequently audio-taped the letter as he felt he would find it a highly emotive exercise to read it out to her in person. The process is still underway, with the next stage being James playing the tape to his mother under facilitated conditions and a dialogue between the parties taking place subsequently.

Furthermore, James requested an RJ meeting with his arresting officer (the OIC), with a view to finding out more about the victim impact and also fulfilling a need to explain his descent into a criminal lifestyle and how he has sought to make amends. The OIC has offered to participate in the prisoner's probation supervision following his release as the researcher, the RJ facilitator and the OIC believed that RJ on its own would prove insufficient to enable the offender to choose a different path. Assertiveness courses, seeking daytime work rather than in the night time economy and having positive role models from within his own community were highlighted as key to enabling James to avoid offending on his release and hence, have been built into the probation supervisory process by the probation officer. This process has commenced and will be undertaken on his release from prison after the conclusion of this study.

James has reflected that he has learned much through engaging in this study, developing empathy with others and assuming greater ownership of his own offending actions, which the researcher believes was primarily due to the strong and sensitive challenges by the probation officer. James concluded that he wanted to be one of those people who said that prison was the best thing that had ever happened to him, as merely engaging in conversation about what RJ could offer him had taken 'a weight of my shoulders' and that he thought he had 'changed through the RJ process'. The 3 RJ facilitators involved during the lifetime of this case study all report significant job satisfaction in their involvement, reporting learning much about OCGs and the risk assessment process in this context as well as finding alternative methods of carrying out shuttle mediation where the parties can gain a real sense of one another by hearing each other's voices through audiotaping methods – a practice that they intend to incorporate into their work.

P003 Matt was serving a short-term prison sentence for wounding/inflicting GBH with an indefinite restraining order against the victim who sustained life-long, life-impacting injuries of a physical and mental nature. He acknowledged that others were involved in the

commission of this offence. Matt was very keen to pursue RJ and preferred a staged approach culminating in a face-to-face meeting, but was content for the method of RJ to be determined by his victim's preference. The researcher convened a multi-agency meeting with his probation officer, the victim liaison officer (another probation employee), the officer in the case/arresting officer, the prison supervising officer (who by chance was an accredited RJ practitioner), an RJ team manager and an RJ accredited facilitator. While this offence had been committed with the other OCG group members, it became clear that this specific offence was not OCG-related, but that Matt had convened his group for the specific purpose of committing this offence against this victim. However, the same risks applied and hence, a similar methodology for undertaking RJ was adopted. Each professional gave a brief presentation of their involvement in this case, sharing knowledge, intelligence and views about the offender, the circumstances of the offence, the OCG, and risks to all parties. The victim had been extremely disappointed with the length of the sentence and blamed the police for this, considering it to be unduly lenient given the enduring impact on his life. The OIC stated that he had offered RJ to the victim shortly after sentencing, but the victim had declined.

Four key risks were identified: (1) risks to the victim if or when the offender is informed of the victim not wishing to participate if this is the case, (2) risk to the victim from non-participating OCG members or his perceived fears of this, (3) risks to the victim's mental health as a result of the repeat offer (previously made on two separate occasions early in the investigation), and (4) risk to the victim's mental health as a result of finding out that it was not this particular offender who had caused the substantial damage to him, even though he appeared to be taking the main responsibility for the assault (the OIC stated that the forensic evidence appeared to show that one of the co-accused caused most of the damage and not the offender requesting the RJ – though he was actively involved and had instigated the planned assault). Reservations were expressed by some professionals at the meeting due to the risks involved to the victim and questions around the offender's motivation to engage to enhance his parole prospects.

At the end of this meeting, it was decided that the victim should be approached on a joint basis by the Victim Liaison Officer and the RJ practitioner, with the accredited, trained RJ expert taking the lead and that the victim should be able to decide rather than have the

decision made for him. The VLO had not had any contact with the victim since sentencing had taken place but decided that she would make contact with him by herself without using the planned approach agreed at the meeting. The victim did not appear to have understood the RJ offer, refused to participate straightaway and said that he still lived in fear and was seeking to move home in order to keep himself safe ahead of the offenders' release date. The VLO reassured the researcher that further support would now be put in place, as contact between her service and the victim had now been established (only one letter had been sent to the victim post-sentencing, and as the victim did not get in touch, the case had been closed). The victim had told her that he did not recall any previous offers of engaging in RJ and would have refused if he had. This may highlight that for this victim, RJ would not have met his needs, or that the timing of the offer was not right for him or that he was not given high-quality information to enable him to make an informed decision. The researcher and the supervising prison officer met with Matt to inform him that an RJ intervention would not be taking place. He was not surprised given the ferocity of the attack and the indefinite restraining order which was in place, but was disappointed. As Matt made the automatic presumption that the victim had refused the offer, the supervising prison officer decided to tell him that the professionals involved had serious reservations about the prospects of RJ and this had formed the basis of the decision not to pursue RJ; this was an effort to minimise any potential harms to the victim and brings about ethical dilemmas in relation to the honesty in the communications – an unresolved issue in this case study.

POO4 Chris was serving a medium-term sentence for burglaries and thefts. He acknowledged that others were involved in the commission of his offences. While he said that he was willing to try a new approach, Chris confided that he felt he would not be able to make an emotional connection with his victims' feelings, as he was on a methadone script and this dulls/numbs his ability to feel. He felt that this would be unfair to his victims. In so saying, Chris displayed a very good understanding of the potential emotional turmoil that engaging in RJ may involve. During the research interview Chris relayed that he would not want to meet his victims as this would make him feel bad and that he had enormous difficulty living in society and felt he needed to offend to re-enter the prison world. He was referred for support within the prison setting by the researcher.

P005 Joshua was serving a short-term sentence for attempted robbery and possessing an offensive weapon in public. He stated that he acted alone and did not acknowledge committing offences as part of a group. While stating that he was prepared to pursue RJ, he did also say 'I would not go out of my way' which makes one question the strength of his resolve. When reflecting on the RJ offer, Joshua stated that he was due to be released within a few weeks, was formally applying for child access through court channels, and his biggest challenge was to retain his sobriety on release while re-adjusting to life outside prison. Hence, it was jointly agreed with Joshua that these matters needed to take priority at present and that considerations in relation to RJ should be suspended. He was keen to be believed and requested that I ring his probation officer in the part of the country in which he was due to be released to confirm the details and also to confirm that he was not in any further trouble (he believed the researcher was a CID officer from the local Serious Crime Squad due to a rumour on the wings on the day of the research interviews). The researcher established contact with the probation officer to confirm that Joshua had taken part in a research interview only and shared information as requested in line with GDPR guidelines.

P007 Mike was serving a medium-term sentence for GBH and criminal damage and did not admit to committing offences as part of a group. While Mike was prepared to pursue RJ, it became clear to the researcher that he had very serious and enduring mental health problems for which he was receiving intense treatment and was yet to stabilise on his medication. He expressed concerns about his own abilities to have any type of dialogue with his victims at the present moment in time and stated that he was highly institutionalised and asked the researcher for her details so that those responsible for his care could contact her. Contact was established with Mike's mental health team and his probation officer, both of whom detailed the significant mental health torment he endured and his heightened vulnerability, while acknowledging his high motivation to engage, possibly given that he was eligible for parole considerations. Both advised that Mike needed to focus on getting better and stabilised, but that "the door should be left open" for possibilities in the future, as it was thought that this may also meet victim needs. The probation officer stated that she would pursue this, if and when appropriate, with RJ services and victim support in her probation area.

P008 Steve was serving a medium-term sentence for robbery and possession of a knife/bladed article in public. He acknowledged committing offences as part of a group. While being prepared to pursue RJ, he stated that he would do it, if that is what the victims wanted, but that he believed that RJ would not help him and that he needed help himself before he could help others. The researcher asked for details of his probation officer so that more information could be gathered, given his initial indications of wanting to pursue RJ. The probation officer outlined that Steve was a MAPPA case and tended 'to blow hot and cold' with a history of inconsistent motivation to engage on various programmes of work. She was not aware that Steve was a mapped OCG offender and the researcher advised her to contact the arresting officer from her local force. The researcher informed the probation officer about SOC and OCGs which was of interest to her, and, she felt, pertinent to her service's assessment of the offender in relation to risk to individuals, the local community in which he would be released and to other staff. She expressed frustration at not having been informed and it not emerging during the court process to her knowledge. Both the researcher and the probation officer agreed to go and see the offender separately for further assessments. The offender refused to see the researcher on the subsequent prison visit and withdrew his consent.

P009 Stuart was serving a short-term prison sentence for fraud-related offences (bogus tradesmen at victims' doors where they were convinced to pay upfront for services which were never delivered). Stuart was the principal of the OCG covering a wide geographical area across several police forces. He acknowledged that his offending was in a group context. One of his victims, Thomas (V003), had participated in the perception-based research interview and requested an RJ intervention, namely a face-to-face conference. The researcher had subsequently contacted the arresting officer in the case from the originating police force and traced the offender to a Cat C prison. During the lifetime of this case study, the offender moved three times, from the Cat C prison to a Cat B (where the research interview took place) to a Cat A (where the preparatory work for the RJ conference took place) before being moved back to a different Cat B prison where the RJ face-to-face conference took place with the victim. All prison moves had been instigated by Stuart as he told prison officials that he needed to avoid other prisoners who were making serious threats against him and orchestrated from outside of whichever prison he was in at the time. Several prison officers,

probation officers and RJ facilitators were involved during the course of this piece of work, with significant delays being experienced as fresh contact was made with professionals by the researcher and new applications/approvals sought for prisons not originally identified in the National Offender Management Service (NOMS) application. Several multi-agency meetings/telephone conference forums were arranged by the researcher with each change of establishment, and she was sent lengthy documents from agencies wishing to relay their knowledge and views about Stuart – a long-established career criminal, commonly viewed as a highly manipulative character.

When interviewed, Stuart readily agreed to take part in RJ when informed that one of his victims wished to meet with him for a restorative dialogue, stating that he wanted to find peace for himself and find another way of living so that his child would not follow in his footsteps. Stuart's vulnerabilities related to a serious drug addiction, threats from other prisoners (from prisons at which he was not residing) and childhood issues which continued to impact on him. While the right words in respect of motivation to engage in RJ were expressed, they were not always observed to be plausible by professionals and the first RJ facilitator told him he was unsure about his ability to engage meaningfully in RJ, which baffled Stuart, used to getting his own way. Further assessments and work were necessary before the RJ facilitator was to be satisfied that Stuart was ready to engage. It became clear that several agencies were involved and that no one agency was responsible for building up a composite picture of the key threats and risks posed by Stuart. As a result of professionals individually communicating with the researcher, and being sent the prison dossier covering over 10 years of periods of imprisonment, the researcher was able to triangulate the information and share a very short synopsis of the key threats and patterns in behaviour, such as veiled threats which were made towards prison staff which were subsequently carried out in the community against the threatened staff and clearly at Stuart's request/direction. The supervising prison officer was pleased to receive such a short composite pen picture as he felt that he only had quick access to top-level information to secure safe detention and that information was being lost along the way with the very frequent prison location changes during each period of imprisonment. This was very relevant to the assessments of risk and threat during the RJ process and may have been lost had such high-quality information not been sent to the researcher by various agencies. Stuart's propensity for unpredictable

behaviour, aggressive intent towards staff such as veiled threats, threats to self-harm when not getting his own way, and his ability to manipulate those around him were risks to be considered, as well as factors relevant to the OCG context such as the co-accused also serving sentences in other prisons.

The supporter Stuart had chosen for the RJ conference appeared to be highly vulnerable, with police involvement for protection from him, and this too caused some complexity in progressing the case, with the decision made in the end that this individual was not to be supported to be the prisoner's supporter for the RJ conference. Stuart was informed of the complexities around this and he made a request that his probation officer would be his supporter, which was subsequently agreed.

Thomas (V003) had sought a face-to-face conference with his perpetrator, feeling highly embarrassed and humiliated that he was duped. Letters and shuttle mediation were dismissed readily as he felt he needed 'to look into his eyes' himself and make a judgement about the extent to which Stuart was genuine in his intentions and integrity. No longer naturally trusting people, Thomas stated that he did not like himself and wanted to take part in order to negate those feelings, as well as help Stuart by getting him to understand the psychological distress (rather than material harm) experienced by him and his family. When referring to the amount stolen from him, he stated that it didn't matter what the amount was – 'I would pay £10,000 not to feel like this'. While Thomas worried that the RJ intervention may present Stuart with another opportunity to dupe him into thinking he felt regret for his actions when he didn't, he was willing to go to the prison where the offender was being held in order to engage with him. Thomas stated that he did not wish to bring a supporter with him to the meeting, as he felt that it would be too much to ask his wife/significant others in his life to accompany him; he also cited shame and embarrassment which precluded him from approaching others.

Prior to the conference, Stuart made some empathic statements which showed a level of empathy with his victim such as wondering if he would feel discomfort coming inside a prison for the first time etc. Extreme nervousness was observed prior to the conference, with Stuart stating that he was worried that he may not recognise the victim, as there had been so many.

The face-to-face conference was audiotaped with the consent of all parties, with the probation officer and the supervising prison officer present, as well as the researcher. The conference was facilitated by two RJ facilitators. Thomas was able to detail his enduring feelings of shame and stupidity, the magnitude of which he had found disabling and effectively silencing him as he felt unable to share his experience with others. Empathic statements were made by Thomas indicating a good understanding of the motivations behind the offender's actions and realistic, achievable, outcome agreements were negotiated such as repaying back the money stolen to a cause of the victim's choosing. During the course of the meeting, Thomas stated that he forgave the offender and wished him well. Pleasantries were exchanged for a significant period of time over refreshments after the event between the offender and the victim.

The researcher overheard the offender asking his prison-based probation officer about moving to a lower category prison as he was leaving the conference room.

In the formal evaluation, which took place by telephone with the supervising prison officer/probation officer present, Stuart reflected positively on his experience, saying he felt that he had been heard and not dismissed by the victim or any of the professionals present and that what the victim had said to him had caused him to reflect on his life and what he wanted to do and feeling better about himself for taking part. Stuart detailed the extent to which he had been pleased to have been given the opportunity to meet with one of his victims and how much it had caused him to reflect on different aspects of his life. When asked if he had achieved what he wanted to get out of participation in RJ, his first comments were about his potential to be moved to a lower category prison before talking of other aspects such as finding peace etc. Expressing much gratitude, he stated that he would like to repeat the process with some of his other victims and be an RJ advocate within the prison.

Having a challenging dialogue with Stuart had an interesting impact on Thomas who reflected that 'it's taken me to places I was not expecting' in that he found that he had started to think about his own personal circumstances when relating to the offender. Thomas stated that he now views his cautiousness as a positive skill required to survive in the world and was extremely positive about his experiences and pleased to have been given the opportunity to look into his offender's eyes and draw his own conclusions.



P010 Andy was serving a medium-term prison sentence for fraud-related offending (against insurance companies and banks) with further similar offences outstanding for which there was a trial. Andy admitted to being the ringleader within a group context. While being very keen to pursue RJ by the end of the research interview, during the main body of the research interview he detailed that RJ would not serve any purpose for him given that he believed that the corporate bodies were corrupt and took advantage of customers by putting up premiums disproportionate to the frauds committed against them to recoup their losses. It was clear that Andy's request for a face-to-face meeting with his corporate victims was not for traditional reasons for which an RJ intervention is used. It was not to apologise and seek to understand the impact of his actions on the financial health and reputation of the companies and on their customers, but to request information on their losses and the extent to which the premiums are increased to recoup losses as a result of fraud. This was with a view to challenging them about *their* actions, though Andy did say that while his suspicions may be confirmed, he may learn new things that may prompt him to re-consider his actions (if a persuasive account was given by the corporate bodies). In other words, similar outcomes traditionally sought from RJ interventions such as reduced reoffending based on new learning may result from pursuing RJ.

The researcher made contact with his probation officers from his originating area to learn that the case was being co-worked as he presented challenges. Contact with 3 probation officers was made in order to gather the necessary intelligence for this study. The researcher made contact with the arresting officer in the originating police force who gave her details of the 3 main insurance companies and banks. A prolific offender from a young age, and now an accomplished career criminal "working" across Europe, the police officer in the case felt that the information may be requested in order to learn more to support a defence in the pending trial and that he was an astute operator who sought intelligence for his own purposes. All professionals shared the same view about the prisoner's intentions, with specific reference to the prolific and imaginative scope of his offending and his highly manipulative character where he had effectively disarmed professionals while gathering information to become a more effective criminal. However, all confirmed that his request should be pursued with this knowledge in mind.

All insurance companies and banks were contacted by the researcher and while some chose not to respond at all, others were willing to engage (though not to provide the specific financial data relating to Andy's case, as this proved too difficult). Despite best efforts, no one professional was able to travel to engage in the intervention in a Category A prison or provide the information sought. Some said that they needed to consult their Media Managers and several months elapsed while the researcher repeatedly chased those who indicated an initial willingness. The researcher wrote to Andy to say that it had not been possible to pursue his request at the present moment in time.

P011 Robert was serving a short-term prison sentence for fraud-related offences where he purported to be a police officer investigating fraud at banks local to victims' homes and, by using highly sophisticated means, managed to convince them to go to the banks and withdraw their funds which they then handed over to him/others within the group. Robert acknowledged offending in a group context but did not acknowledge the very key role he played in orchestrating activities and directing others in the joint commissioning of these offences, known about by police. Seeking forgiveness and expressing much shame and embarrassment at his own actions, he wanted shuttle mediation with his victims in the first instance as part of a staged approach. This was because he felt nervous and uncomfortable with the prospects of a face-to-face meeting as the first interaction with his victims.

William (V004) was approached, but he had already taken part in an RJ intervention and felt he did not need to engage with another offender as he felt his needs had been met. Richard (V006) was very keen to engage in an RJ intervention, despite having disengaged on two separate occasions with James (P001). After prolonged preparation with RJ facilitators, Robert recorded his account on audiotape and this was played back to Richard who was very pleased to have heard the audiotape, not only because he was pleased to hear his voice, but also because the recording was framed around the specific questions he had which he wanted answering, e.g., 'was he sorry for what he did?' 'If he had not been caught, would he still be driving around in a flash car?' etc. At the research interview, Richard had stated: 'if you are prepared to take money off old people, you cannot be sorry ...' but was prepared to listen to this prisoner's account/explanation. However, while these questions were answered, Richard expressed extreme annoyance that drug use was 'used' to excuse offending and the apology was not accepted:

This is annoying me a lot – to use drugs as an excuse for robbing old people ... Why not get a job? Work, and spend your money on the drugs. ... I find that totally unacceptable. If robbing old people is a way of making money, then, I'm sorry forgiveness doesn't come on my list. Nobody forced him to take drugs .... I don't take them. My kids don't take them. We work for what we've got.

Richard stated that illicit drug use had never featured in his life and it was something that he knew very little about. He was happy to continue to progress the shuttle mediation, rather than proceed to a face-to-face conference though that was his own personal preference as he indicated that he was happy to go with the offender's request for a staged approach. Richard said that the audiotape had answered a lot of the questions he had but he now had fresh questions which needed answering such as were the other members of the group drug addicts too and were younger people with money targeted too, and had the offender been 'used by others' who knew he needed money for drugs etc.

Robert listened to the victim's audiotape in silence and appeared stunned at the response. He felt that Richard did not understand the difference between recreational drug use and a serious addiction with potentially life-threatening risks and was keen to progress to a face-to-face conference to give a full explanation and tell his side of the story; he appeared desperate to be understood. Since then, Richard withdrew from the process. No formal evaluation took place with Richard due to this, but Robert participated in a formal evaluation. Robert reflected that it was unreasonable to expect an apology from this victim: one cannot apologise for harm caused to another person, i.e., it is difficult to accept an apology on behalf of another person (particularly if that person is absent from the process) and that any apology would have to be for harm caused to Richard himself. He was pleased to have been given the opportunity to participate in this study (because it meant that at least he had tried), and it had made him feel good about himself, but he would have preferred it to have progressed to a face-to-face conference and felt that the experience would have been improved if the victim had been given knowledge about the 'power' of drug addiction to help him understand better. When asked who should have given Richard such information prior to the shuttle mediation, Robert said he felt a knowledgeable and skilled professional such as a drugs worker and concluded that overall 'RJ is a really really good thing', it had 'cleared a little percentage of my sins' and 'make a little bit amends'. During the lifetime of this case study, the 2 RJ facilitators reflected positively on their experiences of working on this case and reported

learning much about revising their models to take into account the OCG dynamics when applying RJ and much job satisfaction.

Again, it would appear that participating in RJ acted as a trigger experience and that a number of sequenced interventions will now take place with the assistance of the probation service to ensure that Robert does not stray back into an offending lifestyle on release.

P012 Daniel was serving a medium-term sentence for robbery at a family home involving a woman and her young children. Due to serving a consecutive long sentence for another OCG-related offence at the time of sentencing for the current offence, this prisoner was serving a very long time in prison. A planned and co-ordinated attack, the offence involved extreme violence and left the family traumatised. Clear that he would benefit (by gaining peace of mind), Daniel wanted a face-to-face conference with the absent father (who was at work at the time of the offence) and the woman, though he had not excluded the children. However, he knew that this may present extreme challenges to the family and had been seeking shuttle mediation.

The researcher brought together prison officials and an accredited RJ facilitator to discuss the case, before convening a larger, multi-agency panel involving all relevant professionals involved in the case and in the OCG: prison officials, mental health services (one worker sent in a written report which was considered in her absence), restorative justice practitioners and arresting officers (including the officer in the case from the originating police forces and probation services, including the Victim Liaison Officer, with some choosing not to travel and dialling in to participate by telephone conferencing. Information was shared between the professionals with all services sharing their intelligence on the OCG, the offenders and current knowledge about the victims. Decision dilemmas centred around 3 key aspects:

- (i) should the professionals make the decisions for the victims or should the victims be afforded the chance to make the decision themselves as to whether they wished to participate in RJ?
- (ii) should the professionals decide whether the timing of the RJ may be right or not right for the victims (i.e., it may not have been right for them 3 months ago, but might it be right now?), and

- (iii) what was the precise nature of the potential to re-victimise the family by getting them to relive their experience effectively outweighing any benefits to them, or might it give them the opportunity to find answers to unanswered questions?

A consensus was reached that the request from the prisoner to engage in RJ would not be pursued for the following 4 reasons:

1. the level of trauma the victims had suffered and clearly continued to do so
2. the potential for re-victimisation given the gravity and scale of the offence and violence used
3. the lack of clarity about the prisoner's motivation to engage in RJ, and
4. a question mark around the timing not being right from the victims' perspective (one of the victims had refused an RJ offer only 3 months previously in relation to one of the co-accused's request to have a restorative intervention; to make another request at his stage may have been perceived to be, or experienced as, oppressive).

While Daniel had made significant progress during the course of his sentence, the professionals felt that his propensity to have mood swings and act and then think later, combined with mental health concerns, signalled the need to delay progressing any RJ initiative. It was assessed that the likelihood of safe engagement would be increased after he had accessed some therapeutic interventions in prison. Daniel was informed of this decision by the researcher (in the presence of his offender manager and prison supervising officer) and his disappointment was acknowledged. He reflected very positively on his experiences of taking part in the research interview and being given the opportunity to discuss his offending in this context. The fact that it was a multi-agency team who had made a collective decision and that none of the victims had been approached was emphasized to ensure that it was clear that the victims had not made the decision. This was to ensure the safety of the victims. As a result of the professionals having a discussion on the case, it emerged that no one organisation was continuing to have a welfare-based contact with the family and the Victim Liaison Officer was asked by the researcher to establish contact to ensure that any identified needs could be met. This was done and confirmed by the VLO (who had to seek managerial

approval to re-open the case) some weeks later. The meeting also had the advantage of enabling professionals involved in the case to meet/speak so that information could continue to be shared between organisations after the researcher had closed the case for the purposes of this study. An agreement was also made with the VLO that a discussion should take place with the victims as to whether they wished to be informed if other offenders wished to participate in RJ with them on future occasions, should they be willing to engage in such a discussion. The potential for RJ to be undertaken at a later date was left open.

C001 David was not currently subject to probation supervision and was interviewed at his home address. He was known to the Financial Investigation Team within the originating police force as a mapped offender. His last set of OCG-related offences were for handling stolen goods and driving-related offences, for which he had received a suspended sentence. David acknowledged offending in a group context. While he stated that he was prepared to pursue RJ by writing to his victims, he failed to engage with the researcher subsequently on two separate occasions by not being available when she visited him at his home. On the second occasion, a family member confirmed that David had gone out drinking in town and that the address the researcher had used had not changed. As he appeared to have disengaged, the case was closed.

C003 John was subject to probation supervision on licence following a short-term prison sentence for acquisitive offences and was interviewed at a probation hub (community centre). He acknowledged that he had been convicted as part of a group, but denied any responsibility for the offences, stating that he was completely innocent and 'had taken the rap' for a family member – a view that he held consistently throughout the investigation, his trial, his prison sentence and on licence as confirmed by his probation officer. Having been ostracised by the local community following his prison sentence, he was keen to tell his version of events to the victims and the local community, and wanted to take part in RJ in order to 'set the record straight' as this was affecting his employment prospects. His motivation to engage in a dialogue with his victims was an attempt to be reintegrated back into his community and gain the acceptance he now craved with a view to regaining employment in the industry in which he had spent all of his working life prior to imprisonment. His consistent denial of all criminal responsibility made him ineligible for an RJ intervention as assuming a degree of responsibility is a prerequisite for RJ. However, the

researcher was prepared to make a referral to an RJ facilitator for a specialist assessment for eligibility and suitability rather than closing the case straightaway, should he demonstrate any ownership of his offending during the assessment or preparation phases. He was interested in writing a letter, progressing to shuttle mediation and possibly concluding with a face-to-face meeting, with his probation officer as his source of support, who was willing to act in this role, should he be assessed as eligible by an accredited RJ facilitator. Before an accredited RJ facilitator could be allocated the case to assess eligibility and suitability, John withdrew his consent, stating that having discussed the potential with his partner, they felt that this 'may open a can of worms' and even 'backfire' on them and that the time did not feel right as he was actively trying to rebuild his life, following his release. Following discussion with his probation officer, the case was closed.

C004 Kevin was subject to a suspended prison sentence with a rehabilitation activity requirement for burglary/theft and was interviewed at his home address. He acknowledged that he had been convicted as part of a group. While Kevin stated that he was prepared to pursue RJ with letters, progressing to face-to-face RJ with his probation officer as his source of support, he failed to engage with the researcher subsequently on two separate occasions by not being available when she visited him at his home. Following discussion with his probation officer, as he appeared to have disengaged, the case was closed.

C005 Alfie was subject to a Community Rehabilitation Order for entering an arrangement to facilitate acquisition, retention, use or control of criminal property and was interviewed on probation premises. He acknowledged that he had been convicted as part of a group which involved victims handing over substantial sums of their money. Alfie favoured writing a letter to his victims during the research interview, as he felt that there were too many to use any other form of RJ, though he did say that he was willing to meet with them face-to-face if the victims wished for this. Alfie was keen to apologise to his victims and outlined aspirations to be in employment following completion of the course he was pursuing. There were 5 victims and all had been approached as part of an N8 research-partnership-sponsored project previously. With this prior knowledge of victims' views about taking part in RJ, the researcher knew it was appropriate to only approach one of the victims again. Mary (V007) participated in the initiative and received a letter from the offender, which he wrote with the assistance of the RJ facilitator. The RJ facilitator subsequently used the letter to conduct a shuttle

mediation between the parties by phone with Mary (due to geographical distance), and in person with Alfie. Alfie reflected that writing the letter had helped him think about how the victims may have felt and to think about the impact of his actions and helped him to make sense of his own thoughts. He reported feeling relieved after writing the letter, as much 'had been bottled up'. He felt that the method of RJ had worked for him:

Trying to speak to someone you don't know – it's hard to speak to them for the first time – it's even harder if you have done something to them and harmed them. You need to break the ice with a letter, then shuttle mediation using webcam for example and then face-to-face (C005).

He reported a sense of closure and some therapeutic benefits from having taken part in the initiative as part of his formal evaluation, as well as renewed motivation to meet his educational and work-related aspirations. Participating in RJ may also have acted as a trigger experience which had made him feel good about himself and enabled him to continue to work with the probation service to attempt an offence-free lifestyle.

Mary reported being pleased to have received a letter which was read out to her by phone and that he had said sorry. However, she said she would have preferred to have had the written dialogue and subsequent shuttle mediation with a member of the group who had been "higher up" but was sceptical that such individuals would ever apologise. She felt that this offender was a younger member of the group who may have been easily led, but also acknowledged that without him and the role he played, none of the offenders higher up the chain would have been able to fraudulently access victims' monies or indeed her accounts, i.e., he played a very significant role. Mary did not like the words Alfie had written when referring to his co-defendants as 'these people are very deceiving...' as she felt he was distancing himself from the rest of the group and minimising his responsibility. Alfie, as part of the shuttle mediation exercise, was able to relay that he had not personally made any of the phone calls to victims purporting to be the bank, but had given various offenders access to his accounts for the purposes of cash withdrawals. She accepted this explanation and he was able to reflect that it did appear like he was blaming others rather than accepting that he played a critical role in the OCG. This conversation by shuttle mediation appeared to play a fundamental role in helping Alfie accept responsibility for his actions in ways that perhaps the traditional means of probation intervention had not to date. The feedback from the victim



was sufficiently powerful as to not warrant any further challenge from the RJ facilitator or probation officer. Mary was very pleased to know she had not been personally targeted and had been randomly selected. This victim had taken part in a research project undertaken by the researcher as part of an N8 project the previous year (with another offender from the same OCG) and reflected that 'one of the best things was that I had an idea of what the offender would look like – you tend to demonise them. To see him physically was good, as he was only a kid' (V007). Hence, she would have preferred to have seen Alfie in person or on a screen, but this was not possible as part of the current study.

### *Short-term Evaluation*

The following has been gleaned from the formal evaluations undertaken by the researcher with each participant (where possible) in relation to the impact of the case studies. This involved speaking with each respondent who had engaged in a restorative dialogue to find out what they thought about participating in the study, referring back to what they said they wanted to achieve by speaking to their offender(s) or victim(s) and indeed, if this was achieved.

Offenders who participated reported significant benefits in relation to learning about the impact of their behaviour and being given the opportunity to engage with their victims. Renewed motivation to be offence-free and to lead a different life were expressed in line with finding peace or gaining a sense of closure through being accepted. Even where interventions were not followed through (e.g., due to victims withdrawing from the process), if explanations were given and offenders were involved, they expressed positives about being given the chance to tell their story and gained benefits from knowing that they had tried. It was clear that participation in RJ enhances an emotive impact on the offender and perhaps contributes to their sense of shame – a necessary component for re-integrating back into the community (Braithwaite, 1989).

Hence, similar benefits were reported by offenders which are broadly comparable to non-SOC based research (see Shapland et al., 2011). The findings in this study largely support many of the previous empirical studies undertaken in relation to outcomes of restorative justice such as the short-term impact reported by victims when they have participated in RJ conferences (e.g., Van Camp, 2014).

## **6.8 What are the implications of these findings for policy and practice?**

This section of the chapter details that there are indeed some possibilities for undertaking RJ in the SOC context as demonstrated by the case studies (where all RJ interventions which took place were confined to fraud cases). An interesting finding was the fact that taking part in the research interview alone appeared to reap benefits for some and this is explored in some detail. A discussion about the approach developed to undertake these complex case studies follows before an exploration of the merits of RJ as an inherently flexible Prevent tool, particularly when used as part of a staged approach, though it does have limitations – it cannot achieve everything!

This small batch of case studies inadvertently “tested” the views and opinions of the expert sample and an analysis of which elements the practices supported or refuted their views is detailed. The crux of this study was to find out what may be different where RJ is applied in the SOC setting and hence, this is fully explored with a focus on three key aspects: the need for dynamic risk assessments which capture the OCG context; the need to accommodate for logistical complexities involved; and the need to have experienced RJ facilitators and to guard against poor practices. Some further reflections are offered in relation to the case studies (namely who should decide that the time is right to make an offer of RJ to offenders and victims, some thoughts on how offender motivation may be assessed, a view on whether a fear which is perceived by victims should be treated as seriously as those fears assessed by professionals themselves, and the scope to view the prison setting as fertile ground for laying some foundations for offenders to engage in RJ). Three issues which may also apply in the non-SOC context are briefly discussed next: the issues of timing, closure and reintegration – which may all apply equally to both offenders and victims.

Some suggestions are made towards the end of the chapter which may assist other professionals in developing RJ practices in this context. The chapter ends with the possibilities of offenders and victims being able to enter into a “win-win” situation.

*Importance of the Preparatory Phase and the Initial Research Interview – harnessing the potential for change/progress*

The very process of preparing to engage in RJ and speaking to a range of professionals as part of this preliminary phase appeared to reap benefits for offenders who reported gaining much in relation to their confidence in leading law-abiding lives and prompting them to think about their actions. Participating in the preparation alone appeared to have a similar effect to when offenders engage in intensive programmes of work in prison and when on probation/licence to the probation service – increased victim awareness/empathy being a strong component of this work. Banwell-Moore (2018) in her post on the *Why Me?* website, writes that ‘irrespective of whether the victim goes ahead with RJ, victims value the offer’ which suggests the value in engaging in dialogue with victims about the possibility of RJ meeting their needs. Staged interventions were proposed by many in the offender samples and intentions were followed through in practice as evident with some of the case studies. Evaluations in relation to how offenders and their victims experienced each sequence of interventions demonstrated that there were merits, not only in each RJ method and working up to the preferred model for direct communication, but that even just participating in the preparatory phase reaped benefits, i.e., communication between the parties and the facilitators. For some, therapeutic benefits were reported (this includes victims too), and while the preparatory phase cannot reap all the benefits that an actual facilitated dialogue results in (such as RJ as a trigger experience to addressing criminogenic factors and getting answers to questions), it does raise the question of how the preparatory phase meets individual needs. What is it about the nature of the dialogue that promotes these new understandings, expressions of empathy towards the other party with whom to-date there has been no actual dialogue etc.? Does this merit further research to explore the possibility of designing a pre-RJ intervention as a stand-alone intervention that meets very specific needs, i.e., the power of brief interventions between affected parties and professionals suitably qualified? Does this necessarily have to be RJ facilitators or are there other professionals who may also qualify to meet these needs and assist offenders and victims to explore their feelings in a criminal justice context?

In relation to triggering change in offenders and victims if they were closed to the prospect of undertaking RJ for themselves (or indeed for anyone else at a theoretical level), what emerged from the initial research interview was the potential for change. For some, their starting point

was to reject RJ as they were angry or believed that such interventions would not meet any of their needs (sometimes because they were not aware that they still had unmet needs which continued to affect them), but as the interview progressed and they learned more about RJ and engaged in thinking about the concept as it applied to their particular circumstances, they expressed requests to take part in such an initiative. While the movement of thoughts and feelings during the course of the research interview is interesting in itself, it may be that such a preliminary conversation with offenders and victims may pay dividends in assisting those in need of healing, therapeutic intervention, closure or having the answers to their questions met.

There appeared to be a preference to 'see' and/or 'hear' their victims (via technology) though not necessarily directly as the first stage of the intervention process; offenders appreciated being able to hear their victims by audiotape as they expressed much reticence and even fear about meeting victims and being confronted by them or because they felt shame. However, one difference which emerged was that in Shapland et al.'s (2011) study, offenders reported being less satisfied with indirect mediation due to waiting times to see how the victim had responded to their communication and not being informed (lack of follow-up by professionals). This appears to be an implementation and practice issue observed. The current study's offenders were satisfied with letters and shuttle mediation as staged approaches and this may, in part, have been due to the fact that they were kept informed (even if only to say that there was no new information as yet) and also because of the way that some of the shuttle mediations were undertaken using audiotaping facilities.

Victims who participated reported significant benefits too, including being satisfied with the process and being pleased to be given the opportunity to take part. Similar self-reported benefits were disclosed comparable to victims' feedback in non-SOC contexts, with good satisfaction levels and recommending the process to others. Whether engaging by letter, shuttle mediation or face-to-face conference, the impact was the same in relation to getting their questions answered, assisted by competent facilitators, e.g., when one victim was not happy with a comment written in a letter by her offender, she was able to get a swift(ish) response back to allay her concerns. In Shapland et al.'s (2011) study, some dissatisfaction was reported as a result of communication-related issues such as limited opportunities to challenge with indirect mediation. In this study, there appeared to be a preference to "see"

and/or “hear” their offender, albeit not necessarily directly; this may have had a humanising impact and contributed to dispelling myths about what they may have been like – not an unsurprising element perhaps when one has been significantly harmed by that person(s). Therapeutic benefits were noted. Victims were able to develop some empathy with offenders, sometimes seeing them as victims of others’ actions and were able to express their acceptance/forgiveness and wish their perpetrators well.

It is important to manage victims’ expectations in relation to the form of RJ used, which is usually a negotiated process between the parties with the help of the facilitator during the preparation phase, lest it leads to a degree of victim dissatisfaction. The potential power of seeing an offender’s face or hearing their voice as part of an RJ intervention cannot be underestimated. This may lead to “de-demonising” the offender – a crucial step in the recovery process for victims. However, for victims who may participate in multiple RJ dialogues with different offenders within their OCG, a degree of dissatisfaction may result if the form of intervention is not their preferred method (see V007 who received a letter from one of her offenders, but had previously “seen” one of the other offenders on tape and reported a preference for seeing her offender).

Once offenders or victims have expressed a genuine and realistic desire to engage in RJ, it would appear that their motivation is sustained over significant periods of time, e.g., James (P001) who remained with the process for over 18 months during his prison sentence and who continues to express a willingness to undertake further RJ-related work. This may give an indication of the extent of their commitment once they have had an opportunity to discuss unmet need and how RJ may be able to adequately address those needs.

Professionals involved in this piece of research reported enjoying the challenge of being involved in developing practice in an untested area of crime; this extended beyond the RJ accredited practitioners to offender supervisors and probation officers who have subsequently made queries about how to train in RJ. It was notable that during case progression meetings for the case studies, professionals themselves appeared to develop empathy with offenders as they gained a fuller understanding of the OCG’s development and how individuals were recruited into such groups. These were apparent in some of the comments made which suggested that professionals had a keen sense of some of the daily

challenges faced by offenders. Those who assisted by facilitating the interventions were keen to develop their own practice and, in particular, reported that using taped interventions (audiotaping in particular) was a way of ensuring safe communication between parties where there are heightened vulnerabilities and as part of a staged approach leading to a face-to-face conference.

*There are some possibilities!*

The case studies demonstrate that it is indeed possible to utilise restorative approaches in the serious and organised crime setting more than currently deployed, suggesting numerous missed opportunities to realise the benefits at present across England and Wales. In addition, within the RJ model, there is ample space for a creative approach in relation to meeting offender needs to have a restorative dialogue in order to make amends, as in the example of James (P001), where participation in RJ with direct victims led to it being a trigger experience which then began to pave the way towards increasing his potential to stop offending and increase his rehabilitative potential. Other than named 'injured parties' on police records, there are opportunities for offenders to recognise the wider net of individuals and groups who are harmed by their actions and undertake restorative interventions with them, as in the case of James who is in the process of having a facilitated dialogue with his mother and his arresting officer, even though his direct victim has declined to engage in a restorative process. The use of RJ with named/identifiable secondary victims<sup>41</sup> may have a similar impact to when RJ is undertaken with direct victims – though further research in this area is required. In Bannister's (2013) thesis exploring the views of secondary victims, some RJ principles were evident in terms of the type of justice they sought; this included their wishes that offenders acknowledged and recognised the impact on the primary victim and were held to account for the primary victim's suffering, though overall RJ did not feature strongly in terms of their responses. A dearth of research in the area of the impact of RJ with secondary victims is noted. Hence, some imaginative possibilities can be explored in this context, though of course this does not necessarily have to be in the SOC context. However, given that some SOC victims

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<sup>41</sup> Secondary victims (also referred to as indirect victims or tertiary victims) are defined by Condry (2010) as the relatives of both offenders and victims who are indirectly affected by the impact on the primary victim, as well as vicarious trauma suffered by witnesses to crime and by emergency workers.

may feel too vulnerable to engage with their offenders, this may be a good option to explore as with P001 (James).

Finally, the case studies demonstrate that it is clearly possible to navigate through the complexities of using RJ in SOC contexts through careful preparation by RJ facilitators and good communication with them by other agencies.

*The Approach Developed for undertaking the Case Studies: Defensible Decision-Making and Collective Responsibility*

The researcher adopted a central co-ordinator role where she acted as the single point of contact for all agencies, convened all meetings and telephone conferences, gathered the relevant information for triangulation purposes (particularly as staff from other agencies may move to new roles which sometimes can lead to loss of information, i.e., information which is not on record and carried in one's head) and identifying trends and patterns in behaviour where it was not already highlighted by any one agency and took overall responsibility for case progression purposes. The model relies very heavily on a multi-agency, multi-disciplinary approach in order for cases to be considered. In the absence of this work being on a statutory footing, the model does also rely on the will and motivation of individual professionals who support the ethos of restorative justice (and also recognise when it may not be appropriate to pursue RJ). It also requires RJ facilitators who are happy to travel as offenders may move from prison to prison during their sentence and this has time and resource implications for professionals and agencies.

This approach relies on partners coming together to pool their collective intelligence and data on offenders, organised crime groups, and victims together in order to make informed and defensible decisions with collective responsibility taken for doing this (while being individually accountable to their own agencies). Collective responsibility arises as no one individual is making the decision by themselves as to the suitability or eligibility for any groups or individuals to participate in RJ and the group arrive at a decision following sharing of information and discussion. It also relies on one central co-ordinator (the researcher for this study) who is responsible for gathering the relevant information, convening and chairing meetings, and enabling agencies to speak to one another (particularly if there are changes in personnel) to minimise the potential loss of information as those with a history of knowledge

leave and newcomers are allocated the case in question. Hence, the approach adopted to undertake the case studies is a resource-intensive one, dependent on the partnership making decisions which can be robustly defended (particularly with ethical issues in mind) and taking collective responsibility for the progress of the case.

#### *The flexibility of RJ as a Prevent Tool*

RJ is clearly an inherently flexible tool with much potential for creativity and imagination to be harnessed in order to meet desired outcomes: not just the “injured party” identified by the police can be incorporated into an RJ dialogue, but anyone who may come within the “ripple effect” of criminal activities in the form of secondary victims. Within this small batch of case studies, one offender is, at the time of writing, in the process of undertaking a face-to-face conference where he intends to play an audiotape of his letter of explanation to one of his parents as part of the intervention. The use of audiotaping has proved to be powerful in this study, bringing parties one step closer to the face-to-face conferencing model.

#### *The importance attached by offenders to a model using staged interventions*

There was much support by offenders for staged interventions, and part of this motivation suggests a good degree of emotional literacy (demonstrating a high degree of understanding of the complex emotions involved for themselves as offenders in this setting).

It became quickly apparent that while there was support for staged interventions, with shuttle mediation winning much favour, this particular method can lead to many more questions being posed by both parties. For P011, the victim posed many more questions, having listened to the audiotape in the comfort of his own home. This suggests the scope for more meaningful dialogue to take place that may promote understanding between parties and enhance the potentially transformative impact of RJ. However, this approach inevitably increases overall costs as it will take longer to complete multiple RJ interventions and create extra burdens such as staffing and resource implications.



*RJ is not enough on its own – to reduce reoffending potential and increase rehabilitative potential*

It may be that RJ on its own cannot realistically be the sole intervention that has sufficient impact to divert offenders away from offending, but can be a significant contributory factor. Shapland et al. (2011) state the following in the non-SOC context:

However, we would never claim that one restorative justice process or event will always be a life-changing moment for that offender (or victim). A few hours of preparation and an hour or two in a restorative justice meeting cannot resolve the practical problems of desistance, not provide all the emotional and cognitive support necessary. It is only one event, in what we would see as potentially a long-term, difficult and uncertain path towards reducing offending. (Shapland et al., 2011:178).

Perhaps this is not a surprising statement in the context of working with those offenders who have entrenched, pro-criminal attitudes and a long-established criminal lifestyle where the preparation process appears to be particularly prolonged (as with many other serious and complex contexts).

Other protective mechanisms may need to be in place though as mentioned above, RJ can be the trigger experience which leads to accessing other interventions, whatever they may be dependent on the case. For example, with James (P001), he, as part of the post-RJ process, reflected that peer influences, having jobs where he worked during the evenings, and working for former associates were factors increasing the likelihood of reoffending and hence, he is now accessing employability and assertiveness courses with the help of the probation services. In addition, it is perhaps unrealistic to expect RJ interventions to change a life-long pattern of behaving; perhaps SOC offending has an addictive component (explaining the view that SOC offenders have entrenched views which are difficult to influence in much the same way that those who work with drug addicts and alcoholics know of the motivational issues in relation to instigating change and hinting at the enormity of the desistance challenge in this instance). While there are no suggestions within the SOC literature that SOC activities may reflect on such criminality as an addictive form of behaviour, the researcher draws on other literature to make these somewhat speculative comments, e.g., Kellett and Gross (2006) who concluded that in their sample of convicted joyriders, the young offenders engaged in joyriding in an 'addictive manner' (p. 39). Their view that 'The notion of criminal behaviour

of any kind being “addictive” is bound to be controversial, requiring as it does the acceptance of the concept of behaviours addiction *per se* as well as the rationale for the idea of the possibly addictive behaviours themselves’ (p. 57) is accepted by the researcher. Others too have suggested that there are links between addictive behaviours and other forms of offending (Hodge, 1992, in relation to violence and psychopathy and Chagraovi and Thibaut, 2016, in relation to sexual offending). However, one distinction that may be relevant in making such speculative comments is that sexual offending and joyriding are discussed in the context of an addiction to a particular set of experiences, while SOC offending very often (though not exclusively) is motivated by financial gain.

On a separate but related theme, it is worthy of note that perhaps RJ cannot be perceived as a toolkit which can resolve all issues for all parties. In much the same way as it is argued above that RJ cannot resolve all issues from an offender perspective, perhaps it should also be hypothesized that RJ cannot meet the full range of victim needs as concluded by Doak (2011:451): ‘It should also be borne in mind that RJ is not going to be a wholesale panacea for the problems facing victims in the aftermath of a criminal offence.’

*How did the practice of undertaking case studies “test” or otherwise challenge the views expressed by experts?*

The case studies confirmed much of what had been expressed by the expert sample, as well as challenging some of the assumptions made.

RJ experts appeared to be wholeheartedly in favour of using RJ in the SOC environment believing that there were missed possibilities at present; they were right, as it has been possible to undertake a small number of case studies with good overall impact on individuals, which starts to build an evidence base for SOC fraud cases – a request specifically made by some SOC specialists.

Some RJ experts felt that using RJ would be highly challenging for a number of reasons and this certainly was the experience with the case studies in this research, with lengthy delays fraught with logistical issues which needed careful navigation and the motivation of highly skilled RJ facilitators. Many policing professionals that the researcher worked with were not initially keen on the idea and expressed numerous reservations about the prospects of her

approaching the victims of their OCGs from a vulnerability and re-victimisation perspective, and the offenders from a genuine motivation perspective. What came through was also a general lack of faith in the intervention bringing about desired results – all issues highlighted by RJ experts about working with the police. The case studies have challenged the following presumptions made:

- ❖ All risks posed by SOC offenders towards their identifiable victims are unmanageable
- ❖ Those higher up the OCG hierarchy cannot be considered suitable for RJ, such as principals and significants, though new recruits or peripherals may be eligible for a RJ scheme for low-level offending if they are not heavily convicted
- ❖ That no specialist skills are required to work in this setting (clearly much expertise is required with significant training implications).

The case studies confirmed the following opinions expressed by experts:

- ❖ Each case study would be logistically challenging and require a time-intensive (with lengthy preparation phases for both parties), labour-intensive, wholly collaborative partnership approach to ensure a sufficiently robust risk assessment could take place, representing a 360 degree examination of risks from all angles, as far as possible, with an acknowledgement that there would still be gaps in intelligence. This notion is supported by research evidence, e.g., Miers et al. (2001) who conclude that RJ (in a non-SOC setting) is a 'labour-intensive and time-consuming activity, beset by communication problems and delays. Particularly where direct mediation is contemplated, it can involve weeks of preparatory and exploratory work, and even then, many cases do not reach the desired conclusion' (2001: ix)
- ❖ A case-by-case approach appeared to pay dividends in relation to exploring possibilities – an approach advocated by a fifth of the SOC experts
- ❖ There are multiple complex risks to be considered in this setting requiring bespoke risk assessments and the possibility of needing to implement a range of practical measures, and
- ❖ That cultural attitudinal change was required for implementation purposes tantamount to a "hearts and minds" issue within policing.

In addition, while the researcher did not specifically ask SOC and RJ experts to reflect on their learning, as RJ experts felt that they learned much about SOC and SOC experts spoke about the impact of RJ on their offenders and victims, it became clear that both sets of professionals learned much from one another and from the process.

This study has not been able to “test” many of the remaining views expressed by experts due to small sample sizes and lack of identified respondents who may have wanted to take part in this research. This includes how the issue of blurred boundaries between offenders and victims may be addressed in a RJ setting, how an evaluation of risk to parties vs benefits to be derived could be derived, and the views expressed about longer-term benefits in relation to reduced reoffending and longer-term benefits for victims.

*What is different (and also the same) when RJ is used in the SOC context which distinguishes it from the non-SOC context?*

The process of assessment and forms of intervention appear to be largely the same as with non-SOC cases, a point made by the RJC focus group and a number of individual RJ respondents. In addition, what is clear is that the short-term outcomes from the case studies do not differ much from that reported for non-SOC cases, e.g., mutual empathy development, victim satisfaction and myths which are dispelled when victims see that offenders too are human beings subject to some of life’s stressors.

RJ may act as a trigger to meet a range of needs for offenders which may also apply to the non-SOC context (e.g., getting away from a life of crime if strong motivation exists, use of the RJ experience as a gateway to access further support and address criminogenic needs such as addictions, and developing critical thinking skills to reflect on the impact of their own behaviour, which can then be applied to other areas of their life) but may also be specific to the SOC context in other respects: finding alternative ways of fulfilling the needs previously met by organised crime group membership, and getting closure on their offending chapters in life and subsequently acting in the role of offender supporters in other’s RJ interventions.

Three key areas warrant consideration in this respect:

1. the assessments in relation to threats/risk

2. the different aspects of organised criminality which bring complexity to practices as a direct result of an offender being part of an OCG, and
3. the need for experienced facilitators to undertake interventions, notwithstanding that this is a requirement for all serious and complex offending contexts.

## 1 Risk and Protection Assessments

Risk assessments are carried out in all cases where RJ is used as a matter of routine. In the SOC context, numerous additional factors need careful consideration. While the risks identified below did not necessarily impact on the case studies undertaken, some aspects were discussed in the multi-agency case meetings, particularly as this was based on prior knowledge learned from the N8 test case study, which has been previously described. For clarity, it may be useful to identify the features already known which were incorporated into the current study:

- The risk to participating offenders, victims from non-participating OCG members (with a specific recommendation that this is discussed with all participating offenders and victims as they are often well placed to identify their own risks whether they are real or perceived)
- Risks to the victims from offenders who may seek to use the RJ forum to further target/re-victimise their victims, possibly as a response for going to the police/giving evidence which resulted in their lengthy prison sentences or unwarranted police attention (however, while this was raised many times by both RJ and SOC experts, there was no evidence of this in any of the case studies). This risk of revictimisation may be accentuated in the SOC context due to expert manipulation and the extent of entrenched criminality
- Risks in relation to the potential for participating offenders using the RJ forum as an information-gathering exercise to inform future SOC activities
- Risks to operational policing activities if information or tactics are inadvertently divulged (though this was discussed it was not an issue with the current study)
- Risks to both offenders and victims who may detail their experiences on social media platforms which are then accessible to non-participating members and perceived to be former OCG members “helping the police” (the consent form

signed by all parties advised them not to place posts on social media for their own protection, but this was not legally enforceable)

- There will inevitably be gaps in police intelligence and partner information and this incomplete picture may carry unknown risks; gaps in knowledge may extend to the extent to which members continue their criminality, change their form of criminality, form new associations with other criminal groups or lack of knowledge about the reach of members.

The new factors identified arising from the current study include the ones identified below, notwithstanding that some of them will no doubt also apply to non-SOC offending group contexts:

1. The risk to the supporters/families of both offenders and victims; when combined with what was already known about the risk to participating offenders and victims, a framework was developed to aid understanding of these risk factors: there may be known or unknown risks or even known unknowns, using Rumsfield<sup>42</sup> (2002)'s comments as a framework.
2. Risks to practitioners (though this was not an issue with the current study, it is highlighted due to SOC members' criminal associates and wider networks being able to act on their behalf when they are not happy with professional assessments or decisions for example).
3. The risk to a victim if (s)he refuses an offender-initiated request may be complicated in the SOC context due to the "ready-made" OCG group who may be able to make their presence felt to victims in ways not anticipated by RJ facilitators or the police.
4. Risks to the victims from offenders if they disengage from RJ (having commenced the process) for offender-initiated RJ.
5. Risks to the offender from victims who may be seeking retribution (though this is no different in the non-SOC context). Strang (2001:75) refers to the fact that it

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<sup>42</sup> Rumsfield, D. (2002) in his role as the US Secretary of Defence famously said in relation to a lack of evidence that Iraq was supplying weapons of mass destruction to terrorist groups: 'Reports that say that something hasn't happened are always interesting to me, because as we know, there are **known knowns**; there are things we know we know. We also know there are **known unknowns**; that is to say we know there are some things we do not know'.

should not be assumed that ‘victims are the virtuous “us” and the offenders the culpable “other”’ and even elaborates by referring to other studies where ‘victims and offenders are often indistinguishable from one another’ (Strang, 2001:76).

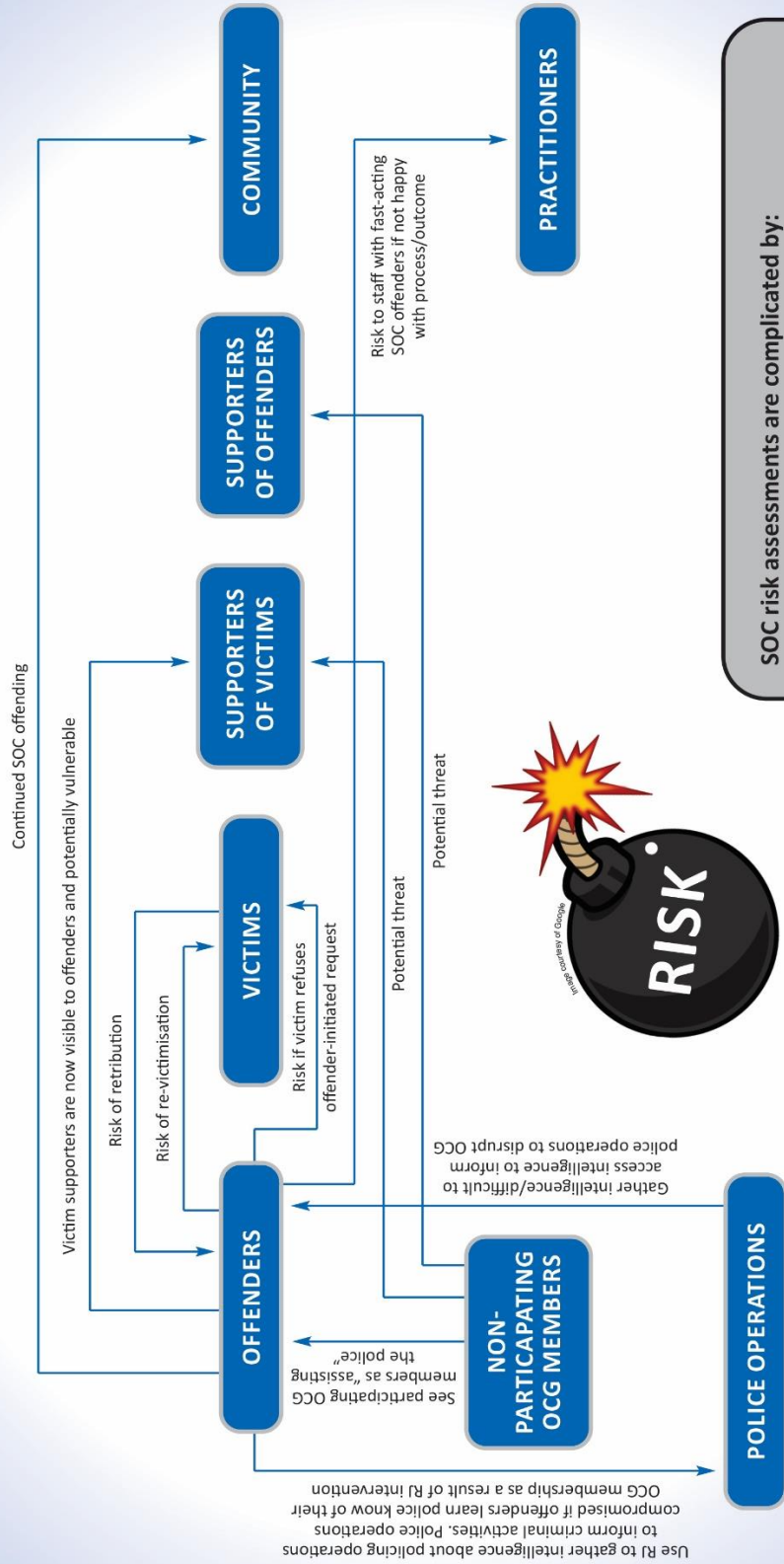
6. Risk to offender supporters from the offender themselves: there is a need to carefully consider who the offender proposes to have as their supporter; while many may opt to have no supporters, those who identify someone needs to be carefully considered to ensure that they are suitable from a vulnerability perspective, i.e., that the offender themselves or their associates do not pose a risk to them. If they are “difficult to manage” in whatever way, then it is up to the competent, well trained, experienced RJ professional to manage the situation. The point here is about risk to supporters, rather than whether they are considered to be an ideal or appropriate supporter which the RJ professional may not have chosen. In the case of P009, preparatory work with the supporter identified by the offender needed the assistance of more than one force and other statutory partners and, in the end, this individual was deemed to be too vulnerable to be the offender’s supporter. The offender supporter was at risk from the offender himself as well as his other OCG associates.
7. Potential for SOC experts to refer cases for RJ in order to gather hard-to-access pieces of intelligence on groups and individuals.
8. Considerations that relate to support arrangements for any vulnerable individuals from the outset are also recommended as making an offer of RJ may mean that traumatic experiences are re-lived as soon as contact is established with a person in authority. The importance of putting support packages in place where vulnerability is known from the outset (see P001 Victim 3).
9. Intelligence may be lost due to the multiple staff changes and prison moves during the lifespan of an RJ assessment and intervention; this may affect the holistic assessment of suitability and eligibility and unduly affect the risk assessment process and outcomes. The need for a central repository of gathered information (in these case studies, it was the researcher herself as the co-ordinator) may be advantageous.

From a practical perspective, a dynamic risk mitigation plan (which is revised and updated in light of any new information) is necessary and helpful in determining the risks vs benefits of pursuing RJ in any case, e.g., the activities of other active OCG members may affect practitioners' assessments of whether undertaking RJ is appropriate at that particular time. In addition, a community impact assessment may be required depending on the extent of the impact of the whole of the OCG, not just the participating offender.

The following infographic summarises the potential areas of risk and related complexities in the SOC context.



**FIGURE 6.2: POTENTIAL AREAS OF RISK IN THE SOC CONTEXT**



**SOC risk assessments are complicated by:**  
 Blurred boundaries between parties, the need for dynamic risk mitigation plans as the SOC picture can evolve quickly, activities which may inadvertently heighten risks e.g., social media posts which identify participants or where victims and practitioners know offender is member of OCG but offender is not admitting this and does not know this is known by police.

**The following applies to any RJ risk assessment and is accentuated in the SOC context:**  
 Rumsfeld, D. (2002)  
 "There are known knowns" e.g. this OCG member poses a risk to Asian women  
 "There are known unknowns" e.g. unconfirmed global connections between competing OCGs  
 "There are also unknown unknowns" e.g. the police simply do not know what they do not know!

Some of the usual factors at play in the non-SOC context may be enhanced in the SOC context to a greater degree (making it more challenging to undertake), namely:

1. Power imbalances between the offender(s) and victim(s) may be accentuated in the SOC context, requiring very experienced facilitators to navigate through the process and mitigate as appropriate.
2. The issue of blurred boundaries between offenders and victims (particularly in the context of vulnerability), which is explored in Chapter 5 and highlighted on numerous occasions by the SOC experts.

These two issues may be “different sides of the same coin” as they both relate to power imbalances and the need to recognise the complexity in the dynamics between offenders and victims.

#### *Risk-taking in the SOC Context – the Concept of “Intelligent Risk-taking”*

It is clear that considering RJ in the SOC context does come with a degree of complexity, particularly in relation to risk. It is necessary, as advised by some of the police SOC experts, to consider the risks vs the benefits to all parties as part of the suitability assessment process, particularly when some of the gaps in intelligence about OCG operations are not known. The concept of “intelligent risk taking” borrowed from Barnes and Conti (2014)<sup>43</sup> in their copyrighted model describes a process for making risk decisions in circumstances where there are unknown variables and outcomes that are not always possible to define, a concept that they claim is key to innovation and change leadership. This borrowed concept may assist practitioners when considering the risks vs benefits of any RJ intervention.

In the SOC context, there may need to be an acceptance that it is not possible to have a complete picture of all the dynamics involved in an OCG and the participating offenders’ roles within that, and hence, it will not be possible to identify, control, eliminate or minimise all risks. This may be complicated by the numerous risks identified in Chapter 5, e.g., risks to offenders themselves from victims seeking retribution. In this way, the notion of “intelligent risk taking” may be applied, to encourage a risk-informed rather than risk-averse approach.

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<sup>43</sup> <https://www.barnesconti.com/programs/IRT.html> (last accessed 29/7/19)

The risk at present, which may be at play on a national basis, is that RJ facilitators may be working with OCG members undertaking RJ with their victims but with significant gaps in knowledge arising from not knowing that they were operating as part of a mapped serious and organised crime group. This may also be affecting the work carried out by other agencies as this information is restricted police intelligence. The fact that offenders are part of mapped groups is restricted as this can be critical to the safety of those engaged in the RJ process as well as significant others in either party's life. It may also disrupt future policing operations, with unintended consequences. However, working in the dark may be contributing to enhanced risks to RJ participants and staff from other agencies.

## 2 Logistical complexity in the SOC Environment

Secondly, there are numerous logistical complexities involved in the SOC context (referred to by both sets of experts, particularly the RJ expert sample) which need careful navigation by staff involved if RJ is to be pursued, though of course not every one of these complexities will feature in every organised crime group:

- With many OCGs, there are multiple offenders sometimes spread over a significant geographical distance and multiple victims who may also be geographically dispersed (with the police not necessarily being aware of all group members and all victims as many may not report their experiences of victimisation). This may extend to impacting on the community, with some OCGs having an extended regional, national or international reach affecting many communities. Hence, geography itself may present challenges for facilitators attempting to engage people in dialogue, compounded by problems with finding suitable venues in such circumstances if a face-to-face conference is sought.
- In convening multi-agency (virtual or physical) forums, there may be a diverse range of partners involved from different disciplines and with very different outlooks and views about RJ for their particular case. Changes in personnel can arise as prisoners move from one prison to another. Hence, the model does rely on excellent voluntary engagement from agencies which may be geographically dispersed too.

- The length of time taken (especially if a staged intervention model is being used) to prepare both parties to engage in a dialogue, requiring increased resourcing levels and excellent communication with the parties to retain their motivation.
- Logistical challenges can come in the form of victims who seek RJ but are not willing to go to a prison where their offender is being held (though this is not restricted to SOC cases).

This, then, gives rise to a unique set of circumstances which non-SOC crimes may not present to the same degree, complicated by how police assess offenders in groups and subsequently make a decision to formally map a group – or not. These circumstances described above may also clearly apply to non-mapped groups which are operating in a very similar way but just not having been formally mapped, as they do not meet the defined Home Office criteria for mapped groups. Please see Chapter 2 for a fuller discussion of the mapping process and force-prioritised offences.

### 3 Need for Experienced Facilitators

These risks which need to be considered, combined with the challenges involved in the SOC context which do not necessarily apply in non-SOC contexts, require well-trained, experienced facilitators who are highly motivated to work on such cases. High motivation is required because each case can take a very long time, compounded by prison moves and other delays, and relies on their (and their agency's) voluntary participation. A good knowledge of how OCGs operate and the role that the interested offender played is important. The extent to which the risk landscape can change with speed in a SOC setting requires experienced risk assessors and partnerships skills to work in collaboration with other agencies.

It is necessary for facilitators to sensitively manage expectations of both parties requiring highly-honed communication skills if one party rejects an RJ offer initiated by the other, particularly if a victim refuses and new risks emerge as a result (though this applies in non-SOC settings including physical violence and all cases where the parties know one another). There is perhaps also a need to recognise the offender as a victim (as discussed in Chapter 5) arising from the way that individuals are drawn into or recruited into OCGs with a degree of

empathy and understanding from facilitators being significant aspects of understanding behaviour in RJ contexts.

*Some Further Reflections from undertaking the Case Studies*

1 Who should decide which offenders and which victims should be offered RJ and who should decide that the time is right for either party?

These views which prevent the broader and more widespread consideration of RJ within SOC raises questions about who the decision-makers should be about whether an RJ offer is made to offenders and victims – or not. These are ethical considerations and perhaps some may state that the issue is irrelevant – after all, the law legislates that every victim should be offered the opportunity to receive information about RJ. However, there is a gap between this legislation and reality and police professionals are choosing to exercise discretion. What may be more important to have in place is defensible decision-making to be the norm as is believed to be the case with case study P003 (details of which follow in the next chapter), where the professionals arrived at a collective decision owned by the group not to offer RJ to the victims. It appeared to be the right thing to do – after much deliberation and thought. If such a model were to be adopted throughout England and Wales, more opportunities to realise the oft-quoted benefits of RJ would be realised for a greater proportion of cases than currently, i.e., cases to be given the initial consideration at least, rather than not considered at all or dismissed outright. Perhaps, as Marchal et al. (date unspecified on webpage) assert (with acknowledgement to Pawson and Tilley's (1997) works), that in respect of evaluation research, the realist question should not simply be 'Does it work?', but 'What works, for whom, in what respects, to what extent, in what contexts, and how?' To this, another dimension that could be added in the SOC and policing context during times of austerity is 'and at what cost?'

An added complexity to thinking about decision-making may be about who decides that the time is right? The offender, the victim or the RJ facilitator? Clearly with Daniel's (P012) case, the multi-agency group decided against approaching the victims, and with Matt's (P003) case, the victim decided ultimately. The issues remain unresolved in this study as to what the correct answer is, though one would think that the victim should be afforded the chance to express a view and say if the timing is right for them (rather than for professionals to decide

that the victims have indeed recovered to an extent that they themselves are comfortable with before an approach is made). In this way, perhaps this issue reflects professionals' unease rather than where the victim actually may be in their recovery, who are in effect being denied the opportunity by well-meaning professionals. This point is related to the ethics of RJ, with the status quo reflecting the paternalism evident of professionals making choices and decisions with the "victims' best interests" by effectively restricting information for which they are the gatekeepers.

## 2 Assessing Offender Motivation to Engage in RJ – is it for the right reasons?

Assessing offender motivation can be difficult in any context, though by using the case studies in this study, it became clear that there were numerous challenges faced in terms of whether offenders were seeking a move to a lower category prison or on one occasion requesting to use RJ to gather information to support a defence in court for an outstanding trial. By their nature, some SOC offenders are highly manipulative characters who are well versed in exploitative means who have the power to cause harm to those in the community, even when in prison, which requires professionals who can spot these traits and mitigate against this. Some, particularly those professionals who engaged in multi-agency forums, voiced their concerns that offenders would engage in RJ interventions as they were motivated to seek a move to a less restricted category of prison. Offender motivation was very problematic for some, preferring offenders to engage in order to repair the harm and not benefit on a personal basis in the form of advantages within the prison system. Others felt that this was acceptable as they were being rewarded for having done something good and it was beneficial to receive recognition in some way (one compared this to professionals benefiting from receiving recognition for having done a good piece of work or attaining an award for their hard work) so long as this was not their sole motivation for engaging. Hence, the views of professionals in respect of offender motivation was not clear cut. The work of Hans-Georg Gadamer (1960) as cited by Thames (2005), a philosopher, whose works centre around the art of interpretation and ethical perspectives is relevant here as it sheds some light on the temptations observed in this study of the ethical domination of one set of individuals over another set, e.g., the police of victims and professionals of prisoners. Gadamer's view is that people inherit schools of thoughts (which include prejudices and preconceptions) from their community, tradition and culture from which they derive ethical judgements and

subsequently conduct acts from a moral standpoint; all understandings are shaped by such prejudices and as such all views have to be attained from somewhere, i.e., 'some background factors beyond our control' (Thames, 2005:14). In this context, criminal justice cultures and traditions may well have influenced the understandings that various professionals have shaping the moral codes underpinning their conduct and leading to the ethical domination (with its associated paternalistic overtones) evident in this study. The researcher's own view is that the reasons for why offenders were motivated to engage in this study and in RJ does matter, and had deliberately specified on the Information Sheet that no benefits were to be realised for engaging in the study, e.g., to support deportation appeals or support parole board decisions, nor rewards offered for participation in the study. This was specifically to ensure that offenders in prison and in the community did not take part for the wrong reasons – for reasons not related to repairing the harm for victims and themselves as a result of their own offending behaviour. If they took part and then subsequently received a "reward" or recognition from within the CJS system, the researcher did not see an issue with that. In this way, the researcher demonstrates her own form of ethical domination of offenders by applying her own value judgements within this study.

### 3 A fear is a fear – whether real or perceived!

Another point to note, which emerged as the case studies were being undertaken, is the notion of perceived fears by victims compared to the actual risks that they may face. Victim-perceived fears were just as important as those risk-assessed by professionals (e.g., if a victim was fearful that an offender may come to their door, despite the offender being in prison or if a restraining order was in place even while the offender is a serving inmate). In the researcher's view, the difference does not matter, even though there may be a police resource issue (e.g., if panic alarms need to be installed as a result of perceived fears). The magnitude of the perceived fear may be viewed as disproportionate to the actual risk posed as assessed by professionals and ways must be considered to ensure feelings of fear and safety are addressed.

4 Is the prison setting ripe for RJ interventions – a timely opportunity to encourage desistance?

SOC offenders' understanding of RJ tended to be shaped by their recollection of proxy victims engaging on the Victim Awareness courses that they participated in, primarily for offences unrelated to their own, which some found lacked contextual meaning for them. It is also notable that the take-up rate for RJ among prisoners was much higher than for those living in the community, though this is a cautious finding due to very small sample numbers. What this may point to is the potential for the prison setting to provide a very rich foundational ground for an introduction to restorative practices and pave the way for others to engage in dialogue with their direct victims. Those who identified being dry/clean as a result of incarceration also linked this to emotional strength and being more aware of the impact of their actions on victims, also indicating that this may provide the right space for offenders to embrace the opportunity this affords them in respect of RJ with their direct victims. Furthermore, given that those community-based offenders who, in the moment, liked the idea of RJ and said that they wanted to pursue the option, but subsequently failed to engage with the researcher, may have been distracted by the everyday challenges of living in the community such as handling money, familial relationships etc. Such challenges were often anecdotally referred to by those interviewed in the prison, i.e., that living within the confines of a prison setting was, in fact, easier than living in the community. Such distractions do not abound in prison to the same extent, as this is a controlled environment and where the usual associates/peer influences are absent – notwithstanding that many network within the prison. There is a growing body of literature on RJ within the prison setting, e.g., Van Ness, D. (2007) who discusses the use of RJ within prisons involving prisoners' direct victims as well as a host of other interventions which do not involve direct victims (e.g., interventions such as victim awareness courses and initiatives which brings into prison the victims of offences which are unrelated to the prisoner participant's offences, i.e., not their direct victims). However, limitations to implementation are evident, e.g., the lack of availability of RJ within the prison setting generally as schemes are not offered and are reliant on community-based RJ providers initiating referrals (Johnstone, 2016) as well as increasing awareness of the option among victims and addressing access issues into the prison for victims (Barr, 2013, who reported mutual benefits for both parties in his study in Northern Ireland).



The success rate for prisoners was much better than for those in the community and it may be that this is because they are inevitably a captive audience, with much reflection time at their disposal and support in the form of accessible supervising officers and offender managers based within the prison. With offenders in the community, the daily, busy lives that represent modern-day living with its opportunities, challenges and competing priorities may mean that there is not the reflection time and easy access to sources of professional support which makes RJ a less realistic prospect. Those based in the community proved to be an elusive group to engage in the initial research interview (particularly when no incentives such as grocery vouchers had been offered). However, despite the fact that with those based in the community, neither researcher nor other professionals were actually able to get in touch with them in the first place, the non-responses are not too dissimilar between the imprisoned sample and the community-based samples (about a third respectively). These issues may have implications for the timing of RJ offers by professionals with a predisposition to have RJ discussions while incarcerated with a view to affecting behaviour and positively influencing thinking on release. What is also clear is that across both samples of offenders, the initial willingness to explore the RJ option (10 out of 12 prisoners and 4 out of 5 community-based offenders) is high.

Van Ness (2007) commences his views with a bold statement that summarises the status quo with an assertion that most RJ is undertaken in the community. She cites 3 reasons for this: it is easier for offenders to make amends in the community, most work with offenders and victims takes place outside prisons, and the use of RJ as a diversionary mechanism in the main precludes post-sentence RJ. While this may not be an accurate statement of the state of affairs over a decade later with more RJ being undertaken in prisons, some of the implementation issues remain. The use of surrogate victims in prison as part of RJ schemes are discussed, as well as mediation/dialogue programmes demonstrating the possibilities within the prison setting.

Hence, while it would appear, based on the research findings, that the prison setting is ripe for RJ interventions in relation to issues related to offenders (e.g., ready availability of the captive offenders, access to prison-based support etc.), issues which are more victim-centred (e.g., access to the prisons, knowledge of the availability and possibility of RJ with their offenders etc.) are not as easy to resolve. As some of the literature does cite examples where

RJ has been successfully undertaken (e.g., Goossens, 2012, who describes a successful RJ intervention between an offender and the mother of the woman he murdered in a prison in Belgium), the possibilities are clear.

*Themes from the Case Studies that may not necessarily be SOC-specific: timing, closure and (re)integration*

Three themes emerge which are common to both offenders and victims, which are not necessarily SOC-specific and probably apply to the broad spectrum of offending, but worthy of note here:

1. The timing of offers for RJ is as relevant for offenders as it is for victims. Given that a small number of offenders expressed motivation to engage in RJ with their direct victims but either felt it was too much for them to undertake at the present moment in time or specifically alluded to a need to delay till they were emotionally and/or psychologically ready, the timing of such offenders becomes relevant in terms of RJ practices. "Emotional readiness" assessments may be required to assess and track an individual's journey so that they can be involved themselves in articulating when (if at all) is best for them. This could be with the assistance of those qualified to assist in engaging at such a level with those affected by offending and its associated harm. RJ offers need to be made at the right time for both offenders and victims as is evidenced by those SOC prisoners who initially indicated a willingness to pursue RJ, but on reflection felt that there were too many other more pressing personal needs which needed to be addressed by them before they could meaningfully engage with their victims. One such prisoner who did not take part in the research interview, but who had spent some time in discussion with the researcher expressing his willingness to pursue RJ in the future but that he was very emotionally unwell at the time, subsequently (a year later), went on to be considered for RJ by police-commissioned services in his area. This became known to the researcher when she was approached to advise on the case after the fieldwork phase of the current study had been completed. This may demonstrate that once seeds are sown, if an offender genuinely believes that engaging in RJ will meet some unmet needs, they are able to follow-through with their intentions. In fact, the case studies demonstrate that once

individuals express an intention to pursue RJ, some have the potential to remain with the process for a very long time – to its conclusion.

Timing in relation to RJ's prospects as a crime prevention/early intervention tool in the fight against SOC: Crawford (2015) discusses various aspects of temporality in relation to RJ one of which is the timing of RJ interventions in ways which make sense for the parties involved –the victims in particular. As recovery from trauma takes time, and is dependent on victims' individual and differential capacities, the timing is significant. Morris et al. (1993) in their study of family group conferences in New Zealand describe how some victims were very dissatisfied as their needs were not accommodated: they felt ill-prepared with a lack of good-quality information and endured emotional distress which required professional psychological support – all of which needs to be addressed before a constructive RJ intervention can take place. Crawford concludes that 'Hence, recovery from trauma and the receptiveness to closure for victims have significant implications for the timing of restorative justice encounters and interventions.' (Crawford, 2015:481).

A primary focus of restorative justice (notably in its restorative outcomes) is on directing, steering and influencing prospective behaviour rather than merely accounting for and holding individuals responsible for past conduct. Hence, restorative justice – like crime prevention more generally – presupposes a conscious awareness of the future and an effort to regulate future conduct in the present. (Crawford, 2015:475).

2. Closure for offenders is as important as it is for victims, though perhaps with different end goals. For victims, the literature appears to focus on notions of "moving on" and "putting the whole thing behind me"-type messages as measured by victim satisfaction, i.e., about returning to a former state (in so far as that may be possible) and reducing the impact so that the memories of what happened may become more distant. Doak (2011) states that while emotional healing through engaging in RJ is clearly valued by victims for therapeutic benefits, there remains 'little hard evidence of the capacity of RJ to effect emotional healing' (Doak, 2011:451), thus making a convincing argument for systematic research into the micro-dynamics of interactions within RJ which impact on emotional wellbeing (as opposed to using measures of

victim satisfaction). For offenders, it would appear that they seek closure in relation to being forgiven and being able to answer questions that only they can answer for victims. This too is with a view to opening new chapters – about learning of the impact of their criminal actions on affected parties and then using this as a trigger experience to examine options to begin a non-criminal path.

3. (Re)integration is as relevant to victims as it is to offenders. There is much written about the reintegrative potential of RJ for offenders, though it may be argued that, for some, they have always existed on the periphery of society, have grown up on the fringes of “accepted” and “acceptable” norms and values, and RJ provides the space for integrating into their respective communities. On the other hand, victims, including in this study (for fraud-related offending only), describe a process of self-alienation following their experiences, unable to confide in others including those closest to them, and heightened feelings of shame, stupidity and self-blame for being duped in the first place. Those who engaged in RJ (both in this study and in the N8 pilot case study) made statements suggesting that they felt better about themselves, with lessened feelings of being duped (in the N8 case study, one elderly victim subsequently gave presentations to her church and other community forums talking about her experience in the hope that it would open up dialogue for others and continue to have therapeutic benefits for herself). This exemplifies the reintegrative potential for victims as a result of engaging in RJ.

#### *Scope to Improve Practices and Guard against Poor Practice*

Poor practice, as reported by Acton (2015) and Zervova (2007), can and does happen, e.g., in the way that RJ is offered to individuals (see P003 where the way that RJ was explained to the victim may have been a contributory factor leading to the premature closure of the case). What becomes clear is that not only does the offer need to be made in the right way by experienced qualified staff who understand the SOC context, but also for the participants to receive high-quality information about RJ from those who work in the specialist field. With one case study (Matt – P003), the victim did not recall being offered RJ by the police at the point of sentencing and, while timing may have been an issue, it may be common for individuals not to recognise what is on offer if quality information is not imparted by a specialist in RJ who is qualified and well-informed – leading to missed opportunities.

Care must be exercised that RJ is not misused in any way, for example by SOC experts who believe this may give them the opportunity to harvest new intelligence-building opportunities. The Council of Europe 2018 specifically make provisions in their recommendations to safeguard against such activities by advocating, for example, that participation in RJ cannot be used as evidence of guilt admissions at any subsequent court proceedings.

The Council of Europe Recommendation CM/Rec (2018)8 stipulates that in order for facilitators to work on serious, complex and sensitive cases, they should be adequately trained and experienced. Despite thorough and lengthy preparation and good communication between the parties, there is potential for the process to go wrong, as demonstrated by Matt's case (P003). Poor practice can happen anywhere within any agency, and does happen, and this can increase vulnerabilities for potential participants.

There were several practice-based suggestions which may improve practices that can be identified as a result of the experiences of co-ordinating the case studies:

1. Victims of fraud who engaged in RJ interventions chose not to include supporters. This may be due to their own feelings of self-blame and stupidity, but some also reported not wanting their loved ones to suffer or place them in a vulnerable position by having to go inside a prison or meet a criminal. If victims are to benefit from the support of a trusted person, it may be that RJ facilitators need to utilise the opportunities during the preparatory phase to address their concerns so that more take up the opportunity afforded to them.
2. Practice-based learning includes consideration to a staged approach with less intrusive methods of RJ being used before utilising progressively more personal approaches, e.g., using letters, before considering shuttle mediation before progressing to face-to-face conferences in line with participant's preferences. Adaptations can be made to practice so that individuals can feel more confident and safer having learned more about the other party, e.g., through hearing their voice or seeing how they look using technological means.
3. Support packages need to be in place from the outset for all participating parties should the need to access such support be required straightaway.

4. Using former OCG members as offender supporters was suggested by the researcher during the focus group and supported by respondents.
5. Offenders may present different reasons for why they offended against the victim in response to their 'Why me?' question. Within the batch of case studies, one victim was informed in a face-to-face conference that the offender had led a life of crime due to his drugs addiction and this was met with an overwhelming sympathetic response as this had put the SOC member's offending in context for the victim (in part, shaped by the victim's own experience of supporting a member of his extended family with an addiction in the past). Another victim, through an audiotaped shuttle mediation, was informed that an entrenched drugs addiction had led to the offending spree, and this was met with disgust as it was perceived to be 'just an excuse' (and indeed, may have played a contributory role to his eventual withdrawal). This victim explained that he had no experience of illicit drug use and did not know of anyone who had any addictions. One suggestion may be to incorporate such learning about drug use into the preparatory phases, as suggested by one of the offenders, who was disappointed that the victim had withdrawn. This suggestion clearly would apply to both the SOC and non-SOC contexts.
6. Enormous difficulties were experienced in engaging corporate bodies to take part in this study, e.g., insurance companies and banks; the same was experienced in the experimental pilot study (D'Souza, 2019). The reasons for this are unclear as many did engage initially expressing some motivation to assist the researcher in her study and the offender with a potential view to playing a part in their desistance journey and preventing further victims. It can be speculated that this withdrawal from the initial engagement was due to (a) the perceived risk to employees from such offenders, and (b) the potential reputational risk as to engage in this study would require an admission of the organisation having been the subject of fraudulent actions. It may be that to enable this type of intervention to occur in the SOC as well as the non-SOC context, a national challenge is presented.
7. P011 who took part in a shuttle mediation RJ intervention with his victim (a secondary victim) provided some clarity in his thinking in respect of seeking forgiveness in exchange for his apology by stating that he felt it was impossible for the victim to accept an apology on behalf of his mother; one can only accept an apology for the

impact criminal actions has had on him as the participating victim. This may be important to bear in mind in relation to managing expectations.

## 6.9 Summary and Conclusions

The potential for a win-win situation is very much accentuated in the RJ context compared to the adversarial court process where victims often report a level of dissatisfaction both with the process and the outcome. The choice to engage in RJ or not to engage, which is exercised by offenders and victims, when based on good quality information and informed decisions, needs to be respected as the very precept of RJ is one of voluntary participation. Offenders thought that by engaging in RJ with their victims, victims would see them as they see themselves – good people who have made mistakes, who have apologised and who are prepared to make amends. Victims thought that offenders would see them as they continue to see themselves (primarily in derogatory terms); perhaps RJ may give these individuals the opportunity to realise their own strength (as remarked by one offender in the current study) while creating the opportunity for mutual empathy and understanding. However, this is not withstanding that in detailing what they thought the other party stood to lose or gain from engaging in RJ, they showed much empathy with each other already, e.g., offenders’ understanding that victims may have Why Me? questions. It would appear that there are mutual benefits to be gained with the potential to create a win-win situation.

Table 6.4: Case Studies – Key Information

	OFFENDER CODE	VICTIM CODE	CASE STUDY DETAILS
1	P001: James  (Significant)	V004: William	James requested RJ and wrote a letter of explanation to one of his victims (William) and participated in a taped shuttle mediation with another victim (Richard) which has not concluded at the time of writing. In the knowledge that his mother was very seriously affected by his offending, the

		VOO6: Richard	offender wrote a letter of explanation to his mother, which he subsequently audiotaped with the intention of playing it to her; this has yet to be concluded <sup>44</sup> . He also requested a meeting with his arresting officer (the OIC who has yet to be allocated a code and fictitious name) with a view to learning more about the impact of his behaviour and making further amends where possible. The OIC has agreed to have a restorative conversation and this too has yet to be concluded.
2	P003: Matt (Not Known)	n/a	Matt requested RJ, and the multi-agency multi-disciplinary meeting which was convened made a collective decision that this should be pursued, with caution. The victim refused to engage.
3	P004: Chris (Peripheral)	n/a	Chris requested RJ, but on reflection felt that he would not be able to engage emotionally at this stage due to drug-related issues.
4	P005: Joshua (Not known)	n/a	Joshua requested RJ, but on reflection with the researcher, post-research interview, felt that there were many other personal issues in his life which needed to take priority at present.
5	P007: Mike	n/a	

<sup>44</sup> No code or fictitious name was allocated to the offender's mother as she has yet to take part in this study. As explained in Chapter 4 (Methodology), the research project and practice has had to be split in effect for ethical reasons; the interventions with offenders and victims and affected parties consenting to take part will continue if they are mid-process and including after the conclusion of this research for the purposes of the PhD.



	(Peripheral)		Mike requested RJ, but on reflection with the researcher, post-research interview, felt that priority needed to be given to addressing his significant mental health and resettlement issues.
6	P008: Steve (Peripheral)	n/a	Steve requested RJ but withdrew his consent by not engaging in a second interview.
7	P009: Stuart (Principal)	VOO3: Thomas	Thomas requested RJ; the researcher located the principal offender and a face-to-face conference took place in prison.
8	P010: Andy (Principal)	n/a	Andy requested RJ, but all corporate bodies which the researcher contacted (the victims were corporate bodies such as insurance companies and banks) refused to participate.
9	P011: Robert (Principal)	VOO4: William VOO6: Richard	Robert requested RJ and a taped shuttle mediation took place with Richard (V006) (see above). William V004 felt that having engaged once before, his needs had been met and that he was too old to take part in another RJ intervention.
10		n/a	Daniel requested RJ, but a part-virtual, part-present multi-agency multi-disciplinary meeting which took place made the

	P012: Daniel (Principal)		collective decision that it would not be appropriate to contact the victims at this present moment in time.
11	C001: David (Peripheral)	n/a	David requested RJ but failed to engage with the researcher subsequently.
12	C003: John (Principal)	n/a	John requested RJ and after reflection with significant others, withdrew his consent.
13	C004: Kevin (Peripheral)	n/a	Kevin requested RJ but failed to engage with the researcher subsequently.
14	C005: Alfie (Significant)	V007: Mary	Alfie, subject to probation supervision, requested RJ and a letter of explanation was written by him and read out to Mary (V007) by phone due to the geographical distance between the parties. This progressed to a shuttle mediation between the parties.

## **Chapter 7: Can Restorative Justice be used in the Serious and Organised Crime Context?**

### **7.1 Introduction**

This chapter will reflect on the implications of the findings of this study on theory and practice before outlining the limitations of the study and detailing some recommendations from an academic perspective as well as a practice perspective for future consideration. What may be possible in this context, compared to what is practical at times of austerity, will be considered in detail with reference to SOC experts' comments about feasibility and what potential exists to halt the current postcode lottery for non-SOC cases. Finally, some reflections are offered in relation to police forces' use of evidence-based research to inform their practices, with a consideration of some of the implementation challenges and what this may mean for police legitimacy, in the context of using RJ as a Prevent tool.

### **7.2 What do the findings reveal about SOC at the level of the police and at a theoretical level?**

As highlighted in the SOC literature, there is a domination of the imagery in the lay public mind of Mr/Mrs Big and Mafia gangs when the words 'SOC' are used, but as highlighted by the case studies in this piece of research, this is not necessarily the case in the UK – in fact, most mapped OCGs are a far cry from the imagery of Mafia-type gangs. The case studies have been limited to fraud cases, but there are many other OCGs involved in other types of offending which are similar to other serious non-SOC offending such as domestic/commercial burglaries, assaults etc. As Francis et al. (2013) found, many SOC offenders are generalists, with their offending including offence types for which RJ is widely used. This begs the question as to why, once the SOC label is ascribed to a group of individuals who are mapped by English and Welsh forces, RJ appears not to be routinely considered as an option; they appear to be automatically excluded from all RJ considerations. One aspect which appears relevant to this argument is that formal definitions are too broad and appear to capture those offences which may not have been previously conceptualised as SOC; their inclusion in this way under a broad umbrella term limits the efforts and actions of law enforcement in ways which dismiss their potential to receive RJ interventions in relation to the status quo for the way that RJ is perceived by SOC experts.

It becomes clear that the overseas Mafia model as described in Chapter 2 is not relevant for the organised fraud cases discussed as part of the current study. While there may be Principals in England and Wales who 'manage their organisations', they are not enormous 'family' groups, i.e., home-grown Mafia. Instead, they are groups of varying sizes and connections and much more fluid than previously thought. SOC mapping appears to have moved to some extent away from drugs to offences with vulnerable victims (e.g., fraud and human trafficking), so ideas about SOC need to stop being those perhaps more relevant to drug-related offending. Risk and manipulation can occur, and does occur, outside the Mafia – and RJ practitioners are, in effect, accustomed to working in contexts where this occurs.

It is clear that police SOC concepts and mapping are slow to evolve, for example, it is only very recently that the SOC strategy recognises that OCGs do not necessarily involve the strict hierarchies previously used to map OCGs, but that there are in fact, loose networks of offenders that come together to commit crimes. A dynamic crime environment is observed, so such mapping processes become old quickly and tools need to be frequently updated and revised to keep up with changes within the criminal landscape. The use of outdated tools inevitably means that the police will fail to keep up with the fast pace of change and subsequently be several steps behind offenders – leaving offenders to develop the sophistication of their organisation and cause more harm. However, for the purposes of this research, the defined hierarchy of each OCG was a helpful aid in terms of identifying roles within the group and taking this into consideration in the risk assessment process. It also proved to be a useful tool in assisting those not familiar with the way that serious and organised crime groups are policed and mapped to understand the roles played by individual offenders and gave a language with which to communicate concepts and criminal roles.

Furthermore, the police do not have mechanisms for testing their assumptions about what is happening in local communities that is currently not on the police radar, i.e., no means for what in other areas is referred to as 'ground truthing'<sup>45</sup> their assumptions about activities which they are not investigating or exploring. Greater engagement with the academic community would, in this respect, prove beneficial as this would pave the way for actions

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<sup>45</sup> 'Ground truth is a term used in statistics and machine learning that means checking the results of machine learning for accuracy against the real world. The term is borrowed from meteorology, where "ground truth" refers to information obtained on site. The term implies a kind of reality check for machine learning algorithms. From: <https://www.techopedia.com/definition/32514/ground-truth>

based on evidence and lead to police work in territories currently unexplored. The consequences of not engaging with research to the extent required are that SOC experts' work is led by issues of topical interest; it is clear that drugs have dominated the SOC offence types pursued over the last decade (most probably based on a presumption of what constitutes serious offending, rather than based on research evidence) and continue to do so, as evidenced by the volume of drugs-related offences which prevail in the north-east profile of mapped criminality studied as part of the current research. This now seems to be evolving to capture offence types with greater vulnerability such as fraud and human trafficking – both receiving a high profile from a political and media perspective – but not based on an active investigation of what may be happening in local communities which the police are not aware of. There is also a return to a drug focus in the form of county lines offending, though clearly vulnerability is a key focus with this type of offending too. The NCA 2019 Serious and Organised Crime Strategy focuses on exploitation of the vulnerable (with particular reference to modern slavery and human trafficking, CSEA and organised immigration crime). Hence, the police may well be focusing on issues which are not hurting local communities the most, but those which are of topical/new vogue interest and subsequently mapped as organised criminality without the evidence base to support it. This may point to wider issues in relation to the police's use of evidence-based practice generally, though this study is confined to the SOC context. Not making use of the evidence which exists, and working with academia for ground-truthing purposes, has significant implications for policy around the use of RJ, potentially confining its use to young people who have committed low-level offences and where diversionary measures are being considered as part of an early intervention focus. While it is good that vulnerable groups are recognised within local communities, it does also indicate that police SOC experts (who have much specialist knowledge of, for example, disrupting drug dealers) may not be able to meet the needs of a diverse range of victims with multiple and complex needs; this highlights the need for SOC units to be staffed with vulnerability and safeguarding staff who have the necessary expertise to assess, recognise and meet such needs.

Much more needs to be known about the mindset of individuals who choose to be part of criminal groups and commit offences of a serious and organised nature and how they develop and manage their criminal SOC careers, including whether they specialise in crime types or

are generalists. The 2019 SOC Strategy does recognise polycriminality amongst the SOC offender population as well as those that have specialised in their offending careers. However, there is much that is unknown about the criminal lives and pathways into and out of SOC careers. Life-course criminality studies tend to have focused on general populations, without looking at serious offending.

If the commonly held police perception that RJ is for youth offending contexts prevails, this would only apply to 1% of the entire SOC convicted population (this is based on Francis et al.'s 2013 study where this very small percentage in their PNC-based research were under the age of 18 years). In addition, the average age of SOC offenders in their study was 32 years, so this too has implications for using RJ with adults and with more serious offences.

### **7.3 What do the findings reveal about RJ at a theoretical level?**

In relation to theoretical perspectives, the literature has been helpful in assisting the researcher conceptualise interventions, e.g., to stimulate thinking about the differences between 'restorative practices', 'restorative approaches' and 'restorative justice' – all terms used synonymously by practitioners to mean different things, i.e., it has helped to achieve clarity so that it could be pinpointed that the study is about interventions involving direct victims with a facilitated dialogue which could take the form of letters, shuttle mediation or face to face conferences – a negotiated process between the parties to meet mutual needs, with each party able to bring supporters to the process should they so wish. However, there is room for improvement from a theoretical perspective. This primarily manifests in the lack of definitional consensus. This appears to cause confusion in some very important ways. The terminology used can be unclear with practitioners using different terms to mean the same type of intervention, so that it becomes difficult to distinguish between terms such as 'approaches', 'practice', 'restorative justice' and 'mediation'. These terms do have some important differences such as the presence of supporters or no supporters and whether it involves direct victims or proxy victims, for example. The Council of Europe Recommendation 2018 (Rule 3)'s reference to 'any process' includes all forms of approaches and practices where proxy victims and victims of unrelated offences may be included and, in the researcher's view, potentially adds confusion to the mix. Restorative justice framed

consistently between academics as a process involving direct/indirect victims (as opposed to proxy victims for example) is important as it is about addressing the impact on individuals and communities resulting from the crime(s). The potential for difficulty was shown in this study in some offenders (albeit in small numbers) expressing confusion about engaging on programmes where victims of unrelated offences were involved (but framed as restorative justice). Clear theoretical statements which identify the specific differences in terminology commonly used would be helpful and may help to address the 'conceptual confusion' referred to by Dignan (2005).

It also became clear that RJ as a theoretical concept affords much flexibility and can be malleable in some important ways to enable some bespoke interventions to be designed – so long as the aspirations are towards restorative outcomes for both parties. The study confirms the place of RJ as an inherently flexible tool to not only prevent offending of a serious and complex nature (though the study did not seek to measure re-conviction rates post-RJ), but to address emotional mental wellbeing for both offenders and victims. Despite this flexibility, there is room for improvement. RJ definitions should more overtly acknowledge the mutual benefits that can often be denied and the concept should not be 'sold' as a primarily victim-led and victim-focused intervention. This is all the more important if there is a genuine belief in social capital and community reintegration of law-breakers on the periphery of society. Furthermore, RJ theory should recognise the potential blurring between victim and offender roles in an explicit fashion so that such complexities are recognised within the model while acknowledging that in the context of the criminal justice system, there is a 'harmed' and a 'harmer'.

The principles and standards which are established have been helpful too (not least because there appears to be much global consensus on the underpinning values), particularly as ethical considerations were not an exercise which was undertaken at the commencement of the study and then 'filed away', but a continual process of review; all the more so, as new circumstances arose so, for example, it was necessary to consider who informs the offender about victim-initiated requests – the researcher or the RJ practitioner or some other professional. Walgrave's (2008) definition which refers to 'any action' which is designed towards reparation for crime-caused harm should explicitly state the voluntary nature of such actions where the parties are fully consulted so that from an ethical perspective, no coercion

by any professional or party can be exercised either to engage or to agree to specific outcome agreements. The principle of RJ agencies to be given autonomy in relation to the criminal justice system is the last of the eight principles identified by the Council of Europe Recommendation CM/Rec (2018) 8. This may be the most contentious principle as it requires faith, trust and confidence in RJ professionals by professionals in the criminal justice system who are responsible for making referrals, e.g., police SOC experts.

Furthermore, many of the definitions lack clarity about who the intervention is for – perhaps a very clear statement that it is both victim-centred justice (designed to be about the victim’s voice which is often reported to be denied by the adversarial process so that RJ tips the balance towards the victim), but it is also for the offender to experience some benefits too. It can be and should be for both. This is captured by the work of Zinstagg and Chapman (2012) who note the advantages of a ‘balanced model’ of restorative justice with benefits to the offender, the victim and the community in their study of youth conferencing in Northern Ireland. They use Campbell et al.’s (2006) notion of the balanced model as their framework for evaluating the outcomes of the interventions in their study, which attaches equal importance to the needs, rights and interests of all parties without any ranking of needs between offenders, victims and the community. This level of equity is emphasized in Campbell et al.’s (2005: iii) evaluation of youth conferencing in Northern Ireland with youth conferencing seeking to ‘devolve power by actively engaging victim, offender and community in the restorative justice process.’ Marshall’s (1999) globally quoted definition specifically states that one of the key objectives of RJ is to fulfil victims’ needs. Other objectives include achieving a more harmonious society with an engaged community, and offender-related objectives. Offender-related objectives in relation to rehabilitation and reintegration are helpful, but not framed with an offender orientation. An offender orientation might take from the strengths-based approach (e.g., about his/her positive relationships with others, employment prospects etc.). They would include improvements at a personal level about fulfilling basic physical, social and emotional needs as with victims, but incorporate a quest to change the offender’s behaviour so that there is a better impact on society or a reduced negative impact. RJ can achieve a sense of closure for both parties and this potential needs to be acknowledged. The researcher heard anecdotes from some involved in the fieldwork that they very much wished for the victim to achieve closure and satisfaction and it ‘would be



a bonus' if the offender took away anything positive from the experience, or that it didn't matter too much so long as the victim(s) achieve their objectives from the process. An unequivocal statement that RJ is about engaging in a voluntary dialogue where informed consent has been secured for the benefit of both/all involved parties seems to be an aspiration which also sits more comfortably with the stated values and standards which pertain to RJ, i.e., the potential for integrative outcomes for offenders and reintegrative outcomes for victims.

Most academic advocates for RJ focus on positive outcomes as being about victim satisfaction (victim-oriented statements) and reduced reoffending rates (community-oriented statements in relation to keeping communities safer) but cover little about offender-related benefits. It is acknowledged that within a SOC context, a definition which centres around meeting a diverse range of needs with multiple offenders and victims will not be straightforward and may be potentially controversial, particularly since (as in many non-SOC contexts) great care needs to be exercised to ensure that offenders do not engage in RJ for reasons that make one doubt the extent to which they genuinely want to meet their victims' needs (e.g., their motivation to engage may be about securing a place at a lower category prison so that they can enjoy greater freedoms). With the perception of SOC offenders as highly manipulative career criminals capable of causing great harm without too much thought about the far-reaching impact of their actions, it may be difficult, at present, for some police practitioners to accept a definition which is deemed to be directly beneficial for the offenders (notwithstanding that desisting would be beneficial given that, in the SOC context, the offenders in both the prison and the community described some very serious consequences that their own offending had on them). The researcher believes that definitions of RJ should also allow for the offender to realise some benefits not anticipated by him/her as they do not always recognise their own needs – for example, for closure, catharsis or emotional healing.

In the current study, given the high attrition rate of offenders who initially expressed a willingness to engage in RJ which did not subsequently lead to RJ interventions, it may be beneficial to ensure that such individuals know that the RJ offer will not be denied to them when they are ready. In fact, participation in prison-based and community-based (probation-run) programmes may be beneficial as a foundation to engaging in RJ with direct victims in the future (if the victims are also willing at that time).

It needs to be borne in mind that the complexities arising from serious cases are due to the processes of recovery for victims and of criminal justice themselves being complex – this should not automatically preclude parties from being given the opportunity to engage in RJ.

The lack of opportunity afforded to SOC offenders and victims, in effect, means that Nils Christie's (1977) notion of the state (via professionals) stealing conflict between individuals prevails! Braithwaite's (1989) reintegrative potential is also overlooked in favour of a punitive stigmatising criminal justice response as a singular response which is not accompanied by RJ considerations. This inevitably means that those labelled as 'SOC' offenders or as entrenched life-long criminals are kept in the cycle of offending in a strong cul-de-sac position by the state, which then subsequently continues to fund more punitive responses as the offenders continue to offend, thereby maintaining the swivel of the well-worn 'revolving doors', a concept explored by Padfield and Maruna (2006) in their exploration of prisoners who are recalled during their licence period.

## **7.4 The Possibilities**

### *7.4.1 There are possibilities!*

Despite the limitations of having small sample sizes, it is clear that there are possibilities of using RJ in the SOC environment, which it would appear are not being currently explored by police forces in the UK. Numerous assumptions made by the police in relation to the suitability of using RJ in such contexts have been highlighted by this study. They seemed to stem from the police's clear propensity to be offender-focused rather than victim-centred in their thinking and in their practices. There are a number of explanations for this status quo. In part, the way that both SOC and RJ are conceptualised by the media reinforces, shapes and maintains the public's views, with RJ being perceived as a soft option and SOC being perceived as big Mafia gang structures. This imagery, which dominates much of the rhetoric around both concepts, does not assist in the police providing a more accessible inclusive service to their service-users – both offenders and victims.

This study excluded all those who were primarily convicted of drug-related offences due to the lack of identifiable individual victims who the researcher could have contacted. However, there may be opportunities even within this context in the form of cuckooing victims who are

targeted by County Lines offenders. Current beliefs, as reflected by SOC experts in Chapter 5, are that principals are lifestyle career criminals with entrenched attitudes, thus typically scoring highly on risk matrices utilised by the prison and probation services. It is therefore assumed that those who are ascribed the highest scores on such matrices (those Mafia-type members and high-end offenders) will not desist; however, this does not mean that it is not possible. (Conversely, it may be entirely conceivable that those who score much lower on such harm and reconviction indices may be resistant to desistance.) The issue of agency (as described by O'Mahony and Doak, 2017) is relevant here. They describe agency as 'allowing individuals the capacity to make choices' (2017:70) within an empowerment model. This is where professionals' skills in harnessing the capabilities of individuals to exercise their own choices autonomously is key, i.e., some may be able to desist despite being heavily convicted with entrenched pro-criminal attitudes. It should not be conclusive that such individuals are beyond such capacities, i.e., beyond help and beyond redemption. This also suggests that reflective practice is not embedded within policing and as such, many may be unaware of the extent to which they disempower (rather than empower) those whom they disdain (primarily SOC principals but other SOC offenders too) who may, in fact, have both the capacity and desire – as indicated in this study – to engage in RJ (and perhaps desist, though this latter point has yet to be evaluated). Consequently, such disempowerment of the offender inevitably disempowers their victims if RJ is placed in an 'out of bounds' category for this type of offending. This, in turn, suggests that the police need to undertake a wholesale rethinking of practice not only at the level of process and policy, but at the level of the way they think and reflect on practice and the impact of their policing actions.

In addition, it should be remembered that it is not necessarily advocated that RJ takes place in the SOC context pre-sentence as this may not serve the public interest and of course some SOC offenders may not admit guilt until the day of sentencing, if at all; indeed it is highly likely that in common with the case studies pursued in this research, RJ is likely to take place during a prison or probation sentence (unlike the non-SOC context where RJ can be offered pre-sentence and at any stage, post the admission of responsibility).

7.4.2 *There are many possibilities, but what is practical in the context of austerity and finite police resources?*

While much emphasis has been placed on a cost-benefit assessment in terms of the risks to victims for example, some SOC experts were also introducing a similar notion in relation to thinking in cost-benefit financial terms, under an austere climate, i.e., if the journey towards realising the desired outcomes comes with a heavy financial and resource implication, when set against all other competing policing priorities (such as catching and convicting those who are deemed to be high-harm causers), how does one decide who is offered the opportunity to participate in RJ? The benefits, as described elsewhere, include closure for offenders (inclusive of emotional closure and use of RJ as a trigger experience to reduce their reoffending potential and integration into mainstream society through increasing their access to social capital), closure for victims (inclusive of emotional closure with increased health benefits and reintegration into their own societal circles), the development of communities of support (harnessing the energy of motivated community members while sending out messages about the tolerance of crime), and agencies having the opportunity to provide an inclusive service regardless of the age of the offender, the type of offence committed and the type of victimisation experienced. All this may, one can speculate, lead to an increase in public confidence and legitimacy in police forces. It is also notable that some of these costs and benefits are measurable in financial terms, but some are not, e.g., victim benefits. It would appear that offender-related benefits are more measurable (e.g., through reconviction rates) whereas there is currently no concrete measure of victim benefits. There have been numerous attempts at social cost-benefit analysis in the public policy area for accounting purposes though this is not uncontroversial (for example, the New Zealand Treasury have published a useful guide on cost benefit analysis), but there remains no tool which can precisely measure such qualitative victim benefits. There have been numerous studies which have measured victim satisfaction with some success, e.g., The Victims' Commissioner's Office (2017) which also acknowledges the methodological limitations of the approaches adopted. It would appear that costs in relation to offender benefits which can be visible and tangible are more easily quantifiable via spreadsheets for example, but the less visible intangible qualitative victim-related benefits are fraught with difficulty in monetising.

In addition to these type of advantages, resource-related benefits include reduced costs against the context of a whole-system approach, e.g., the potential savings to the NHS if RJ addresses the psychological harm to multiple victims, and reduced costs when set against repeated cycles of offenders processed through the criminal justice system with associated court costs, community penalties and prison costs.

However, some SOC experts also referred to the costs of implementing an RJ scheme in this context which they advised needed to be weighed up against the overall benefits summarised above. Costs would be incurred in relation to the following:

1. Time to undertake RJ successfully, e.g., time for robust preparation with all participating parties and intelligence-gathering
2. Costs related to multi-agency collaboration
3. Cost of RJ interventions, particularly if staged interventions are utilised with multiple offenders and multiple victims over significant geographical distances
4. Costs of recruiting skilled, trained, experienced staff
5. Costs associated with training to upskill staff
6. Additional resources, e.g., specialist support for vulnerable victims
7. Cost of campaigns to promote understanding and awareness of RJ internally within police forces and externally with partner agencies, SOC offenders and their victims and the general public.

All this then raises the question of: 'If efforts of such a magnitude are required to offer this as a service or intervention in the SOC context, is it really worth it, and how should one be selecting cases to prioritise to which to offer RJ?' Further research exploring long-term outcomes and measuring costs are required to answer this question (notwithstanding that the law requires that victims receive information about RJ and that police forces should not decide who is offered the opportunity to access RJ information and who should not, regardless of the financial circumstances). While the researcher believes that more resources specifically devoted to the implementation of RJ would not automatically lead to SOC cases being considered for these interventions (as it would be necessary for a programme of education about RJ and its potential benefits to be put in place as well as encouraging a belief in the viability of using RJ amongst some police officers and staff in England and Wales), a

strong fairness issue is at play here. A human rights issue becomes apparent in this respect in that offenders are denied the opportunity for rehabilitation, a stated outcome of sentencing policy, both for incarceration and community-based sentences (White, 2017). In the case of *James, Lee and Wells v UK* (2012) 56 EHRR 299 (“James v UK”), the European Court of Human Rights decided that failures to progress prisoners who had received indeterminate sentences (e.g., through timely access to rehabilitative programmes of intervention) towards post-tariff release denied these IPP<sup>46</sup> offenders the opportunity to demonstrate to the Parole Board that they no longer posed a risk to society and were safe to be released<sup>47</sup>. In a similar way, offenders who are denied this particular form of justice (RJ) would have their rights denied – not only because the offer is not made in a timely way (as was the cases with James, Lee and Wells cited above), but because the offer is not made at all. The lack of resources to accommodate all victims receiving RJ information and then wishing to pursue it (pending the availability of such services in the local area) is challenging as a police force cannot be coerced or directed to offer RJ in a specific case, but nor can the stance be justifiably adopted that a police force cannot offer RJ to all SOC cases. Even a strategic imperative to adopt a system which prioritises cases, or offers a certain percentage the choice to follow through with RJ as part of a resource allocation formula, cannot be a defensible position as the Victims Code says that all victims must be offered information about RJ. If victims were told by the criminal justice services that they do not fall within the quota, this would no doubt adversely affect the legitimacy of the police or CJS in SOC cases as it would become clear that significant resources are being spent pursuing offenders but a disproportionate amount is being invested in assisting victims.

Furthermore, the constitutional separation of powers<sup>48</sup> within the government’s infrastructure in the UK is also significant. Masterman (2010) explains that:

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<sup>46</sup> IPP: Imprisonment for Public Protection – designed to ensure that prisoners whose crimes did not warrant a life sentence but who continue to pose a serious risk are not released until they are safe to return to society; IPP was created by the CJA (2003) and abolished by the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO, 2012).

<sup>47</sup> More at: <https://www.supremecourt.uk/cases/docs/uksc-2014-0036-judgment.pdf>

<sup>48</sup> Constitutional separation of powers ensures that the different departments of the government can have independent powers, it limits any one branch from doing the job of another and prevents the concentration of power to any one department; the legislative branch, the judicial branch and the executive branch (which governs public policy) are considered to be the different organs of the government in UK (Masterman, 2010)

Britain is in the process of becoming a constitutional state, one marked by checks and balances between the different organs of the government, and a state in which the judiciary now has a crucial role to play in the determination of individual rights and in determining the scope of government action (Masterman, 2010:245).

This intersects with both the Human Rights Act (1988) and the Constitutional Reform Act (2005). Masterman explains that the creation of the Supreme Court for the UK underlines the separation of the legislative (responsible for enacting laws) and judicial (responsible for interpreting the laws and dealing with any controversies) functions of the government, with an extension of the judicial function into the enforcement of human rights legislation. In this study, while the courts do not specify that RJ must be undertaken as part of a sentence for adults, there may be some human rights violations in that the Victims Code (2015) is clearly not met for this subset of offenders.

In addition, it must be emphasized that it is up to participants to decide if the option is one that they would like to consider or not, and not for the criminal justice system to decide. If one adopts the view that it is up to the criminal justice system to decide, then it is the equivalent to the state deciding to adopt a selective process in relation to who is prosecuted and who is not.

Furthermore, a managerialist perspective is then also put up against human rights conventions, with the former winning with the state taking control and not the affected parties. Clearly, potential participants are robbed of all decision-making powers when the state decides who should be offered RJ and who should not. Simon (1993) in his discourse on parole, suggests that it was not a call for greater punitiveness by the public which led to an increase in the rise in the prison population, but more rigorous enforcement (which was unrelated to risk assessments), i.e., the pursuit of performance targets which were measured to assess the performance of organisations. This, he argues, ensures that the underclass is kept out of society by ensuring a swift return back to prison. This clearly impacts on individual human rights as it is not the risk posed by prisoners leading to more of them being sentenced to prison, but the actions of state-paid/authority-led staff attempting to adhere to performance targets (Matthews, 2005). Stockdale (2015) reports that in her case study of one small force in England, police officers knowing that RJ did not count as a sanction detection (a key performance target) led to them *not* pursuing RJ (across all offence types),

hence indicating how performance targets can determine outcomes for participants. In relation to this study, police SOC experts making the decision in the name of safeguarding victims and having a general belief that RJ cannot be applied in this context are also managerialist in their approach, reducing their own potential for victim-centred/victim-empowered practices. This situation further compounds the issues in relation to offenders' social exclusion and the difficulties in re-entering society, in effect, retaining the revolving door syndrome for SOC offenders who are sentenced to prison.

#### *7.4.3 So, what may be possible ways forward from practitioner and academic perspectives?*

It may be necessary, from an operational perspective, to further develop and embed RJ practices in non-OCG contexts first, as this may prove to be an excellent basis for developing understanding and competence about the application of RJ. Furthermore, this may be a good way of developing confidence in the option and enabling the police to see first-hand the potential outcomes of RJ, hence effectively dealing with many reservations about using RJ with SOC offenders. In this way, on a national basis, further developing practices in serious and complex cases (not necessarily, serious/complex and organised mapped cases), may prove fruitful in gaining the motivation of those who do not believe in the potential outcomes from deploying restorative approaches in the SOC context, so that a more stepped approach is deployed. This may work on a practical basis but would inevitably mean a continuation of the status quo in not adhering to the Victims Code. Applying learning from this study to undertaking restorative approaches with OCG offenders who have committed non-OCG offences including for non-serious or minor offences (but have retained their membership of mapped groups) may also be worthwhile to ensure that safe practices are followed, as the researcher believes that the risk assessment model and subsequent interventions will not differ to the OCG context. In addition, where commissioned services are used by forces, it is necessary to ensure that they receive the necessary essential information about membership of such groups for referrals made and that all information which may reflect on the risk category assigned to offenders and their victims and which fundamentally determines the assessment and any subsequent interventions is given as appropriate. This is all the more important as this study has revealed that, within some forces, referrals may be made but



without the prerequisite information needed for safe RJ practices as the police are not sharing the relevant mapping-related information.

Given that the study has focused on the application of RJ in the SOC context, but given some indications about the use of RJ on a national basis with particular reference to the use made of research evidence to inform policing practices, a full, national-level review of policing practices in relation to the use of RJ needs to be undertaken. RJ is situated within the Out of Courts Disposal NPCC Policing Lead's portfolio, which gives a significant indication of how RJ is perceived and its role marginalised as a response to fight and prevent crime. This then, is indicative of a need for a national policing direction about the use of RJ which is not confined to serious and complex crimes or, indeed, serious and organised crime within that. This would give some scope to deal with issues identified in the current study such as the lack of adherence to the Victims Code and the preference for SOC experts to refer peripherals (once convinced to refer SOC cases at all) above any other mapped criminal.

Given the high rates of reticence amongst the police SOC experts surveyed, it may be the case that SOC experts start by making referrals to RJ experts for peripherals only in the first instance (and this would be a good start to build up a body of evidence). However, Francis et al. (2013) found that one in ten of the SOC offenders in their sample did not reach their criminal offending peak till their 30s and so, if peripherals (and younger SOC offenders) were chosen as a starting point, it may indulge the notion of RJ being best for younger offenders and this may not be a strategic risk worth taking. In addition, this may lead to a degree of victim dissatisfaction as victims may want a dialogue with directors/orchestrators of their organised crime groups (see V007). In addition, this cannot constitute evidence-based practice, as the research unequivocally demonstrates effectiveness in more serious cases and it would inevitably deprive victims of their right to be given information about RJ if they have been victimised by significants and principals. This suggestion is made on the basis that success with *some* SOC mapped offenders will open up the gateways for referrals involving those who direct and orchestrate their criminal work, as police officers will see first-hand the potentially transformative impact that RJ can have. Other recommendations include:

- Undertake an internal marketing campaign within police forces on a nationwide basis to spot and fill the gaps; this would be by presenting a strong case for the wider

adoption of RJ for all offences (not only SOC-sensitive cases) which incorporates the following: (a) ethical/moral/vocational imperatives, i.e., offering RJ is the right thing to do so that professionals do not select “in” or select “out” cases based on professional discretion, (b) business imperatives so that innovative services are offered to the public to enhance services on an equitable and inclusive basis; this would increase public confidence and legitimacy in the police while enabling forces to meet their statutory obligations and keep communities safer, and (c) financial imperatives as there may be savings to the public purse as a result of some of the benefits which can be realised by the utilisation of RJ such as those related to the health of both offenders and victims etc.

- Undertake external marketing campaign with partners, offenders, victims and the general public to promote awareness of RJ and its potential benefits
- Attract greater resources by building up an evidence base.

From an academic perspective, recommendations include:

- More research on non-fraud SOC cases for comparisons on outcomes for offenders and victims (the case studies where interventions took place are limited to fraud contexts)
- Long-term studies to explore the prospects of RJ impacting on reconviction rates and longer-term therapeutic benefits such as impact on health aspects for example, and other life chances indicators (the case studies measured short-term outcomes only); there is a paucity of research on the impact of SOC activities on victims
- Re-visit the SOC concept and mapping processes so that they better reflect what is happening in society. This would be with a view to revising the imagery of SOC as Mr Mafia/Mr & Mrs Big etc. which currently appears to inhibit/limit professional thinking and subsequently shapes the approach towards SOC offenders and victims (particularly from a Prevent perspective with a prevailing dominant view that there is little point as the prospects for change are minimal). The SOC image in the public’s mind and in experts’ minds may lead one to re-examine criminological theories to reflect that they are primarily offender-focused in their definitional foci, e.g., rational choice theories, when applied in criminal justice contexts (see Cornish and Clarke,

2014, for a full explanation of the range of theories and decision making within the models).

One final point to note is that clearly the Ministry of Justice (MoJ) have legislated that RJ-related information should be given to every victim (under the Victims Code), but a similar provision does not exist in statute about an offender's rights/entitlement to be offered RJ. Should this status quo be changed? Offenders are also victims in their own right in many instances, and there are significant challenges to the traditional offender-victim dichotomy in the SOC context given the numbers who co-offend because they have been trapped or coerced in some way or are vulnerable offenders who may not have necessarily been predisposed to offending. Police discretion about which cases to refer or not is resulting in a piecemeal force-by-force implementation of the RJ model often based **on** time constraints, resource limitations and personal belief and faith in RJ as a disposal. Note that the Victims Code 2015 and The Council of Europe Recommendation CM/Rec 8 indicate that the RJ facilitator should have all cases referred in order to make a specialist assessment in respect of suitability. This, then, highlights the need for a national framework around the use of RJ in such cases, with offenders and victims given the choice of whether they wish to participate or not.

## **7.5 Evaluation of Impact**

It is necessary for applied research to be evaluated. It is, as Pawson and Tilley (2001:322) state, necessary for evaluation research to adopt a longer-term view:

Evaluation research is cursed with "short-termism." Programs are dispatched to meet pressing dilemmas, evaluations are let on a piecemeal basis, methods are chosen to pragmatic ends, and findings lean towards parochial concerns. Our hope, possibly against hope, is for a future evaluation culture that is more painstaking and for an evidence base that is more cumulative.

While this may still reflect reality today in many public sector bodies in their approach to evaluating one project/programme and then swiftly moving on to the next latest idea/project, without embedding the learning to ensure longevity of practices which work and which don't in any given context, this study contributes to the ambition to build an evidence-base in this

area of work and push the boundaries of what is considered successful in RJ contexts and what may be dismissed out of hand by all police forces. Pawson and Tilley (2001: 322–333) conclude with six recommendations (replicated below with the italics being their emphasis in the article) in relation to conducting evaluations of programmes/interventions and assessing their impact:

1. *'Always speak of evaluations in the plural'*; the authors make a call for the 'cumulative power of an iterative series of enquiries'
2. *'Be unafraid to ask big questions of small interventions and to use small interventions to test big theories'*
3. *'Use multiple methods and multiple data sources in the light of opportunity and need'* concluding *'the only methodological gold standard is pluralism'*; as discussed in Chapter 4 (Methods) – this is a highly contested view
4. *'Figure out which mechanisms are relevant to produce optimum outcomes by context'* which recognises that interventions and programmes are context-sensitive and may yield different and interesting results when considering the benefits vs risks/harm equation referred to by SOC experts in this study
5. *'Never expect to know "what works", just keep trying to find out'*; this is supported by the police's quest for evidence-based policing practices which must continue, particularly as contexts and conditions change over time, e.g., impact of Brexit may affect the type of offences committed by SOC offenders as new opportunities emerge
6. *'Direct meta-analytic inquiries at common policy mechanisms'* in order to try the same experiments repeatedly in different contexts to really test a policy.

This framework appears to make sense in relation to the current study encouraging other researchers to continue to test RJ applications in a broader range of offending contexts with other variables being held constant as far as possible. It would suggest, as Pawson and Tilley (2004) do, that the influence of context is very important. The SOC context gives rise to particular aspects which warrant special consideration when RJ is used. Rather than asking 'Does RJ in the SOC context work?', a better question may be 'Does a particular form of RJ work in some identifiable conditions for some members of mapped organised crime groups and some victims with x/y/z characteristics?', i.e., what works in which circumstances and for whom? Further research, as suggested, may shed light on this to pave the way for more

widespread use of RJ with serious and complex offending contexts. Making use of opportunities by utilising mixed/multi-methods approaches in line with an agile epistemological and ontological perspective presents researchers with much flexibility and pragmatism.

## **7.6 Evidence-based/evidence-informed practice – implementation considerations**

Hunter et al.'s (2019) work is based on the premise that policing decisions ought to be informed by the 'best available evidence' (2019:251) and that translating academic findings into operational realities is 'largely inadequate' (2019:251). They outline significant challenges in police forces adopting evidence-informed practices as a result of their study, which examined shifts in attitudes towards evidence-based practices in policing between 2013–2016. They concluded that there was scope for some optimism at chief officer levels, while those in lower-ranking roles were much less convinced about the use of evidence in informing policies and practices. In their study, some interesting ethical issues were identified in the use of randomised control trials (RCT) with some officers identifying difficulties in the use of this method when balancing significant risks such as those related to serious safeguarding concerns (e.g., in domestic violence cases, modern day slavery and Children at Risk of Sexual Exploitation). However, there is no suggestion of undertaking an RCT with SOC cases as this may disadvantage the control group, as much has been demonstrated by the current study in relation to possibilities (i.e., sufficient information about the viability of this approach is already known which would disadvantage those individuals who would not be offered RJ interventions). Furthermore, the exploration of offence profiles in the north-east and the case studies demonstrate that SOC cases are not markedly different from non-SOC cases, other than being ascribed such a label through the mapping process.

Other concerns for police in Hunter et al.'s study included the prospects that research outcomes perhaps 'trumped' (researcher's own words) their own professional knowledge and expertise accrued over their career which may be deemed to be of secondary importance. This may relate to, for example, some SOC experts in this study making a plea to the researcher not to instigate targets in this area of policing practices or 'force the hands' of police officers in making mandatory referrals in SOC cases, confirming that those experts do

not think that they need to make mandatory referrals at present in relation to victims receiving RJ information. Hunter et al. identify that one of the key determinants of whether evidence is utilised by police forces is the researcher's own understanding of the complexities and realities of operational practices. All this points to the enormity of the implementation challenges ahead.

Despite the central direction or central driving force to compel individual forces to adopt restorative practices across the board, resourcing levels are determined by individual PCCS within each force, leading to much variation between forces in the extent to which they embrace RJ as an option. This state of affairs may reflect the fact that the approach taken on a national basis is varied and inconsistent, with no national template about resourcing levels specifically for RJ services to enable each force to meet its obligations to victims. Hence, at present, individual forces, individual senior leaders and individual officers determine the extent to which RJ is offered and services commissioned to facilitate interventions. This calls for a National Policy Framework for SOC and RJ. Since the retirement of the NPCC Policing Lead for RJ in 2018, the portfolio appears to have been subsumed (as at the time of writing in October 2019) into the out-of-courts disposal lead with RJ being a consideration within that, fuelling the notion that RJ is best suited for young people who have committed low-level offences. The marginalisation of RJ without a central policing lead for this area of practice may condemn RJ to the margins of policing practices and, indeed, may even reverse some of the more recent good work undertaken.

The current state of affairs may also be a generic statement about what police forces exist to do and reflect a 'catch and convict' ethos as first responders to any crime/incident, whilst not being so involved in aspects such as aftercare for service-users – the latter being seen as the remit of other statutory and non-statutory partners. Perhaps with RJ, there is also another dimension involved – that of personal philosophy. As a 'police family', how comfortable are the police in dealing with tricky and complex emotions? Do police officers need to get 'comfortable with the uncomfortable?' (as suggested in Chapter 5), i.e., dealing with aspects of policing at an emotional level rather than responsive/practical manner only? Dealing with the very real and 'messy' issues facing offenders in their daily lives and victims in the aftermath of being victimised (including in the long-term) requires officers who are comfortable with responding in ways that are empathic and practical recognising the need

for dialogue to repair broken relationships. Hence, all this may reflect on national and local police leadership, police culture and the level of awareness about RJ and its potential transformative impact. Furthermore, this also reveals the extent to which police forces are not willing to accept their remit to deal with vulnerability in this context. It is clear that offences such as child sexual abuse and sexual assaults are perceived to be police work, but when committed as part of mapped SOC groups, a different picture emerges in that the same offence types are now no longer considered to be eligible for RJ.

Widespread organisational, occupational, cultural change is required along with central imperatives if restorative justice is to be implemented in the SOC context. The researcher suspects that, given much has been written about 'patchy' implementation of RJ across police forces with a primary concentration on low-level offending and neighbourhood conflicts (see Chapter 3), with there only being pockets of practice with application in the serious and complex crime arenas, there is much hard work ahead to narrow the oft-quoted gulf between RJ theory and operational reality across the policing landscape. The typically restricted lens through which crimes and groups of criminals are labelled 'serious and organised' needs to be revised to prevent policing priorities being swayed by the political persuasions of the day and this too may impact on which offenders and which victims are then presented with the opportunity to participate in this type of intervention – again narrowing the gaps evident in meeting statutory obligations under the Victims Code.

The enormity of the challenge faced by SOC offenders to desist cannot be underestimated (as there are numerous complex issues involved such as the need for gang membership to address issues such as a need to belong etc.). It is matched by the enormity of the challenge faced by police forces to embrace the evidence and instigate cultural change to give every offender and victim an opportunity to have a restorative dialogue. It may be perceived that despite the fact that some case studies have been undertaken during this research, overall the study supports the finding that the future for wider applicability of RJ in the UK is 'likely to be bleak' (Hoyle and Rosenblatt, 2018:30), due to the lack of victim and community involvement and the emphasis being limited to low-level crimes. There is significant scope to use RJ as a Prevent tool in the fight against SOC – but much preparatory work at all levels within the police would need to be undertaken to make this a reality on a consistent basis across the country. It is, in the researcher's view, without a doubt, that undertaking RJ in this

context is challenging; other researchers have derived similar conclusions from their studies in the non-SOC context (Wood and Suzuki, 2016). Stockdale (2015) found that front line officers were grappling with the notion that using RJ was too hard/difficult in practice, expressing confusion about who RJ was meant to benefit the most (2015:228) and placing into central focus the question about the main purpose of RJ, which returns to the issues discussed in Chapter 3 about definitional confusion, i.e., is it to hold offenders to account or to bring about closure for victims (when clearly the researcher for this study would state that it is for mutual benefits)? While the type of offending (SOC-related) and the scale of change may be uncomfortable for some, it is clear that if the ambitions expressed in the key government documents described in Chapter 3 are to be realised, then a national strategic directive is required. Stockdale's research demonstrates the obvious gaps between theory and operational practices, due, in part, to the lack of cultural shifts in the way RJ is perceived throughout the different ranks. In addition to these issues which are confusing and for which there appears to be no clear cut, unequivocal answers, the practical job of using RJ is also difficult. Nearly 20 years ago, Miers et al. (2001) concluded that RJ was a 'labour-intensive and time-consuming activity, beset by communication problems and delays. Particularly, where direct mediation is contemplated, it can involve weeks of preparatory and exploratory work, and even then, many cases do not reach the desired conclusion' (2001: ix). Little wonder that in austere times with competing priorities, understaffing and stretched resources, progress is not as fast as some would like!

In this way, there are national strategic/policy implications with much local work in each force area in relation to harnessing the motivation that is already apparent with RJ experts and offenders and victims, as well as some SOC experts. In addition, there are academic imperatives to explore this work stream further.

## **7.7 Summary and Conclusions**

Given police SOC experts' views of the use of RJ in this context (though this does not reflect all police SOC experts' views), in the absence of centrally-driven imperatives, prospects for implementation appear bleak. While RJ is conceptually victim-centred, the SOC concept (and the range of definitions explored in this thesis with the exception of Clark, 2005) is not; it is



offender-oriented, encouraging officers to Pursue, rather than Prevent. While communitarianism is important for RJ, and the SOC Strategy states that communities are indeed blighted by SOC, the overall picture which emerges is one that does 'to' rather than 'with', so there are important divergences between the two concepts. It would appear that despite notions of a 'victims' movement', policing practices in the SOC environment remain offender-oriented, while the focus on victims is 'we know how best to protect you and keep you safe – you don't', thereby not accommodating the need for emotional closure/wellbeing or psychological safety aspects. The value of informed voluntary consent is not afforded to either party.

The lack of knowledge of RJ is abundantly evident in this study among SOC police practitioners and managers (including what works, what is effective, when RJ can be offered etc.) as well as the obligations under the Victims Code. This has significant training implications, with the role of the MoJ, the College of Policing and the Office of the Police, Crime and Victims Commissioners (OPCVCs) all having a role to play to enable the police to provide RJ services. Conceptual confusion for both RJ and SOC is unhelpful, and while concrete clarity may not be forthcoming in the immediate future, the researcher believes that police forces need to have a police-owned definition which is endorsed by the NPCC and adopted by every force for the purposes of consistency of understanding and application. This does not have to be a new definition designed solely by the police for use by the police, but one that is adopted from the definitions currently available. As the Restorative Justice Council is responsible for the accreditation of RJ facilitators in England and Wales, it may be that adopting their definition would be a good starting point. Any definition adopted needs to be specific to the criminal justice context, be inclusive of all offenders and victims, be choice-driven and be outcome-focused for all concerned parties. Any definition adopted by the NPCC Policing Lead for RJ needs to be a good fit with problem-oriented policing and be inclusive of victims' needs.

The current funding arrangements for RJ services do not include a mandatory framework for Police and Crime Commissioners to consider RJ provisions leading to the patchy provision observed, and giving rise to problems funding offender-initiated requests (not all requests for RJ are victim-led). In these ways, the stated values of the police service are thwarted (as well as the RJC principles/guidelines) in relation to access to services and being given information to enable choices to be exercised. This has the overall impact of silencing victims. It becomes

clear that while many of the comments above are not in relation to the specific SOC context being examined, but applicable to all offending contexts, the study has put a spotlight on the provision of RJ services by the police generally. Furthermore, there is an urgent need, as described above, for police forces to use the academic research to inform their response to serious and organised criminality, particularly from a Prevent perspective.

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## Appendices

### Appendix 1 NPCC Letter to request anecdotal evidence of RJ applications

14<sup>th</sup> November 2017

Dear Chief Constables and Commissioners,

#### **Exploring the Potential to undertake Restorative Approaches with Serious and Organised Crime Offending**

It has, for a long time, been my belief that every victim of every offence should be afforded the opportunity to have a dialogue in a restorative fashion with their offender, should both parties choose to do. While, over recent years, restorative approaches have been utilised in some more serious and indeed complex crimes such as domestic violence, hate-crime and sexual offences, there appears to be little research evidence that police forces and partners have utilised this approach with serious and organised offenders and their victims. There is robust evidence demonstrating that restorative approaches can represent value for money, be a cost-effective intervention, reduce re-offending and promote offender re-integration. The evidence is strongest for victim satisfaction and promoting a sense of closure. This aspect cannot be quantified, but I believe has much merit.

I have endorsed a 3-year study supported by the Home Office, the College of Policing and the University of Sheffield to explore this further and tasked Nikki D'Souza with undertaking the research, as part of a PhD. This will involve gathering the views of offenders, victims and experts as well as undertaking a small number of case studies, where appropriate. The research's aims are magnified within the context of organised crime, given that there are typically multiple victims and entire communities that are affected by the corrosive impact of organised criminality.

I now seek the assistance of your force, with the support of the COCC OCP Forum. Nikki needs to know whether any police forces have undertaken a restorative approach (e.g., letters of apology, face-to-face mediation/conferencing or shuttle mediation etc.) with serious and organised crime offenders and their victims, either recently or within your organisational memory. Please provide any details (anecdotal evidence will still be valuable here, so it will not matter if the case details are sketchy!) to Nikki on [Nikki.dsouza@durham.pnn.police.uk](mailto:Nikki.dsouza@durham.pnn.police.uk) or **0191 375 2172** by the **22<sup>nd</sup> December 2017**. Individual forces will not be identified in any publications. I appreciate your support in progressing this innovative initiative.

I appreciate that there are many demands on every police force to provide information at the moment, but hope that you are able to supply this valuable information. Do feel free to ring Nikki to have a conversation to relay any information, should this be easier and less

time-consuming. This type of collated information will still be helpful in pulling this piece of work together.

Should you be interested in this area of business, further details of a small feasibility pilot which Nikki undertook last year can be found here: <http://n8prp.org.uk/wp-content/uploads/2016/12/RA-and-OCGs-N8-Staff-Exchange-Launch-12-Dec-16.pdf>

Thank you in anticipation.

Yours faithfully

Michael Barton  
Chief Constable  
NPCC Crime Operations Co-ordination Committee  
Durham Constabulary  
Durham Constabulary HQ  
Aykley Heads, Durham DH1 5TT

28<sup>th</sup> January 2019

Dear Chief Constables and Commissioners,

**Exploring the Potential to undertake Restorative Approaches with Serious and Organised Crime Offending**

I would like to request your help in further pursuing some research I have commissioned. You may recall that about a year ago I asked you to respond to a request to detail any recorded or anecdotal evidence in your organisational memory in relation to whether a restorative approach had been undertaken with mapped members of serious and organised crime groups. The 76% response rate (thank you for this) gave credence to the thought that there was no evidence of such an application.

I believe that every victim of every offence should be afforded the opportunity to have a dialogue in a restorative fashion with their offender, should both parties choose to do and to that end, am keen that an exploration should take place as to whether this can be safely and practically undertaken with organised crime group members and their victims. There is robust evidence demonstrating that restorative approaches can represent value for money, be a cost-effective intervention, reduce re-offending and promote offender re-integration, combined with excellent victim satisfaction. This aspect cannot be quantified, but I believe has much merit.

I have endorsed a 3-year study supported by the Home Office, the College of Policing and the University of Sheffield and tasked Nikki D'Souza with undertaking the research, as part of a PhD. The research's aims are magnified within the context of organised crime, given that there are typically multiple victims and entire communities that are affected by the corrosive impact of organised criminality.

I now seek the assistance of your force, with the support of the COCC OCP Forum. Nikki is undertaking a survey inviting SOC experts within your force to take part, seeking their views and harnessing their expertise and knowledge to explore the relevant issues. She has provided an Information Sheet to give some background information and a consent form as well as the survey document. Responses can be emailed to Nikki on [Nikki.dsouza@durham.pnn.police.uk](mailto:Nikki.dsouza@durham.pnn.police.uk)

I appreciate that there are many demands on every police force to provide information at the moment, but hope that you are able to supply this valuable information. Do feel free to ring Nikki on 0191 375 2172 to have a conversation to do the survey by phone, should this be easier and less time-consuming. Her timescale for completion of all surveys is **Friday, 8<sup>th</sup> February 2019**. Please note that individual forces will not be identified in any publications.

Should you be interested in this area of business, further details of a small feasibility pilot which Nikki undertook last year can be found here: <http://n8prp.org.uk/wp-content/uploads/2016/12/RA-and-OCGs-N8-Staff-Exchange-Launch-12-Dec-16.pdf>

I appreciate your support in progressing this innovative initiative. Thank you in anticipation.

Yours faithfully

Michael Barton  
Chief Constable  
NPCC Crime Operations Co-ordination Committee  
Durham Constabulary  
Durham Constabulary HQ  
Aykley Heads, Durham DH1 5TT



## **THE POTENTIAL FOR RESTORATIVE APPROACHES**

### **Appendix 3a: Information Sheet for Serious and Organised Crime Experts**

#### **Invitation**

You have been contacted as a potential participant in this research due to your expertise in the field of serious and organised crime (SOC). This Information Sheet has been designed to enable you to make an informed decision about whether you would like to take part in this research. Please take time to read this information sheet carefully. Ask Nikki D'Souza (contact information below) if you require further information.

#### **Purpose of the Research**

This project seeks to explore the feasibility of using Restorative Approaches in the context of serious and organised crime. In doing so, the researcher wishes to gather the views of offenders, victims and restorative justice and SOC experts in answering this question.

As you know, Restorative Approaches in the context of crime and the criminal justice system may be defined as an approach which enables victims to meet or communicate (directly or indirectly through others) with their offender to explain the real impact of the crime and for the offender to be given the opportunity to make amends. Restorative Approaches have been applied widely in a variety of contexts and have, in recent times, been expanded to include crimes such as hate crime and domestic violence. They do not appear to have been used in the organised crime context and as such, this study is seeking to explore whether they should be and whether they could be.

#### **Benefits and Value of this Research**

It is hoped that your participation in the project can help to inform how the police and their partners tackle serious and organised crimes in the future, from a crime prevention, reducing reoffending and victim satisfaction perspective.

## **Your role**

If you agree to participate in this research, you will be asked to take part in one of the following ways in order to offer your professional perspective: a one-on-one audiotaped interview with the researcher, a telephone survey, a focus group or an e-survey. This should take no more than an hour and you will be asked questions about your views, based on your knowledge and experiences.

## **Confidentiality**

All participants in this research will have their anonymity safeguarded and be assigned a code, such as "Expert 1". In presenting any data, the researcher will never use your personal details. Your answers during interviews will be confidential and will not be attributed to you directly if they are used in the future in presentations, publications and reports. However, if you are willing for any part of the interview to be heard by others for the purposes of dissemination and to enable the researcher to offer insights during presentations, this can be discussed after the interview. Signed written consent would need to be secured to ensure that you are completely happy for this to happen. Such requests would only be made if the interview was being audio-recorded and only your voice would be recognisable.

Any audio recordings made during this research will be transcribed for analysis. A transcription service will be used and a confidentiality agreement will be established. No other use will be made of these recordings without your written permission, and no one other than the researcher will have access to the original recordings. Anonymised excerpts of transcriptions of recordings may be used in reports, presentations, teaching, academic articles, scholarly articles and other outputs.

No individual biographical details will be used which could identify you. However, for the purposes of analysis, it will be necessary to identify whether you are a manager or a practitioner and the nature of your business e.g., YOS, police, private organisation etc. Only the researcher will have access to such confidential details. Data will be stored securely and destroyed in line with the Management of Police Information (MOPI).

## **Ethical Approval – University of Sheffield and Durham Constabulary**

The project has received ethical approval from the University of Sheffield, School of Law Ethics Committee and will follow professional guidelines laid down by the British Sociological Association. It has also been approved by the Professional Standards Board at Durham Constabulary.

## **Making a Complaint**

If you are not happy with the conduct of the researcher, you may wish to raise the issues with her informally in the first instance. If you are not satisfied with the response you receive, you can then raise the issues or make a formal complaint, by emailing at [complaints@durham.pnn.police.uk](mailto:complaints@durham.pnn.police.uk) or in writing to: Professional Standards & Legal Services Department, Peterlee Police Office, St Aidans Way, Peterlee SR8 1QR.

Alternatively, if you wish to speak to someone, please ring 101 and ask to speak to the supervisor on duty who will direct your call to the right department for resolution. You can also contact the University of Sheffield if you have concerns: Professor Joanna Shapland, School of Law, University of Sheffield, Bartolome House, Winter Street, Sheffield S3 7ND or at [j.m.shapland@sheffield.ac.uk](mailto:j.m.shapland@sheffield.ac.uk). All complaints will be treated seriously.

## **Contact**

If you have any questions about this research project, then please contact Nikki D'Souza at: [NDSouza2@sheffield.ac.uk](mailto:NDSouza2@sheffield.ac.uk)

Thank you.





## **THE POTENTIAL FOR RESTORATIVE APPROACHES**

### **Appendix 3b: Information Sheet for Restorative Justice Experts**

#### **Invitation**

You have been contacted as a potential participant in this research due to your expertise in the field of restorative practices. This Information Sheet has been designed to enable you to make an informed decision about whether you would like to take part in this research. Please take time to read this information sheet carefully. Ask Nikki D'Souza (contact information below) if you require further information.

#### **Purpose of the Research**

This project seeks to explore the feasibility of using Restorative Approaches in the context of serious and organised crime. In doing so, the researcher wishes to gather the views of offenders, victims and restorative justice experts in answering this question.

As you know, Restorative Approaches in the context of crime and the criminal justice system may be defined as an approach which enables victims to meet or communicate (directly or indirectly through others) with their offender to explain the real impact of the crime and for the offender to be given the opportunity to make amends. Restorative Approaches have been applied widely in a variety of contexts and have, in recent times, been expanded to include crimes such as hate crime and domestic violence. They do not appear to have been used in the organised crime context and as such, this study is seeking to explore whether they should be and whether they could be.

#### **Benefits and Value of this Research**

It is hoped that your participation in the project can help to inform how the police and their partners tackle serious and organised crimes in the future, from a crime prevention, reducing reoffending and victim satisfaction perspective.

## **Your role**

If you agree to participate in this research, you will be asked to take part in one of the following ways in order to offer your professional perspective: a one-on-one audiotaped interview with the researcher, a telephone survey, a focus group or an e-survey. This should take no more than an hour and you will be asked questions about your views, based on your knowledge and experiences.

## **Confidentiality**

All participants in this research will have their anonymity safeguarded and be assigned a code, such as "Expert 1". In presenting any data, the researcher will never use your personal details. Your answers during interviews will be confidential and will not be attributed to you directly if they are used in the future in presentations, publications and reports. However, if you are willing for any part of the interview to be heard by others for the purposes of dissemination and to enable the researcher to offer insights during presentations, this can be discussed after the interview. Signed written consent would need to be secured to ensure that you are completely happy for this to happen. Such requests would only be made if the interview was being audio-recorded and only your voice would be recognisable.

Any audio recordings made during this research will be transcribed for analysis. A transcription service will be used and a confidentiality agreement will be established. No other use will be made of these recordings without your written permission, and no one other than the researcher will have access to the original recordings. Anonymised excerpts of transcriptions of recordings may be used in reports, presentations, teaching, academic articles, scholarly articles and other outputs.

No individual biographical details will be used which could identify you. However, for the purposes of analysis, it will be necessary to identify whether you are a manager or a practitioner and the nature of your business e.g., YOS, police, private organisation etc. Only the researcher will have access to such confidential details. Data will be stored securely and destroyed in line with the Management of Police Information (MOPI).

## **Ethical Approval – University of Sheffield and Durham Constabulary**

The project has received ethical approval from the University of Sheffield, School of Law Ethics Committee and will follow professional guidelines laid down by the British Sociological Association. It has also been approved by the Professional Standards Board at Durham Constabulary.

## **Making a Complaint**

If you are not happy with the conduct of the researcher, you may wish to raise the issues with her informally in the first instance. If you are not satisfied with the response you receive, you can then raise the issues or make a formal complaint, by emailing at [complaints@durham.pnn.police.uk](mailto:complaints@durham.pnn.police.uk) or in writing to: Professional Standards & Legal Services Department, Peterlee Police Office, St Aidans Way, Peterlee SR8 1QR.

Alternatively, if you wish to speak to someone, please ring 101 and ask to speak to the supervisor on duty who will direct your call to the right department for resolution. You can also contact the University of Sheffield if you have concerns: Professor Joanna Shapland, School of Law, University of Sheffield, Bartolome House, Winter Street, Sheffield S3 7ND or at [j.m.shapland@sheffield.ac.uk](mailto:j.m.shapland@sheffield.ac.uk). All complaints will be treated seriously.

## **Contact**

If you have any questions about this research project, then please contact Nikki D'Souza at: [NDSouza2@sheffield.ac.uk](mailto:NDSouza2@sheffield.ac.uk)

Thank you.

## **RESTORATIVE APPROACHES AND CRIMINALITY**

### **Appendix 3c: Information Sheet for Offenders Serving Prison Sentences**

#### **Invitation**

You have been contacted because you have been identified as a potential participant in this research. Before you decide whether or not to take part in this study, it is important that you feel fully informed about the project and what your role will entail. Please take time to read this information sheet carefully. Ask Nikki D'Souza (contact information below) if anything is not clear, or you require further information.

#### **Purpose of the Research**

This project seeks to explore the feasibility of using Restorative Approaches in the context of your offending. In doing so, the researcher wishes to gather the views of offenders, victims and practitioners in answering this question.

Restorative Approaches in the context of crime and the criminal justice system may be defined as an approach which enables victims to meet or communicate (directly or indirectly through others) with their offender to explain the real impact of the crime and for the offenders to be given the opportunity to make amends. Restorative Approaches can be used anywhere to prevent conflict, build relationships and repair harm by enabling people to communicate effectively and positively. Restorative Approaches is increasingly being used in schools, children's services, workplaces, hospitals, communities and the criminal justice system.

The concepts and practical applications of Restorative Approaches will be explained to you in more detail during the interview and you will be shown a very short You Tube clip which will explain more. However, if you are unsure about anything, please ask the researcher about this.

#### **Benefits and Value of this Research**

It is hoped that your participation in the project can help to inform how the police and partners tackle some crimes in the future.

## **Your role**

If you agree to participate in this research, you will be asked to take part in a video/audio-taped one-on-one interview with the researcher. This should take no more than one hour and you will be asked questions about your personal experiences of crime and whether, based on your experiences, you feel you would have benefitted from taking part in a Restorative Approach.

Please note that your participation in this study will not affect your prison status/privileges or affect positively or adversely any decisions made by the Parole Board or Immigration Services or any other Board/Committee/Agency.

## **Confidentiality**

All participants in this research will have their anonymity safeguarded. In presenting any data, the researcher will never use your personal details. Your answers during interviews will be confidential and will not be attributed to you directly if they are used in the future in presentations, publications and reports. However, if you are willing for any part of the interview to be shown to others for the purposes of dissemination and to enable the researcher to offer insights during presentations, this can be discussed after the interview and signed written consent would need to be secured to ensure that you are completely happy for this to happen. Where the interview is video-recorded, no such permissions will be sought from you, as you would be identified on the videotape. Such requests would only be made if the interview was being audio-recorded and only your voice would be recognisable.

Any video/audio recordings made during this research will be transcribed for analysis. No other use will be made of these recordings without your written permission, and no one other than the researcher and the supervisors will be allowed access to the original recordings. Anonymised excerpts of transcriptions of recordings may be used in reports, presentations, academic publications, scholarly articles and other outputs.

If child protection issues are identified, relevant authorities will be informed. If potential breaches of security are identified or it emerges that there are welfare-related concerns, appropriate action will be taken to safeguard the prison and individuals. Where precise details of specific serious offences which you have committed and not informed police about emerge, appropriate action may be considered and relevant authorities informed, if appropriate.

## **Ethical Approval – University of Sheffield and Durham Constabulary**

The project has received ethical approval from the University of Sheffield, School of Law Ethics Committee and will follow professional guidelines laid down by the British Sociological Association. It has also been approved by the Professional Standards Board at Durham Constabulary.

### **Making a Complaint**

If you are not happy with the conduct of the researcher, you may wish to raise the issues with her informally in the first instance. If you are not satisfied with the response you receive, you can then raise the issues or make a formal complaint, by writing to this address: Professional Standards & Legal Services Department, Peterlee Police Office, St Aidans Way, Peterlee SR8 1QR. Alternatively, you may wish to speak to someone else in authority in the prison to assist you in raising any issues on your behalf or ring 101 and ask to speak to the supervisor on duty who will direct your call to the right department for resolution. All complaints will be treated seriously.

**Contact:** If you have any questions about this research project, then please contact Nikki D'Souza at:  
Durham Constabulary Headquarters, Aykley Heads, Durham DH1 5TT. Thank you.



## **THE POTENTIAL FOR RESTORATIVE APPROACHES**

### **Appendix 3d: Information Sheet for Offenders in the Community**

#### **Invitation**

You have been contacted because you have been identified as a potential participant in this research.

Before you decide whether or not to take part in this study, it is important that you feel fully informed about the project and what your role will entail. Please take time to read this information sheet carefully and discuss it with others if you wish. Ask Nikki D'Souza (contact information below) if anything is not clear, or you require further information.

#### **Purpose of the Research**

This project seeks to explore the prospect of using Restorative Approaches in the context of your offending. In doing so, the researcher wishes to gather the views of offenders, victims and practitioners in answering this question.

Restorative Approaches in the context of crime and the criminal justice system may be defined as an approach which enables victims to meet or communicate (directly or indirectly through others) with their offender to explain the real impact of the crime and for the offender to be given the opportunity to make amends. Restorative Approaches can be used to prevent conflict, build relationships and repair harm by enabling people to communicate effectively and positively. Restorative Approaches are increasingly being used in schools, children's services, workplaces, hospitals, communities and the criminal justice system.

How Restorative Approaches works will be explained to you in more detail during the interview and you will be shown a very short YouTube clip which will explain more. However, if you are unsure about anything, please ask the researcher about this.

#### **Benefits and the Value of this Research**

It is hoped that your participation in the project can help to inform how the police and partners tackle some crimes in the future.

## **Your role**

If you agree to participate in this research, you will be asked to take part in a one-on-one audio-taped interview with the researcher. This should take no more than one hour and you will be asked questions about your personal experiences of crime and whether, you feel you would have benefitted from taking part in a Restorative Approach. Please note that you will not be advantaged or disadvantaged as a result of your decision to take part or not take part in this research.

## **Confidentiality**

All participants in this research will have their anonymity protected. In presenting any data, the researcher will never use your personal details. Your answers during interviews will be confidential and will not be attributed to you directly if they are used in the future in presentations, publications and reports.

Information kept by other agencies (e.g. probation) such as information in relation to your offence(s) and the risk you may pose to the public will be used to help make a decision about your suitability to take part in this research. Any audio recordings made during this research will be transcribed for analysis, using a transcription service. A confidentiality agreement will be set up with this service. No other use will be made of these recordings without your written permission, and no one other than the researcher and the supervisors will be allowed access to the original recordings. Anonymised parts of transcriptions of recordings may be used in reports, presentations, teaching, academic publications, articles and other outputs.

If child protection issues are identified, relevant authorities will be informed. If it emerges that there are welfare-related concerns, appropriate action will be taken to ensure your safety and any other individuals, as appropriate. Illegal acts and behaviour which is potentially harmful to you or others will need to be disclosed to relevant authorities. Where precise details of specific serious offences which you have committed and not informed police about emerge, appropriate action may be considered and relevant authorities informed, if appropriate.

If you feel anxious or distressed at any time during your contact with the researcher, you will be offered support; in addition, you can also approach your local probation service if you are in contact with them, or the researcher can refer you to an appropriate source of support.

## **Approval – University of Sheffield and Durham Constabulary**

The project has received ethical approval from the University of Sheffield, School of Law Ethics Committee and will follow professional guidelines laid down by the British Sociological



Association. It has also been approved by the Professional Standards Board at Durham Constabulary.

### **Making a Complaint**

If you are not happy with the conduct of the researcher, you may wish to raise the issues with her informally in the first instance. If you are not satisfied with the response you receive, you can then raise the issues or make a formal complaint, by e-mail at [complaints@durham.pnn.police.uk](mailto:complaints@durham.pnn.police.uk) or writing to: Professional Standards & Legal Services Department, Peterlee Police Office, St Aidans Way, Peterlee SR8 1QR. Alternatively, if you wish to speak to someone, please ring 101 and ask to speak to the supervisor on duty who will direct your call to the right department for resolution. You can also contact the University of Sheffield if you have concerns (Professor Joanna Shapland, School of Law, University of Sheffield, Bartolome House, Winter Street, Sheffield S3 7ND). All complaints will be treated seriously.

**Contact:** If you have any questions about this research project, then please contact Nikki D'Souza at:

[NDSouza2@sheffield.ac.uk](mailto:NDSouza2@sheffield.ac.uk) Thank you.



## **THE POTENTIAL FOR RESTORATIVE APPROACHES**

### **Appendix 3e: Information Sheet for Victims**

#### **Invitation**

You have been contacted because you have been identified as a potential participant in this research.

Before you decide whether or not to take part in this study, it is important that you feel fully informed about the project and what your role will entail. Please take time to read this information sheet carefully and discuss it with others if you wish. Ask Nikki D'Souza (contact information below) if anything is not clear, or you require further information.

#### **Purpose of the Research**

This project seeks to explore the prospect of using Restorative Approaches in the context of your experiences as a victim of crime. In doing so, the researcher wishes to gather the views of offenders, victims and practitioners in answering this question.

Restorative Approaches in the context of crime and the criminal justice system may be defined as an approach which enables victims to meet or communicate (directly or indirectly through others) with their offender to explain the real impact of the crime and for the offender to be given the opportunity to make amends. Restorative Approaches can be used anywhere to prevent conflict, build relationships and repair harm by enabling people to communicate effectively and positively. Restorative Approaches are increasingly being used in schools, children's services, workplaces, hospitals, communities and the criminal justice system.

How Restorative Approaches works will be explained to you in more detail during the interview and you will be shown a very short YouTube clip which will explain more. However, if you are unsure about anything, please ask the researcher about this.

## **Benefits and Value of this Research**

It is hoped that your participation in the project can help to inform how the police and partners tackle some crimes in the future. In addition, research shows that this approach significantly increases victim satisfaction.

## **Your role**

If you agree to participate in this research, you will be asked to take part in a one-on-one audiotaped interview with the researcher. This should take no more than one hour and you will be asked questions about your personal experiences of crime and whether, you feel you would have benefitted from taking part in a Restorative Approach.

Please note that you will not be advantaged nor disadvantaged as a result of your decision to take part or not take part in this research.

## **Confidentiality**

All participants in this research will have their anonymity protected. In presenting any data, the researcher will never use your personal details. Your answers during interviews will be confidential and will not be attributed to you directly if they are used in the future in presentations, publications and reports.

Information kept by formal agencies such as information held by police may be used to help make a decision about your suitability to take part in this research. Any audio recordings made during this research will be transcribed for analysis, using a transcription service. A confidentiality agreement will be set up with this service. No other use will be made of these recordings without your written permission, and no one other than the researcher and the supervisors will be allowed access to the original recordings. Anonymised parts of transcriptions of recordings may be used in reports, presentations, teaching, academic articles, articles and other outputs.

If child protection issues are identified, relevant authorities will be informed. If it emerges that there are welfare-related concerns, appropriate action will be taken to safeguard you and any other identified individuals to ensure that you and they have the support required.

If you feel anxious or distressed at any time during your contact with the researcher, you will be offered support.

## **Ethical Approval – University of Sheffield and Durham Constabulary**

The project has received ethical approval from the University of Sheffield, School of Law Ethics Committee and will follow professional guidelines laid down by the British Sociological Association. It has also been approved by the Professional Standards Board at Durham Constabulary.

### **Making a Complaint**

If you are not happy with the conduct of the researcher, you may wish to raise the issues with her informally in the first instance. If you are not satisfied with the response you receive, you can then raise the issues or make a formal complaint, by e-mailing at [complaints@durham.pnn.police.uk](mailto:complaints@durham.pnn.police.uk) or in writing to: Professional Standards & Legal Services Department, Peterlee Police Office, St Aidans Way, Peterlee, SR8 1QR. Alternatively, if you wish to speak to someone, please ring 101 and ask to speak to the supervisor on duty who will direct your call to the right department for resolution. You can also contact the University of Sheffield if you have concerns: Professor Joanna Shapland, School of Law, University of Sheffield, Bartolome House, Winter Street, Sheffield S3 7ND. All complaints will be treated seriously.

### **Contact**

If you have any questions about this research project, then please contact Nikki D'Souza at: [NDSouza2@sheffield.ac.uk](mailto:NDSouza2@sheffield.ac.uk) Thank you.

Appendix 4a: Consent Form for Experts

**Title of Project:** The Potential for Restorative Approaches

**Participant Identification Number:**

I am undertaking an exploratory study to look at whether restorative approaches would work within serious and organised crime contexts. I work for Durham Constabulary and am supervised by the University of Sheffield. The findings will be used to examine whether it is appropriate to use such a disposal and to learn about what offenders, victims and experts think about restorative justice in this context.

- I confirm that I have read and understood the Information Sheet, explaining the above research project and I have had the opportunity to ask questions about the study
- I understand that my participation is voluntary. I am free to withdraw any time (including after the interview has concluded but prior to any publication of the research) without giving any reason and without there being any negative consequences. Should I not wish to answer any particular question(s), I am free to decline.
- I understand that my personal data will be kept strictly confidential. I will not be identified or identifiable in any dissemination that results from this research, such as reports, presentations, publications and other outputs
- I give my consent to any follow up contact and will agree the way in which this contact is to be made with the researcher at the end of the interview
- I agree for the data collected from me to be used in future research (with data only being held for as long as necessary to secure publications and disseminations of further work), though all personalised data will be subject to complete anonymity and destroyed in line with relevant legislation
- I agree to take part in the above research project

_____	_____	_____
Name of Participant	Date	Signature
_____	_____	_____
Organisation (optional)	Role	Contact details (optional)

Your views and opinions are appreciated. Thank you.

Appendix 4b: Consent Form for Offenders Serving Prison Sentences

**Title of Project:** The Potential for Restorative Approaches

**Participant Identification Number:**

I am undertaking an exploratory study to look at whether restorative approaches would work as a way of disposing of such offences as the ones you are in prison for. I work for Durham Constabulary and am supervised by the University of Sheffield. The findings will be used to examine whether it is appropriate to use such a disposal and to learn about what offenders, victims and practitioners think about restorative justice in this context.

- I confirm that I have read (or have had read to me) and understood the Information Sheet, explaining the above research project and I have had the opportunity to ask questions about the study
- I understand that my participation is voluntary. I am free to withdraw any time (including after the interview has concluded but prior to any publication of the research) without giving any reason and without there being any negative consequences. Should I not wish to answer any particular question(s), I am free to decline.
- I understand that my personal data will be kept strictly confidential. I will not be identified or identifiable in any dissemination that results from this research, such as reports, presentations, publications and other outputs
- I give my consent to any follow up contact and will agree the way in which this contact is to be made with the researcher at the end of the interview
- I agree for the data collected from me to be used in future research (with data only being held for as long as necessary to secure publications and disseminations of further work), though all personalised data will be subject to complete anonymity and destroyed in line with relevant legislation
- I agree to have my interview audio-recorded and consent to the use of audio-recording equipment
- I agree to take part in the above research project

_____	_____	_____
Name of Participant	Date	Signature
_____	_____	_____
Nikki D'Souza (Researcher)	Date	Signature

Your views and opinions are appreciated. Thank you.

Appendix 4c: Consent Form for Offenders In The Community

**Title of Research Project:** The Potential for Restorative Approaches

**Participant Identification Number:**

I am undertaking an exploratory study to look at whether restorative approaches would work as a way of disposing of such offences as the ones have been convicted of in the past. I work for Durham Constabulary and am supervised by the University of Sheffield. The findings will be used to examine whether it is appropriate to use such a disposal and to learn about what offenders, victims and experts think about restorative justice in this context.

- I confirm that I have read (or have had read to me) and understood the Information Sheet, explaining the above research project and I have had the opportunity to ask questions about the study
- I understand that my participation is voluntary. I am free to withdraw any time (including after the interview has concluded) but prior to any publication of the research without giving any reason and without there being any negative consequences. Should I not wish to answer any particular question(s), I am free to decline.
- I understand that my personal data will be kept strictly confidential. I will not be identified or identifiable in any dissemination that results from this research, such as reports, presentations, publications and other outputs
- I understand that my personal data will be kept strictly confidential. I will not be identified or identifiable in any dissemination that results from this research, such as reports, presentations, publications and other outputs
- I give my consent to any follow up contact and will agree the way in which this contact is to be made with the researcher at the end of the interview. I agree for the data collected from me to be used in future research (with data only being held for as long as necessary to secure publications and dissemination of further work), though all personalised data will be subject to complete anonymity and destroyed in line with relevant legislation
- I agree to have my interview recorded and consent to the use of audio-recording equipment
- I agree to take part in the above research project

\_\_\_\_\_  
Name of Participant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Nikki D'Souza (Researcher)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

Your views and opinions are appreciated. Thank you.

Appendix 4d: Consent Form for Victims

**Title of Research Project:** The Potential for Restorative Approaches

**Participant identification Number:**

I am undertaking an exploratory study to look at whether restorative approaches would work as a way of disposing of such offences such as the one(s) you have experienced. I work for Durham Constabulary and am supervised by the University of Sheffield. The findings will be used to examine whether it is appropriate to use such a disposal and to learn about what offenders, victims and experts think about restorative justice in this context.

- I confirm that I have read (or have had read to me) and understood the Information Sheet, explaining the above research project and I have had the opportunity to ask questions about the study
- I understand that my participation is voluntary. I am free to withdraw any time (including after the interview has concluded but prior to any publication of the research) without giving any reason and without there being any negative consequences. Should I not wish to answer any particular question(s), I am free to decline.
- I understand that my personal data will be kept strictly confidential. I will not be identified or identifiable in any dissemination that results from this research, such as reports, presentations, publications and other outputs
- I give my consent to any follow up contact and will agree the way in which this contact is to be made with the researcher at the end of the interview
- I agree for the data collected from me to be used in future research (with data only being held for as long as necessary to secure publications and disseminations of further work), though all personalised data will be subject to complete anonymity and destroyed in line with relevant legislation
- I agree to have my interview recorded and consent to the use of audio-recording equipment
- I agree to take part in the above research project

_____	_____	_____
Name of Participant	Date	Signature
_____	_____	_____
Nikki D'Souza (Researcher)	Date	Signature

Your views and opinions are appreciated. Thank you.



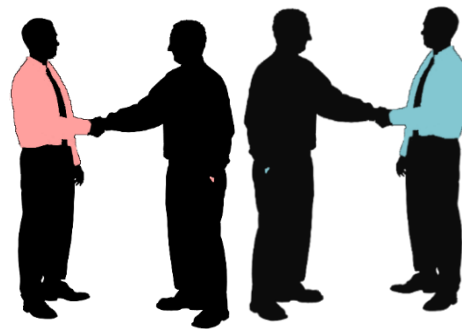
## Appendix 5: Restorative Justice Briefing Sheet

The Restorative Justice Council defines restorative justice as bringing “those harmed by crime or conflict and those responsible for the harm into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward.”<sup>49</sup>

Restorative Approaches/Justice can take many different forms, depending on the wishes of those taking part and only takes place with the voluntary consent of all parties; below are 4 examples of the different ways in which this approach can apply:



Writing a Letter of Apology



Shuttle mediation<sup>50</sup>



Paying compensation to victim



Face-to-face conferences

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<sup>49</sup> [Restorative Justice Council What is Restorative Justice? https://www.restorativejustice.org.uk/what-restorative-justice](https://www.restorativejustice.org.uk/what-restorative-justice)

<sup>50</sup> Shuttle mediation: a trained facilitator/mediator (here in black image) helps offender and their victim to communicate with each other without either party having to be in the same room i.e. mediator speaks first to one party then the other (then back etc.)

Appendix 6a: Interview Questionnaire for RJ Experts

URN:

Information Sheet sent: Yes/No

Consent Form sent: Yes/No

**A**     CONTEXT SETTING

Building on a short pilot study undertaken in 2015–2016 between Durham Constabulary and the University of Sheffield under the N8 Research Partnership<sup>51</sup> exploring the feasibility of undertaking Restorative Approaches with Serious and Organised Crime Offending (groups which have been mapped by the police), this study seeks to further understand the potential challenges and opportunities of using such interventions. The outcomes of this research will inform practice and policy decisions via the National Police Chiefs Council and add to a small body of academic research available in relation to serious and complex offence types.

All responses will be treated in the strictest confidence and you will not be able to be identified in any publication or output from the research.

**B**     PERSONAL

Name: -----

Organisation: -----

Title: -----

Knowledge and Experience in the field of Restorative Justice: -----

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-----  
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-----  
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<sup>51</sup> <https://n8prp.org.uk/report-ra-organised-crime/>

**D**     **SURVEY QUESTIONS**

1. Please detail what Restorative Approaches means to you as a concept. Include, where possible, details such as:

- How have you utilised Restorative Approaches as part of your work either now or in the past?
- In what contexts in criminal justice, have you used Restorative Approaches? To what effect?
- Have your views changed over time as you have accrued more experience?

2. Is RA more suitable for some serious and organised crime group offenders and some of their victims, but not all – which types of offender and offences and which specific victim traits/attributes? Please detail situations that you have experienced where it has worked well and not so well if you are able to cite examples.

3. Why do you think Restorative Approaches with organised crime group criminals is not established practice in the UK?

4. Do you think it is worth a try? Please indicate the strength of your response on the scale below, with 1 being “definitely worth a try” and 10 being “it should not be tried”:

1      2      3      4      5      6      7      8      9      10

5. Why do you think this?

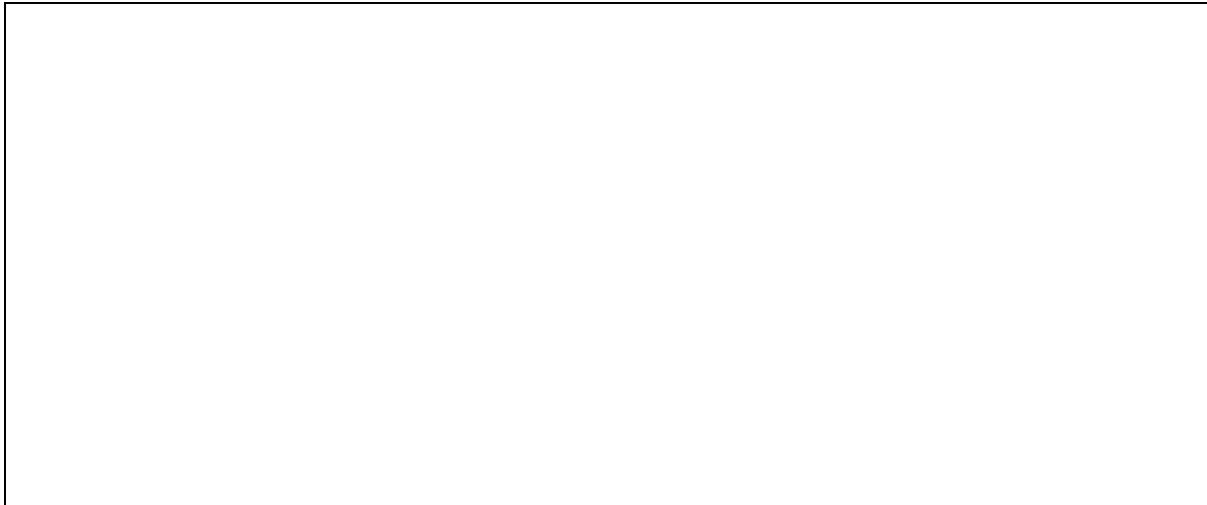
6. What can be done to address risk and vulnerability in this context which may differentiate it from a non-serious and organised crime context? What safeguards would you want to see in place? What is your rationale for these specific safeguards?



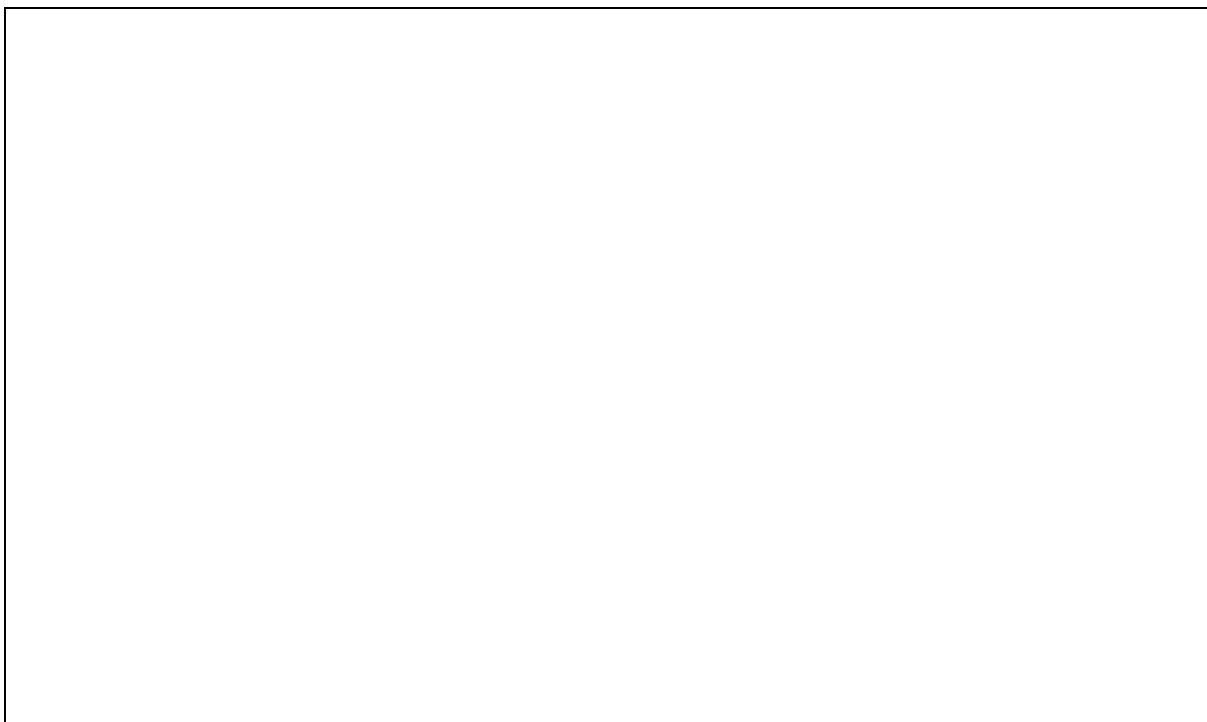
7. What do you see as the challenges of deploying Restorative Approaches in an organised crime group context? How may we overcome these challenges?



8. What do you see as the opportunities of deploying Restorative Approaches in an organised crime group context?



9. What specific specialised skills do you think an RJ practitioner needs in order to use Restorative Approaches with organised crime group offenders? Can you identify any specific training needs, should you wish to apply a restorative approach with organised crime groups you are involved with which have been formally mapped by the police?



10. If desirable, how can we expand this RA approach so that (a) all offenders have the opportunity and (b) all victims have an opportunity regardless of who offended against them? (Resource implications during austere times, logistics, etc.)



Thank you for taking part.

Appendix 6b: Interview Questionnaire for Soc Experts

URN:

Information Sheet sent: Yes/No

Consent Form signed: Yes/No

**A CONTEXT SETTING**

Building on a short pilot study undertaken in 2015–2016 between Durham Constabulary and the University of Sheffield under the N8 Research Partnership<sup>52</sup> exploring the feasibility of undertaking Restorative Approaches with Serious and Organised Crime Offending, this study seeks to further understand the potential challenges and opportunities of using such interventions. The outcomes of this research will inform practice and policy decisions via the National Police Chiefs Council and add to a small body of academic research available in relation to serious and complex offence types.

All responses will be treated in the strictest confidence and you will not be able to be identified in any publication or output from the research.

**B PERSONAL**

Name: -----

Organisation: -----

Title: -----

Knowledge/Experience in the field of Serious and Organised Crime:

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-----  
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<sup>52</sup> <https://n8prp.org.uk/report-ra-organised-crime/>



**C**     **SURVEY QUESTIONS**

1. Please detail what Restorative Approaches means to you as a concept. Include, where possible, details such as:

- How have you utilised Restorative Approaches as part of your work either now or in the past?
- In what contexts in criminal justice, have you used Restorative Approaches? To what effect?
- Have your views changed over time as you have accrued more experience?

2. Do you consider that RA is more suitable for some serious and organised crime group offenders and some of their victims, but not all? If so, which types of offenders and which offences and which specific victim traits/attributes lend themselves to a restorative approach? Please detail situations that you have experienced where it has worked well and not so well if you are able to cite examples.

3. Why do you think Restorative Approaches with organised crime group nominals is not established practice in the UK?

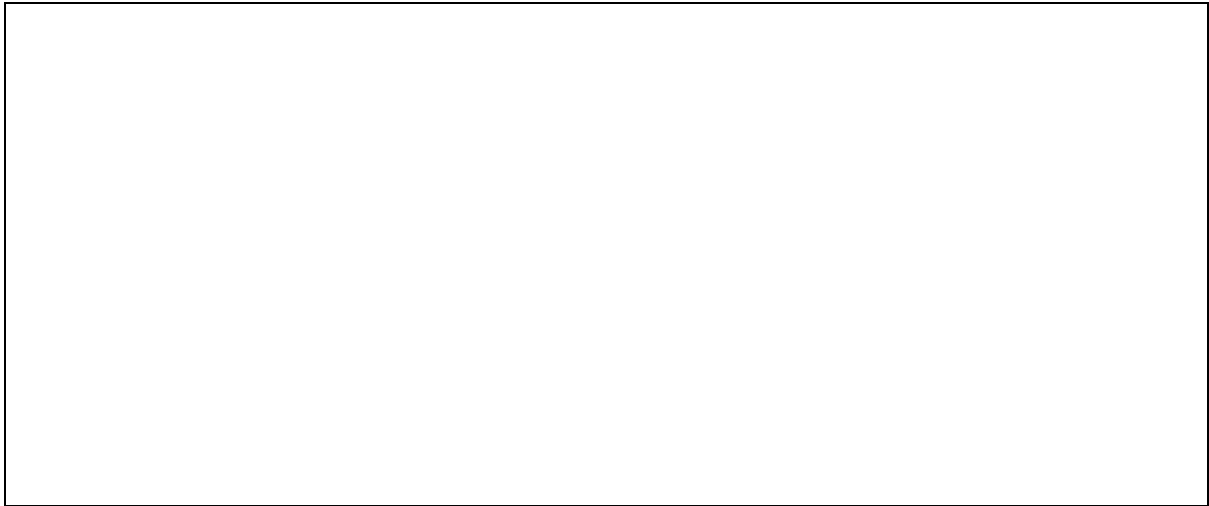
4. Do you think it is worth a try? Please indicate the strength of your response on the scale below, with 1 being “definitely worth a try” and 10 being “it should not be tried”:

1      2      3      4      5      6      7      8      9      10

Indicate number chosen:

5. Why do you think this?

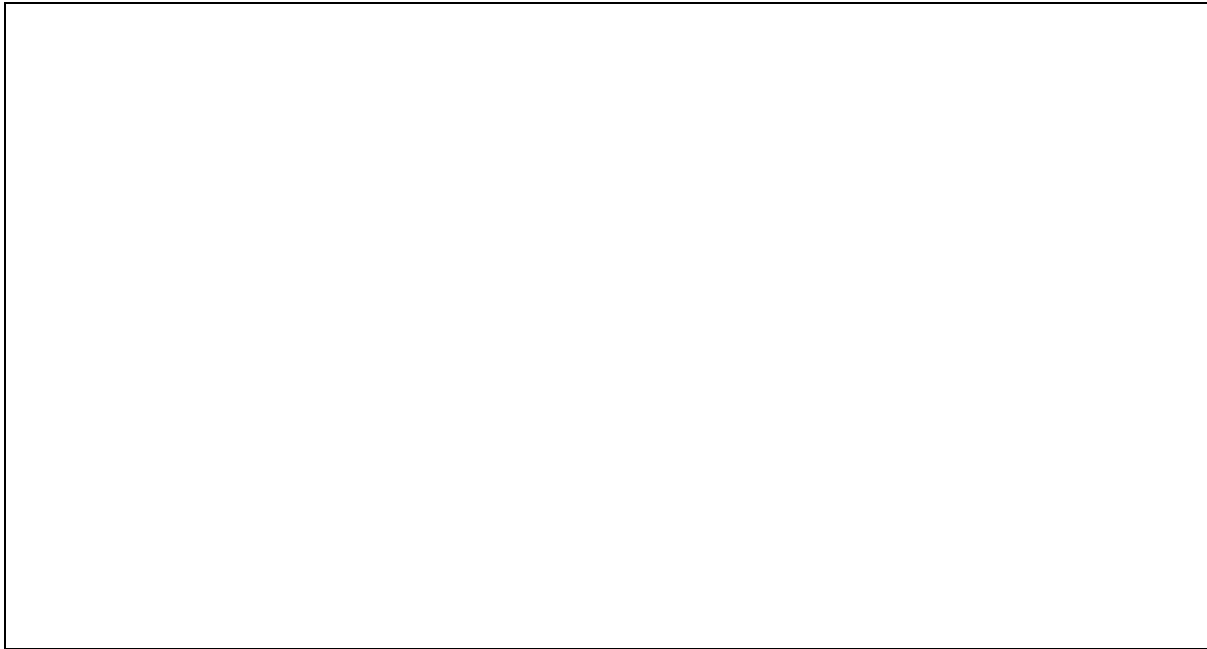
6. What can be done to address risk and vulnerability in this context which may differentiate it from a non-serious and organised crime context? What safeguards would you want to see in place? What is your rationale for these specific safeguards?



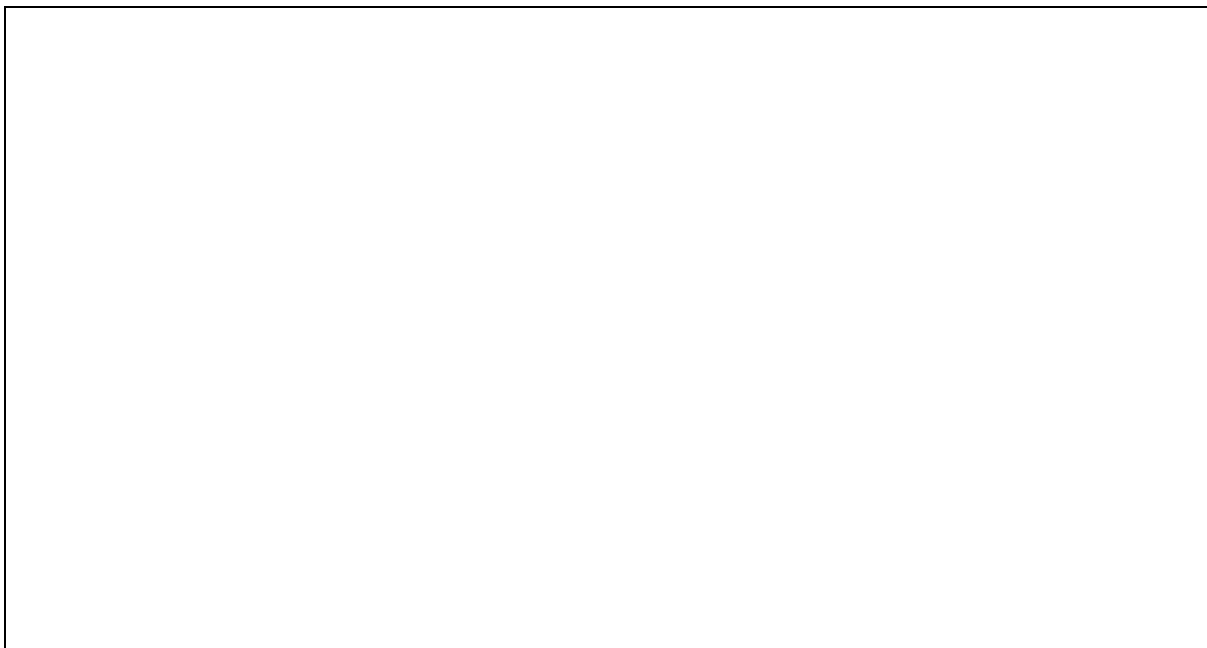
7. What do you see as the challenges of deploying Restorative Approaches in an organised crime group context? How may we overcome these challenges?



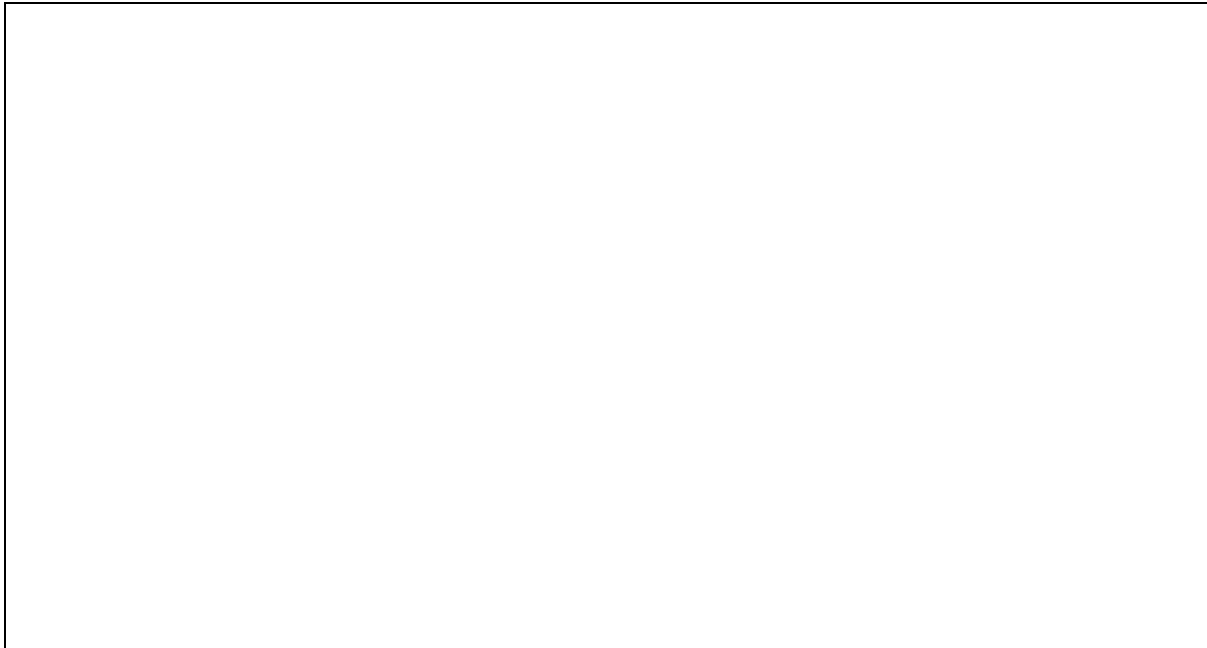
8. What do you see as the opportunities of deploying Restorative Approaches in an organised crime group context?



9. What specific specialised skills do you think an organised crime group practitioner or expert needs in order to consider using Restorative Approaches with organised crime group offenders? Can you identify any specific training needs, should you wish to consider a restorative approach with OCGS (most probably by referring onto a specialist service) you are involved with or have worked on in the past?



10. If desirable, how can we expand this RA approach so that (a) all offenders have the opportunity and (b) all victims have an opportunity regardless of who offended against them? (Resource implications during austere times, logistics, etc.)



Thank you for taking part.

Appendix 6c: Semi-Structured Interview – Offender in Prison

URN:

Information Sheet explained and signed: Yes/No

Consent Form explained and signed: Yes/No

Current/previous OCG-related offending details:

**A INTRODUCTORY QUESTION SET**

1. What is your understanding of Restorative Approaches? Please note that it can also be called Restorative Justice or Restorative Practices.

Follow-up questions, if appropriate:

- What do you know about it? Had you ever heard of it being used?

- What do the words “restorative” “approaches” mean to you?

**B SHOW DVD (10 minutes long – the Woolf Within)**

I would like to show you a 10 minute YouTube clip of RA; it is called *the Woolf Within* and shows a case which went through this process called restorative conferencing.

Talk about the different forms that RA can take e.g., letters of apology, paying compensation, community service type of activity, shuttle mediation and face-to-face conferences. Different forms of RA may be suitable for different type of offences and participants.

**\*\*Give out Briefing Sheet: Restorative Approaches/Justice and go through it\*\***

While the crime committed by well be different from the one you committed, the YouTube clip is shown merely to explain what restorative approaches is about and what it may be able to achieve.

**C UNDERSTANDING OF CONCEPT**

2. Having watched this clip, is there anything that you would like to ask about restorative approaches or want clarification on?

3. For what sort of offences do you think RA would be suitable? Not suitable? What type of victims?

4. What forms of RA do you think would be suitable for which type of offences? Why do you think this?

5. Some victims may be forgiving; others not so. This means different agreements may be reached for similar types of offending. What do you think about that?

6. The same offence may have a different impact on a victim. This may lead to different agreements for similar types of offending. What do you think about that?

**D YOUR VIEWS IN RELATION TO YOUR OFFENDING (only OCG-related activities)**

7. Thinking back to your offence(s), first of all, did you act alone or with others for the offences for which you are currently serving a prison sentence?

8. Can you tell me a bit about how your offending for which you have received this/these disposals has affected you or is affecting you?



9. Thinking back to these offences, was RA mentioned to you? Yes/No

If yes, what happened?

If not, ask: Do you think you would have wanted this as an option? Yes/No

10. If yes, why; if no, why not?

Follow-up Question, if appropriate:

What is it that appeals to you/puts you off?

11. If RA had been pursued, do you think it would have made any difference to your offending? (If yes) In what way?

If appropriate, ask:

Do you think that taking part in a restorative approach could address some of the things you have described about how offending has affected you?

12. Would you want anyone close to you involved at all to support you– a relative or key worker or friend? What kind of support do you think may benefit you?

13. What do you think you may lose from participating in a restorative approach? Do you think that there may be any costs to you?

14. What do you think you may gain from participating in a restorative approach?

15. (a) If RA had been pursued, how do you think your victim would see you after such a conference? How may they have felt about what you did or change anything about how they feel about themselves? (Clarify if there was one victim or if there were several victims).

(b) Do you think they would agree with your view?

16. What do you think your victim may gain from participating in a restorative approach?

17. What do you think your victim may lose from participating in a restorative approach?

18. Who do you think would benefit most from RA – yourself or the victim?

**E OFFER OF RESTORATIVE INTERVENTION**

19. So, thinking about all of this, would you say that in relation to your own offence of ....., you would be, if it were possible (which it may well not be):

Not at all keen to pursue a RA

Not very keen to pursue a RA

Prepared to pursue a RA

Very keen to pursue a RA

Just simply don't know

And if this:

Do want further information

Do not want further information

Any comments made:

20. And in relation to the same kind of offence as yours, generally, would you say that offenders would be

Not at all keen to pursue a RA

Not very keen to pursue a RA

Prepared to pursue a RA

Very keen to pursue a RA

Just simply don't know

Any comments made:

21. If the offender says s(he) wants to pursue or have further information, ask if they want to pursue RA as a possible option, post-interview? Yes/No

Follow-up question, if appropriate (i.e. if interested, ask):

- What type of intervention do you think you would favour, based on the limited information I have given you today about restorative practices (show them the Briefing Sheet again).

- Do you think you would like to pursue doing that in principle?

Be careful not to raise expectations if specialist resource is not available and this is not an option that can realistically be pursued. Explain regarding offender and victim willingness and informed consent.

As all research participants are being asked this question, only a small number of interventions can be pursued due to time constraints, resources and logistics.

**F**     **FOLLOW-UP INTERVIEWS**

22. I'm not intending at the moment to have a further follow-up interview to this one, but if that occurred, would you be willing? Yes/No

**G**     **FOLLOW-UP SUPPORT REQUIRED**

Check if nominal requires support of any kind, including for desisting from criminal activities.

NOTES:

Thank them for taking part.

Appendix 6d: Semi-Structured Interview – Offenders In The Community

URN:

Information Sheet explained and signed: Yes/No

Consent Form explained and signed: Yes/No

Current/previous OCG-related offending details:

**A INTRODUCTORY QUESTION SET**

1. What is your understanding of Restorative Approaches? Please note that it can also be called Restorative Justice or Restorative Practices.

Follow-up questions, if appropriate:

- What do you know about it? Had you ever heard of it being used?

- What do the words “restorative” “approaches” mean to you?

**B SHOW DVD (10 minutes long – the Woolf Within)**

I would like to show you a 10 minute YouTube clip of RA; it is called *the Woolf Within* and shows a case which went through this process called restorative conferencing.

Talk about the different forms that RA can take e.g., letters of apology, paying compensation, community service type of activity, shuttle mediation and face-to-face conferences. Different forms of RA may be suitable for different type of offences and participants.

**\*\*Give out Briefing Sheet: Restorative Approaches/Justice and go through it\*\***

While the crime committed may well be different from the one you committed, the YouTube clip is shown merely to explain what restorative approaches is about and what it may be able to achieve.

**C UNDERSTANDING OF CONCEPT**

2. Having watched this clip, is there anything that you would like to ask about restorative approaches or want clarification on?

3. For what sort of offences do you think RA would be suitable? Not suitable? What type of victims?

4. What forms of RA do you think would be suitable for which type of offences? Why do you think this?

5. Some victims may be forgiving; others not so. This means different agreements may be reached for similar types of offending. What do you think about that?

6. The same offence may have a different impact on a victim. This may lead to different agreements for similar types of offending. What do you think about that?

**D YOUR VIEWS IN RELATION TO YOUR OFFENDING (only OCG-related activities)**

7. Thinking back to your own offence(s), first of all, did you act alone or with others in the commission of the offences for which you have received ----- disposal(s)?

8. Can you tell me a bit about how your offending for which you have received this/these disposals has affected you or is affecting you?



9. Thinking back to these offences, was RA or restorative justice mentioned to you?  
Yes/No

If yes, what happened?

If not, ask: Do you think you would have wanted this as an option? Yes/No

10. If yes, why; if no, why not?

Follow-up Question, if appropriate:

What is it that appeals to you/puts you off?

11. If RA had been pursued, do you think it would have made any difference to your offending? (If yes) In what way?

If appropriate, ask:

Do you think that taking part in a restorative approach could address some of the things you have described about how offending has affected you?

12. Would you want anyone close to you involved at all to support you– a relative or key worker or friend? What kind of support do you think may benefit you?

13. What do you think you may lose from participating in a restorative approach? Do you think that there may be any costs to you?

14. What do you think you may gain from participating in a restorative approach?

15. (a) If RA had been pursued, how do you think your victim would see you after such a conference? How may they have felt about what you did or change anything about how they feel about themselves? (Clarify if there was one victim or if there were several victims).

(b) Do you think they would agree with your view?

16. What do you think your victim may gain from participating in a restorative approach?

17. What do you think your victim may lose from participating in a restorative approach?

18. Who do you think would benefit most from RA – yourself or the victim?

**E OFFER OF RESTORATIVE INTERVENTION**

19. So, thinking about all of this, would you say that in relation to your own offence of ....., you would be, if it were possible (which it may well not be):

Not at all keen to pursue a RA

Not very keen to pursue a RA

Prepared to pursue a RA

Very keen to pursue a RA

Just simply don't know

Do want further information

Do not want further information

And if this:

Any comments made:

20. And in relation to the same kind of offence as yours, generally, would you say that offenders would be

Not at all keen to pursue a RA

Not very keen to pursue a RA

Prepared to pursue a RA

Very keen to pursue a RA

Just simply don't know

Any comments made:

21. If the offender says s(he) wants to pursue or have further information, ask if they want to pursue RA as a possible option, post-interview? Yes/No

Follow-up question, if appropriate (i.e. if interested, ask):

- What type of intervention do you think you would favour, based on the limited information I have given you today about restorative practices (show them the Briefing Sheet again).

- Do you think you would like to pursue doing that in principle?

Be careful not to raise expectations if specialist resource is not available and this is not an option that can realistically be pursued. Explain regarding offender and victim willingness and informed consent.

As all research participants are being asked this question, only a small number of interventions can be pursued due to time constraints, resources and logistics.

**F FOLLOW-UP INTERVIEWS**

22. I'm not intending at the moment to have a further follow-up interview to this one, but if that occurred, would you be willing? Yes/No

**G FOLLOW-UP SUPPORT REQUIRED**

Check if nominal requires support of any kind, including for desisting from criminal activities.

NOTES:



Thank them for taking part.

Appendix 6e: Semi-Structured Interview – Victim

URN:

Information Sheet explained and signed: Yes/No

Consent Form explained and signed: Yes/No

OCG-related victimisation details:

**A**     **INTRODUCTORY QUESTION SET**

1.     What is your understanding of Restorative Approaches? Please note that it can also be called Restorative Justice or Restorative Practices.

Follow-up questions, if appropriate:

- What do you know about it? Had you ever heard of it being used?

- What do the words “restorative” “approaches” mean to you?

**B**     **SHOW DVD (5 minutes long – Repairing the Harm)**

I would like to show you a 5 minute YouTube clip of RA; it is called *Repairing the Harm*.

Talk about the different forms that RA can take e.g., letters of apology, paying compensation, community service type of activity, shuttle mediation and face-to-face conferences. Different forms of RA may be suitable for different type of offences and participants.

**\*\* Give out Briefing Sheet: Restorative Approaches/Justice and go through it\*\***

While the crime committed may well be different from the one you experienced, it is shown merely to explain what restorative approaches is about and what it may be able to achieve.

**C**     **UNDERSTANDING OF CONCEPT**

2.     Having watched this clip, is there anything that you would like to ask about restorative approaches or want clarification on?

3.     For what sort of offences do you think RA would be suitable? Not suitable? What type of victims?

4.     What forms of RA do you think would be suitable for which type of offences? Why do you think this?



**D YOUR VIEWS IN RELATION TO YOUR EXPERIENCES AS A VICTIM (only OCG-related experiences)**

7. Thinking back to your experience as a victim of ..... (crime type), was it the one offender or were there several offenders who committed the offence(s) against you?

8. Can you tell me how your experience as a victim has affected you? Is it still affecting you?

Thinking back to your experience with criminal justice in relation to this offence - the police, prosecution and courts - was there any aspect which affected you, or is still affecting you?

9. Thinking back to your initial contacts with the police, was RA mentioned to you?  
Yes/No

If yes, what happened?

If not, ask: Do you think you would have wanted this as an option? Yes/No

10. If yes, why?

If no, why not?

Follow-up Question, if Appropriate: What is it that appeals to you/puts you off?

11. Do you think that taking part in a restorative approach could address some of the things you have described about how your experiences of being a victim has affected you or is affecting you?

12. Would you want anyone close to you involved at all to support you during a restorative process – a relative or key worker or friend? What kind of support do you think may benefit you?

13. What do you think you may lose from participating in a restorative approach? Do you think that there may be any costs to you?

14. What do you think you may gain from participating in a restorative approach?

15. If RA had been pursued, how do you think your offender would see you after such a process? If there was one offender/several offenders, do you think that they would agree with your views?

16. What do you think your offender may gain from participating in a restorative approach?

17. What do you think your offender may lose from participating in a restorative approach?

18. Who do you think would benefit most from RA – yourself or the offender?

**E     OFFER OF RESTORATIVE INTERVENTION**

19.    So, thinking about all of this, would you say that in relation to your experiences as a victim, you would be, if it were possible (which it may well not be):

Not at all keen to pursue a RA   

Not very keen to pursue a RA   

Prepared to pursue a RA       

Very keen to pursue a RA       

Just simply don't know         

And if this:

Do want further information   

Do not want further information

Any comments made:

20.    And in relation to the same kind of offence that you were a victim of, generally, would you say that victims would be

Not at all keen to pursue a RA   

Not very keen to pursue a RA   

Prepared to pursue a RA       

Very keen to pursue a RA       

Just simply don't know

Any comments made:

21. If the victim says s(he) wants to pursue or have further information, ask if they want to pursue RA as a possible option, post-interview? Yes/No

Follow-up question, if appropriate (i.e. if interested, ask):

- What type of intervention do you think you would favour, based on the limited information I have given you today about restorative practices (show them the Briefing Sheet again).

- Do you think you would like to pursue doing that in principle?

Be careful not to raise expectations if specialist resource is not available and this is not an option that can realistically be pursued. Explain regarding victim and offender willingness and informed consent.

As all research participants are being asked this question, only a small number of interventions can be pursued due to time constraints, resources and logistics.

**F FOLLOW-UP INTERVIEWS**

22. I'm not intending at the moment to have a further follow-up interview to this one, but if that occurred, would you be willing? Yes/No

**G**      **FOLLOW-UP SUPPORT REQUIRED**

Check if victim requires support of any kind, including for desisting from criminal activities and make contact with any other agencies as appropriate with their consent, should support be required.

NOTES:

Thank them for taking part.