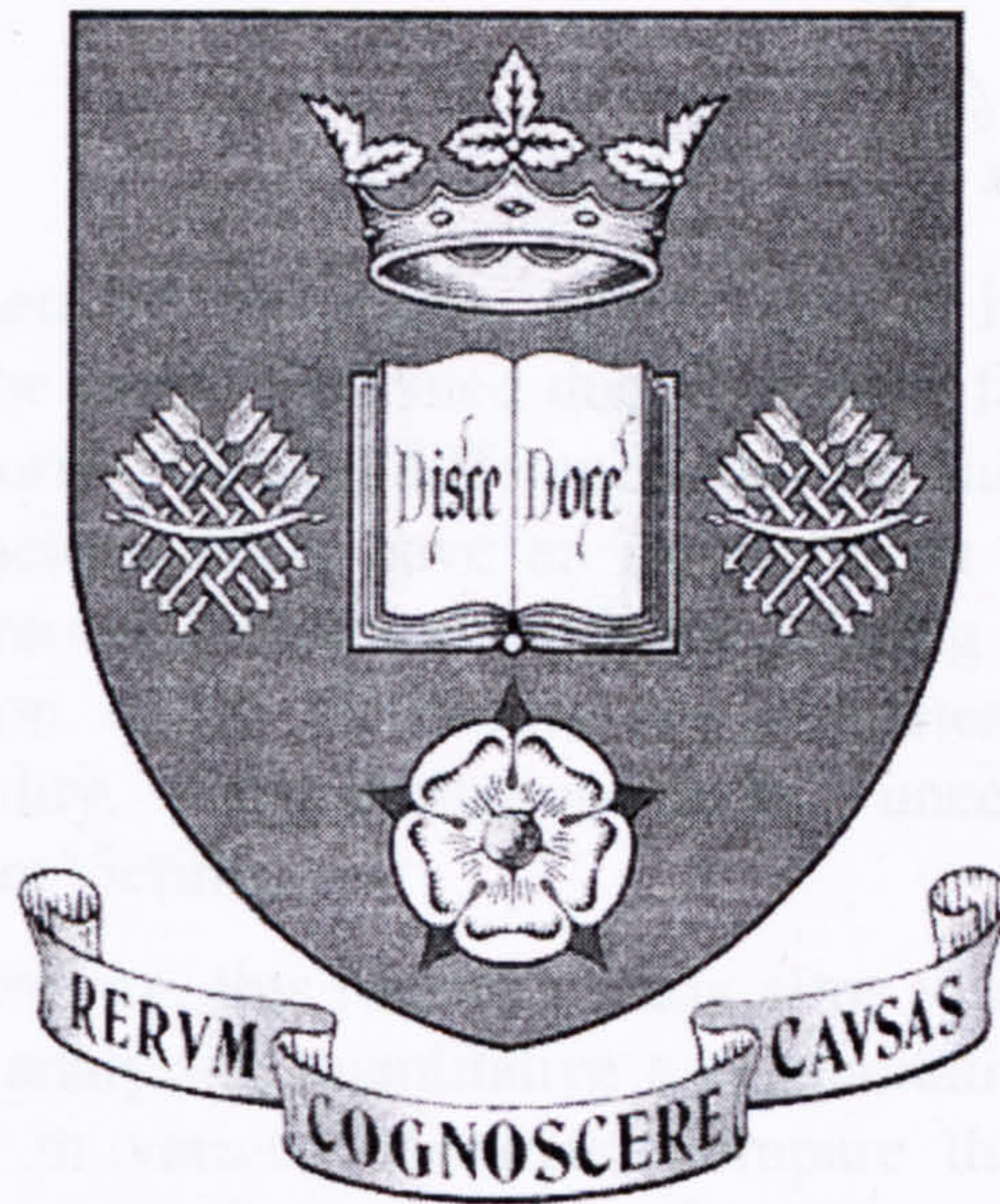


The University of Sheffield



**THE EFFECT OF RESTORATIVE JUSTICE PRACTICES  
ON CRIME VICTIMS: A META-ANALYSIS**

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## **Abstract**

When the restorative justice idea is implemented, its goals and values might not be entirely pursued due to various factors, such as penal goals, relevant social theories, cultural difference, and the values and norms of people in society. These factors might have an influence on its practices as well as its effectiveness. Moreover, empirical evidence relating to the effect of restorative justice practices on crime victims is not consistent and casts doubt on its reliability and validity. These limitations make it uncertain that restorative justice practices can restore victims.

Therefore, this research study aims to investigate the actual effect by systematically analysing quantitative and qualitative findings of the existing studies conducted in various countries; compare the effect between different restorative justice practices, i.e., conferencing and mediation, and the conventional criminal justice system; and investigate factors relating to the effect, i.e., case characteristics, scheme characteristics, and study characteristics.

The meta-analytical method is used to analyse research findings collected from 17 restorative justice schemes implemented in Australia, Canada, New Zealand, United States, and United Kingdom. Results from the meta-analysis confirm that conferencing and mediation have a profound effect on the outcomes of victim satisfaction, perception of fairness, fear of revictimisation, attitude toward offenders, agreement completion, and receiving of an apology. The effect ranges from 2 to 12 times as opposed to the conventional justice system with the highest on the outcome of the receiving of an apology and lowest on the outcome of the perception of fairness. Two outcomes are examined further and results show that restorative justice practices are likely to increase victim satisfaction and perception of fairness among victims of serious cases more so than among victims of less serious cases. In addition, they are likely to increase victim satisfaction and perception of fairness on victim's attitude toward the way their cases were handled than the case outcomes. These findings confirm the importance of the restorative process and suggest that restorative justice schemes should put more emphasis on serious cases.

**In memory of my brother**

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## Preface

Restorative justice may be an international movement but in Thailand, this idea is still unfamiliar to many criminal justice practitioners and was just introduced to our system few years ago<sup>1</sup>. However, some criminologists and senior government officers felt that some elements of restorative justice principles are similar to Thai culture and could be adapted to Thai community. They believed that it could be an alternative way to respond to the crime problem. Accordingly, some pilot projects were implemented in both juvenile and adult justice system in 2003 although these are still at an embryonic stage and no extensive evaluation has yet been undertaken.

Nevertheless, many lessons need to be learnt before restorative justice can be fully implemented even if this falls short of replacing the conventional criminal justice system, and this is true of all countries not only in Thailand. Its effectiveness and feasibility need to be properly evaluated. In fact, I have discovered that many issues need to be clarified, especially about victims. It seems that most studies in restorative justice tend to concentrate on showing how effective restorative justice initiatives can be in preventing re-offending behaviour, but very few attempt to investigate its effectiveness in restoring victims. Although restorative justice claims to restore victims I found very few evaluation studies providing convincing evidence in support of this claim.

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<sup>1</sup> The concept of restorative justice was first mentioned in a Thai seminar in 2000 but was only familiar to a few criminologists and practitioners. The first attempt to implement a restorative justice approach occurred in 2003 when a family group conference initiative was set up by the Department of Juvenile Observation and Protection. Later, the Department of Probation also implemented other restorative justice initiatives with adult cases in 2004. More detail about the development of restorative justice in Thailand is available in Kittayarak (2005).

Since becoming aware of this problem, and because I need to learn more about restorative justice in order to help in developing restorative justice practices in Thailand, I set out to study the effectiveness of restorative justice practices and to focus on victims particularly. This is also because the Thai criminal justice system has been increasingly aware of victims' rights and needs but very few reforms have been done to respond this awareness. Thus, if restorative justice can prove that it can really help victims, the idea would be widely supported and put into practice.

The main purpose of the present study is to investigate whether the idea of restorative justice really works when it is implemented and the extent to which it can actually restore victims. The original aims of the study were to examine the impact of the restorative justice approach, especially victim-offender mediation, on victims' distress and fear of crime, and to investigate the influence of selected factors - including victim characteristics, victimisation background, experience with the mediation process, and attitude toward offenders and mediator - on the impact of restorative justice<sup>2</sup>. This study was proposed because the psychological effect of restorative justice on crime victims is not very thoroughly explored and most existing studies relating to this subject suffer from limitations in their research methodology. For example, many studies only investigate the effect of restorative justice on those who agree to participate in the process without making use of control groups; others conduct their investigations only after the event. These limitations make it difficult to be sure whether any changes are the result of the restorative process or other intervening factors. Moreover, there are no restorative justice studies employing standardised psychological inventories, even though these are commonly applied to studies about crime victims, including large-scale studies based on comprehensive research designs.

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<sup>2</sup> More detail of the original research methodology is provided in Appendix A.

Unfortunately, however, it proved impossible to carry out the original plan. This was because of insuperable problems that were encountered at each of the selected locations during the planned fieldwork phase of the project. The empirical work started at the beginning of year 2001. No fewer than three separate schemes were initially targeted. First, the Victim Offender Mediation Service (REMEDI) in South Yorkshire was approached. However, it was also one of the schemes being evaluated under the auspices of the Home Office Crime Reduction Programme, which meant that access to the scheme for evaluation purposes was denied for a while. Consequently, the West Midlands Victim Offender Unit was contacted as an alternative venue for the research, in March 2001. However, after lengthy contact and communication with a senior member of staff, it was found that the number of referred cases to the scheme had sharply declined in recent years, which meant that there were unlikely to be enough cases for the treatment group, which was targeted at 50 cases.

In January 2003, a third scheme was approached: the Mediation and Reparation Service (MARS) in Southampton. The coordinator was interested and willing to participate in this study and there appeared to be a reasonable rate of victim involvement. Unfortunately, however, the period when the interviews were due to take place, was also the early stage of the implementation of the referral order and unexpectedly large numbers of cases were consequently referred from youth offending teams. Although the number of referred cases increased, relatively few of these resulted in direct involvement with victims. Moreover, due to the sheer volume of the caseload, the coordinator and staff could not in the end provide time for my study, which meant that the data collection that was planned for the Southampton scheme could not be accomplished after all.

Subsequently, in June 2003, the South Yorkshire Victim Offender Mediation Service (REMEDI) did become available once the fieldwork for the Home Office evaluation research had come to an end. The coordinator was committed to the aims of the research study and agreed that Remedi would participate in the research after all. However, due to concerns relating to data protection policy and fear of secondary victimisation, it was agreed that the

However, these limitations make it difficult to be sure that restorative justice can routinely restore victims or indeed that it is consistently superior to the conventional criminal justice system in responding to victims' needs.

In order to investigate the actual effect of restorative justice practices on crime victims and find out whether the restorative justice practices are superior to the conventional criminal justice approaches as well as to examine factors relating to this effect, I proposed to use a meta-analytical method, which is a technique for recording and analysing the statistical results of a collection of empirical research studies. One of the advantages of this approach is that it enables the findings of several studies to be included in the analysis. Furthermore, because of the resulting increase in sample size, findings from the analysis are generally more powerful and generalisable than findings from a single study. Moreover, the scope of the study is not limited to victim-offender mediation only but also includes the conferencing approach. An additional advantage is that other forms of victim restoration apart from psychological restoration may be included in the analysis, such as victim satisfaction, perception of fairness, and material reparation.

The results from this research study are expected to be very useful for policymakers, practitioners, and restorative justice advocates not only in Thailand but also in any countries that have been interested in restorative justice. As we know that restorative justice initiatives have been widely implemented and applied to various stages of the criminal justice system, it is necessary for them to know whether these initiatives are as effective as they are claimed to be. Moreover, restorative justice approaches are known to be time-consuming processes and require much effort and skill from practitioners, so it is also important to find out who will get the most benefit from the process so they can prioritise their targets. Finally, the results from this study will be very valuable for victims themselves. Since they are the ones who have to invest their time in the process, they should know whether their contribution and expectations are likely to result in positive outcomes or not.



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# Chapter 1

## Introduction

### 1.1 Background of the study

The main objective of this research study is to investigate if the restorative justice idea really works when it is implemented. The main questions that need to be investigated are *whether restorative justice practices have an effect on victims' restoration<sup>1</sup>, whether they are superior to the conventional criminal justice process in restoring victims, and whether there are any factors influencing this effect*. These questions are proposed because when the restorative justice idea is put into practice, the extent to which its goals and values are pursued rigorously and single-mindedly is debateable. It is argued that its implementation might be influenced by other penal goals, relevant social theories, cultural difference, and even the values and norms of officials and ordinary people in that particular society. For example, when restorative justice practices are routinely operated under the conventional criminal justice system, it is possible that policy-makers and practitioners may lose sight of its values and view restorative justice simply as an alternative technique to rehabilitate offenders (Walgrave, 1995). Some restorative justice schemes may focus on offender's rehabilitation and crime prevention rather than victims' restoration. If so, their primary goal might well be to educate, rehabilitate and reintegrate offenders, using victims' participation as a tool to achieve these goals (Johnstone, 2002). Support for this hypothesis includes the reliance placed on reoffending rates as one of the principal ways of measuring the effectiveness of restorative justice practices.

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<sup>1</sup> The concept of victims' restoration will be discussed in detail in section 1.3.

Another concern about the effect of restorative justice practices on victims is that victims themselves may not feel that restorative justice is superior to the conventional criminal justice system. Although restorative justice claims that it can respond to victims' needs and that it focuses on putting victims at the centre of the justice process, it is questionable whether victims themselves would fully concur with them. This is because many restorative justice schemes seem to have very low victim participation rates (Hill, 2002; Miers, et al, 2001; O'Mahony and Doak, 2004). Low victim participation rates could conceivably be the result of inappropriate victim contact procedures. However, it is also possible that victims do not wish to participate because they feel that the restorative justice process cannot help them and that restorative outcomes are not what they want.

With regard to this issue, some victims may feel that the restorative justice process is an added burden and that the meeting is being held in order to help the offender and not for their interests (Roche, 2003). Others may feel that the offence is too trivial to waste their time and so prefer to leave the matter to the police (Hill, 2002). Some victims, especially if their emotions are unstable, may feel that a face to face meeting with offender is too frightening or upsetting. They may fear retaliation from the offender or the offender's supporters at the meeting or after the event, and so decline the invitation to participate directly. There is also evidence that while victims may want to gain information and be consulted about the case outcome, they do not want to be fully involved in the justice process with responsibility for deciding about what to do with offenders (Shapland, Willmore and Duff, 1985).

These concerns may raise some suspicion about the effect of restorative justice on victims. However, when reviewing research study, some studies showed positive results. For example, the study of the Reintegrative Shaming Experiments (RISE) investigated victims' restoration by randomly assigning cases to either a restorative conference or the court processing groups (Strang, et al, 1999; Strang, 2002). Cases eligible for conferencing included youth offenders who had committed property offence and violent offences together with their victims. The main findings showed that after the conference, victims were

significantly less fearful of the offender (20% VS 9%) and less anxious about the offence happening again (40% VS 31%). 82% of victims in the conference group received an apology from the offender while only 11% of victims in the court group did. In addition, victims in the conference group (81%) agreed that they had been treated with respect during the conference.

Nevertheless, not all studies uniformly showed positive results. Especially, when considering victim satisfaction and perception of fairness, which are the most evaluated outcomes, the rate varies widely among restorative justice schemes. One evaluation study reported a relatively low satisfaction rate of 55% (Morris, et al, 1993) while another study reported a satisfaction rate as high as 100% (Umbreit and Fercello, 1997). In some cases, the findings are not convincing because the results are not significantly different from those obtained in respect of the comparison group. For example, Umbreit and Roberts (1996) reported that 59% of victims in the mediation schemes expressed perceptions of fairness in the justice system, compared with 50% of non-mediated victims, a difference that was not statistically significant. Furthermore, some studies have found that a proportion of victims are dissatisfied after their participation, and report negative feelings, such as anger, fear, and depression (Morris, et al, 1993; Strang, 2002). Other studies have shown that victims are the least satisfied group, in comparison with offenders and offenders' families (Daly, 2001; Dignan, 1990; Umbreit 1994b; Umbreit, 1999a).

The inconsistent effect of restorative justice on victims could result from a variety of factors, the likeliest of which relate to differences in the type of intervention. Although restorative justice practices share the same restorative justice values, such as reparation, inclusion of stakeholders, responsibility, and reintegration, they are nevertheless different in many respects. For example, the 2 main approaches, namely victim-offender mediation and family group conferencing, have originated from different backgrounds. While victim-offender mediation emerged from the victims' movement, conferencing seems to have emerged as a response for dealing with offenders (Morris and Maxwell, 2001). The process of each approach is also different in many ways, such as preparation

procedure, type of facilitator, and number of participants. These differences may have different effects on victims' restoration so there is a need to compare their relative effectiveness.

There have been some attempts to compare the impact of different restorative justice models on victim-oriented outcomes (Latimer, Dowden, and Muise, 2001; McCold and Wachtel, 1998; McCold and Wachtel, 2002), though the findings are far from conclusive. Latimer, et al. (2001) applied a meta-analytical method to compare victim satisfaction ratings for between conferencing and victim-offender mediation but found insignificant differences. The researchers suggested that the failure to find any significant results might be explained by the limited number of studies available for inclusion in the sample.

McCold and Wachtel (1998) also attempted to compare the outcomes of one family group conferencing project and 8 studies on victim-offender mediation. Although the researchers reported that the family group conference was superior to victim-offender mediation in some aspects including victim satisfaction and victim sense of fairness, the comparison method applied in this research was not systematic. For example, they used percentage of outcomes from their study and compared with percentage of outcomes from other studies without considering the differences between studies. By simply comparing one family group conferencing scheme with several victim-offender mediation schemes, the results could easily have been affected by other factors, such as research method, nature of offence, and scheme characteristics.

Differences in the methodological quality of research studies are another possible factor that might explain the inconsistent effect of restorative justice practice on victims. This is because the methodological quality of some existing studies is questionable. Some studies have been based on evaluations without using a pre and post-test or comparison group. Consequently, it is impossible to be certain that the results are attributable to the intervention alone since they might also be influenced by some factors or just the passage of time.

Another issue relating to methodological quality concerns the nature of the comparison group. Many studies routinely use a comparison group consisting of cases that were referred to the scheme but which did not actually participate. Although this type of comparison group may be matched to the treatment group in term of case characteristics, it might nonetheless incorporate a self-selection bias since the treatment group will consist of participants who want to participate whereas the comparison group will consist of participants who do not want to or cannot participate. It seems likely that any such self-selection bias might affect the evaluation outcome.

Finally, other factors, such as type of victimisation and scheme characteristics, might also have an influence on the effect of restorative justice practices. Thus, it is possible that restorative justice schemes which deal with particular types of victimisation might yield different outcomes. It might be thought, for example, that schemes selecting 'easy' cases dealing with young offender committing minor property crimes, will be likely to provide more positive outcomes than schemes dealing with 'hard' cases involving adult offenders who have committed serious violent offences.

In conclusion, uncertainties relating to restorative justice practices and unconvincing research findings with regard to its effect on victims make it difficult to be sure that the effects of restorative justice are superior to those of the conventional criminal justice system. In addition, it is likely that this effect might also be influenced by some factors as proposed above. In response to these concerns, this research study aims to:

- comprehensively investigate the effect of restorative justice practices on crime victims by systematically analysing the quantitative and qualitative findings of the restorative justice research conducted in various countries
- compare the effect on crime victims of different types of restorative justice practices (namely, conferencing and mediation), with that of the conventional criminal justice system



- investigate factors that may affect the effect of restorative justice on crime victims, such as case characteristics (including types of offence and offender), scheme characteristics, and study characteristics.

## **1.2 Justification of the study**

Findings from this research study are important for restorative justice advocates as well as policymakers. This is because restorative justice has recently become an influential movement. Its approaches have been applied in different stages of the criminal justice system in many countries. In some countries, e.g., New Zealand and Australia, it has even been used as a mandatory measure in dealing with some specific types of crime. For some restorative justice advocates, restorative justice seems to be more favourable than the conventional criminal justice system. They view it as a new paradigm in responding to crime problems and argue that we need to establish a system where restorative justice could become a routine response for most criminal offences.

If restorative justice were to become a standard response for most types of crime, the most important thing that we must be certain about is how effective it is, especially in term of victim restoration. If restorative justice is not able to substantiate this claim, it will be difficult to persuade policymakers to believe that restorative justice is any better than other existing victim reforms. Therefore, it is expected that findings from this study will help policymakers to be more knowledgeable about the effectiveness of restorative justice initiatives.

Furthermore, another issue that needs to be considered before implementing a restorative justice system is its feasibility, which in turn relates to the relationship that is envisaged between restorative justice and the conventional criminal justice system. Some restorative justice proponents propose to replace the entire existing criminal justice system with a restorative justice system (Fattah, 1998; Zehr, 1995). Others prefer to integrate restorative justice with the conventional criminal justice system (Braithwaite, 1999a; Dignan, 2002, 2003; von Hirsch, Ashworth, and Shearing, 2003; Walgrave, 2000). If restorative

justice were to replace the entire criminal justice system, it would not only have to deal with large volumes of referred cases but presumably would need to be suitable for all types of cases. The feasibility of such a radical policy shift is very much open to doubt since there are many types of cases for which such an approach does not appear suitable. Examples include victimless offences, cases when offenders or victims refuse to participate, cases in which the offender fails to carry out the agreement, and cases involving recidivists who may carry on offending even after repeatedly taking part in restorative justice processes.

A more feasible solution might be the integration of the restorative justice system within the conventional criminal justice system. In this way, the restorative justice process would target a specified range of offences for which the process can be shown to have the most positive effects. Other cases that are not suitable for the restorative justice process, or those for which the conventional criminal justice system can be shown to be equally effective, could continue to be dealt with in this way. This targeting would help limit the caseload and ensure that restorative justice processes are available for all those who need it the most. However, restorative justice proponents must first find out the types of cases for which the process is really most effective. Again, the answers from this study might be able to help.

Thus, it is necessary for policymakers, practitioners, and restorative justice advocates to know if these initiatives are as effective as they are claimed to be and to be certain that we are adopting the most appropriate means of helping victims of crime. As we know that the restorative justice approach is a time-consuming process and requires much effort and skill, it is also essential to be sure that this process is applied to those who most need help and who are most likely to benefit from it. Finally, it is very important for victims themselves to be sure that this approach can help them since they are the ones who have to contribute their time in the process and who expect that it will help them better than the conventional criminal justice system. If their expectations are not met, this is likely to increase their dissatisfaction and may lead to secondary

victimisation, the situation when victims feel insecure and lose faith in the help available from their communities and the professional agencies (European Forum for Victim Services, 1998).

### **1.3 Meta-analysis**

One way of investigating the actual effect of restorative justice practices, comparing it with that of the conventional criminal justice system, and assessing the possible impact of factors that may influence this effect is to use the statistical technique of meta-analysis, which is a technique for recording and analysing the statistical results of a collection of empirical research studies. This method is particularly useful for the present study because meta-analysis enables us to compare the effect obtained by an observed approach with that obtained by the conventional approach and to measure the differences between them. More specifically, meta-analysis provides an instrument – referred to as ‘effect size’<sup>2</sup> - which makes it possible to specify how effective (or ineffective) the restorative justice approach is with regard to a range of possible outcomes. Moreover, if the effect sizes show some variability, the method also makes it possible to investigate factors that may be responsible for it.

In this study, research studies conducted in various countries including Australia, Canada, New Zealand, United States, and United Kingdom are included in the analysis. Two main restorative justice approaches, i.e., mediation and conferencing, are compared. Outcomes that are evaluated consist of victim satisfaction with both the process and outcome, perceptions of fairness with regard to them both, fear of revictimisation, attitude toward offenders, agreement completion, and receiving of an apology. These outcomes are the ones that have been most frequently used to assess the ability of restorative justice processes to bring about the restoration of victims.

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<sup>2</sup> Effect size is a statistic that standardises findings from different studies. More detailed discussion relating to the concept of effect size is presented later in Chapter 5.

Since ‘victim restoration’ is a key concept for the purposes of this study, it should be elucidated further by drawing on John Braithwaite’s very helpful groundwork. According to Braithwaite (1996), victim restoration encompasses a number of distinct elements, the first and most obvious being *restoration of property loss and physical injury*. However, crimes also frequently cause much deeper psychological impact by violating the victim’s belief in their own personal safety, security, and autonomy. This experience may induce feelings of helplessness, humiliation, and vulnerability. Consequently, it is important to make good the loss of victims’ *sense of security and sense of dignity* in order to bring about their restoration.

Crimes can also reduce our freedom to enjoy life as we choose. This loss of ‘dominion’ may be experienced as a sense of disempowerment (Braithwaite, 1996). Thus, victims also need to have *their sense of empowerment restored*. Moreover, victims are not only disempowered by the offender but also by the conventional criminal justice system. As Christie (1976) said, the system steals our conflict. It decides which rules apply to a case and then constrains our deliberation within a technical discourse about that rule (Braithwaite, 1996). So, in order to restore victims, it is also necessary to recreate institutions for the pursuit of *deliberative democracy* in which victims are encouraged to participate as well.

Victims also need to have *restored to them a sense of harmony based on a feeling that justice has been done*. This is more likely to occur when they are provided with a forum in which they can make their feeling known and have a say in the outcome. Finally, victims also need appropriate forms of *social support*, both from their loved ones and also from the community if they are to be fully restored.

Although the outcomes used in this study do not represent all elements of victims’ restoration as defined by Braithwaite, at least they can inform us whether victims are restored in terms of material reparation, emotional reparation, sense of security, and procedural justice and how satisfied they are with the way they were treated and their case outcome. Moreover, other aspects

and dimensions of victims' restoration are also investigated through the literature review and are provided in Chapter 4.

In order to investigate the second and third aims referred in the previous section, meta-analysis will also be used to identify factors that may influence the effect of restorative justice practices on victims. Three principal sets of factors will be considered, as follows:

- Scheme characteristics. This cluster consists of factors relating to type of intervention and point of case referral.
- Case characteristics. This cluster consists of factors relating to type of offender and type of offence.
- Study characteristics. This cluster consists of factors relating to research methodological quality.

An advantage of the meta-analytical method is that the results from the analysis are more reliable and powerful since findings from several studies will be systematically combined and any bias from the research methodology will be controlled and examined. It is expected that results from the analysis will help us understand how significant an effect restorative justice practices have on victims and what factors might have an influence on it. More detail about meta-analysis and research methodology is presented in Chapter 5. Its strengths and weaknesses as well as key concepts and method are discussed.

## **1.4 Thesis outline**

Victims of crime and their experience in the criminal justice system are examined in the following chapter. Research findings about victims' reactions to crime and fear of crime and revictimisation are reviewed. These findings reveal how crime causes damage to different types of victims and what factors might help them recover from the victimisation. The second part of Chapter 2 describes the experience of victims in the current criminal justice

system and discusses various victim reforms and their limitations in restoring victims. The last section, on victims' trauma and needs are discussed in order to explain why crime is traumatic for victims and what they need for their recovery.

Chapter 3 focuses on restorative justice. This chapter begins with the intellectual background of restorative justice and is followed by some principles and practices of restorative justice. Since various types of restorative justice approaches may entail different roles for victims, the process of each approach is introduced and compared to examine how they might affect victims. Some criticisms of restorative justice are also examined. Finally, the extent to which the restorative justice process can restore victims is investigated in detail.

Victim involvement and experience with restorative justice practices are investigated in detail in Chapter 4. The first part is about the current situation of victim involvement in restorative justice practices. Issues relating to victim participation and factors affecting their participation are investigated. Victim expectations of restorative justice approaches are also examined to find out why they choose to participate. The second part is about victim experience in the restorative process and outcomes. Research findings in term of qualitative and quantitative results are reviewed. This review should provide the qualitative background to the results of meta-analysis. Finally, some limitations of research studies in victim involvement in restorative justice are examined.

Chapter 5 and 6 comment on the research methodology and results from meta-analysis, respectively. The effects of two restorative justice approaches comprising of mediation and conferencing on various victim outcomes are analysed. The outcomes investigated include victim satisfaction, perception of fairness, fear of revictimisation, attitudes toward offenders, completion of agreement, and receipt of apology. Finally, the relationship between the proposed factors - comprising scheme characteristics, case characteristics, study characteristics and selected outcomes - are examined. In Chapter 7, the results obtained from the meta-analysis are concluded and discussed. Some policy implications of the research findings are proposed and recommendations for future research are presented.

## **Chapter 2**

### **Victims of crime and the criminal justice system**

Studies in victimisation show that victims suffer from adverse consequences of crime (Brand and Price, 2000; Lurigio, 1987; Norris and Kaniasty, 1994). They often lose their money or property, sometimes are physically injured or emotionally disturbed. The visible damages may vanish in a short period of time while the psychological damages can last longer than we think. Some victims may feel angry, depressed, and fearful and have difficulty in adjusting to normal life for days or years.

After victimisation, some victims become involved with the criminal justice process but this experience may not be satisfying. The process focusing on punishing or rehabilitating wrongdoers makes them feel alienated and neglected. There is some empirical evidence showing that some even feel more distressed if they perceived the sentence was unfair (Tontodonato and Erez, 1994).

In order to understand victims of crime and their sufferings, research findings in victimisation are examined. Since many victims also suffer from psychological damage, victim's psychological reaction to crime and factors relating to this reaction are investigated in detail. The experience with the criminal justice system is also explored. Some empirical studies are investigated to find out how victims feel about this experience. Attempts to respond to victims' needs are also discussed and their advantages and limitations are assessed. Finally, in order to explain why crime is traumatic for victims and what they need to recover from this experience, victim's trauma and needs are explained.

## **2.1 The impact of crime on victims**

In this section, victims' loss and damages caused by crimes are explored. Some victims may experience material or financial loss or physical injury. However, many victims frequently report that they suffered from psychological damage, such as emotional disturbance, distress, and fear of crime and revictimisation. Since the psychological consequence of crimes can be profound and sometimes persist, research findings relating to this impact will be investigated in detail. Finally, factors that relate to their suffering as well as recovery are also examined.

### ***Physical damage***

Crimes usually result in material or financial loss. Loss may be direct and sometimes indirect and appear later, for example wage loss, medical and legal expenses, and installation of security equipments. In England and Wales, property stolen or damaged in case of burglary costs around £800 per incident (Brand and Price, 2000, p.36). In some cases, these stolen items, such as jewellery or watches, may also have sentimental value to victims (Mawby and Walklate, 1997, p.275). When other losses, such as security expenditure, costs to the criminal justice system, emotional impact, and health services, are included, crimes can cost around £2,300 per incident for burglary. However, personal crimes are far more costly on average than property crimes. Homicides have been estimated to cost at least £1million, with other violence against the person costing on average £19,000 per incident. Totally, the cost of crime in 1999/2000 is estimated at around £60 billion (Brand and Price, 2000).

Apart from the material and financial loss, some victims were physically injured during the incident of crime. The British Crime Survey reported that 27% of all violent incidents involving injury resulted in minor bruising or a black eye and 14% in cuts (Dodd, et al, 2004, p.75). Sometimes the damage of injury may have the psychological effect on victims, such as the case of facial injury or scar.



Interestingly, a study in Germany reported that when asked about damages or injuries victims had sustained, they most frequently reported injuries of an emotional nature including fear of repeated victimisation (Baurmann and Schädler, 1991, p.12). Other types of damage, such as physical injury or loss of time, were more frequently reported only in select groups of victims, for example victims of property crime. Nevertheless, most victims, even victims of property crime, experience some forms of psychological injuries. This psychological injury can have profound effect and sometimes lasts longer than any physical damages. Therefore, the next section will discuss this issue in detail.

### ***Psychological damage***

Research has shown that crimes cause psychological damage to victims. After the incident, victims of crime, such as burglary, robbery, and assault report that they suffered from a wide range of symptoms and emotional disturbance including nervousness, unpleasant thoughts, poor appetite, generalised fearfulness, upset stomach, sleep disturbances, uncontrollable urges to retaliate, and a greater need to use prescription drugs (Lurigio, 1987). In case of victims of violent crime, some may report extreme distress or depression, hostility, and anxiety (Norris and Kaniasty, 1994).

Crime victims may exhibit a wide range of emotional disturbance and psychological reaction to crime. However, according to Frieze, Hymer, and Greenberg (1987), these reactions can be briefly explained in 3 stages, i.e., immediate reactions, short-term reactions, and long-term reactions.

#### **Immediate reactions**

This stage can last from hours to days. The immediate reactions include numbness or disorientation, along with denial, disbelief, and feeling of loneliness, depression, vulnerability, and helplessness. Among the most immediate reactions to violence are anxiety, accompanied by sleep disturbances and nightmares. For burglary victims, common reactions include surprise or

shock. Maguire (1980) reported that the first reaction of burglary victims consisted of anger, shock, upset, surprise, and fear; and the most common reaction was anger or annoyance.

### **Short-term reactions**

In this stage, victims may experience swings in feeling from fear to anger. Feelings may also alternate between sadness and elation and between self-pity and guilt. Some robbery victims initiate protective behaviours such as acquiring weapons for self-defence. Victims of both property crimes and violence often express a need for retaliation. Given these strong and sometimes conflicting reactions, the victim may be especially responsive to social support during this stage. The short-term reactions last from 3 to 8 months.

### **Long-term reactions**

As the fear and anger diminish, the victim enters the final stage, sometimes known as reorganisation. Some victims are able to resolve the trauma of the victimisation in this stage by establishing more effective defensive-vigilant behaviours and revising his or her values and attitudes to readjust to everyday life. However, the long-term reactions can be problematic. Service providers most frequently mention low self-esteem, depression, guilt, fear, and relationship difficulties as the most common long-term problems. It is in this final stage that the victim may blame himself or herself for a lack of attention to danger.

### ***Fear of crime and revictimisation***

In addition to the psychological symptoms, many researchers found that many crime victims suffered from fear of crime and fear of revictimisation. Smale (1984) studied psychological effects and behaviour changes in the case of victims of serious crimes including personal and property crimes. He found that among the psychological effects, fright and fear of recurrence were commonly found for almost all victims. Norris and Kaniasty

(1994) also found that the most common distresses found in both victims of violent crime and property crime were fear of crime and avoidance behaviour.

Skogan's (1987) study of the impact of victimisation on fear is one of the most comprehensive. He examined the relationship between fear of crime and victimisation experience and differential impact of victimisation on different subgroups. Fear of crime, assessed by various measures including measures of worry and concern about crime; and defensive and preventive behaviour, was subdivided into 2 categories, i.e., fear of property crime and fear of personal crime. Victimisation consisted of property victimisation and personal victimisation. The result showed that victimisation was consistently related to all measures of fear of crime. In other words, people who are victimised think there is more crime around, are more worried about being a victim, and take actions to protect themselves. The researcher also found that property victimisation had more effects than personal victimisation. Skogan (1987) noted that this finding might result from the infrequent occurrence of personal victimisation. However, he did not find any strong evidence of special impact of victimisation on any subgroups and suggested that this differential impact might be confined to other consequences, e.g. psychological consequence and interpersonal problem, which were not examined in this study.

Although most studies found a strong relationship between criminal victimisation and fear of crime, other studies found a weak relationship between them. They found that fear of crime does not relate to or even shows a negative relationship with victimisation (Box, Hale, and Andrews, 1988; Borooah and Carcach, 1997; Mayhew, 1984). These studies reported that crime victims and nonvictims did not show significant difference in fear of crime, or in some cases, victims were less fearful of crime than nonvictims.

Researchers explain this negative correlation by hypothesising that people may 'fear the worst' before they have any direct experience with crime; but when they do, and survive, their anxiety may be alleviated (Skogan, 1987). Box, et al (1988) explain that victims may take more precautions and so become less fearful or they may allow the experience to wither as time passes. Another

explanation was given by Agnew (1985). He suggested that victims use techniques of neutralisation, to help cope with their experience of victimisation. These techniques include denial of injury (I wasn't hurt badly), denial of vulnerability (I probably won't be victimised again), denial of responsibility (the victimisation was not my fault), belief in a just world (the criminal has been or will be properly punished), and appeal to high motives (I did it for a good cause). However, this explanation has only limited support (Hale, 1996).

The inconsistency in findings concerning the relationship between criminal victimisation experience and fear of crime can be explained in different ways. Skogan (1987) has proposed an explanation that the effects of victimisation on most victims may disappear in a short time before studies could measure it. However, this explanation was rejected by other researchers who found that impact of victimisation can persist for a considerable period (Kilpatrick, et al, 1987; Norris and Kaniasty, 1994).

### ***Pervasiveness and persistence of psychological damage***

It should be noted that the psychological damage brought about by crimes is not limited to any specific types of victimisation. Different types of victimisation result in similar kind of reactions. Although these reactions vary in intensity, they share many features (Markesteyn, 1992). For example, psychological reactions of robbery victims are similar to those of rape victims but their reactions are in lower degree than rape victims and they may recover at a faster rate than rape and, particularly, rape-robbery victims (Resick, 1987).

Lurigio's (1987) study supports the pervasiveness of the effect of crime. He reported that there were no patterns of clear or consistent differences among the three mid-range categories of crime victims, i.e., residential burglary, robbery, and felonious assault. Norris and Kaniasty (1994) also show further empirical support. They compared the psychological distress exhibited by victims

of violent crimes, including assault, robbery, and rape, with that exhibited by victims of property crimes, including vandalism, larceny, and burglary. They found that all victims exhibited a similar profile of symptoms although violent crime victims were the most severely distressed.

In addition, victims' psychological reactions to crime are persistent. Crimes in general and rape in particular can have persistent long-term effects (Kilpatrick, et al, 1987). In the study of lifetime criminal victimisation experience, crime reporting, and psychological impact, Kilpatrick, et al (1987) found that 7.5% of all crime victims still had crime-related Post-Traumatic Stress Disorder (PTSD) at the time of assessment which was an average of 15 years after the crimes. The findings of the study conducted by Norris and Kaniasty (1994) underline the persistent effect of crime. Victims' symptoms declined over the next 6 months after the crimes but they soon levelled off. After 9 months, there was little evidence that crime victims would continue to improve. After 15 months, violent crime victims were still more symptomatic than were property crime victims, who, in turn, were still more symptomatic than non-victims. Shapland, et al (1985) also found that the physical, social, and psychological effects of crime were persistent. A majority of victims in this study suffered some kinds of emotional effect, such as nervousness, anxiety, and worry, which remained over periods of month or even years.

### ***Factors relating to psychological damage***

The relationship between victimisation and psychological damage cannot be studied without considering other factors. Many studies have reported that the psychological impact of victimisation also depends on various factors. These factors as modelled by some researchers include previctimisation factors, victimisation factors, and postvictimisation factors (Lurigio and Resick, 1990; Markesteyn, 1992; Ruback and Thompson, 2001).

## **Previctimisation factors**

Most studies on victim psychological reactions to crimes routinely use demographic variables as the predictive variables (Hraba, et al, 1999; Lurigio and Resick, 1990; Maguire, 1980; Mawby and Walklate, 1997; Resick, 1987). Age, gender, income, occupation, marital status, and education level are usually examined to see how they influence crime victims' reactions. The majority of studies report consistent findings about the relationship between these demographic variables and psychological reactions. However, some studies reveal different results.

Most studies report that women have been distressed by crime at an earlier stage than men (Hraba, et al, 1999; Maguire, 1980; Mawby and Walklate, 1997; Resick, 1987). Female victims seem to be more fearful and suffer from the impact of crime longer than male victims. Younger victims were found to cope more effectively than older victims of crime (Lurigio and Resick, 1990; Markesteyn, 1992). In cases of burglary crime, separated, widowed, or divorced female victims suffered more than married female victims (Maguire, 1980). With regard to education and income, victims with little formal education and low incomes have been more traumatised than victims from higher socioeconomic and educational groups (Lurigio and Resick, 1990).

Meanwhile, some researchers reported that age, gender, education or income were not related to psychological distress among crime victims (Kilpatrick, et al, 1987). Kilpatrick, et al, (1987) noted that posttraumatic stress disorder was unrelated to age, race, education, or income of victims of rape, sexual assault, robbery, and burglary.

Apart from demographic variables, many researchers investigate the influence of previctimisation adjustment and stress on victims' recovery process. The literature in this field shows that prior life stress and mental health problems of crime victims can influence the victim's recovery and psychological

reactions (Lurigio and Resick, 1990; Markesteyn, 1992; Ruback and Thompson, 2001). Victims, especially in case of rape victims, with prior mental health problem or life stress, have more difficulty in coping with the aftermath of crimes (Resick, 1987).

### **Victimisation factors**

The most prominent factor in this category is types of criminal victimisation. However, this factor does not cause any differences in types of the victim's reactions. Rather, victims of different crimes differ in their degree of distress or recovery rate. For example, victims of robbery are less distressed and can recover at a faster rate than rape victims but both groups suffer similar kinds of symptoms, e.g. anxiety, and fear (Resick, 1987).

Types of victimisation can also affect the reactions of victims when fear of crime is examined alone. Property crime has a stronger influence on victims' fear of crime than personal crime (Dull and Wint, 1997; Lurigio, 1987; Skogan, 1987; Smale, 1984). Lurigio (1987) found that victims were more likely to report higher levels of fear relating to being attacked or robbed at night and having their homes burglarised. Moreover, burglary victims were more likely than robbery or assault victims to express a high level of fear regarding property crime. Smale (1984) found that property-crime victims appeared to be more afraid of recurrence of the crime than violent-crime victims and after victimisation, almost all victims took some forms of preventive measures. Smith and Hill (1991) concluded in their study that victims of property crime and those victims of both property and personal crimes reported significantly higher levels of fear than victims of personal crimes.

The other factors concerning victimisation characteristics are the degree of violence and relationship between victim and offender. There is substantial data indicating that the degree of violence directly relates to victim

symptoms (Lurigio and Resick, 1990; Markesteyn, 1992; Ruback and Thompson, 2001). Not surprisingly victims who are injured or have life-threatening experience are likely to be more distressed.

Conversely, the impact of the victim-offender relationship on victims' reactions has produced mixed results (Lurigio and Resick, 1990; Ruback and Thompson, 2001). Some studies found that women sexually assaulted by strangers reported greater distress than women assaulted by known offenders. Other studies found the opposite results. There are some explanations for these contradictory findings (Ruback and Thompson, 2001). Women who know offenders may have higher thresholds for defining events as sexual assault than women assaulted by strangers. Thus, if women who know offenders consider themselves as sexually assaulted, they might experience more severe and brutal assaults and show higher distress. On the other hand, women assaulted by strangers may show higher distress if they generalise their fear to other men who have similar attributes to the offenders.

In the case of property crime, victims can be influenced by the extent of loss or damage. Mawby and Walklate (1997) reported that those whose financial losses were greatest, who lost items of sentimental value, incurred damage or were not insured were the most likely to be effected and to suffer for a longer period of time.

### **Postvictimisation factors**

After victimisation, the most important factor affecting the victims' reactions is their coping strategies. Their attempts to cope with the distress can affect the degree of distress and recovery process. Some victims may recover faster and are less affected by crimes than others depending on the strategies they employ. Researchers have identified these strategies as cognitive and behavioural coping strategies (Frieze, et al, 1987; Lurigio and Resick, 1990; Markesteyn, 1992).



*Cognitive coping strategies* include self-blame and cognitive restructuring. Self-blame is the tendency of victims to make personal attributions about the causes of their victimisation (Lurigio and Resick, 1990). Self-blame in victims arises in two aspects, i.e., behavioural and characterological (Janoff-Bulman, 1979). Victims who blame themselves behaviourally express less psychological distress than other victims because they judge that their victimisation can be attributed to some of their particular actions or behaviours, which are changeable. They are confident that if they change these behaviours, they can avoid future victimisation. Meanwhile, victims who engage in characterological self-blame perceive that the cause of their victimisation is in their personality traits and inadequacies, which are stable and enduring. They may see themselves as the type of persons who is vulnerable to that kind of victimisation. Therefore, they feel that future victimisation cannot be avoided. This kind of self-blame is maladaptive and is likely to result in low self-esteem, depression, and helplessness among crime victims (Lurigio and Resick, 1990; Markesteyn, 1992).

Another cognitive coping strategy is cognitive restructuring, a coping mechanism in which victims reinterpret their experience to ameliorate the adverse effect of the incident (Lurigio and Resick, 1990). Some researchers refer to it as cognitive redefinition of the situation (Frieze, et al., 1987). According to this strategy, victims can reinterpret or redefine their experience in several ways (Frieze, et al., 1987; Lurigio and Resick, 1990). First, victims may engage in downward social comparisons by comparing their own situation with other people who are less fortunate. Second, they may compare themselves to a hypothetical worst world, in which they are harmed to a much greater extent than in reality. Third, they can evaluate the event as occasioning personal growth or some other benefit. Among these mechanisms, researchers argue that the hypothetical worst world is maladaptive because victims may heighten their fear by thinking about possible worse outcomes (Ruback, Greenberg, and Westcott, 1984). Meanwhile, victims who were able to make some sense out of their experience reported less psychological distress, better social adjustment, and greater self-esteem than those who were not or still searching (Lurigio and Resick, 1990).

*Behavioural coping strategies* are another mechanism, which victims employ to cope with their victimisation. Frieze, et al.(1987) explain that some victims may act alone in order to reduce their feelings of inequity and vulnerability. They may seek out the offender and demand compensation or return of stolen property. In some cases, they may attempt to retaliate for the criminal action. Many victims also try to protect themselves by taking self-defensive measures or having avoidance behaviour, such as installing a burglar alarm system or avoiding going to certain places.

Another kind of behaviour coping strategy is to seek help from others or find social support (Frieze, et al., 1987; Lurigio and Resick, 1990). The availability and effectiveness of assistance that crime victims receive can influence their recovery. Assistance can come from organisations, such as the criminal justice system, victim support and mental health or medical agencies, the victim's family, friends, and the community. Research has demonstrated that the positive support can increase victims' ability to adapt to adverse effects of crime (Lurigio and Resick, 1990; Markesteyn, 1992). However, their participation in the criminal justice system may produce different results. For some victims, especially for victims of sexual assault, participation in the criminal justice system can be a stressful experience and cause a second wound. Testifying forces them to relive their experience and evokes fear. Since the criminal justice system is expected to be the most important of the agencies that respond to the victimisation, the involvement of victims in the criminal justice system and their experience will be discussed in detail in the following section.

## **2.2 Victims and the criminal justice experience**

After crimes occur, not all victims report them to the police. Approximately 42% of crime victims report to the police (Dodd, et al, 2004). Research findings show that victims do not report for different reasons. Most of them (71%) may perceive the incident as too trivial; or that there was no loss; or they believe that the police would or could not do much about them; and in nearly a quarter of cases (24%), they felt the incident was a private matter to be dealt

with themselves (Dodd, et al, 2004). Although these statistics show that only a minority of crime victims are dealt with by criminal justice, the involvement of victims is extremely important to the criminal justice process.

The Report of the Justice Committee (Justice, 1998) stated that about 90% of recorded offences are brought to the attention of the police by victims or those acting on their behalf so without victims there would be little for the criminal justice system to do. Furthermore, victims are used as witnesses in many cases. Their testimony is essential for the prosecution and trial process. Without the willing help of victims, neither the police, nor the Crown Prosecution Service or courts, would be able to operate (Shapland, et al, 1985; Justice, 1998).

Despite the fact that victims play a vital role in criminal justice, the treatment they receive is not as good as it should be. Many victims feel that their experience with the criminal justice system is not pleasant. They are neglected by the police, the prosecutors and the court system. Most victims experience long waits, loss of wages, poor protection against intimidation, mishandling of property, difficult questioning by the police and attorneys, unnecessary trips to court, and a variety of other inconveniences (Lurigio and Resick, 1990). Mawby and Walklate (1994) well illustrated the victim's experience of dealing with the criminal justice system as follows<sup>1</sup>:

“In general, once a crime has been reported to the police, most victims are unaware of the processes involved in detection and in deciding whether or not to prosecute; they are dependent upon police and prosecutors for information, and, as research indicates, may receive very little. Even where a suspect is identified, victims may not be made aware of the situation unless they are required as witnesses, and indeed defendants may be successfully prosecuted without the victim's knowledge. Then where the victim is required as a witness little effort has traditionally been made to inform him or her of the

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<sup>1</sup> Although facilities and services offered to victims and witnesses have been improved in recent years, these services are not provided thoroughly, partly due to a lack of funding. See also Shapland, J. and Bell, E. (1998), Victims in the magistrates' courts and crown court. *Criminal Law Review*, August, p.537-546.

procedure. Victims may find that cases are dealt with at inconvenient times, or adjourned at the last minute. They may have difficulty arranging to attend court, finding someone to look after children, getting transport to court and so on. Once at the court building they may have difficulty clarifying what is going on; where and when their case is being handled. They may also feel alone and threatened in an environment where no one appears to be interested in their welfare but where they may find themselves in close proximity to the defendant and his or her friends and relatives. All this before the trauma of giving evidence under oath!” (p.129-130).

The core task of criminal justice agencies is to arrest, prosecute, try, and sentence offenders if they are convicted. The main interest of criminal justice agencies is in those who break the criminal law; therefore, they view victims as a source of information and ignore their interests (Joutsen and Shapland, 1989). While victims have to make statements to the police, give evidence in court and be cross-examined by the defence, they are not provided with sufficient information on the proceedings. The experience in the criminal justice procedure may lead to secondary victimisation, the situation when victims perceive themselves as neglected and blamed by the criminal justice system (Joutsen and Shapland, 1989; Mawby and Walklate, 1994; Ruback and Thompson, 2001; Shapland, et al, 1985).

Research has also demonstrated that the criminal justice experience causes dissatisfaction among victims. A survey on public confidence in the criminal justice system in England and Wales showed that crime victims were the group who gave the lowest rating (42%) (Page, Wake and Ames, 2004). Only 59% of victims who contacted with the police reported satisfaction (Nicholas and Walker, 2004). Shapland (1984) reported that although crime victims showed satisfaction with the police at the initial stage of the investigation, the level of satisfaction had declined by the end of police and court processes. This lower level of satisfaction persisted over two or three years after the offence. The researcher explained that the major reasons for dissatisfaction were lack of information, and a consequent feeling that the police did not care.

The criminal justice experience sometimes causes distress to victims. Tontodonato and Erez (1994) studied the effect of the criminal justice experience on victims' distress levels. They found that the criminal justice experience as well as the criminal victimisation influence victim distress levels. Victims who perceived the sentence received by the offender as inadequate or unfair had greater distress. Although victim participation in criminal justice, such as completing a victim impact statement, attending a trial session, or being notified of criminal justice proceedings, does not influence victim distress directly, 40% of victims in this study mentioned that the most difficult thing to deal with during the criminal justice proceeding following the crime was psychological hardships, such as feelings of loss and fear. Almost one-fourth of victims also expressed frustration with the criminal justice system (Tontodonato and Erez, 1994).

Victim satisfaction in the criminal justice system may depend on the types of crime experienced and the outcome of their cases. Victims of stranger violence, theft from the person and attempted burglary were more likely to be satisfied with the way the police dealt with their case than victims of other types of offences (Nicholas and Walker, 2004, p.14). The outcome of an investigation also has an effect on their satisfaction. Those who knew the offender had been charged or their property were returned expressed high satisfaction with the police performance (Nicholas and Walker, 2004, p.14).

Meanwhile, their perception of how they are treated by the criminal justice agency also highly influences their satisfaction. The manner of the police at the scene and their communication procedures and skills influence the satisfaction of victims (Coupe and Griffiths, 1999; Norris and Thompson, 1993; Shapland, 1984). Coupe and Griffiths (1999) reported that the key police actions that were significant in influencing victim satisfaction were whether victims felt reassured by the police who visited, and whether they received additional information on the progress or outcome of the investigations. In many cases, police concern seems to be more important for crime victims than actual arrest (Norris and Thompson, 1993).

The major factor with the potential to increase the victim's satisfaction with the criminal justice system is not what criminal justice actually does but the attitude and concern that criminal justice expresses (Shapland, 1984). This is because caring and concern from criminal justice agencies can fulfill their needs. Victims do not only need their cases to be heard but they also need to be informed, listened to, believed, and treated with respect (Bazemore, 1999). Victims have a wish for recognition as an important and necessary participant in the criminal justice system; however, they don't want to take over the system but request a limited degree of consultation, information and support (Shapland, et al, 1985).

### **2.3 Victim reform**

In the early 1970s, victims' needs began to be recognised by the criminal justice system and society (Kelly and Erez, 1997). Victims' rights were emphasised by the victims' movement in the United States while many countries in Europe improved in their victim service (Maguire and Shapland, 1997; Strang, 2002). Organisations and voluntary groups, which have a major role in victim assistance, were set up throughout Europe and North America, e.g. National Organization for Victim Assistance in the United States, Victim Support in the United Kingdom, and the Weisser Ring in Germany. The attention to victims' interests also emerged in other countries when the Declaration of Basic Principles of Justice for Victims of Crime and the Abuse of Power was adopted in 1985. The declaration required that victims should be allowed to present their views and concerns at an appropriate stage of the criminal justice process (Kelly and Erez, 1997). Although the reasons for the vivid concern in victims' needs are not totally clear, it was assumed that the increasingly impersonal, uncaring and ineffective criminal justice system and growing awareness of the serious impact of crime on individuals were amongst possible causes (Maguire and Shapland, 1997). Partly in response to pressure from the victim's movement, many victim-based reforms have been adopted to make the criminal justice system more sensitive to victims' interests.

Administrative reforms were adopted by many countries in Europe and North America to notify victims about the progress of their cases. For example, in England and Wales, the One Stop Shop (OSS) was set up to keep victims informed about progress in some selected cases, where an alleged offender has been identified and proceedings have been initiated. Facilities and services provided at the court were also improved. Shapland and Bell (1998) reported that facilities for victims at magistrates' courts and the Crown Court in England and Wales have improved. They found that the provision of refreshment facilities at magistrates' courts had been improved from 48% in 1986 to 88% in 1996 and the provision of separate facilities for victims and witnesses had improved from 3% to 71%. For the Crown Court, 92 % of courts have provided refreshment facilities and 73% have a separate waiting room. These services might reflect a more caring attitude toward victims but it is questionable whether they can help them recover from the effect of victimisation. Moreover, victims also have other needs, such as the participation in the decision making process, fairness, and material and emotional reparation, which must be met by other measures apart from the provision of physical facilities.

When considering other victim reforms, the introduction of victim impact statements (VIS) seems to be the most common generic reform that might be able to provide an opportunity for victims to express their view and participate in their cases (Kelly and Erez, 1997). Such schemes now operate in the United States, England and Wales, Australia, and many European countries. VIS is a statement made to inform the judge of any physical or mental harm, any loss or damage to property suffered by a victim as a result of the crime (Erez, Roeger, and Morgan, 1997).

While this scheme allows victims to express their loss or injury in the context of the sentencing procedure, it has also become the subject of dispute. The major objection to victim input is based on ideological grounds. Critics argue that victim input in sentencing decisions will result in harsher sentences (Kelly and Erez, 1997; Mawby and Walklate, 1994) because victims are presumed to be vindictive and unforgiving (Kelly and Erez, 1997). Some also argue that allowing

victims to participate will expose the court to precisely the public pressure from which it should be insulated (Kelly and Erez, 1997) and will inject a source of inconsistency and disparity in sentencing (Ashworth, 1993; Erez, et al., 1997). Criminal justice agencies like the prosecution service fear that victim participation in criminal justice may cause delays and additional expense for an already overburdened system (Erez, et al., 1997; Kelly and Erez, 1997).

Empirical study also shows that the victim impact statement schemes are not associated with increasing victim satisfaction or promoting psychological healing and restoration (Erez, et al., 1997; Hoyle, et al, 1998). About half of the victims who made a VIS said that they felt 'neutral' about making it; 18% felt upset by making it; and only 35% felt better (Hoyle, et al, 1998, p.30). Victims who have been through the scheme do not perceive it as an effective vehicle to present their views or overcome their sense of being outsiders in the justice system (Erez, et al., 1997, p.55). Moreover, in some cases, victims who thought their input was ignored were dissatisfied with the justice system (Erez, et al, 1997). The reason for the marginal effect of VIS on victims may be that this scheme is a one-way form of communication and does not allow for any exchange of views and feeling (Dignan and Cavadino, 1996, p.159-160), especially when it is conducted in an unenthusiastic manner by court officials, who show no care or concern about a victim's suffering.

Another victim-based reform, which is one of the most obvious measures showing government concern with helping victims of crime, is state compensation (Maguire and Shapland, 1997; Mawby and Walklate, 1994). The idea of state compensation seems to be attractive because it provides financial compensation to the most deserving victims, i.e., victims of violent crime (Maguire and Shapland, 1997). One example of the state compensation is the scheme operated in Britain. Victims in England, Scotland and Wales can apply to the Criminal Injuries Compensation Scheme administered by the Criminal Injuries Compensation Authority (CICA). The scheme provides payments to blameless victims of crimes of violence and those injured in trying to apprehend criminals or prevent crime.



However, the benefits of such schemes are also offset by their disadvantages. Because they are limited to compensating only the victims of violent crime not all victims can gain the benefit from such schemes. Some insist that, victims must be 'innocent' if they are to qualify for compensation, for example, and refuse payments to those with a criminal record. As a result, more victims are excluded. Moreover, the English scheme is costly so the government has introduced a tariff based on types of injury rather than consideration of the damages in individual cases (Maguire and Shapland, 1997). Therefore, many victims who apply for compensation feel that they do not get adequate compensation or in some cases do not get any at all. This disappointment might result in more dissatisfaction or distress for those who have been through the scheme than for those who have not.

An alternative source of redress is for victims to seek court-ordered compensation, which is referred to as a compensation order in England and Wales or as a restitution order in the United States. These orders permit the sentencer to award compensation for any loss, damage, or injury suffered by any identifiable victims as part of the sentence (Maguire and Shapland, 1997).

Although these compensation schemes are indicative of official enthusiasm for the victim's interests, they have some limitations, which impede victims from gaining any benefits (Cavadino and Dignan, 1997). First, since only the courts had power to order compensation, for a long time this was not available where offenders were diverted from prosecution (Cavadino and Dignan, 1997).<sup>2</sup> Another limitation is that compensation in full is rarely awarded due to the offender's limited means. The courts have to take an offender's means into account when assessing the amount of compensation and in most cases there are insufficient to meet the full cost (Dignan and Cavadino, 1996).

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<sup>2</sup> However, following the Crime & Disorder Act 1998 and the Criminal Justice Act 2003, in some cases, victims can now get certain sorts of reparation from offenders even though cases are not prosecuted. These are cases in which young offenders receive final warnings or adult offenders receive conditional cautions.

When psychological damage is considered, some have suggested that victims do not gain any restoration from these victim-based schemes. Compensation may be awarded to victims from the state or by court order but it is for material loss or physical damage. It does little to repair any harm caused to the victim's mental or psychological condition (Dignan, 2000; Dignan and Cavadino, 1996). Victims may feel that their financial losses are compensated but they do not feel that they are safe from other victimisation or offenders. They are still vulnerable, fearful, and anxious.

With regard to victims' emotional need, some victim-based schemes have been implemented. For example, Victim Support schemes in England and Wales were set up by voluntary organisations to provide emotional support and practical advice to victims of different types of crimes including victims who do not report the incidents to the police. Services provided by Victim Support also include the Witness Support, an initiative providing service for victims and their families as well as witnesses when attending the court, and the Support after Manslaughter and Murder (SAMM), a self-help group providing emotional support for victims of violent crimes. Victim Support seems to have some advantages over other governmental victim reforms since it also provides services for the majority of victims whose incidents are not brought to the criminal justice system (Dignan, 2005). However, when the involvement of victims in the decision making process is considered, these schemes appear to do little to facilitate it.

Another victim-based initiative which concerns about victims' emotional needs and perspectives and also provides some degree of victim's involvement in the decision making process is the 1990 Victim's Charter. This victim initiative, which is conducted during the post-conviction process, created an obligation for the Probation Service to contact the victims, or their families, of life sentence prisoners prior to any consideration of the offender's release to enquire about any concerns they might have with regard to the release (Crawford and Enterkin, 2001). Moreover, the responsibilities of the Probation Service have since been broadened to contact the victims of serious violent or sexual offences

whose offenders are serving sentences of 12 months or more. Victims will be contacted within two months of sentence and offered the opportunity of being kept informed of the sentence (Crawford and Enterkin, 2001). This initiative was implemented through the victim contact service.

Although the intention of this victim reform is to provide victims with the opportunity for greater involvement in the decision making process for their cases, its implementation has highlighted problems due to a lack of clear guidance for the relevant agencies (Crawford and Enterkin, 2001). Crawford and Enterkin (2001) suggested that the uncertain purpose and limitations of such victim contact work regarding the disclosure of offender information and the use to which victim information is put may cause confusion and dissatisfaction among victims. For example, some victims may experience feelings of injustice and frustration when provided with limited information about offenders' activities during imprisonment or with regard to their release date, while knowing that their offender would be able to see the report containing the information they provided to the victim contact service. Moreover, some victims were confused and uncertain as to what the victim contact service was about and how they might benefit from it because, in their view, the role of the Probation Service is to serve the offender's interest. This problem was exacerbated where the status of the person delivering victim contact work was itself confusing or left unclear (Crawford and Enterkin, 2001, p.712).

In practice, most victim-based measures implemented by the criminal justice system do not reach victims (Kelly, 1990; Kelly and Erez, 1997). Many victims are not aware of their rights or do not exercise them (Erez, et al., 1997; Kelly, 1990; Kelly and Erez, 1997; Maguire and Shapland, 1997). The reason might be that they are neither informed nor encouraged to apply (Mawby and Walklate, 1994). The chance of victims becoming involved in the schemes also depends on the criminal justice officials' attitude (Kelly and Erez, 1997). Officials may fail to inform victims of their rights if they consider them as a

hindrance to their work. For example, court officials sometimes believe that VIS is redundant and contains no new information; or prosecutors may be reluctant to have the judge know the full impact of the crime for fear that it would jeopardise a negotiated plea (Kelly and Erez, 1997).

## **2.4 Victim's trauma and needs**

The previous sections revealed that victimisation is a distressful and traumatic experience. Victims suffer not only from physical loss and personal injury but also from psychological damage. In most cases, psychological damage has a profound effect on victims and can last a very long time. Meanwhile, when victims have to become involved with the criminal justice system, their experience is also not pleasant and sometimes causes further distress to them.

Despite recent improvements in the range and degree of support offered to victims, their capacity to restore victims still seems too limited, especially when victims' emotional restoration is concerned. One reason for this failure could be because victimisation is a complicated and deeply personal experience that affects victims in different ways. It is a distressful and traumatic experience that requires some understanding about its cause. If victims of crime are to be 'restored', it is necessary not only to compensate them for what they have lost but also to understand why they suffer and what they need in order to recover from it. Therefore, it is the aim of this section to explain why crime is traumatic for victims and investigate what victims may need in order to recover from an offence.

According to Zehr (1995), crime is traumatic because it violates two fundamental assumptions that are the belief that the world is an orderly and meaningful place and the belief in their own personal autonomy. Most people assume that the world is an orderly, predictable, understandable place. But after victimisation, the world no longer appears meaningful to those who feel they have been cautious and have done nothing to deserve the loss or damage it entails

(Cook, David, and Grant, 1999). Their victimisation seems to not make sense for them and they find themselves at a loss to explain why they were victimised. To find answers for such question, victims tend to blame themselves and others.

Crime also violates victims' belief in their own personal autonomy. It deprives them of power over their own lives and makes them feel that someone else has taken control over their lives, their property, and their place (Zehr, 1995, p.25). The feeling that they have been deliberately harmed by another person may make it much harder to bear than if the same consequences had been caused by an accident (Cook, et al, 1999, p.22). This may cause victims to experience a sense of helplessness and a feeling that anything may now happen to them. Once again victims may use self-blame as a coping mechanism (Zehr, 1995).

It is this violation of their sense of personal safety and security that is likely to cause victims to feel additional stress, anxiety, and vulnerability. Victims are left feeling confused, ashamed, humiliated, and fearful (Cook, et al, 1999). To recover from this trauma is not easy and victims may need different things in order to help them. However, in general, Zehr (1995) suggests that they need to be compensated, to have their questions answered, to feel re-empowered, to be able to express and validate their emotions, and to experience a sense of justice.

First, victims need compensation for losses. They need to be compensated for material and financial losses and personal injury. As mentioned in the previous section, the criminal justice system in some countries, such as England and Wales and the United States, have implemented various victim-focused measures, such as state compensation and court-ordered compensation, in order to respond to this need. These kinds of compensation may lessen their financial burden but it might not represent that their losses have been recognised by those who cause that harm. Meanwhile, compensation that is willingly paid by the offenders may have symbolic value showing that the offenders' responsibility and repentance.

However, there are other more important needs experienced by victims that the criminal justice system is less able to respond to (Zehr, 1995). One such is the need for answers or information. According to Zehr (1995, p.26), victims need to find answers for the following 6 questions:

1. What happened?
2. Why did it happen to me?
3. Why did I act as I did at the time?
4. Why have I acted as I have since that time?
5. What if it happens again?
6. What does this mean for me and for my outlook (my faith, my vision of the world, my future)?

Some of these questions can be answered by victims themselves but others can only be answered by the offender. In order to recover, victims need to find an explanation for their behaviour and must decide how they will respond to similar situations in the future (Zehr, 1995, p.27). For questions relating to the offence, such as why it happened and will it happen again, victims may need to find answers from the offenders. It is also important that these questions must be answered in order to start the recovery process. However, it is unlikely that victims will have an opportunity to ask the offenders if their cases are handled by the conventional criminal justice system.

Victims also need to express and validate their feeling. They need to tell their story. Their anger, fear, and pain need to be heard and validated by others, especially by the offender. They also need to hear from the offender that what happened to them was wrong, unfair, and undeserved. In this case, some victim reforms, such as VIS, may not be adequate since they are a one-way channel of communication, which do not provide an opportunity for victims to discuss their feeling with the offenders. In addition, victims need to be empowered. They need to have their sense of personal autonomy restored to them, which includes sense of control over their environment and involvement in the resolution of their cases (Zehr, 1995). This explains why some victims apply some behavioural coping strategies, such as demanding compensation from the offender or installing a burglar alarm system.

Finally, victims need an experience of justice. An experience of justice may have many dimensions involving being listened to with respect, being treated fairly, having their concerns taken seriously and feeling that appropriate steps are being taken to put things right and reduce the recurrence. Some may need vengeance; however, Zehr (1995) suggested that such feelings might result from victims' failure to have a more positive experience of justice.

It seems that most of the needs identified by Zehr could be met if some form of engagement or dialogue with the offender were to be offered. This opportunity could provide a forum for victims to participate in their cases, get answers to their questions, and express their feelings. However, it is unlikely that this opportunity will be provided by the conventional criminal justice system since the conflict between involved parties is handled by legal professionals. Victims and offenders are not given an active role in the legal processing and resolution of their cases. Indeed, the conventional criminal justice system views crime in a completely different way. It views it as a violation of the law and the way it responds to it ignores these dimensions of victims' needs.

Strang (2002) also confirms similar needs as stated by Zehr (1995). She reviewed the empirical literature on what victims said they want from the criminal justice system and concluded that victims need:

1. A less formal process where their views count
2. Information about both the processing and outcome of their cases
3. To participate in their cases
4. To be treated respectfully and fairly
5. Material restoration
6. Emotional restoration and an apology

Strang (2002, 2004) suggests that these needs are likely to be met through restorative justice. She explains that the structure and values of the restorative justice process provide the most congenial and comfortable forum in which victims can express their views and engage in a process that treats their contribution as essential (Strang, 2004, p.97). The structure of the restorative

justice process also empowers victims to take an active role in the disposition of their cases and provides them with information about the outcome of their cases. Strang (2002, 2004) also discusses empirical evidence suggesting that restorative justice has the capacity to provide the fairness that victims seek. Material and financial reparation are likely to be made as part of restorative justice agreements reached between victims and offenders. Finally, the opportunity to meet face-to-face with the offender enhances the possibility of victims to receive an apology directly from the offender.

Bazemore (1999) also suggested that victim satisfaction with the justice process would increase if their need for information, to be heard and believed, and to be treated with respect, were met. Until they are met, however, it is likely that many victims will continue to experience dissatisfaction with the conventional criminal justice system despite recent victim reforms because few of these basic needs are as yet adequately met.

The failure of the conventional criminal justice system to adequately respond to victims' needs has been noted by many academics and practitioners in criminology and social science. They recognise that the conventional system is ineffective in solving crime problems and fails to help victims of crime because the conventional way of responding to crime is inappropriate. Although it is self-evident that victims suffer the effects of crime most directly, they are not the principal focus of efforts to understand and resolve this problem (Zehr, 1995). Accordingly, Zehr has argued that in order to help victims recover from the aftermath of crime, some fundamental concepts about crime need to be changed. Crime should be understood as the violation of people and victims' losses should be the chief focus in solving crime problems. These perceptions have been developed by proponents of the relatively new movement called restorative justice. As it is claimed to be superior to the conventional criminal justice system in restoring victims and responding to victims' needs, its principles and practices will be investigated in detail in the next chapter. Furthermore, the way it seeks to respond to victims' needs will also be examined.



## **2.5 Conclusion**

Many studies of crime victims reveal that they suffer from physical and psychological damages. They exhibit a wide range of psychological symptoms, such as nervousness, anger, anxiety, depression and fear of crime. These psychological damages have a short and long term effect and are not limited to any specific types of victimisation.

However, some victims may recover faster than others depending on their age, gender, type of crime they experience, and their coping strategy. Although the empirical findings concerning factors affecting victimisation and victims' recovery are inconsistent, victims' reactions to crime and their recovery are influenced by the type of crime they experience. For example, property crime has a stronger influence on victims' fear of crime than personal crime. Victims of violent crime, especially rape victims, suffer for longer period than victims of property crime but the pattern of their suffering is similar.

Victims may try to come to terms with their loss and suffering by seeking help from others, including family, friends, medical and criminal justice agencies. However, there is evidence that some who choose to become involved in the criminal justice system can feel frustrated and dissatisfied despite the recent victim-oriented reforms that are discussed above.

Meanwhile, adherents of the alternative restorative justice paradigm argue that the main obstacle that impedes such reforms from achieving their goals is that they exist within a punitive justice system that is based on a retributive ideal (Johnstone, 2002). In order to respond more appropriately to victims' needs, they take the view that the justice system should be restorative rather than punitive (Johnstone, 2002). Thus, the restorative justice ideal proposes to radically alter the fundamental nature of the justice system and offer a new vision of viewing and responding to the crime problem, which will be discussed in detail in the next chapter.

## **Chapter 3**

### **Restorative justice: principles and practices**

It is apparent that most victims of crime are distressed by the impact of crime; however, the conventional criminal justice system does not view their injuries as the primary concern. Meanwhile, a relatively new idea, referred to as restorative justice, which is based on a fundamentally different concept of the justice system claims that the restorative process can repair the harm caused by crime better than the conventional justice system. It proposes that the focus of the criminal justice system should aim to restore all parties who are damaged by crime, including offenders, victims and the wider community and that victims' needs should be the primary concern of the justice process.

In order to understand how restorative justice can restore victims, the background about the restorative justice movement is firstly presented and followed by the discussion of some restorative justice principles. In addition, the major restorative justice approaches are examined to find out how victims can take part in each approach. Their advantages and limitations with regard to victims are also investigated. Furthermore, criticisms and arguments in restorative justice are also explored. Since restorative justice is still a new idea, when it is implemented, it raises some concerns and uncertainties, especially its compatibility with the existing criminal justice system. Finally, the specific ways, in which restorative justice claims to restore victims, are investigated.

#### **3.1 The intellectual background of restorative justice**

Restorative justice is a theory of justice that has been nurtured by a variety of customary and informal responses to crime (Van Ness, Morris, and Maxwell, 2001). An early precursor of the movement developed in North America during the 1970s and 1980s, where it became known as Victim Offender

Mediation<sup>1</sup>. Subsequently, other restorative justice processes such as family group conferences and sentencing circles, have developed in various parts of the world, and this has not only helped to stimulate international interest in the idea, but has also contributed to a major change of direction, and increase in influence since the early 1990s.

In recent years restorative justice has attracted much interest on the part of criminal justice policy makers, who see it as a way of reforming the existing criminal justice system, particularly with regard to its treatment of juvenile or minor offenders. For many of its early proponents, however, restorative justice always had a much broader goal than this, and for them it represents a potentially revolutionary new pattern of thinking about crime and justice, which is evident in their frequent use of the term ‘paradigm shift’ (Johnstone, 2004). They believe that in order to solve the crime problem and bring justice to those affected by crime, a new paradigm has first to be introduced.

In the early phase of the restorative justice movement, some advocates who played an important role and whose work influenced many restorative justice scholars include Howard Zehr. His influential book, *Changing Lenses* (1995), presented an integrated and comprehensive model of restorative justice that is diametrically opposed to the traditional criminal justice model which, in his view, fails to meet the needs of victims and offenders. In order to help those who directly suffer from crime, he proposed that we should view crime and justice through the restorative justice lens. According to Zehr (1995), justice based on the restorative justice paradigm “involves the victim, the offender, and the community in a search for solutions which promote repair, reconciliation, and reassurance” (p.181). Many restorative justice proponents seem to share the vision of justice described, and use it as the basis for restorative practices (McCold, 1998, p.21).

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<sup>1</sup> One of the earliest initiatives was a victim-offender reconciliation program in 1974 in Kitchener, Ontario, Canada.

Another influential writer is John Braithwaite (1989) from Australia. He initiated the idea of reintegrative shaming which has also contributed to restorative justice thinking (Marshall, 1999, p.30; McCold, 1998, p.21). He draws a sharp contrast between the stigmatising shame that is induced by the current criminal justice system and reintegrative shaming which encourages offenders to acknowledge and make amends for their wrongdoing while seeking them reintegrate them back into the community once the process is complete. His ideas have contributed to the development of a variant of conferencing (the police-led conferencing model) in which the police themselves act as facilitators.

In the UK, Martin Wright has been influential in popularising and promoting the restorative justice approach (Johnstone, 2002). Drawing on his early experience as both a victim and offender advocate, he explained in his early work, *Making Good: Prison, Punishment, and Beyond* (1982), that neither the deterrence idea nor the rehabilitation has worked in principle and practice<sup>2</sup>. He then proposed a radical change by suggesting that instead of punishing the offender, we should put the emphasis on making amends by providing the opportunity for the offender to put it right or make up for the damage he has caused to the victim and society.

In the viewpoint of these restorative justice advocates and others (Fattah, 1998; Van Ness and Strong, 1997; Wachtel, 1997), overcrowded prisons, re-victimisation of victims by the criminal justice system, and sentencing relying on punishment represent the failure of the existing criminal justice system. They explain that the conventional criminal justice system fails because their pattern of thinking about crime and justice is wrong (Zehr, 1985). According to the conventional justice system, crime is an offence against the state. It is a violation of law. To achieve justice is to establish guilt as defined by law and punish the wrongdoing consistently and proportionally. The pursuit of justice is sought

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<sup>2</sup> His other influential works also include 'Justice for victims and offenders' (1991) and 'Restoring respect for justice: a symposium' (1999).

through a conflict between adversaries, which are the state and offenders, and takes the form of a public ritual. It is designed to eliminate emotion from the process and to retain an atmosphere of detachment and impartiality (Morris and Young, 2000, p.15).

In the eyes of restorative justice proponents, this definition of crime and the pursuit of justice ignore another critical dimension, which is that crime causes injuries to victims, the community and even to offenders (Van Ness and Strong, 1997, p.15). This idea is well expressed in the article of Nils Christie (1976), 'Conflict as property'. He stated that "under the current system, conflicts have been taken away from the directly involved parties and become other people's property, which is the state and professionals"(p.14). In this situation, victims become losers. They not only suffered and lost materially but also lost participation in their own cases. But above all, the big loser is society since we lost an opportunity for norm-clarification, the opportunity for a continuous discussion of what represents the law of the land (Christie, 1976, p.14).

In addition, restorative justice proponents contend that the conventional criminal justice system's response to crime is inadequate. Punishment and rehabilitation programmes cannot deter or solve the crime problem (Braithwaite, 1996; Zehr, 1985). While offenders may be punished to ensure that justice is done and to fulfill other purposes, e.g., deterrence, incapacitation, and even rehabilitation, victims' losses and injuries seem not to be met. Meanwhile, offenders –despite being nominally the focus of the system– have to go through the process without any opportunity for direct participation. They are punished but do not feel responsible for their acts to victims. They think that they pay their debt to society by undergoing punishment, and hence have no further obligations to compensate their victims (Cayley, 1998).

According to restorative justice, the criminal justice system should view crime as a violation of people and relationships. The conflict that matters is not between individual offenders and the state but between victims and offenders. Moreover, an obligation to deliver justice is not limited to the state but should belong to those who are in conflict: the victim and the offender and also members

of the community who can help victims and offenders to resolve their conflict. The appropriate way of responding to crime is to restore the harm. The aim of justice is to restore all parties who are affected by crime, i.e., victims, offenders, and the community. Restoration should also be balanced between offenders, victims, and the community (Braithwaite, 1996). Finally, the criminal justice process should involve the parties with a stake and assist them to resolve how to deal with the consequence of crime<sup>3</sup>.

Many restorative justice advocates thus believe that the existing criminal justice system should be transformed by moving toward a new paradigm based on the restorative justice model (Braithwaite, 2002; Wachtel, 1997; Zehr, 1995). They saw restorative justice as a social movement for radical criminal justice reform and propose us to revolutionise our response to wrongdoing (Wachtel, 1997). For some advocates, restorative justice should entirely replace the conventional system and become the primary response for *all* criminal offences (Fattah, 1998; Wright, 1991; Zehr, 1995). This idea might be possible but restorative justice advocates must first resolve some major issues. One as yet unresolved problem relates to the need for a fact-finding processes in cases where guilt is denied since restorative justice advocates have not yet come up with a satisfactory replacement for the conventional criminal trial in order to resolve such disputes. A second problem is that it is by no means certain that restorative justice processes would be appropriate for every category of offence, from the most trivial to the most serious, and for every type of offender (regardless of age and previous criminal history) and victim regardless of their circumstances and willingness to participate constructively in the process.

Meanwhile, other restorative justice advocates (e.g. Braithwaite, 1999a; Dignan, 2002, 2003; von Hirsch, et al, 2003; Walgrave, 2000) have questioned the feasibility and likelihood of such a radical paradigm shift, and have argued in favour of a reformist approach in which restorative justice principles

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<sup>3</sup> More detail of restorative justice principle will be discussed in the next section.

and practices are used as a way of reforming rather than transforming the existing criminal justice system. Instead of replacing the existing system, they argue that restorative justice processes should be integrated within the conventional criminal justice system, where they would be available in suitable cases, while leaving inappropriate cases to be dealt with by more conventional methods.

The debate about the future of the restorative justice model is important and will be discussed later in this chapter. However, many issues still need to be resolved, including the feasibility and effectiveness of restorative justice in restoring victims, offenders, and the community, which requires further research and more detailed analysis of existing findings. It is hoped that the findings from this research study will contribute to our knowledge about victim restoration and that this might be useful in assessing the case for a restorative justice approach and developing an appropriate model.

### **3.2 Restorative justice terminology and principles**

Although the concept of restorative justice derives from the accretion of actual experience in working successfully with particular crime problems, it still lacks a definitive theoretical statement (Braithwaite and Strang, 2000; Marshall, 1999). In the early stages, restorative justice came to mean different things to different people (McCold, 1998, p.19). Some writers use the terms restorative justice and victim-offender mediation interchangeably (Marshall, 1992; Umbreit, 1998). Others have chosen to use different terms, for example, transformative justice, relational justice, restorative community justice, and recreative justice.

Not only is the idea of restorative justice termed differently, it is also defined in various ways<sup>4</sup>. In 1995, the Alliance of Non-Government Organizations (NGOs) on Crime Prevention and Criminal Justice attempted to develop a consensual working definition of restorative justice, however, this effort failed (McCold, 1998, p.19-20). Even the Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters approved by UN still lack a universally accepted definition of restorative justice since the working party believed that there is no general agreement on its definition and it is too early to define a particular one (Van Ness, 2003)<sup>5</sup>.

Although restorative justice still lacks a standard definition, almost all definitions proposed by scholars share some common themes. They agree that the restorative justice process must include victims, offenders, and other parties, which may be individuals or members of the community. These parties will play vital roles in responding to the aftermath of crime. These common themes are also reflected in the definition proposed by Tony Marshall. His definition has

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<sup>4</sup> For example, Umbreit (1999b, p.1) defined restorative justice as a victim-centered response to crime that provides opportunities for those most directly affected by crime - the victim, the offender, their families, and representatives of the community - to be directly involved in responding to the harm caused by the crime.

Roach (2000, p.256) defined it as a circle model of justice because of the common approach of bringing participants together in the less hierarchical and more informal setting of a circle and their common attempts to restore the equality that has been disturbed by the commission of a crime and to take a holistic approach to the experiences of both offending and victimisation. The Centre for Justice and Reconciliation (2003) defined it a systematic response to wrongdoing that emphasizes healing the wounds of victims, offenders and communities caused or revealed by the criminal behaviour. In the Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters (UN), 2000, the restorative process was defined as any process in which the victim, the offender and/or any other individuals or community members affected by a crime actively participate together in the resolution of matters arising from the crime, often with the help of a fair and impartial third party.

<sup>5</sup> The Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters (UN), 2000 only defined the meaning of the restorative process, outcome and programme.



been widely referred to but not universally accepted (Braithwaite, 2000b, p.115; McCold, 1998, p.20; Van Ness, Morris, and Maxwell, 2001, p.5). According to Marshall (1999), *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.*

Currently, restorative justice is in the research and development phase. Its values, principles, and theory are expressed in various models proposed by many scholars. Therefore, to specify what restorative justice principles are is not an easy task. In order to explore restorative justice principles, some fundamental concepts proposed by Zehr and Mika (1997) are used in discussion along with other ideas from different writers. These principles identify some shared understandings about what restorative justice involves. However, when principles are put into practice, they are liable to become the subject of many arguments which will be discussed later.

***Principle 1: Crime is fundamentally a violation of people and interpersonal relationships.***

According to restorative justice, crime violates victims, offenders, and the community and also the relationships between them. Victims can be primary victims - those against whom the crime was committed - or secondary victims: the family members or neighbours of both victims and offenders who are indirectly harmed by the actions of offenders (Van Ness and Strong, 1997). Meanwhile, the community refers to the collection of people with shared concerns about the offender, the victim, the offence and its consequences (Morris and Young, 2000). Thus, it can include families of the offender and victim, neighbours in the local community or representatives from local organisations. In some cases, the community can refer to society as a whole if offences are so serious that they have an effect on the whole community.

Crime also causes damage to offenders. Their esteem may be undermined and their relationships with the community may be broken, quite apart from the stigmatisation and pain that may be caused by the punishment. Finally, crime represents a violation of human relationships (Zehr, 1995, p.181). It results in conflict among those who are involved. The relationship between offenders and victims becomes hostile. Offenders are alienated. Victims feel insecure and lose their sense of trust. The public values, safety, and sense of wholeness in the community are undermined (Trépanier, 1998; Van Ness and Strong, 1997; Zehr, 1995). Crime affects our relationships with those around us (Zehr, 1995, p.181).

***Principle 2: Violations create obligations and liabilities.***

Crime creates obligations and the primary obligation is on the part of the one who has committed the crime. When someone wrongs another, they have an obligation to make things right (Zehr, 1995). Accordingly, offenders are responsible for making reparation to the victim and the community to whom they have caused harm. They have the responsibility to acknowledge the wrong done, make an apology, express remorse, and be willing to compensate or make reparation (Galaway and Hudson, 1996). Where appropriate, they should make reparation to the community. Although the damage to the community is difficult to define, some believe that community service can serve as a measure to repair symbolically (Trépanier, 1998).

The community is also responsible for victims and offenders. They have an obligation to provide the necessary support and encouragement to the parties to arrive at a settlement and provide opportunities to carry out the agreement. Furthermore, the community should play a major role in reintegrating the offender and the victim into the community as well as strengthening the relationship of community members in order to prevent crime.

***Principle 3: Restorative justice seeks to heal and put right the wrongs.***

Restorative justice seeks to heal victims, offenders, and the community. According to Zehr (1995), victims' losses generate needs, which are for reassurance, reparation, vindication, and empowerment and the starting point of justice is to respond to their needs. It is important that the reparation to the victim -where desired- should be both material and emotional reparation. Indeed, emotional reparation is sometimes more important than material one. For some victims, receiving a sincere apology is more satisfying than financial compensation alone (Baker, 1994).

Offenders' needs should also be recognized. Offenders should be treated respectfully, encouraged to develop an understanding of what they have done, and helped to decide what will happen to make things right, then to take steps to repair the damage. An opportunity to make things right, to become a productive citizen, can boost their self-esteem and thus encourage lawful behaviour (Zehr, 1995). Consequently, it is argued that the recidivism rate may be reduced and the community is made safer. The involvement of the community in resolving problems between victims and offenders also enhances community cohesion and reinforces community values of respect and compassion for others (Van Ness and Strong, 1997, p.35).

In the restorative justice perspective, the justice process should involve victims and offenders, as well as the community and should maximise opportunities for exchange of information, participation, dialogue, and mutual consent (Zehr and Mika, 1997, p2). The interests of all parties should be balanced during the process. Fairness should be assured. The outcome should be restorative, which means that it is agreed and considered appropriate by the key parties (Morris and Young, 2000, p.16).

### **3.3 Restorative justice practices**

Restorative justice practices in modern times were initially developed in the 1970s. Among them, the victim-offender reconciliation project, established in Kitchener, Ontario, Canada in 1974, was the most prominent one. Later, this practice, which was also generically referred to as victim-offender mediation, was implemented throughout North America and introduced to European countries in 1980s (Marshall and Merry, 1990, p.6-7). Meanwhile, different types of restorative initiatives, such as family group conferences and sentencing circles, were implemented along with victim-offender mediation.

Although these practices may have originated in different countries, they have been implemented internationally. In order to introduce the most commonly known restorative justice practices, 4 different approaches, mediation, conferences, circles, and youth panel schemes, are briefly described. The role of victims in each approach is also highlighted. Finally, all approaches are compared its advantages and disadvantages they may have on victims.

#### ***Mediation***

The victim-offender mediation process can be defined as the intervention of a third party (usually a trained mediator) mediating a dialogue between victims and offenders who talk about how the crime has affected them, share information and develop a mutually satisfactory written restitution agreement and follow-up plan (McCold, 2001, p.41). A mediator is presented in the mediation as a neutral third-party facilitator. He or she plays an important role in facilitating an open dialogue in which the parties are actively engaged and doing most of the talking. Mediators can be volunteers recruited from the community, or professionals from such backgrounds as probation, social workers, youth work or police and also receive training in victim-offender mediation. In the criminal justice context, the mediation process usually deals with property crimes and minor assaults. The process can be described in 3 stages.

### **Pre-mediation stage**

Normally, intake activities and preparation process are conducted at this stage. Intake activities include collecting and recording information on cases assigned or referred to the scheme, and making decisions about scheme eligibility and admission (Hudson and Galaway, 1996, p.5). The preparation process includes providing information about the service, assessing the willingness to participate and safety issues and evaluating the state of mind and physical abilities of both parties, for example, emotional stability and serious illness (Wynne, 1996, p.453). During the preparation process, the mediators exchange information between both parties with their permission. This period of contact and assessment is the beginning of the indirect mediation process (Liebmann and Masters, 2000, p.359).

### **Mediation stage**

Mediation can be either direct or indirect. Direct mediation comprises of face-to-face meeting between victim and offender together with a trained mediator. The meeting is usually held at a neutral venue acceptable to both victim and offender, for example, in a church hall, community center, or the office, and at a time suitable to them (Liebmann and Masters, 2000, p.360). They may bring along other people to support them if they wish. In the case of indirect mediation, there is no personal contact between victim and offender; instead the mediator sees each one separately and helps them to voice their feelings about the offence (Miers, et al, 2001, p.23). Agreements can be reached in indirect mediation. It is common that outcomes will be in the form of letters of apology (Miers, et al, 2001, p.24).

When comparing indirect with direct mediation, studies have shown that victims were more likely to benefit from direct mediation than from indirect mediation (Dignan, 1990; Umbreit and Roberts, 1996). Victims who had face-to-face meetings with offenders were likely to express more satisfaction with

the justice system and the outcome of mediation and feel less fearful of being revictimised (Umbreit and Roberts, 1996).

Although research has shown that direct mediation is more beneficial to both parties than indirect mediation, indirect mediation is more likely to occur at least in some countries, for example Britain, Belgium, Germany, and New Zealand. This bias may result from many factors, such as types of offence, characteristics of victims and offenders. However, Wyrick and Costanzo (1999) found that the time lapse between the crime and referral to the scheme had an effect on the direct mediation. They explained that the willingness of victims to participate in mediation depended on this time lapse. The longer the time lapse to mediation, the less likely victims of property offence are to reach direct mediation. But this is not the case for victims of personal offence. In contrast, the longer the time lapse, the more likely victims of personal crimes are to reach direct mediation.

### **Follow-up phase**

Key activities involved in follow-up include monitoring the agreement with respect to the responsibilities being carried out, intervening as necessary to address issues as they arise and making some final decision about ending the process (Hudson and Galaway, 1996, p.8). Continued support, counselling, or referring to agencies, such as victim support, may be desirable in some cases (Marshall and Merry, 1990, p.243). Even providing follow-up information, such as how the agreement is carried out or feed-back from other involved parties, can be useful (Umbreit, et al, 2001a, p.139).

Follow-up can be a crucial part for some victims. However, studies have shown that most schemes in Britain failed to follow this phase after mediation due to lack of time and resources (Marshall and Merry, 1990; Miers, et al, 2001). Moreover, there was a strong tendency for the mediators to regard their responsibilities as having ended with the facilitation of an agreement and the report back to the court (Marshall and Merry, 1990, p.243).

Some studies also found that inadequate follow-up was one major source of victim dissatisfaction with the program (Coates and Gehm, 1989; Marshall and Merry, 1990; Miers, et al, 2001). Schemes that do not have follow-up discussion with victims found that victims expressed negative feelings, such as that they had been used in order to help offenders; or had been left or forgotten (Marshall and Merry, 1990; Miers, et al, 2001).

### *Conferences*

While the mediation style is likely to be a meeting of a small group of stakeholders directly affected by the crime, the conferencing style is a meeting of a large group of people including those who may be directly or indirectly affected by the crime, victim's supporters, offender's supporters, representatives from community, and professionals from different agencies. Some academics consider it to be more fully restorative than mediation since it involved the active participation of 3 sets of direct stakeholders, i.e., victims, offenders, and the community (McCold and Wachtel, 2002). Regarding the meaning of 'community' in this context, Morris and Maxwell, (2001a) have proposed that participants should include those who share concerns about the offender, the victim, the offence, and its consequences, and who are able to contribute towards a solution to the problem. This 'community of care' might include extended family, friends, neighbours, workmates, local programme providers, etc.

The conferencing style can be distinguished to two models, i.e., family group conferencing and police-led conferencing. Although these 2 models of conferencing are similar in their concept and approach, they contain some different characteristics, which need to be reviewed separately.

## **Family group conferencing**

Family group conferencing or the New Zealand model was introduced in New Zealand by the Children, Young Persons and their Families Act 1989 as one of main ways of dealing with children and young persons who need care and protection or commit an offence<sup>6</sup>. Based on traditional Maori ways of resolving disputes and responding to offending behaviour, the family group conference is a method of dealing with serious offences, which the police consider are too serious or persistent to be dealt with by warnings and informal police sanctions (Maxwell and Morris, 1994, p.18). Cases can be directly referred to the family group conference by the police youth aid section or the youth court. Youth justice coordinators, officers employed by the Department of Social Welfare, are coordinators who are responsible for the arrangement of family group conference. Generally, the family group conference process can be summarised as presented below. Although this process is conducted in the New Zealand system, many countries adopting the New Zealand model tend to follow this process.

### *Pre-conference stage*

If the referral is accepted, a coordinator will consider who should be invited to the conference and make a contact. The preparation of participants before the conference is important for a successful family group conference and requires extensive work. Participants, especially offenders, victims, and their family, need to be informed about the conferencing process and possible outcomes (Maxwell and Morris, 1994, p.23). Usually, people attending the conference include offender, family of offender, a representative of cultural authority or community, coordinator, police, victim, supporter of victim, social

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<sup>6</sup> However there are some recent attempts to extend this practice to deal with adult offenders. See Morris and Maxwell (2003) for further details.



worker, lawyer, and any other persons who are requested by family (Stewart, 1996, p.66). However, family group conference can be held without victims' involvement in cases of victims' refusal or offences without victims.

### *Conference stage*

The conference begins with the confirmation of the offender admission of the offence. The victim is invited to speak first and relevant professionals share their concern. If victims do not attend, a youth justice social worker may present views from the absent victims (Morris, Maxwell, and Robertson, 1993, p.308). The offender is also invited to express their feeling. After all matters related to the offence are presented, offender and family members will have private family time to discuss and make plan to resolve the issue. They will share their plan with the coordinator and other parties. The plan generally covers 3 main elements: giving an apology, addressing any reparation, and the penalty, which may be in the form of unpaid community work (Stewart, 1996). If the family, victim and police are agreed, the coordinator checks the agreement and set the review date. When the final comment is made, the coordinator closes the conference.

### *After the conference*

The main task at this stage is monitoring and reviewing the plan. The youth justice social worker is responsible for monitoring. If the plan is completed, the coordinator will notify the offender, family, and victim and close the file. If it is not, the case is returned to the police, who may refer the offender to the court.

### **Police-led conferencing**

The police-led model or the Wagga model, the Australian version of conferencing, was implemented in Wagga Wagga, New South Wales in 1991 (Moore, 1995). It was influenced by the New Zealand family group conference and also based on John Braithwaite's theory, reintegrative shaming. This theory

plays an important role in the conferencing process. According to reintegrative shaming, offending behaviours could be prevented if the act of offending is disapproved within a continuum of respect by people who care most about and are meaningful to the offender (Braithwaite, 1989). The discussion of the consequences of the crime for victims and for the offender's family structures shame. Shaming should then be followed by the reacceptance, which shows through the support of those who have the strongest relationship of love or respect with the offender (Braithwaite, 2000b). By this process, the offender will reintegrate and re-offending is possibly prevented.

Unlike family group conferencing, the police-led model was developed for use at a cautioning level so cases referred to such conferences are less serious, and are normally dealt by cautions. Conferences are facilitated by police officers at the police station. Participants who are invited to the conference include offenders and their supporters, victims and their supporters, and a coordinating police officer. The coordinator runs the conference according to the script, which is used as a guide for the introduction and questions to offenders and victims. The script is designed to set a re-integrate focus for the meeting and help all parties to explore harms done and how to work towards repairing those harms (Hoyle, et al, 2002). The original protocol of the police-led model, otherwise known as the scripted model or police-run conferencing, has been implemented internationally and been conducted in large scale in Australia, United States and England<sup>7</sup>. According to the conference coordinators manual (Moore, 1995)<sup>8</sup>, the conferencing process of the police-led model can be described as follows.

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<sup>7</sup> Ironically, Terry O'Connell (1998) has stated that the original Wagga Wagga model no longer operates in New South Wales due to the implementation of community justice centres in 1995 and the legislation of the Young Offenders Act in 1998.

<sup>8</sup> The manual was reproduced in the Appendix 2 of the report. See more detail in McDonald, Moore, O'Connell, and Thorsborne (1995).

### *Pre-conference stage*

If there are victims involved and can be identified, it is suggested that they will be contacted first (Moore, 1995, p.295). However, the conference can be held without victims if they decide not to attend or they are unidentifiable<sup>9</sup>. Generally, offenders and victims and their supporters will be invited to the conference and told about the process, the potential benefit, and their roles before the conference. Usually, a police station is the venue for the conference because it provides neutral ground and is not viewed as the home territory of either party (Moore, 1994, p.210).

### *Conference stage*

Before participants enter the conference rooms, offenders and their supporters and victims and their supporters should be separated in order to prevent anxiety, fear, and conflict, which may occur (Moore, 1995, p.302). When participants enter the conference room, they will be seated according to the seating arrangement. The coordinator will begin the conference immediately with the formal greeting and introduction. The offender will be asked to tell their version of event and followed by the victim's version. If victims are absent, their view might be presented in the conference by their supporters or coordinator. After the participants have had an opportunity to discuss freely, the coordinator may make the transition to the resolution phase by summarizing the story and asking victims what they hope to see as a result of the proceeding. The final stage of the conference involves negotiating a suitable agreement. When the agreement is reached, the coordinator will formalise it on a standard form and close the conference with a short statement.

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<sup>9</sup> In England such conferences are referred to as restorative cautions (Hoyle, Young, and Hill, 2002).

### *After the conference*

The coordinator will complete and forward the written agreement and related paperwork to other agencies or people who need to be advised. Some forms of follow up may be required in cases in which offenders or victims are facing identifiable difficulties. In these cases, the coordinator will need an extensive network of community resources to assist the follow up phase. These resources could be from the family, community groups, and professional support (Moore, 1995).

### *Circles*

Based on the traditional aboriginal culture, the circle models of restorative justice have evolved along 2 general paths: a healing paradigm (healing circles) and a co-judging paradigm (sentencing circles) (McCold, 2000). Healing circles are designed to resolve problems among people and are not concerned with imposing punishment. They rarely involve justice professionals (McCold, 2001, p.49).

Meanwhile, sentencing circles involve a partnership between traditional circle rituals and criminal justice procedures, in which not only parties found in the traditional court, i.e., the judge, the prosecutor, defence lawyers, but also community members including victims and their supporters, offender and their family, and other interested persons, come together to discuss about the wrongdoings and the sentence plan (Lilles, 2001, p.163). The aim is to work consensually to devise an appropriate sentencing plan to meet the needs of all interested parties. The process of the sentencing circle is quite open and community-driven. Every member of community is invited to participate and share their concern about the event and what should be done (Lilles, 2001). The judge or a respected member of the community acts as the keeper of the circle, facilitating the process and guiding the circle towards a consensus. The result of sentencing circle might be a community-based disposition involving supervision and programmes (Lilles, 2001, p.166).

It is likely that circle programmes accept more severe cases, such as serious assault, serious drugs, and domestic violence, than other restorative approaches (Lilles, 2001, p.163; Schiff and Bazemore, 2002, p.187). Both adult and youth offenders can be referred to the sentencing circle and similarly to other restorative justice practices, the offenders must admit guilt before their participation. The sentencing circle can be used as part of court process, which might result in convictions and criminal records (Lilles, 2001, p.163).

### *Community reparative boards and youth panels*

Community reparative boards and youth panels are variants of some long established practices implemented since 1920's and are referred to different names, such as neighbourhood boards and community diversion boards (Bazemore and Umbreit, 2001). However, a well-known reparative board, the Vermont Community Reparative Board, has been implemented in 1990's. It is primarily used with adult offenders convicted of non-violent and minor offences and recently has also been used with youth offenders. The community reparative board comprises of a small group of trained citizens whose role is to conduct face-to-face meetings with offenders in order to negotiate a reparative agreement. Content of the agreement is usually about how offenders will make reparation to their victims and other community members. Boards can obtain information about victim losses from the police, court, or probation records. In the early months of operation, victim involvement in these boards was minimal. However, boards increasingly put emphasis on victim participation and attempt to contact victims prior hearing (Bazemore and Umbreit, 2001).

Another variant of this practice is youth panels. In England and Wales, youth panels are the result of the youth justice reform in the late 1990s. Under the Youth Justice and Criminal Evidence Act 1999, the court will impose the referral order to young offenders aged 10-17 years old appearing in court for the first time who have not committed an offence likely to result in custody (Liebmann and Masters, 2000, p.347). Once the sentence is imposed, the offender will be referred to a youth offender panel (YOP), which consists of a

representative of the local youth offending teams (YOTs ) and 2 members of the local community. The purpose of the panel is to provide a less formal context than court for the offender, the victim, their supporters and members of the community to discuss the crime and its consequences (Crawford and Newburn, 2002, p.478). The panel will agree a contract with the young offender, which is likely to include some forms of reparative activity to the victim and/or the community (Newburn et al, 2002). In principle, youth offender panels in England and Wales seem to focus on victim involvement more than the Vermont Community Reparative Board since they were introduced as initiatives based on the elements of restorative justice, i.e., responsibility, restoration, and reintegration (Dignan, 2005, p.123). However, the evaluation of pilot schemes showed that victim involvement and consultation in these youth offender panel schemes was very low (Newburn, et al, 2002).

### ***Comparing restorative justice practices: advantages and disadvantages for victims***

Although restorative justice practices share some common themes in holding offenders accountable and repairing the harm caused to victims and the community, the approaches to achieving these restorative goals are different in many aspects, for example their underlying theory and policy on which they are based, and the way the process is conducted. These differences may affect the restoration of victims. Therefore, different approaches of restorative justice are compared in order to investigate their advantages and disadvantages for victims.

Since restorative justice practices were developed in different countries and criminal justice contexts by different sets of practitioners, they may well differ in terms of their theoretical assumptions, which in turn may influence the practice itself. For example, police-led conferencing is based on the theory of reintegrative shaming, which was primarily offender-focused and envisaged as a more effective way of controlling crime rather than a means of meeting victims' needs (Dignan, 2005). Although it focused more on victims' interests later when theory was put to practice, the main focus of conferencing approach is still on

offender education and reintegration. Therefore, the process might aim to make plans to help offenders and consequently the victims' need might be overshadowed (Bazemore and Umbreit, 1999, p.11; Dignan, 2005; Strang, 2002, p.152).

Other examples are reparative boards and youth panels. Although these initiatives attempt to put more emphasis on victim participation, there is a danger that the goal of community participation could be accorded a higher priority than that of involving victims, which could partly explain the disappointingly low victim participation rates referred to earlier. Moreover, these initiatives have been developed to deal with youth offending behaviour. It is likely that the aim of preventing youth offending and rehabilitating offenders may be prioritised over that of victims' restoration (Dignan, 2005). This may also help to explain why, in practice, these offender-focused approaches tend to be conducted without victims being present (Holdaway, et al, 2001; Hoyle, et al, 2002; O'Mahony and Doak, 2004)

Another difference in restorative justice practices is the way the process is conducted, for example the number of parties involved, preparation procedure, and the nature of the facilitators. The number of parties involved in the restorative process may affect the scope for victim participation. While victim-offender mediation requires only key stakeholders, i.e., victims and offenders, to attend the process (though, other parties, such as parents, may sometimes be included), other initiatives like sentencing circles or conferencing involve wider stakeholders, such as representatives from the community and professionals in the justice or social welfare systems. Limiting the number of participants might have some advantages for victims, who may have more opportunity to express their feeling and provide input to the decision making process (Bazemore and Umbreit, 1999, p.10). Conversely, other approaches like conferences or circles which provide an opportunity for all participants to share their concern and might reduce the scope for victims themselves to participate and contribute to the proceedings. However, some academics have argued that having a large number of participants may reduce the risk of victims being overpowered

since there will probably be someone who will speak up when domination occurs (Braithwaite and Strang, 2000). Additionally, victims may feel more confident if they can bring their supporters to the conference.

The preparation before the face-to-face meeting is another concern that may affect victims. Some practices like mediation place emphasis on the preparation. Indeed, these practices consider that the restorative process may begin before the actual meeting. Consequently, victims and offenders are prepared and have some idea about the process and expected outcomes. Meanwhile, other practices such as police-led conferencing may put less emphasis on the preparation stage (Umbreit, 2000), raising the possibility that inadequate preparation might lead to misunderstanding or false expectation among victims.

The process during the meeting is also different from one approach to another approach. The scripted model of police-led conferencing is quite unique and may have some advantages. However, critics allege that it may be too rigid and insensitive to different cultural needs and preferences within a given community (Umbreit, 2000). Victims are a source of particular concern since the requirement that the offender speaks first could convey the impression that victims' needs and problems are of secondary importance, thereby having an inhibiting effect on victim empowerment. One of the distinctive features of family group conferencing is the provision for private family time, during which offenders and their family are expected to make a plan for resolving the offence. During this phase, victims and other parties have to leave the meeting room. Although victims may be invited to comment on the plan at a later phase, they might feel that their views are excluded from the actual decision-making process, which could also be interpreted as a loss of empowerment.

The role of the facilitator is also different among the various approaches. While the victim-offender mediation session is always facilitated by volunteer mediators who are expected to act as neutral parties, conferences are often facilitated by a police officer or youth justice officer. The use of such



officers as facilitators might create uncomfortable feelings for some victims and offenders. They may feel less trustful or be nervous (Hoyle, et al, 2002, p.64) or feel that facilitators are biased toward one side or the other.

Differences in restorative justice approaches might entail different roles for victims and differences in their levels of involvement could conceivably have a differential impact on victims' experiences. Thus, the next chapter will investigate the victim involvement in and experience with restorative justice practices in detail. However, there is another issue that needs to be explored before then which concerns how restorative justice practices have been implemented.

### *Implementation of restorative justice practices*

Restorative justice practices may be independently or dependently applied to the criminal justice system in different stages. Some schemes operate at the pre-court stage and usually take place at the police level in order to divert offenders out of the conventional criminal justice system. Schiff and Bazemore (2002) reported that most restorative justice schemes (85%) operate at this stage. Other schemes may operate at a later stage where cases are referred to a court. These court-based schemes can take place at various stages in the criminal justice process (Wemmers and Canuto, 2002). Schemes may accept cases before entering a guilty plea where the defendant does not deny guilt or has indicated that they do not intend to defend the case<sup>10</sup>. Outcomes may include a recommendation or report to a court; or else the case may be finalised by agreement between the victim, the offender and the prosecuting agency without proceeding to a court. Some schemes may accept cases after a guilty plea. Once guilt has been admitted or proven, a court may refer the case for the restorative justice process. Restorative justice practices can also be applied at the post-sentence stage and

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<sup>10</sup> This has proved problematic, at least in England and Wales (see e.g. Marshall and Merry, 1990, p.66-67; Shapland, et al, 2004). For this reason, the practice here is normally to explore or use restorative justice as an adjunct of sentencing, e.g. in conjunction with a deferred sentence.

combined with the conventional form of penalty, such as community service order and imprisonment. Offenders may provide service to the community or victims or perform paid work during their imprisonment in order to make compensation to victims. Although restorative justice at this stage is likely to involve a restorative outcome only, offenders still have a chance to make reparation to the community or victims. In some countries, such as England, and Belgium, the restorative justice process is available for offenders during imprisonment or pre-release stage. The process may be operated between victims and offenders who have a direct relationship, or between groups of victims and offenders who are not connected by a specific offence.

Some restorative justice schemes may limit themselves to accept cases at the diversionary stage, others extensively accept cases at different stages from different referral sources. Some schemes may exclusively select non-serious cases dealing with juvenile committing property crimes, others may select cases that are more serious. Referral sources can be from judges, probation officers, victim advocates, prosecutors, defence attorneys, police, or school.

Restorative justice practices may be implemented throughout the justice system and can involve the use of different approaches. Some schemes exclusively focus on one approach but in some there is a tendency to apply multiple techniques and provide several types of intervention depending on the needs of offenders and victims (Schiff and Bazemore, 2002). For any patterns they apply, however, there is another issue relating to the implementation of restorative justice that needs to be considered. It is whether (and if so, how) restorative justice can be compatible with the existing criminal justice system.

### **3.4 Principles to practices: arguments and criticism**

The idea of restorative justice seems to be attractive to many criminal justice practitioners, policy makers, and victim support groups. However, restorative justice is at an evolving stage. It is far from being a fully completed set of practices based on a well-defined theory of justice (Walgrave,

2000, p.276) and is still the subject of much debate. Now that attempts are being made to implement restorative justice principles in the real world, additional uncertainties have been raised and aspects of restorative justice have been criticised. In this section, some of these criticisms and debates are discussed. Although there are no final answers for most of them, it is important to identify gaps in our knowledge about when and under what circumstance restorative justice initiatives are most and least likely to succeed.

### *Compatibility with the existing criminal justice system*

An important question concerns the compatibility of restorative justice with the conventional criminal justice system. Some restorative justice scholars believe that restorative justice should not be a supplement to the existing criminal justice system (Fattah, 1998, p.107) nor a parallel system (Walgrave, 2000) but should be integrated with the conventional justice system. They fear that if restorative justice is presented as an informal system based on voluntary settlement between parties involved, it will be condemned to remain some kind of a 'soft ornament' at the margin of the 'hard core' of criminal justice (Walgrave, 2000, p.263). This would mean that only less serious cases would be referred to restorative processes, whereas serious cases whose victims are most in need of reparation and restoration would have to go to the conventional criminal justice system based on retributive and rehabilitative ideals.

Some restorative justice proponents believe that it is possible to integrate restorative justice within the existing criminal justice system (Braithwaite, 1999a; Cavadino and Dignan, 1997; Walgrave, 2000; Zedner, 1994). However this would mean that restorative justice values and principles would need to be added to the existing aims of sentencing including retribution, just desert and rehabilitation, and the appropriate ranking (in terms of which takes precedence) would also need to be decided.

Dignan (2002; 2003) proposed a systemic model adapted from an original model proposed by Braithwaite (1999a) to show how this might be done. His model is intended to integrate a restorative justice approach with the existing criminal justice system and show how existing sentencing measures could be reformulated to serve restorative justice values. According to this model, the restorative justice process would be the standard response for the great majority of criminal offences. However, cases for which a restorative process would be inappropriate would continue to be dealt with by a court, though any penalties that are imposed would as far as possible serve 'restorative' aims. Even in more serious cases, where greater weight would need to be placed on the public element of the offence, punishments including imprisonment would likewise seek to serve restorative ends.

Restorative justice may eventually be able to transform the conventional criminal justice system in such a manner. However, in order to achieve this goal, reformists have argued that – since a 'paradigm shift' of the kind discussed earlier is unlikely to happen by itself - restorative justice could not be introduced all at once (Dignan, 1994; Wright, 1995, p.199). The ideal itself should be allowed to develop and mature in the light of experience. But more research is needed in order to develop restorative practices that can be widely and routinely used for as many types of offences, offenders and victims as possible. Such practices need to be systematically evaluated to identify weaknesses and limitations that need to be addressed.

### *Restorative justice process and outcome*

An associated issue that also relates to the compatibility of restorative justice with the conventional criminal justice system turns on the contested distinction between restorative justice processes and outcomes. Some scholars (e.g. McCold) insist that the term restorative justice should only be applied to consensual processes based on the voluntary participation of all the key 'stakeholders'. Others propose that the term 'restorative justice' should also include restorative outcomes, even though these may be imposed by a court on an

offender who may not have consented to this (Bazemore and Walgrave, 1999; Dignan, 2002; Dignan, 2003; Walgrave, 2000). This is because many cases could not be dealt with exclusively by means of restorative processes based on the involvement of all involved parties. These cases include those in which either victims or offenders are unable or unwillingly to participate in the process, victimless cases or even violent or repetitive crimes, in which the threat to public safety is so great that the decision-making process has to regard for the wider public interest and not just the desires of the key participants.

Bazemore and Walgrave (1999) argue that a restorative justice approach can encompass more than just a particular form of decision-making process and can embrace a variety of restorative justice measures that do not require the 'coming together' of 'the parties with a stake in the particular offence'. In their view, restorative justice comprises every action that is primarily oriented towards doing justice by restoring the harm that has been caused by a crime (Bazemore and Walgrave, 1999, p.48).

These actions include judicially imposed sanctions and other restorative solutions that are not voluntary. They proposed the term 'maximalist' restorative justice, which embodies the idea that restorative justice should provide a restorative response for all types of crime (Walgrave, 2000, p.263-264). In cases when voluntary restorative actions do not succeed or the impact of crime transcends the local community, coercive restorative responses are necessary and they should only be done according to legal safeguards (Marshall and Merry, 1990; Walgrave 2000; Walgrave, 2001).

Dignan (2002) also agreed with this idea when he suggested that in cases where the offender denies guilt or the parties are unable to reach an agreement, the court should be the default option. In serious cases or those in which the offender has unreasonably refused to make adequate amends, the public interest should be served and the final decision would rest with criminal justice agencies. The prosecutor or court should determine how the case should be resolved and a default setting for reparation should be ordered where possible

(Cavadino and Dignan, 1997). Although this kind of forced intervention does not utilise the full richness of the restorative paradigm, in their view, it can be reasonable, restorative, and respectful (Dignan, 2002; Walgrave, 2001).

### *Proportionality and consistency*

Another concern regarding the implementation of restorative justice in the existing criminal justice system relates to a strongly held view that restorative justice outcomes are impossible to reconcile with traditional judicial values such as proportionality and consistency. Critics argue that sanctions agreed within a restorative justice framework may not be proportionate to the severity of the offence and are unlikely to be consistent.

This concern especially goes against victim involvement in the disposition of a case. Ashworth (2002) argued that victims' views may vary. They may be harsher or softer depending on how they evaluate their damage and how much both parties can negotiate. Offenders whose victims are sympathetic might get dealt with more leniently than those with punitive victims, who might insist on disproportionate measures. He argued further that victims are not independent and impartial. If victims or victims' families play some parts in determining the outcome, the restorative justice process may fail to guarantee fairness. Although Ashworth (2002) agreed that victims have the right to receive compensation from the offender, he also suggested that victims' right at the stage of disposition should be limited and the restorative justice process and outcome should be scrutinised by the state in order to guarantee the procedural fairness, consistency and proportionality of sentence.

Restorative justice advocates respond to this criticism by arguing that if the strict proportionality of sentencing is applied, it is likely that victims' needs may not be well met. This is because victims' needs and the harm caused by crime are individually different and the ways to respond should be flexible and creative. However, restorative justice also aims to respond the interest of the community. Therefore, what restorative justice should attempt is to balance these

interests rather than preserving the proportionality and consistency of outcomes. In fact, uniformity and consistency of approach are more important than uniformity and consistency in outcomes and this should be achieved by taking into account the needs and wishes of those most directly affected by the offence (Morris, 2002, p.610; Morris and Young, 2000, p.21). In addition, sanctions resulting from a restorative process are based on consensual decision-making derived from victims, offenders, their community of care, and representatives from the state and there are evidences showing high percentage of agreement and satisfaction of outcome among involved parties (Maxwell and Morris, 1996, p.90). Meanwhile, sentencing based on desert theory is unable to avoid inconsistency and the resulting outcomes may not be meaningful to offenders or victims (Morris, 2002, p.610; Morris and Young, 2000, p.21).

However, some restorative justice scholars have attempted to apply the idea of proportionality to restorative justice (Cavadino and Dignan, 1997). Although they rejected the ideal of strict proportionality, they agreed that proportionality of a less strict kind is necessary. They proposed the idea of setting the upper and lower parameters in determining the reparation and any additional punishment imposed on offenders. These parameters are expected to make the outcome reasonably proportionate and also act as a default setting where informal resolution is impossible or inappropriate. The authors proposed to link the proportionality constraint to the seriousness of wrong to the victim and community, rather than the harm that may actually be caused and this seriousness of wrong should place an upper limit on the severity of any response (Dignan, 2003, p.152-153).

### **3.5 Restoring victims**

Restorative justice proponents claim that restorative justice can in principle restore victims better than the conventional criminal justice system in as much as it is likely to make them feel much more satisfaction and to experience a real sense of justice than victims whose cases are dealt with in the conventional manner (Bazemore, 1999; Johnstone, 2002; Umbreit, 1994b). This is because

restorative justice provides an opportunity for victims to be compensated, answered, and empowered; and to express and validate their emotions.

In this section, some of the specific ways in which restorative processes can be said to restore victims are examined in more detail<sup>11</sup>. These processes are believed to respond to victims' needs. They consist of the exchange of information and validation, material and symbolic reparation, and empowerment.

### *Exchange of information and validation*

Face-to-face meeting with offenders in a safe atmosphere is said to provide an opportunity for victims to exchange information with offenders. It enables them to find answers for any questions they may have and express their suffering and distress, especially to the ones who caused them. A meeting with offenders also gives an opportunity for victims to validate their emotions. They need to have their truth heard and validated by others (Zehr, 1995, p.27). To some victims, the experience with the restorative process is fruitful because they have a chance to receive an explanation offered by the offender and to express their own feelings (Marshall, 1992, p.19).

This claim is supported by findings from many studies. McCold and Wachtel (1998) reported that about 80% to 90% of all victims in their study considered that 'to tell the offender how they were affected' and 'to receive answers from the offender' were the important issues. In this case, the great majority of victims attending family group conferencing (98%) agreed that conferencing allowed them to express their feelings about being victimised and over half of victims in the conference group (62%) agreed that they have a better understanding of why the offence was committed against them.

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<sup>11</sup> Although the focus of this thesis is specifically on victims, this does not rule out the possibility that restorative justice processes may also be capable of 'restoring' other participants.



The opportunity to express their feeling to the offender also makes victims feel positively toward the offenders. Venables (2000) found that 86% of victims who felt positively toward the offenders after the conference said that they have this kind of attitude because they can tell the offender how they felt. An empirical study of the Reintegrative Shaming Experiments (RISE) showed that victims were less anxious, angry, and afraid of offenders after meeting with the offenders (Strang, 1999). Research findings also showed that victims who are able to exchange information with offenders recover more successfully than victims who cannot. In a Canadian and English study, researchers found that victims who went through mediation were over 50% less likely to express fear of revictimisation than a sample of victims who did not go through mediation (Umbreit, et al 2001).

In addition, face-to-face meeting with the offenders potentially provides a chance for victims to learn about the motives of offence and circumstances and to perceive the offender as a human rather than the threatening, all-powerful figure, which they often imagine criminals to be (Johnstone, 2002, p.77). One of the goals of Victim/Offender Reconciliation Program (VORP) that has been practised in the United States is to bring victims and offenders together with a view to changing attitudes on the part of both parties. Victims and offenders are said to be willing to view each other as people, not merely as objects or stereotypes. Coates and Gehm (1989) found that a third of cases in these programs were able to establish such attitude change.

However, in some cases when victims choose not to meet offenders face-to-face, they still gain benefits from the mediation. They can share some of their anxiety and fear with the mediator and at least gain some reassurance that someone is concerned about their cases and acknowledges their loss and suffering (Marshall and Merry, 1990, p.184).

### *Material and symbolic reparation*

One important way of restoring victims' loss is by reparation. Reparation can be either material or symbolic and can be made in various ways, for example by apologising; by physically restoring, replacing or repairing damaged property; by providing financial compensation or performing some service for or on behalf of a victim; or by seeking to address the psychological or emotional suffering (Dignan, 2002, p.66). In a meeting with victims, offenders will have the opportunity to suggest other ways in which they may be able to make amends that are likely to be more flexible and creative than financial reparation ordered by a court (Marshall and Merry, 1990, p.178). Moreover, offenders who meet their victims may be willing to pay more by way of compensation than a court would have ordered (Dignan, 1990: 28).

There is some empirical evidence supporting these claims. Compliance rates for reparation agreement via mediation are very high. Studies have shown figures ranging from 70 percent to 100 percent (Marshall, 1999, p.18; Umbreit, 1994b, p.111-112). When compared with a comparison group, offenders who participated in Victim Offender Mediation Program were significantly more likely to comply with their agreement (81%) than those offenders who did not (58%) (Umbreit, 1994b). The RISE study also showed that in term of symbolic reparation, conferencing seems to be more superior to the conventional criminal justice system. The results showed that although only 14% of victims who participated in the restorative justice programs were awarded money as the restitution, compared with 12% of court victims, a further 27% of participating victims were awarded non-financial material restitution, such as work either for themselves or for others and 71% of participating victims received apologies from offenders, compared with 17% of court victims (Strang, 1999, p.6).

Moreover, for some victims, material reparation has more meaning than financial assistance or material recovery. They view it symbolically as restitution for their suffering (Shapland, 1984, p.145) and see it as

acknowledgement by the offender of their accountability. It implies that the act is wrongful and is an attempt to make things right (Zehr, 1995, p.28). By compensating victims for their losses, through money or service, the offender can in fact go some way toward repairing the psychological and relational damage caused (Johnstone, 2002, p.77). But restitution, despite its symbolic value, is not on its own sufficient to heal the wounds of crime. Victims also need symbolic reparation in the form of apology. When victims were asked whether they believe they should receive an apology, they almost universally said they should (Strang, 1999). In many cases, victims who participated in victim offender mediation did not want anything more than the apology (Marshall, 1992, p.19).

Proponents of restorative justice emphasise the importance to victims of offenders showing remorse and shame and offering genuine apologies for their crimes (Johnstone, 2002, p.77). An expression of responsibility, regret, and repentance on the part of an offender can be a powerful help for victims to let go their anger and overcome the power the offence and the offender have over a person (Zehr, 1995, p.47). It means victims can experience real forgiveness, which is an act of empowerment and healing. It allows one to move from victims to survivors (Zehr, 1995, p.47). If offenders offer genuine apologies and victims can forgive, reconciliation can occur.

There is evidence showing that an offender's act showing remorse can at least heal victims' wounds and increase victim satisfaction. Venables (2000) found that about 24-30% of victims in family group conferences in the South Australia Juvenile Justice (SAJJ) study reported that an apology from the offender helped them repair the harm and feel better. Coates and Gehm (1989) also showed that the expression of remorse on the part of offender was one of the reasons which made victim feel satisfied with the Victim /Offender Reconciliation Program experience.

However, not all victims believe an apology from the offender is genuine. Daly (2001, 2003) reported that a majority of victims in the SAJJ study (72%) did not think offenders gave an apology because they were really sorry. Moreover, the process of receiving an apology and victims' recovery may be

more complicated than we thought. Venables (2000) investigated further and found that victims in the SAJJ study who felt they had recovered were those who accepted an apology, whether they believed it was genuine or not. The restorative process may help in the process of victim restoration, though how it does so may be less straightforward. Consequently, this issue will be examined further in the next chapter.

### *Empowerment*

The other way that restorative justice can help victims restore is to provide an opportunity for them to empower themselves. According to Bush and Folger (1994), empowerment is achieved if a party has taken the opportunity to take stock, examine options, and deliberate and decide on a course of action, regardless of the outcome. It is suggested that by deliberating with offenders and others about how the offence should be resolved, and having some input into the eventual outcome, victims can be empowered through the restorative justice process (Johnstone, 2002, p.77-78).

There is evidence that empowerment can occur during the restorative process. A qualitative evaluation of a mediation process showed that almost all victims expressed satisfaction with one or more aspects about personal empowerment including feeling involved in the process of justice, expressing opinions and /or emotions and having a sense of emotional healing (Umbreit, 1994b, p.93). They emphasised the humanness of the mediation experience in which the two parties were involved, as opposed to the depersonalised court procedures (Umbreit, 1994b, p.93).

Strang (1999) reported that the structure of restorative justice programs empowered victims to take an active role in the disposition of their cases and to be as closely engaged with the processing and outcome of their cases as they wished. Conversely, fewer than a third of the court victims in her study had been officially informed of what their offenders were charged with and only 19% knew the outcome of their cases (Strang, 1999). Finally, a study of six

juvenile victim offender mediation programs showed that over 70% of victims felt that they had had input into the restitution agreement and nine out of ten believed that the agreement was fair to them (Umbreit, et al, 2001, p.29).

Bush and Folger (1994) also suggest that mediation should be capable of transforming the attitudes of those who take part in it by making them more responsive to the other parties' situation and common human qualities (Bush and Folger, 1994, p.84-85). This stage is called recognition. It occurs when they voluntarily choose to become more open, attentive and sympathetic to the situation of the other party. For example, some victims may experience empathy for and awareness of offenders' feeling. They want to help offenders and find a solution in order to rehabilitate them.

There is some evidence suggesting that this process might sometimes occur. Strang (1999) reported that victims of property and violence offences tended to be less angry with their offenders and more sympathetic towards them after participating in family group conference compared with how they felt beforehand. Three of 37 victims in the reparation and mediation schemes in Scotland reported that they felt pity instead of anger and had a better understanding of why the accused had committed the offence (Warner, 1992, p.66). Some victims in the British mediation schemes also showed their social conscience in order to help the offenders. They tried to help out an offender who was no longer seen as an attacker but as an unfortunate individual who needed to be helped back into the community (Marshall and Merry, 1990, p.185).

Although recognition may not occur in every case, studies have shown that some victims who participated in restorative justice programs can achieve it. It is expected that when victims can achieve empowerment and recognition, they not only restore themselves but also extend this to the interaction they have with others in their families, businesses, neighbourhoods, and institutions (Johnstone, 2002, p.148-149). The effect of empowerment and recognition reaches beyond the settlement of conflict. Indeed, it results in moral development, which possibly contributes to the creation of a better humanity and a better society (Bush and Folger, 1994).

### **3.6 Conclusion**

Restorative justice claims to be capable of responding to victims' needs and restoring them better than the conventional criminal justice system by virtue of the exchange of information, material and symbolic reparation, and empowerment that they experience. Moreover, such claims can be backed up by research evidence, as has been shown.

However, when theories are put into practice there is always a concern that they may not yield the outcomes that are expected. Even some of its supporters acknowledge that restorative justice may have limits in its capacity to routinely repair harm (Daly, 2001, 2003). These limits may not necessarily be systemic, but are often associated with implementation problems. Since restorative justice approaches have now been implemented internationally in various different stages of the criminal justice system, it is interesting to examine more closely whether these practices have consistently positive impacts on victims and what kind of experience victims have when they become involved. To answer these questions, some relevant literature and research studies will be reviewed in the next chapter. This review is also expected to provide a qualitative and in-depth background to the meta-analysis results presented in Chapter 6.

## **Chapter 4**

### **Victim involvement in and experience with restorative justice**

In this chapter, the current situation of victim involvement in restorative justice practices is investigated. Since restorative justice proposes a new approach to restore victims, it is important to find if victims are interested in this idea, what might affect their decision to become involved, and what they expect. Moreover, it is interesting to know how victims feel about the experience with the restorative process and the outcome and how much the restorative process can restore them.

The investigation is conducted by reviewing empirical findings from various evaluation studies. Most findings are from the evaluation of mediation and conferencing models because these approaches are dominating current restorative justice practices. However, some findings from sentencing circles and youth panels are also included when available.

Finally, limitations of research studies are examined. Although studies in restorative justice yield much valuable information about their implementation, they have some limitations with regard to the quality of the research methodology that is employed. These limitations might have an effect on findings and cast doubt on the validity and reliability of research.

## 4.1 Victim involvement in restorative justice

Due to the voluntary nature of the restorative process, victims may choose not to participate or may be unable to participate because of the refusal of offenders. Their reasons may be various, such as they did not care much about the meeting, they were not available at the time, or they were not told in time. For whatever reasons they may have, it implies that not all victims are interested in the restorative justice process. In order to investigate victim involvement in restorative justice practices, 3 questions will be examined, i.e., how many victims participate? What factors relate to their participation? and what do they expect when they become involved? In other words, the participation rate, factors relating to the participation, and their expectations are examined. However, it should be noted that some victims may be indirectly involved<sup>1</sup> and this rate may include them.

### *Participation rates*

The participation rate of victims in restorative justice practices varies quite considerably. The rate ranges from 8% to 95% in direct mediation with regard to victim-offender mediation schemes, with the lowest in the British schemes and highest in a Polish scheme (McCold, 2003, p.83). McCold suspected that the high rates achieved by some schemes might be a result of schemes counting rates from pre-screened cases, in which parties had already agreed to participate before referral. For conferencing schemes, participation of victims in conferences ranged from 33% to 100% with the lowest rates among the

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<sup>1</sup> Indirect involvement can take several forms, for example a facilitator presents a victim's statement in a conference; or a victim exchanges views with an offender through a mediator acting as a 'go-between'.



violent cases dealt with in a number of American schemes and the highest in the Canadian schemes (McCold 2003, p.85). Although participation rates of many schemes are impressive, there are some schemes showing much lower participation rates.

In New Zealand, where family group conferences are routinely employed in the child protection and youth justice systems, it was found that victims attended less than half of the family group conferences observed in the evaluation by Morris, et al (1993, p.309). Morris (1993) suggested that implementational problems might be the main reason for low victim involvement. The reasons for victims not attending family group conferences were not because they did not want to but because they were not invited or were not told in time or were unable to come at the time chosen (Morris, et al, 1993, p.309). These reasons were given by 84% of all absent victims.

Indeed, in some cases, the victim participation rate is even lower. This situation is apparent in UK. The evaluation of the Thames Valley Police initiative, which applies restorative conferencing techniques based on the Wagga Wagga model as a substitute for traditional cautioning procedures, showed that 82% of the cases where victims were identifiable had no victims attending the restorative session (Hill, 2002, p.276). This means that the victim participation rate is only 18%. Similar victim participation rate also found in other police-led restorative cautioning pilots in Northern Ireland, where victims attended only 20% of restorative conferences (O'Mahony and Doak, 2004).

Miers and other researchers (2001) evaluated seven restorative justice schemes in England including both conferencing model and victim-offender mediation and found that three of seven schemes had little or no victim involvement in the process during the fieldwork period. Low participation of victims in UK restorative justice schemes is also a feature of other pilot schemes (Dignan, 2000; Holdaway, et al, 2001; Newburn, et al, 2002).

### ***Factors relating to victim participation***

There are many factors relating to victim participation. Some factors are associated with particular restorative justice schemes, such as implementational problems and selection criteria. Others may be linked with victims themselves. In this section, factors that might relate to victim participation are investigated.

#### **Implementational problem**

Researchers have suggested that low participation of victims in England and Wales might be partly because victim contact procedures have not been properly developed and implemented. Moreover, other implementational problems have also made victim contact work more difficult. These problems include the tension between victim participation and speeding up the process, the restrictive interpretation of the Data Protection Act, a lack of experience and skill of victim contact personnel, and in some cases, cultural resistance on the part of some criminal justice agencies and personnel in working with victims (Dignan, 2000; Dignan and Marsh, 2001; Holdaway, et al, 2001).

#### **Selection policy**

There is evidence that restorative justice schemes themselves tend to include or exclude some specific offences and not others. Schiff and Bazemore (2002) reported that restorative justice programmes including conferences and mediation in the United States are most likely to exclude offences involving drug offences regardless of seriousness and domestic violence and least likely to exclude offences involving minor assault, property damage, and personal theft charges. Hughes and Schneider (1989) also reported that violent offences or offenders were most likely to be excluded from juvenile mediation programmes. In addition, practitioners and scholars in Swedish and Norwegian mediation schemes take the view that victims of offences committed by young first-time

offenders are suitable for mediation and the most common offences dealt with in these schemes are minor property offences including shoplifting, vandalism, and theft (Rytterbro, 2003).

### **Refusal by victims**

Sometimes, victims themselves may not want to attend. Hill (2002) questioned victims who did not participate in the Thames Valley Police restorative cautioning scheme and found that about half (51.9%) of absent victims were those who were invited to the restorative sessions but refused to attend. Their reasons were mixed but can be summarised in terms of the feeling that they did not care much about this meeting, for example, they were too busy for 'such things', or considered them a waste of time. Some said they preferred to leave the matter to the police. Hill (2002) commented that some victims want to keep their anonymity and 'wash their hands' of the incident and were happy to hand over their cases to those whose job they felt it was to deal with the offence (Hill, 2002, p.278).

Although some absent victims chose not to attend themselves, Hill (2002) suggested that they may have changed their mind if they had more understanding about the process and had more informed choices about different forms of participation. Many victims lost their chance to benefit from the restorative service because some victims as well as criminal justice personnel themselves have a very restricted view of the restorative justice process, which they see as being limited to face-to-face meetings only. In fact, however, victims who do not want to attend a direct meeting could still possibly benefit from indirect participation, such as receiving information, feedback, or having a say in reparation. Hill (2002) suggested that victims could lose these potential benefits from the restorative justice process if their decision not to attend a meeting is equated with a decision not to participate at all – even indirectly - in the process. Thus, criminal justice personnel should understand that even absent victims can

get benefits from indirect participation and should make restorative justice more attractive to victims by informing them of these choices.

### **Victimisation background**

Victimisation background including type of crime and type of offender, is the other factor that might have an effect on victim participation; however, this factor provides mixed result. Wyrick and Costanzo (1999 cited in Umbreit, et al, 2001a, p.126) reported that victims of property offence were more likely to reach mediation than victims of personal violence offence. Meanwhile, Morris, et al (1993) reported that only 12% of victims of offences rated as minimum seriousness attended family group conferences while 100% of victims of offences rated as medium or maximum seriousness attended.

However, Morris's findings might help to explain the low victim participation rates in some British conferencing schemes. For example, low victim involvement in the Thames Valley Police restorative cautioning might be because cases referred to this scheme are non-serious offences, therefore, victims are less likely to participate.

Some researchers have also identified a number of victimisation factors influencing victims' decisions to participation. Gehm (1990 cited in Umbreit, et al, 2001a, p.126) found that victims were more likely to meet if the offender was white and if the offence was a misdemeanour. Davis, et al (1980) reported that victims who have weak ties of relationship with offenders and who reported fewer previous incidents involving the offender tend not to attend the mediation session. The researchers explained that since their prior relationship and disputes were less involved and complex, they may feel it was not worth attending.

These findings show that in practice many victims do not participate in restorative justice practices. Some victims may choose not to participate because they are not interested but there is evidence showing that some specific victims were not invited or not appropriately contacted. Some victims

may be interested in restorative justice but they do not have a chance to participate because of selection policy. The others choose not to participate because they do not receive sufficient information. These victims may change their mind if they are provided with more information about the restorative process and their choice of participation.

However, it is not suggested that all of them should participate or that the participation rate should be an over-riding index of programme's effectiveness. There is another issue that also needs to be considered. That is what types of victim could gain most benefit from involvement. This issue will be examined later in Chapter 6 and 7.

### *Victims' expectations*

Victims participate in restorative justice practices with different expectations. These expectations are reflected in the reasons why they decide to participate in schemes, which can be differentiated in term of instrumental, expressive, and social duty expectations.

#### **Instrumental expectation**

Some victims are motivated by instrumental expectations, such as to get reparation, to receive an apology, to be part of the process, and to be taken seriously (Coates and Gehm, 1989, p.252; Sawyer, 2000, p.25; Strang, 2002, p.122). It is not surprising that some victims participate in the hope of receiving reparation. However, the evidence suggests that not many of them take part for this reason (Marshall and Merry, 1990, p.159; McCold and Wachtel, 1998, p.54; Strang, 2002, p.92). For example, only 31 percent of victims attending conferences in the Reintegrative Shaming Experiments (RISE) thought material reparation was the most important reason for their participation (Strang, 2002, p.122). And only 8% of participating victims in the Bethlehem Pennsylvania Police Family Group Conferencing Project said they wanted to get paid for their losses (McCold and Wachtel, 1998, p.54).

### **Expressive expectation**

Other victims indicated expressive expectations, such as to hear why offenders commit the crimes and why it happens to them, to have a say and express their feelings directly to the offender (Aertsen and Peters, 1998, p.111; Coates and Gehm, 1989, p.252; Fercello and Umbreit, 1998, p.7; McCold and Wachtel, 1998; Newburn, et al, 2002, p.44; Strang, 2002, p.122). Some studies reported that these expectations were often expressed by victims (62%-78%) (Newburn, et al, 2002; Strang, 2002). Strang (2002, p.123) found that many property and violence victims attended conferences because they want to have a say and express feeling directly to the offender.

### **Social duty**

Some victims participate in the restorative process out of a sense of social duty. These victims indicate that they want to help or support offenders or to hold offenders accountable or want them to understand that what they did was wrong (Coates and Gehm, 1989, p.252; McCold and Wachtel, 1998; Morris, et al, 1993, p.309; Sawyer, 2000, p.25). Studies have found that this expectation was also a major reason for victim's participation (37%-58%) (McCold and Wachtel, 1998; Strang, 2002).

### **Are victims' expectations met?**

There is some evidence that some of these expectations can be met when they participate in the restorative process. For example, Strang (2002, p.125) reported that 93% of victims participating in conferences agreed that they had had an opportunity to explain the loss and harm and 88% felt they had been able to express their views. A further 85% of victims believed that the conference took account of what they said in deciding what should be done. Umbreit (1994b, p.93) also reported that almost all victims felt satisfied with some of these aspects, such as feeling involved in the justice process, expressing opinion and emotion, and feeling offenders had taken responsibility for their actions.

It is not surprising that by meeting these expectations, victims tend to feel satisfied or feel that they have been treated fairly. When asked what they found to be the most satisfying thing about the mediation session, some victims said it was to find out what happened, to have a chance to resolve the problem, or to see that the offender realised the impact of crime (Umbreit, 1994b, p.76). Some victims felt the process had been fair because they had been given the opportunity to say what they want (Hoyle, et al, 2002, p.27).

On the other hand, the expectation of victims could be a factor affecting their negative evaluation of restorative justice experience. If they attend the restorative process with false or unrealistic expectations, victims may then feel their expectations have not been met and feel dissatisfied afterward (Morris, et al, 1993, p.315, Marshall and Merry, 1990, p.152). For example, victims may expect the offender would be punished or may expect to receive financial reparation or a 'sincere' apology if they attend a conference. After participating, these victims may feel the outcome is too lenient or not what they expect in term of financial reparation and feel dissatisfied. This problem may partly result from a lack of adequate preparation before the conference or the misleading information they receive in order to motivate them to participate (Morris, et al, 1993, p.316).

## **4.2 Victims' experience with the restorative process and outcome**

In this section, victims' experience with the process and outcome are investigated. The main focus is to examine if victims are satisfied with the way their case was handled and with the outcome of their case and feel that they have been fairly treated. In addition to victim satisfaction and perception of fairness, victims' experience with restorative outcomes including material and emotional reparation will be examined in detail. The investigation will be conducted by reviewing both qualitative and quantitative findings from empirical

studies conducted in England, US, Canada, Australia, and New Zealand. These studies consist of research in mediation, conferencing, and sentencing circles, some of which compared the experience of participating victims with those who go through the conventional criminal justice system. Finally, factors relating to these experiences are also investigated.

### *Experience with the process*

Victims who participate in restorative process are always assessed in terms of how satisfied they are with the way their case was handled and whether they were treated fairly. Some studies also compare participating victims' experience with those of non-participating victims. Although most results from studies show positive outcomes, there are some negative findings, which need further investigation.

### **Satisfaction**

When asked how they felt about the way their cases were handled, victims in mediation schemes have responded with high satisfaction ratings ranging from 62% to 90%, with the lowest in the British schemes and highest in the American schemes (Coates and Gehm, 1989; Dignan, 1990; Evje and Cushman, 2000; Umbreit, 1994a; Umbreit, 1999a; Umbreit and Coates, 1993; Umbreit and Roberts, 1996; Umbreit, et al, 2001b). Victims involved in direct mediation also reported higher satisfaction rate than victims in an indirect mediation (68% VS 57%) (Umbreit and Roberts, 1996, p.14). However, when comparing different groups of victims, one study of a British scheme involving mainly adult offenders showed that corporate victims had higher satisfaction ratings than individual victims (71% VS 62%) (Dignan, 1990, p.34). Dignan suggested that most corporate victims may not have been directly affected personally by the offence and that individual victims may have been expecting that the offence would be prosecuted, and hence felt disappointed when it was not (Dignan, 1990, p.34).



Victims in conferences also report high satisfaction with the way their cases were handled with rates ranging from 60% to 100%, with the lowest in the New Zealand and Australian schemes and highest among American schemes (Fercello and Umbreit, 1998, p.9; McCold and Wachtel, 1998, p.51; McGarrell, et al, 2000, p.42; Morris, et al, 1993, p.311; Strang, 2002, p.133; Umbreit and Fercello, 1997, p.7; Venables, 2000, p.61). An Australian study of police-led conferencing (RISE) compared the victim satisfaction rate between victims of property offences and of violent offences and found no significant difference between them (Strang, 2002).

There are very few studies investigating victims' responses to sentencing circles, though 2 recent studies report satisfaction among victims. Victims participating in sentencing circles in South Saint Paul, Minnesota expressed satisfaction with the process (Coates, Umbreit, and Vos, 2000). Since this study used a qualitative approach, a satisfaction rate was not reported. However, participating victims indicated that they would recommend the circle process to others in similar circumstances. They also said what they like most from the participation is the chance to tell their story and listen to others, and the qualities of connectedness with people in the circle. Almost all victims in sentencing circles in New South Wales also reported satisfaction although a majority said they were not sure of what was going to happen before participating in the circle (Potas, et al, 2003, p.41).

Some studies have tried to compare the experience of victims participating in the restorative justice process with victims assigned to comparison/control groups (consisting either of those who were referred but did not participate; or those who were not referred). A study in Australia (RISE) reported that 60% of victims in the conferencing group were satisfied with the way their cases were handled while 46% of victims in the court group were satisfied (Strang, 2002). Umbreit (1994b) found that victims in the mediation group in the American schemes expressed higher satisfaction with the justice system (79%) than those in the comparison groups (57%) and that there was no difference in satisfaction rate between those who referred but did not participate

(57%) and those who were not referred at all (57%). Umbreit and Roberts (1996) reported that victims participating in the British mediation schemes were marginally more satisfied with the justice system (62%) than victims who were referred but never participated (58%). McCold and Wachtel (1998) also found higher satisfaction among victims in the conferencing group in the American scheme (96%) than those who were referred but not participate (73%) and those who were not referred (79%).

Although most studies have found that victims have positive experience with the restorative justice process in terms of satisfaction rate, there is evidence that victims are often the least satisfied group when compared with other involved parties, such as offenders, offenders' families, and the police, (Daly, 2001; Dignan, 1990; Umbreit, 1994b; Umbreit, 1999a). In addition, some studies reported relatively low rates. Coates and Gehm (1989) found a satisfaction rate of only 59% among victims from the American victim-offender reconciliation programmes. Morris, et al (1993) and Strang (2002) have also reported satisfaction rates of 60% with regard to a family group conferencing schemes.

In fact, it is not altogether surprising that some victims are dissatisfied after their experience in restorative justice process. Although the numbers of dissatisfied victims are low, it is instructive to learn from them. About 25% of victims attending family group conferences in New Zealand expressed feelings of depression, fear, distress and anger after the conference (Morris, et al, 1993, p.312). Approximately 14% to 18% of victims attending conferences in the RISE study also reported anger and bitter feelings (Strang, 2002, p.138). Strang suggested that this negative feeling is higher among victims of violent offences. But when compared with victims whose cases were dealt in the court, the dissatisfaction rate of victims in conference groups was lower for both property victims and violent victims.

## **Fairness**

In addition to overall satisfaction with the way their case was handled, victims are frequently asked about whether they feel they are treated fairly by the restorative justice approach. With regard to mediation and conferencing schemes the proportion of victims who felt that their case was handled fairly ranges from 59% to 96%, with the lowest in the British mediation schemes and highest in an American conferencing scheme (Hoyle, et al, 2002; McCold and Wachtel, 1998; Strang, 2002; Umbreit, 1994; Umbreit, 1999a; Umbreit and Roberts, 1996; Venables, 2000). Victims in sentencing circles also considered that the process had been fair (Coates, et al, 2000, p.39; Potas, et al, 2003, p.42). Lower perceptions of fairness (59%) were found in British mediation schemes (Umbreit and Roberts, 1996, p.18). This may be partly explained by the fact that most victims took part in indirect mediation, which reported lower rate of perception of fairness than victims in direct mediation (50% VS 71%).

Additionally, victims in mediation and conferencing schemes are more likely to feel that they have been fairly treated than those who did not participate in restorative justice. About 83% of victims in the American victim-offender mediation programmes said they experienced fairness with the justice system while only 62% of victims who were not referred said they did (Umbreit, 1994b, p.84). Victims who were least likely to experience fairness are those who were referred but did not participate (53%). Similar results have also been reported in the British victim-offender mediation schemes although the rate among participating victims is not very high and not much different from the comparison group. About 59% of victims in the mediation group felt the justice system was fair compared with 50% of victims who were referred but never participated in mediation (Umbreit and Roberts, 1996, p.18).

Higher perceptions of fairness among participating victims in an American conferencing scheme were also found (McCold and Wachtel, 1998, p.51). Victims in conferences (96%) were more likely to experience fairness with the way their cases were handled than victims in the comparison groups.

However, in contrast to the Umbreit's study (1994b), victims who were referred but did not participate (81%) showed slightly higher rates than victims who were not referred at all (79%).

### **Factors relating to victims' experience with the process**

Although overall victims' experience with the process seems to be positive, some studies reported low satisfaction rate (Coates and Gehm, 1989; Morris, et al, 1993; Strang, 2002) and some even reported dissatisfaction among participating victims (Morris, et al, 1993; Strang, 2002). Findings relating to victim satisfaction and perception of fairness suggest that reasons for this inconsistency might relate to their experience with their recent victimisation and also from the experience during the restorative process.

Researchers suggest that reasons for the negative experience might be influenced by type of crime and feelings relating to victimisation. Strang (2002) suggested that this negative feeling is higher among victims of violent offences in the RISE study. Morris (1993) stated that in the New Zealand conferencing study, factors contributing to victims' negative feelings included remembering the feelings that occurred at the time of the offence and anger at the offending.

Meanwhile, elements in the restorative process might also contribute to victims' experience with the process. Daly (2003) investigated factors relating to victims' experience with the restorative process in South Australia Juvenile Justice (SAJJ). She found that some elements occurring in the process could have an effect on victims' experience. She constructed a measure to assess elements of restorativeness (e.g., offenders accept responsibility, victims effectively describe the impact), procedural justice (e.g., participants were treated with respect, process was fair), and coordinator skill (e.g., negotiating the outcome well, managing movement well) in conferences and reported that conferences rated as high on these three elements were related to victim satisfaction. Victims who participated in these conferences were more likely to be

satisfied with how their cases were handled. This significant relationship between highly 'restorative' conferences and victim satisfaction continued 1 year after the conference.

Sometimes the participation in the process itself is the main factor that influences victims' experience. Umbreit (1990) interviewed burglary victims who were referred to an American juvenile victim-offender reconciliation programme. He reported that elements of fairness as perceived by burglary victims included a number of different factors, such as rehabilitation of the offender, compensation of the victim for loss, punishment of the offender, and offender expression of remorse. But the most important dimension was the victim's participation in the justice process. According to the victims in this study, they are more likely to see it as fair if they are able to participate in the process either by expressing their feeling to criminal justice officers or to the offender, or by being kept informed about their cases.

Similar findings regarding participation in the process and victims' positive experience can also be found in other studies. For example, victims in British conferencing schemes construe fairness as having been given the opportunity to say what they want (Hoyle, et al, 2002, p.27). Victims in the American mediation schemes indicate that providing help for the offender, paying back the victim for losses, and receiving an apology from the offender are the most important concerns related to fairness (Umbreit, 1994b, p83).

In conclusion, the experience of victims who participate in mediation, conferencing, and sentencing circles are generally positive. In comparison with non-participating victims or victims who go through the conventional criminal justice system, victims in restorative justice groups seem to show higher satisfaction and feel that they were treated more fairly. However, some victims may have negative experience after participating in mediation and conferencing schemes. These negative experiences might be affected by type of crime or feeling left from the victimisation. However, there is evidence showing that elements occurring in the restorative justice process and the opportunity to participation in the process are the main factors affecting victims' experience. For

example, victims are more likely to be satisfied and feel they were treated fairly if they have a chance to express feeling, get some material or symbolic reparation, and receive some information. These factors seem to be directly related to what restorative justice claims it can offer and if they can really occur during the restorative process, there is a chance that victims will feel satisfied and experience fairness with the way they are treated.

### *Experience with the outcome*

In this next section, victims' experience with different types of restorative outcomes - relating to both material and emotional reparation - will be examined. Their satisfaction and perception of fairness with these outcomes will also be investigated. Finally, factors relating to victims' experience with the outcome will be considered.

#### **Material reparation**

Studies reveal that victims who participate in restorative justice practices are likely to receive certain kinds of material reparation from offenders. Strang (2002) reported that 25% conferences victims received some forms of material reparation compared with only 12% of court victims. Agreements made between victims and offenders include financial restitution, work for victims, and work for organisation nominated by victims. Among American conferencing schemes, about 27% to 42% of agreements made include financial restitution and 36% of agreement include personal service to victims (McCold and Wachtel, 1998, p.36; McGarrell, et al, 2000, p.41). The average amount of restitution payment was \$124.95 (McCold and Wachtel, 1998, p.36).

The most important thing is that these agreements are likely to be complied with. The proportion of mediation and conferencing cases resulting in an agreement being complied with ranged from 77% to 94%, with the lowest in an American mediation scheme and highest in an American conferencing scheme (McCold and Wachtel, 1998; McGarrell, et al, 2000; Umbreit, 1993; Umbreit,

1994a; Venables, 2000). This compliance rate was higher than those ordered by the court (54-70%) (McGarrell, et al, 2000; Umbreit, 1993; Umbreit, 1994a). An overview of evaluation studies on victim offender reconciliation programmes in California also confirmed this finding. The amount of financial restitution collected from juveniles in the programmes exceeded the amount collected from juveniles in the comparison groups by between 95% and 1,000% (Evje and Cushman, 2000, p.2).

Moreover, victims who participate in restorative processes have a chance to negotiate and have an input in the agreement. About 70% to 92% of victims in American mediation schemes said they had some input in the agreement (Coates and Gehm, 1989; Umbreit, et al, 2001b). Ninety four percent of victims in conferences in US also stated that their opinion was adequately considered (McCold and Wachtel, 1998, p.52). Compared with victims who did not participate, victims in conferences in US had more opportunity to express their view (95% VS 56%) (McGarrell, et al, 2000, p.44).

Since victims can participate in their case outcome, it is likely that the agreement will be suited to their needs. McCold and Wachtel (1998, p.36) reported that types of outcomes from conferences varied by type of offence. About 27% of agreements made in property cases included payment of restitution, which is higher than those made in violent cases (17%). Meanwhile, agreements made in violent cases were more likely to include some form of reparation action involving an apology or personal service than those made in property cases (79% VS 57%).

### **Emotional reparation**

The most common form of emotional reparation is an apology given by an offender, which may be included in an agreement or given during the meeting. Moreover, victims can be emotionally restored if their attitudes toward the offender are changed. Their fear of offender and revictimisation could be reduced after the restorative process. However, the emotional reparation may not

be achieved in every case and victims may have different viewpoint about this outcome. Some may have positive feelings with regard to the offender and feel their emotional disturbance is restored. The others may feel the offender gets off easily and the outcome is too lenient.

### *Apology and forgiveness*

Most victims take the view that they deserve an apology from the offender to compensate for loss and harm (Strang, 2002). Some victims even said that it was more important for them than the material compensation (Venables, 2000). It is also one of the reasons they participate in restorative justice practices (McCold and Wachtel, 1998). Fortunately, many victims receive an apology during and after the participation in restorative justice practices.

Studies suggest that between 72% and 96% of victims participating in mediation or conferencing schemes are likely to receive an apology from the offender, with the lowest in an Australian conferencing scheme and highest among American conferencing schemes (McCold and Wachtel, 1998; McGarrell, et al, 2000; Strang, 2002; Umbreit, 1996b; Fercello and Umbreit, 1998; Umbreit and Roberts, 1996; Venables, 2000). This rate is significantly higher than the rate for victims who did not participate, which is 19% to 50% (Strang, 2002; Umbreit, 1996b; Venables, 2000).

Not all victims who receive an apology are convinced that it is genuine, however. Indeed, in 2 separate studies, a British conferencing scheme and an Australian conferencing scheme, the proportion of victims receiving an apology who felt it was sincere ranged from 54% to 77%, respectively (Hoyle, et al, 2002; Strang, 2002). Victims in another Australian study felt that their offenders were pressured to say sorry (25%) or that they wanted to get off easier (30%) (Venables, 2000, p.51). Therefore, it is not surprising that some victims may not accept the apology. Venables (2000, p.52) reported that 21% of victims whose offenders apologised did not accept it and that these victims seem to feel more negative about the offender than those who accepted.



Although victims may view the apology differently, some victims feel they can forgive offenders. Strang (2002, p.111) reported that 39% of victims in the conferences she studied felt forgiving. Victims may be willing to forgive if they feel that their offender has a proper understanding of the harm caused; and has learnt their lesson and deserves a second chance. In another study of family group conferencing in US, observers reported that over 80% of victims forgave the offender and 76% of offenders showed remorse (McGarrell, et al, 2000, p.40).

An apology also seems to help some victims recover from the harm caused by the offender. About 24% of victims in family group conferences in the SAJJ study said the apology helped to repair the harm and 30% felt better (Venables, 2000, p.52). The impact of the apology was the same regardless of the form it took (verbal or written). However, victims who accept an apology are more likely to feel restored than those who do not. Venables suggested that the restorative value of an apology depends on victims accepting it, not simply because they receive an apology.

#### *Attitude toward offenders*

Studies across Australia, New Zealand, Canada, US and England consistently report that restorative justice practices have a positive impact on victims' attitude toward offenders. They indicate that victims who participated in the restorative justice process expressed less fear and anxiety and have more positive feelings with regard to their offenders.

When asked about how fearful they were of being revictimised by the same offender, most indicated that after meeting face to face with offenders, they felt less fearful. One American mediation scheme reported that the rate of victims expressing fear after mediation reduced from 23% to 10% after mediation (Umbreit and Coates, 1993). Victims in the RISE conferences also expressed less fear of offender after the conference. The rate of fear reduced from 20% to 9% after conferences (Strang, 2002).

Not surprisingly, perhaps, studies also show that although a restorative justice encounter may reduce a victim's fear of revictimisation by the same offender, it is less likely to diminish their fear of crime in general. A study in the UK reported that 90 percent of victims did not feel any less concerned about crime in general after meeting with an offender in a mediation session (Marshall and Merry, 1990, p.171). Findings from American studies may indicate victims were less upset about crime after participating in restorative justice practices but a significant number of victims were still upset (49- 55%) (Fercello and Umbreit, 1998; Umbreit, 1994b; Umbreit, 1999a; Umbreit and Coates, 1993). In comparison, the rate of fear of being revictimised by the same offender in the same studies which ranges between 5% - 21% is remarkably lower.

Victims also tend to express less negative feelings towards offenders after participation. For example, the proportion of victims who felt angry with or frightened by offenders declined by about half after a restorative justice encounter (Newburn, et al, 2002; Strang, 2002; Venables, 2000). Moreover, some victims felt more positive toward offenders after the meeting (8% VS 38%) (Venables, 2000). Some victims (48%) felt sympathetic (Strang, 2002) and between 70-90% expressed the view that offenders had been held adequately accountable for their behaviour (McCold and Wachtel, 1998; Umbreit, et al, 2001b).

Strang (2002) compared attitudes toward their offender of victims who had participated in conferences and those who had gone to court. She found that victims in the conference group expressed less fear of revictimisation (5% VS 18%) and felt less negatively towards the offender (7% VS 20%) than victims in the court group did. When different types of offence were compared, the difference between the conference and court groups was particularly marked in respect of violent offences. Approximately 45% of victims of violent offence in the court group agreed that they would do some harm to the offender if they had a chance but only 9% of victims in the conference group said so. And whereas 11% of victims in the court group believed the offender would repeat the offence on them only 2% of victims in the conference group believed this. For victims of

property offences, the difference between the conference and court groups is more modest. For example, about 9% of victims of property offences in the court group agreed that they would do some harm to the offender if they had a chance, which is not much different from the rate of victims in the conference group (6%). This remarkable difference among victims of violent offence suggests that restorative justice is likely to have a much more significant impact on victims of violent offences than on victims of property crime.

A less impressive finding was found in a Scottish mediation scheme. Warner (1992, p.67) found that although some victims (21%) who participated in the mediation scheme reported some positive feelings toward offenders after mediation, the majority of victims (79%) felt there had been no alteration in the way they saw the offenders and the offence. Moreover, even where there was a relationship between victims and offenders there often remained strains and tensions related to the offence. However, most cases in this particular scheme were dealt with by means of indirect mediation.

### **Satisfaction**

A majority of victims in victim-offender mediation schemes in US report high levels of satisfaction with the outcomes of their cases (Coates and Gehm, 1989; Davis, Tichane, and Grayson, 1980; Evje and Cushman, 2000; Umbreit, 1999a; Umbreit and Coates, 1993). The rate ranges from 73% to 97%, with the lowest in the Brooklyn mediation scheme and highest in victim reconciliation programs in California. But victims in British mediation schemes who took part in indirect mediation seem to report lower satisfaction rate than victims who engaged in direct mediation (74% VS 84%) (Umbreit and Roberts, 1996, p.16).

For conferencing schemes, satisfaction rates are more varied. A study of victims in New Zealand family group conferences found that only 55% were satisfied with the outcome. However, studies elsewhere report higher victim satisfaction rates. Studies investigating conferencing programmes in the United States report satisfaction rates of 95% to 100% (Fercello and Umbreit, 1998, p.11; Umbreit and Fercello, 1997, p.11).

### **Fairness**

Most victims participating in restorative justice practices consider that their case outcomes are fair. Approximately 67% to 100 % of victims in American mediation schemes felt the outcome of their cases was fair (Davis, et al, 1980; Evje and Cushman, 2000; Umbreit, et al, 2001a). Victims in conferencing schemes in US and Australia also report high fairness ratings of 64% to 100 % (Fercello and Umbreit, 1998, p.8; McGarrell, et al, 2000, p.44; Umbreit and Fercello, 1997, p.11; Venables, 2000, p.49).

However, some studies of conferencing schemes conducted in US, Australia, and New Zealand report that a substantial minority (about 36% to 43%) of victims felt that the outcome was too lenient (McGarrell, et al, 2000, p44; Morris, et al, 1993, p.315; Venables, 2000, p.56). Moreover, it was found that more victims felt this way after 1 year had elapsed and that the change of victim's attitude was not related to the completion of an agreement (Venables, 2000, p.87). Since the great majority of victims (93-100%) in these studies considered the process to have been fair, it is likely that it was 'the content of the agreement and not the manner in which it was decided that failed to meet victim expectations' (Venables, 2000, p.82).

## **Factors relating to victims' experience with the outcome**

Certain factors do seem to be associated with victims' experience with the outcome. Findings suggest that these factors include type of offence and offender. However, many studies found that the most common factors are related to restorative elements occurring in the process, such as the opportunity to tell their feeling, and the remorse of offenders.

Venables (2000, p.59) used data from the SAJJ study to investigate the effect on victims and found that victims felt positive after meeting with the offenders because they were able to tell the offender how they felt and to meet the offender's family. The offender showing remorse and the agreement itself are also factors accounting for their positive feeling. Meanwhile, victims felt negatively toward the offender where the offender did not show remorse, dismissed the harm caused to the victim, and did not take responsibility. Antipathetic responses by the offender seem to be the main reason for their negative feeling.

Venables (2000, p.61) also found that acceptance of an apology by the victim has an effect on victim' satisfaction. Victims who accept an offender's apology are more likely to be satisfied than those who do not. Similar finding are also reported in the study of McCold and Wachtel (1998, p.34). They found that a sense of forgiveness as observed by researchers during conferences was positively related to victim' satisfaction.

These findings may be appropriately concluded by Daly (2003). She found that the quality of the restorative process related to victims' attitudes towards offenders. She reported that conferences with high levels of restorativeness (such as offenders accepting responsibility, victims describing the impact effectively, and mutual understanding between offenders and victims), procedural justice, and coordinator skill were associated with reductions in victims' fear toward offenders. Victims who participated in these conferences were likely to feel less frightened and held less negative attitudes toward offenders. This effect occurred after the conference and continued 1 year afterward.

A secondary analysis of findings relating to victims' participation in victim-offender mediation also found factors relating to the restorative process. Bradshaw and Umbreit (1998) reported that feeling good about the mediator, a sense of fairness relating to the restitution agreement and the desire to meet the offender had some effects on the victim's satisfaction with the outcome.

Other factors influencing victim's attitude toward the offender include the types of offence and offender. When different types of offence are compared, it is not surprising that victims of non-serious crime will be less fearful than victims of serious crime. Before meeting the offender, victims of violent crime were more fearful than victims of property crime (38% VS 4%) (Strang, 2000, p.99). But after the conference, the proportion of victims who were afraid significantly reduced among victims of violent crime (38% to 14%) while the proportion of property crime victims who were fearful remained (4%). Strang suggested that fear of their offenders was not a major concern for victims of property crime but it was important for victims of violent crime, and the conference experience significantly reduced their fear.

Type of offender can also have an effect on victim's fear of revictimisation. Umbreit and Bradshaw (1997) reported that victims of juvenile crime were significantly less fearful after mediation that the offender would commit another crime against them or other people than were victims of adult crime. However, when examining victims of juvenile crime alone, Strang (2002, p.97) found that victims of property crime reported more fear of revictimisation after conferencing than victims of violent crime (7% VS 2%). It seems that both types of offender and offence have an effect on fear of revictimisation and the relationship is quite complicated. It would be interesting to compare victims participating the restorative justice practice and those who go through the court, with regard to their fear of revictimisation and type of offence and offender, but unfortunately no such study has as yet been undertaken.

With regard to victim satisfaction, Umbreit and Bradshaw (1997) did not find any relationship between age of offenders and the victim's satisfaction. In fact, the results showed that victims of both juvenile crime and adult crime experienced great satisfaction with the mediation outcome.

In summary, many victims seem to have positive experience with the restorative process. However, when considering case outcomes, the result is interesting. Although many participating victims felt that the case outcome was fair, some victims felt it was too lenient. Especially in the case of emotional outcomes, such as an apology, some victims may feel sceptical. This feeling may be related to different factors, such as type of offence and type of offender. However, studies also show that elements occurring in the restorative process, such as an opportunity to express their view, acceptance of an apology, and offender showing remorse, are the main factors that affect their experience with the outcome.

### **4.3 Methodological shortcomings of research in victim outcomes**

Although many of the above findings are reasonably positive, there are concerns about the methodology on which they are based, which casts doubt on the validity and reliability. The most obvious deficiency is that studies tend to collect data after the intervention only, without employing any comparison groups. The lack of pre-intervention evaluation and absence of a comparison group can cast doubts on the validity of the findings since it is possible that any change in victim outcomes may have resulted from other intervening factors. For example, the passage of time alone might have contributed to any changes that are observed (Umbreit, 1994a, p.442).

In addition, without a comparison group, the impact of a restorative justice approach may not be detectable. In some cases, restorative justice approaches may have an impact on specific groups of victims, such as victims of serious crime. This impact may not be apparent unless it is compared with non-participating victims who go through other interventions. For example, victims of

serious crime might show similar satisfaction rate to victims of minor crime. But when both groups are compared with non-participating victims, the difference of satisfaction rate between participating victims and non-participating victims in the group of serious crime might be significantly high while the difference of satisfaction rate in the group of minor crime might be little. It suggests that the impact of restorative justice is strong in some groups of victims but this impact might not be shown unless the comparison group is employed.

The absence of a comparison group may also result in self-selection bias. Since participation in the restorative justice process must be voluntary, victims who consent to take part in the process might be those who have certain attitudes or personality. They may consist of those who are willing to help offenders or who do not much suffer from the incident or look for some compensation. Such attitudes might have an effect on evaluation outcomes and weaken the internal validity of the study.

Methodological shortcomings may still exist even when research employs a comparison group. Other problems may occur unless care is taken with regard to the composition of the comparison group. Some studies use a comparison group of participants who are referred to the intervention but who do not actually participate. Other studies use a comparison group of participants who are never referred to the intervention. Different comparison groups might consist of subjects with different characteristics and attitudes who are therefore not comparable. For example, participants who are referred but do not participate may be matched with the treatment group in term of types of crime and offender but might have negative attitudes towards either the offender or the process. They may be victims who were seriously affected by crime and had negative feelings about offenders. Meanwhile, a comparison group of participants who are never referred to the intervention may not match with the treatment group in many respects. Differences in the composition of comparison groups might affect the reliability of research findings.



The most appropriate research design is to apply an experimental design with random sampling. This design should produce similar groups for treatment and control groups. Currently, there are few studies using the experimental design. However, even with regard to those that do, the unit of random assignment in these studies is usually based on cases or offenders, not victims (Davis, et al, 1980; McCold and Wachtel, 1998; McGarrell, et al, 2000; Strang, 2002). This means that cases or offenders are randomly assigned to either a treatment or control group but victims are not randomly assigned to any of the groups. They are in the treatment or control groups because their offenders are assigned to that group. Therefore, victim sample of both groups might not be similar in terms of victim characteristics. When victim outcomes are investigated in these studies, the research design at best is a quasi-experimental design (Strang, 2002, p.74).

Another concern about the research methodology in restorative justice is the sample size. Some studies apply a well-designed research methodology but still result in insignificant findings. Insignificant findings may not mean that the intervention is ineffective. The intervention may have some effect on subjects but it is not detectable due to a small sample size. If the sample size is increased, significant effect may be more likely to be found.

Methodological shortcomings not only affect the validity and reliability of findings but also cause other problems. Differences in research methodology make it difficult to compare studies. It is even more difficult if we want to compare the effectiveness of different restorative justice approaches. Moreover, when comparing or combining findings from studies with different research methodology quality, the synthesised findings may also be misleading. This is because rigorous research designs will yield more precise results that are more likely to produce any significant findings than studies with poor research design. If results from weak research designs are given the same weight as results from studies based on strong research designs, the conclusion drawn from this synthesis may be skewed.

## 4.4 Conclusion

Restorative justice practices have been implemented internationally and seem to be an increasingly popular response to the aftermath of crimes. They claim to restore offenders, victims, and the community. Nevertheless, studies have shown that some victims who are referred do not actually participate in the restorative process and some victims never have a chance to be involved at all.

For those who are involved, most of them seem to have a positive experience with the process and outcome. They are satisfied and feel they were treated fairly. They seem to receive some forms of material and emotional reparation and feel satisfied with them. However, there are some victims for whom the restorative justice approach has no positive effect. In fact, some victims are dissatisfied, feel the outcome is not fair, and feel their needs are not met.

These findings are reported by various studies, which have investigated victim experiences with restorative justice. It seems that findings from these studies are not at all consistent. Some studies show positive outcomes, others reported less impressive outcomes with negative results. The variability of findings may be the result of various factors, such as the nature of the intervention, victim characteristics, or the inconsistency of the implementation. But this review of research studies shows that there is another explanation for these inconsistent findings.

The choice and quality of research methodology in these studies may provide another reason why the findings about victim outcomes were variable. Studies in this field employ different research designs. Large-scale studies with comprehensive research design tend to use comparison groups to compare the result while small-scale studies seem to report results from small groups of participants without any comparison or pre-intervention evaluation. The variability of research methodology makes it difficult to compare or combine the findings.

In view of these methodological shortcomings, some have suggested that a different approach, based on the statistical technique of meta-analysis, might afford a more reliable way of assessing the extent to which restorative justice is capable of meeting the needs of victims. This is because research findings from different studies will not only be systematically combined but also weighed according to their methodological quality<sup>2</sup>. Any differences in studies in term of research methodology, intervention, and sample characteristics will be controlled and analysed to find any relationship with the impact on victims.

Thus, in order to find a firm conclusion about the effect of restorative justice practices on crime victims by controlling the methodological shortcoming, a meta-analytical method is proposed for the analysis of empirical evidences. Its results are expected to provide a synthesised finding about the effect of restorative justice and any relationship between proposed factors and these effects. The detail of this method will be explained in the next chapter.

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<sup>2</sup> However, studies with very poor research design should not be included since their findings may lack validity and reliability and affect the synthesised findings. They include studies that do not apply a comparison group or pre-test.

## **Chapter 5**

### **Research methodology: a meta-analysis**

Meta-analysis is a well-known technique used in medical and social sciences and is not entirely unfamiliar to researchers in criminal justice. Indeed, some researchers have already applied this method to restorative justice studies. In order to explain its relevance for this thesis, some main concepts are discussed in this chapter. Its advantages and limitations as well as criticisms are also addressed. Finally, the research methodology of this thesis is presented in detail.

#### **5.1 Introduction to meta-analysis**

Meta-analysis is a technique for recording and analysing the statistical results of a collection of empirical research studies (Wilson, Lipsey, and Soydan, 2003). The term was introduced in the 1970s by researchers who integrated the findings of several studies (Glass, McGaw, Smith, 1981, p.12). The logic behind it is to analyse collections of studies that are conceptual replications, that is, studies that examine the same relationship of interest but differ from one another in other respects, such as research design or types of intervention (Wilson, 2001, p.72).

##### ***Strengths and weaknesses of meta-analysis***

The goals of meta-analysis are similar to other techniques of literature review, that is, to summarise the research findings, to investigate how findings might vary, to offer recommendations to improve future research, and to draw out the implications of research for policy and practices (Durlak and Lipsey, 1991, p.293). However, when compared with conventional reviews, such as vote counting and narrative review, meta-analysis is superior in many aspects (Durlak

and Lipsey, 1991; Wilson, 2001). First, meta-analysis makes full use of the outcome information from studies. Meta-analysis examines both the direction and the magnitude of effects<sup>1</sup> obtained in each study as well as the distribution of effects across studies, while other conventional reviews, such as vote counting, reduce data to all-or-none categories since they interpret null findings as no relationships exists (Wilson, 2001, p. 73). Second, meta-analysis provides an organised way of handling information from a large number of study findings under review. Study characteristics of selected studies are coded, which makes it easy for analysis by multivariate techniques and also makes it possible to examine a wider range of relationships or interactions among variables that other qualitative techniques cannot. Third, while conventional techniques fail to account for the differential precision of the studies being reviewed, meta-analysis gives more weight to larger studies since they ought in principle to provide more precise estimates of the relationship of interest.

However, some of the main characteristics of meta-analysis can also be its weaknesses. This is because it applies only to empirical research studies and cannot be used to summarise theoretical papers, conventional research reviews, policy proposal, and the like. In addition, the research studies must produce quantitative findings, that is, studies using quantitative measurement of variables and reporting descriptive or inferential statistics to summarise the resulting data. Finally, findings must be conceptually comparable and configured in similar statistical forms. It seems that these characteristics can be viewed as either its strengths or limitations. In fact, meta-analysis is not the perfect technique without its weaknesses. It is also under criticisms, which are discussed in the next section.

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<sup>1</sup> Meta-analysis represents each study's findings in the form of effect sizes, which is a statistic that standardises findings from different studies. Detail about effect sizes is presented later in this section.

## *Criticisms of meta-analysis*

The most common criticism of meta-analysis is that it is illogical because it mixes findings from studies that are not the same. This criticism is always referred to as the 'apples and oranges' issue. Critics argue that findings from meta-analysis are not meaningful if they are aggregated over incommensurable study findings. The problem arises when different types of study findings in a broad topic are averaged together in a grand mean effect size. Meta-analysts respond to this criticism by likening their task to comparison rather than aggregation. Indeed, contemporary meta-analysis is increasingly intended to identify the sources of differences in study findings, rather than aggregating results together into a grand average (Lipsey and Wilson, 2001, p.8). Where different subcategories of study findings are represented in a meta-analysis, it is more practical to break down the findings separately, report the distribution of effect sizes and then compare to find the sources of the variation.

Another criticism relating to the mixing of study findings is the inclusion of studies with different methodological quality in the same meta-analysis. Some critics argue that a research synthesis should be based on findings from high quality studies only. On the contrary, meta-analysts take the view that the inclusion of studies with variable methodological quality is a strength of meta-analysis. For example, Glass has argued that we should not ignore studies including unpublished studies by imposing arbitrary and nonempirical criteria of research quality (Glass, et al, 1981, p.22). Rather, the methodological variation of studies should be treated as an empirical matter to be investigated as part of meta-analysis. In a meta-analysis, methodological characteristics of studies should be coded and examined in terms of their relationship with study findings<sup>2</sup>.

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<sup>2</sup> See more detail about the method for analysing the relationship between study characteristics and effect sizes in Chapter 5 Section 5.3 Research Method - Independent variables p.97 and Chapter 6 Section 6.7 p.122.

Since meta-analysis is quantitative and deals with a structured, closed-ended questionnaire approach to summarise findings, this issue can be its strength as well as its weakness. Some critics argue that it may not be sensitive to deal with the complexity or subtlety of certain topics, which require a more open-ended or qualitative approach. It is suggested that if more qualitative review is required, it can be done together with meta-analysis in the same body of research findings, with overall conclusions drawn from both techniques (Lipsey and Wilson, 2001, p.7). For this research study, the qualitative review of the effect of restorative justice practices on victims is addressed in Chapter 4 p.63 under the topic of victims' experience.

### *Concept of effect size*

In order to undertake a meta-analysis, researchers must understand the concept of effect size. Since meta-analysis compares studies that contain some differences in their research methodology, it needs a statistic to standardise the findings in order to permit comparison across studies. The standardized statistic used in the meta-analysis is called the effect size.

The effect size allows for an assessment of the consistency of findings across studies. If effect sizes are consistent across studies, the mean effect size can be interpreted as the effectiveness of the intervention. On the other hand, if effect sizes are variable across studies, it is necessary to find the cause of the variability. This can be done by using the effect size as the dependent variable and the proposed variables, such as study descriptors, and types of intervention, as independent variables and applying the appropriate statistical analysis method, such as multiple regression or ANOVA.

Commonly used effect size indices are the standardized mean difference ( $d$ ), odds ratio ( $o$ ), and correlation coefficient ( $r$ ) (Wilson, 2001, p.75). The specific effect size index used in a meta-analysis will depend on the nature of study. To provide a background on the concept of effect size, each index is briefly introduced.

- The standardized mean difference

This effect size index applies to research findings that contrast two groups on their respective mean scores on some dependent variables. It is calculated from the difference between two group means divided by the pooled within-groups standard deviation. This effect size is suitable for continuous dependent variables.

- Odds ratio

Odds ratio is well suited to two group comparison studies with dichotomous dependent measures. Odds ratio is calculated by odds of the event in the treatment group divided by odds in the control group, where the odds of an event is the number of times the event happened divided by number of times it didn't happen. An odds ratio of 1 indicates no difference, values between 0 and 1 indicate a negative relationship, and values greater than 1 indicate a positive relationship.

- Correlation coefficient

This effect size index is used to represent the relationship between two variables. It can be used with dichotomous or continuous variables. Studies of this kind always report their results in this form or in ways that can be converted into correlations.

## **5.2 Meta-analysis in restorative justice**

As Lipsey and Wilson (2001) state one disadvantage of meta-analysis is the amount of effort and expertise it takes, especially the specialised knowledge in the selection and computation of appropriate effect size and the application of statistical analysis. Despite this difficulty, meta-analysis has been widely applied in many areas of social science and behavioural science. In



criminology and criminal justice field, it is used to synthesise studies in broad areas, such as juvenile delinquency, rehabilitation programs, recidivism, offending behaviour, etc.

However, in restorative justice, meta-analysis is still a new concept. Until now, there are only a few studies applying a meta-analytic method. The first study that used meta-analysis is the study of Bonta, Wallace-Capretta, and Rooney (1998). They evaluated the impact of restorative justice programs on recidivism and used phi coefficient (correlation coefficient) as the effect size index. The result showed an 8% decrease in recidivism associated with programs that had restorative justice features. However, the result showed variation among studies, some of which reported very large decreases in recidivism while others found increases in recidivism. In addition, there are some methodological shortcomings in this meta-analysis. The researchers reported that this analysis rarely used matched comparison groups and none of them used random assignment. Moreover, the researchers used a very broad operational definition of restorative justice. They included studies evaluating court ordered restitution and community service programs in the meta-analysis.

Recently, Nugent, Williams, and Umbreit (2003) also conducted a meta-analysis focusing on the impact of restorative justice in terms of reoffending. They focused on prevalence and severity of reoffence among juveniles who participated in victim-offender mediation only. Their analysis included 15 studies conducted at 19 different sites. In order to control for methodological differences across studies, the researchers created a methodological quality scale for evaluating the likelihood of equivalence among treatment and comparison groups. Several variables, e.g. type of sample employed, definition of reoffence, percentage of juveniles who committed violent offences, were included to

investigate the VOM effect. The effect size index is risk difference<sup>3</sup>. The researchers argued that a narrow definition of reoffence, a subsequent charge for which the juvenile was adjudicated guilty, may be a valid indicator of delinquent behaviour. When using this narrow definition, the result showed a reduction in reoffending for VOM participants of about 26% relative to nonparticipants' reoffence rates.

When considering findings about victims, there are 4 meta-analysis studies that include victim findings in their analysis. Latimer, Dowden, and Muise (2001) conducted a meta-analysis of the effectiveness of restorative justice practices. They evaluated 4 outcomes of restorative justice practices, that is, victim satisfaction rates, offender satisfaction rates, restitution compliance rates, and recidivism rates. Twenty-two studies that examined 35 restorative justice programs were included. The effect size index is phi coefficient (correlation coefficient). The results showed that restorative justice practices were more effective than non-restorative approaches in all 4 outcomes. For victim satisfaction outcome, higher victim satisfaction rating was significantly found in all but one program that operated at the post-sentence stage. However, the effect size showed some variation. The researchers tried to find the moderators for this variation but found non-significant differences in these variables, that is, random assignment, offender age, publication source, restorative justice model, entry point, and comparison group type. A high mean effect size was also found in respect of restitution compliance rate. It indicated that offenders who participated in restorative justice programs tended to have higher compliance rates than offender exposed to other non-restorative programs.

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<sup>3</sup> An effect size index used for calculating dichotomous data. It is calculated by subtracting risk in the control group by risk in the treatment group, where risk is the number of times the event happened divided by the number of participants.

Williams-Hayes (2002) also conducted a dissertation on the effectiveness of restorative justice practices including victim-offender mediation and family group conferencing. The researcher used odds ratio as the effect size index for 4 outcomes, that is, victim and offender satisfaction, rates of restitution contract negotiation and completion, rates of recidivism, and fear of revictimisation. The researcher used Hierarchical Generalized Linear Models (HGLM)<sup>4</sup> to conduct the meta-analysis. Forty studies were included but 80% of them were VOM program and some studies did not apply a comparison group. Positive findings were found in respect of victim and offender satisfaction with the justice process, fear of revictimisation, and rates of restitution contract negotiation and completion. However, the researcher only found few significant relationships between proposed variables and effect sizes due to the limited number of effect size in some categories. For the outcome relating to victims, the result showed that scores on methodological quality were significantly associated with victim satisfaction with the justice process. Research with high methodological quality scores seemed to be associated with high victim satisfaction rate.

Poulson (2003) reviewed 7 evaluation studies on restorative justice. The researcher used the meta-analytical technique to synthesise data on psychological outcomes including perception of fairness, satisfaction, fear of revictimisation, and expression of forgiveness. The results showed that restorative justice practices significantly outperformed court on almost all outcomes for victims and offenders. The researcher reported the effect size in odds ratio. However, due to the limited number of studies, there was no result for the relationship between participant or case characteristics and effect sizes. Indeed, there were only one or two studies included in some outcomes, especially outcomes relating to victims.

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<sup>4</sup> A statistic used for predicting a binary outcome from one or more independent variables.

Rowe (2002) conducted a cross-site evaluation of 6 restorative justice projects in Washington State. The researcher evaluated outcomes of the service provided by these projects and general impact on victims and offenders. For the findings on victims, the results reported a high percentage of satisfaction with the mediation service, but this outcome was evaluated only in 2 of the restorative justice projects. Other projects were evaluated with regard to satisfaction with the victim support services, such as letter of support and outreach services. These results also showed high percentage of satisfaction. Although the study showed some positive results, it did not include any comparison groups except the evaluation on recidivism and did not report effect sizes in any outcomes. In fact, the outcomes from each project were not consistently evaluated, which made it difficult for the comparison. The study did not report any factors or variables related to the victim outcomes.

Until 2004, there were only 6 studies using the meta-analytic procedure for reviewing the impact of restorative justice practices. This number is quite small when compared with other studies in criminal justice research. Indeed, when considering the victim effect, only 4 of them included victim outcomes in their studies. However, one study only evaluated on one outcome. The others evaluated various outcomes but the findings did not show any relationship of moderators and effect sizes. This is partly because there were not enough diverse variables to investigate and partly because there was not much research on family group conferencing at that time.

Studies may include victim outcomes as parts of their analysis but still produce findings that are not comprehensive because the main focus is still the offender outcomes. Meanwhile, there are some victim-related issues that need to be investigated. It would be interesting to find if some variables are related to the effectiveness of restorative justice practice in terms of victim effect. Possible variables might be victim characteristics, case characteristics, study characteristics, and type of intervention. In addition, the findings might be different if the research methodology was specifically designed for victim study. For example, the methodological quality scale used in Williams-Hayes's study

was designed to apply to research on offenders. Some items in the scale were used for offender-focused criteria, e.g. to evaluate the matching of offender sample whereas the included studies may focus on victims and use the matched victim sample. The difference in items may yield different scores and has an effect on the findings of the study. In order to learn more about the effect of restorative justice practice on victims, a victim-focused study is required.

### **5.3 Research method**

The purposes of this study are mainly to evaluate the effects of restorative justice practices on crime victims and to investigate factors related to the effects by using a meta-analytical method. The outcomes that will be investigated are victim satisfaction, perception of fairness, fear of revictimisation, attitudes toward offenders, agreement completion rate, and apology. These outcomes are selected according to the qualitative investigation in Chapter 4, however, the topics have to be rearranged for the convenience of quantitative analysis. In this section, the procedure of conducting a meta-analysis of the effect of restorative justice practice on crime victims is described.

#### ***Criteria for inclusion of evaluation studies***

In selecting studies for inclusion in this analysis, the following criteria were used:

1. The study must involve the use of a restorative justice process, which can be defined as any process in which the victim, the offender and/or any other individuals or community members affected by a crime actively participate together in the resolution of matters arising from the crime, often with the help of a fair and impartial third party<sup>5</sup>. The practices

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<sup>5</sup> This definition is defined in the Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters (UN), 2000.

included in this study will be those in the form of either the mediation process or the conferencing style<sup>6</sup>;

2. The study must use a control or comparison group. The comparison group must be those who do not participate in the restorative justice practice<sup>7</sup>;
3. The study must provide results on crime victims in quantitative form, for example number or percentage of victims in each outcome.

### *Search strategies*

The researcher conducted different strategies to identify and retrieve empirical studies on restorative justice including published and unpublished studies. The following procedures were used to search for eligible studies.

1. A search conducted through bibliographic databases including the University of Sheffield library catalogue, British Library Catalogue, Psychology and Related Disciplines (PsycINFO), Web of Knowledge (WoK), Index to Theses, Dissertation Abstracts, the National Criminal Justice Reference Service Abstracts Database (NCJRS).
2. A search on the Internet using search engines, such as Google.
3. A manual search from the reference of studies and review articles.

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<sup>6</sup> Sentencing circles are not included due to the limited number of studies in this practice and the fact that existing studies do not meet the selection criteria.

<sup>7</sup> A comparison group is needed for comparing the effect across groups. Single group studies with pre-post test are not included because they need different effect size index and most research in restorative justice does not provide the data that is needed in order to calculate this.

4. A search from relevant journals, such as British Journal of Criminology, International Review of Victimology, Criminal Law Review, and Crime and Delinquency.
5. A search through databases of restorative justice websites including Restorative Justice Online ([www.restorativejustice.org](http://www.restorativejustice.org)), Center for Restorative Justice and Peacemaking ([ssw.che.umn.edu](http://ssw.che.umn.edu)), International Institute for Restorative Practices ([www.restorativepractices.org](http://www.restorativepractices.org)) and Center of Criminology, University of Toronto ([http://eir.library.utoronto.ca/criminology/restorative\\_justice/](http://eir.library.utoronto.ca/criminology/restorative_justice/)).
6. A search of government agencies, such as Home Office, The Public Safety and Emergency Preparedness, Canada, New Zealand Ministry of Justice, Australian Institute of Criminology, National Institute of Justice, US.

Approximately 65 studies were identified. Unfortunately, about 50% of identified studies did not use a comparison group in research design. For studies that used comparison groups, most of them focused on offender's outcomes, especially on the recidivism rate. Finally, only 10 studies consisting of 17 study sites that used the comparison group of victims were retrieved<sup>8</sup>. Seven studies were published as articles or books; 1 study was a thesis; and 2 studies were study reports. The selected studies were conducted in US, UK, Australia, New Zealand, and Canada. These studies were retrieved through the Internet and inter-library loan and by requesting from the funding agencies.

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<sup>8</sup> It should be noted that the Leeds Reparation Project was evaluated by more than one research project, for example the project conducted by Mark Umbreit (1996) and Tony F. Marshall and Susan Merry (1990). Both studies used a comparison group for victim's interviews. However, results from the studies using the same study site may cause some dependencies. Therefore, only one study should be chosen. In this case, the study done by Umbreit (1996) was chosen because it provided more detail and more adequate data for the meta-analytical method than the other one.

### *Description of selected studies*

The selected studies reported effects on a variety of outcomes. It is not surprising that the main focus of these studies was on offender's outcomes. Some comprehensive studies focused on both victims and offenders and presented the results on victim's outcomes in separate reports, for example Reintegrative Shaming Experiment (Strang, 2002) and South Australian Juvenile Justice Research Project (Venables, 2000). However, none of the studies entirely focused on victims.

The most frequently measured outcomes on victim perspectives were satisfaction with outcomes and the justice process, perception of fairness with outcomes and the system, agreement completion, fear of revictimisation, and attitude toward offenders, respectively. Other measured outcomes included being upset about crime, material and financial loss, attitude toward certain issues, such as apology, exchange of information and involvement in their cases. Table 5.1 presents the outcomes that were included in the meta-analysis. These outcomes were selected since they were commonly reported in the studies, which made it possible for the analysis.



**Table 5-1 Description of selected studies**

<b>Study</b>	<b>Study sites</b>	<b>Year<sup>a</sup></b>	<b>RJ practice</b>	<b>Type of offence</b>	<b>Type of offender</b>	<b>Sample</b>	<b>Selected Outcome</b>
Davis, Robert (1980)	Brooklyn Dispute Resolution Center, US	1977	Mediation	Violent and property offences	Adult	Ne <sup>b</sup> = 160 Nc <sup>c</sup> = 119	-Satisfaction with the outcome -Fairness of outcome -Anger at offender -Fear of revenge -Perception that offender's behaviour was improved
Maxwell, Gabrielle & Morris, Allison (1993)	New Zealand Experiment	1993	Conferencing	Mostly property offence	Youth	Ne = 73 Nc = 68	-Satisfaction with the outcome
McCold, Paul & Wachtel, Benjamin (1998)	Bethlehem Pennsylvania Police Family Group Conferencing Project, US	1995	Conferencing	Mostly property offence	Youth	Ne = 65 Nc = 57	-Satisfaction with how the cases were handled -Fairness in their cases

Study	Study sites	Year <sup>a</sup>	RJ practice	Type of offence	Type of offender	Sample	Selected Outcome
McGarrell, Edmund, et al (2000)	Indianapolis Juvenile Restorative Justice Experiment, US	1999	Conferencing	Mostly property offence	Youth	Ne = 42 Nc = 50	-Satisfaction with how the cases were handled -Fairness of outcome -Agreement completion
Strang, Heather (2002)	Reintegrative Shaming Experiment (RISE), Australia	1997	Conferencing	Property and violent offence	Youth	Ne = 116 Nc = 116	-Satisfaction with the way the case was dealt with -Completion of restitution -Fear of revictimisation -Retaliatory feeling toward offender -Feeling the apology was sincere. -Receiving an apology -The importance of receiving an apology
Umbreit, Mark (1994)	Albuquerque, Minneapolis, Oakland, US	1991	Mediation	Mostly property offence	Youth	Ne = 73 Nc = 25	-Satisfaction with how the system responded to their cases -Fairness within the system -Completion of restitution

<b>Study</b>	<b>Study sites</b>	<b>Year<sup>a</sup></b>	<b>RJ practice</b>	<b>Type of offence</b>	<b>Type of offender</b>	<b>Sample</b>	<b>Selected Outcome</b>
Umbreit, Mark and Roberts, Ann (1996)	Coventry and Leeds, UK	1996	Mediation	Mostly property offence;	Youth and adult	Ne = 42 Nc = 26	-Satisfaction with how the system responded to their cases -Fairness within the system -Fear of revictimisation
Umbreit, Mark (1999a)	Calgary, Langley, Ottawa, Winnipeg, Canada	1993	Mediation	Property and assault offence	Youth and adult	Ne = 183 Nc = 140	-Satisfaction with how the system responded to their cases -Fairness within the system -Fear of revictimisation -Remaining upset about the offender -Receiving an apology -The importance of receiving an apology
Umbreit, Mark and Fercello, Claudia (1997)	Victim/Offender Conferencing Program, Washington County, US	1996	Conferencing	Property and assault offence	Youth and adult	Ne = 12 Nc = 7	-Satisfaction with how the system responded to their cases -The importance of receiving an apology

<b>Study</b>	<b>Study sites</b>	<b>Year<sup>a</sup></b>	<b>RJ practice</b>	<b>Type of offence</b>	<b>Type of offender</b>	<b>Sample</b>	<b>Selected Outcome</b>
Venables, Michele (2000)	South Australian Juvenile Justice Research Project (SAJJ), Australia	1999	Conferencing	Property and violent offence	Youth	Ne = 61 Nc = 18	-Satisfaction with how the case was handled -Fairness with outcome -Agreement completion -Feeling negative about offenders -Feeling positive about offenders -Receiving an apology -The importance of receiving an apology

- a. Year when studies were conducted.
- b. Ne = Number of victims in the treatment group
- c. Nc = Number of victims in the comparison group

Of the 10 studies, 4 studies evaluated mediation schemes, 6 studies evaluated conferencing schemes. Some schemes were inconsistently named, such as victim-offender reconciliation or dispute resolution, but they also conducted the mediation process and mainly dealt with criminal offences. One study was called victim-offender conferencing. This scheme delivered not only the conventional victim-offender mediation process but also the conferencing style for small and large group so it was included in the conferencing type. Schemes did not clearly identify type of meeting but most of them implied the use of face-to-face meeting, except schemes in the UK, which frequently conducted indirect meetings.

Six of the 10 studies evaluated schemes in the youth justice system. Other studies evaluated schemes, which dealt with adult only or both groups. When differentiating according to 17 study sites, there are 11 youth schemes (65%) and 6 (35%) adult or mixed group schemes. Ten (59%) of the 17 study sites mainly dealt with property offences. Others dealt with both property and violent offences. Property offences included burglary, shoplifting and vandalism while violent offences include assault, sexual assault and robbery. There are 7 (41%) schemes targeting mid-range or violent offences. Male offenders were the majority in all schemes. Most schemes (60%) were at pre-court stage. Unfortunately, most studies did not provide much information about victims. Of those which did, the average age of victims was around mid-thirty, consisted of both male and female, and were mostly individual victims.

Six of the 10 studies were large-scale projects, which consisted of more than 100 victims. Only 4 of the 10 studies employed random-assignment research designs. However, it must be noted that in these studies it is not victims who were randomly assigned. It is cases or offenders that were randomly assigned to either treatment or control group; and not all cases had victims. So victims are not the unit of random assignment and with respect to victim outcomes the design is a quasi-experimental design. According to Strang (2002, p.74), the study was a quasi-experimental comparison of victims whose offenders were randomly assigned to court or conference. One study did not apply random assignment for cases but used court cases as the comparison group. Five studies

used a self-selection comparison group, which consisted of victims who were referred to the schemes but did not participate. Due to differences in comparison groups and research method, the methodological quality of these studies might vary. In order to control these variables, some study characteristics were included in variables for the analysis. Since some studies (Strang, 2002; Umbreit, 1994b; Umbreit and Roberts, 1996; Umbreit, 1999a) evaluated schemes with different characteristics and provided sufficient data for the analysis, these schemes will be analysed separately. Thus, 17 different study sites from 10 studies conducted from 1977 to 1999 were analysed. Total sample size in this meta-analysis was 1,948 victims.

### *Hypotheses*

Fifteen hypotheses based on the literature review from Chapter 4 were adopted for the analysis.

1. Victims in restorative justice practices will report higher rates of satisfaction than victims in comparison groups.
2. Victims in restorative justice practices will report higher perception of fairness than victims in comparison groups.
3. Victims in restorative justice practices will report less fear of revictimisation than victims in comparison groups.
4. Victims in restorative justice practices will report less negative attitudes toward offenders than victims in comparison groups.
5. Cases involving restorative justice practices will report higher rates of completed agreement than cases in comparison groups.
6. Victims involved in restorative justice practices will be more likely to receive an apology than victims in comparison groups.

7. The type of restorative justice practice is related to the variability of effect sizes of outcomes.
8. Point of case referral<sup>9</sup> relates to the variability of effect sizes of outcomes.
9. The type of offenders is related to the variability of effect sizes of outcomes.
10. The type of offence is related to the variability of effect sizes of outcomes.
11. Seriousness of offence relates to the variability of effect sizes of outcomes.
12. Seriousness of referred case<sup>10</sup> relates to the variability of effect sizes of outcomes.
13. Methodological quality relates to the variability of effect sizes of outcomes.
14. Type of comparison groups relates to the variability of effect sizes of outcomes.
15. Type of case assignment relates to the variability of effect sizes of outcomes.

### *Variables*

Three clusters of variables are proposed as potential predictors of magnitude effect sizes. They are scheme characteristics, case characteristics, and study characteristics.

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<sup>9</sup> Stage of the criminal justice process

<sup>10</sup> See more description of this variable in the next section.

## **Independent variables**

### *Scheme characteristics*

Variables in this cluster are types of restorative justice practice and point of case referral. Types of restorative justice practice consist of the mediation and conferencing style. This variable is categorised broadly because some restorative justice schemes may apply more than one version of approach or call themselves differently. However, the main approach is still classified into either the mediation or conferencing style. Point of case referral consists of schemes whose cases are referred at the pre-sentence stage only and schemes whose cases are referred at any stages including the pre-sentence stage.

#### 1. Types of restorative justice practice

- a. The mediation style
- b. The conferencing style

#### 2. Point of case referral

- a. Pre-sentence only
- b. Others (any stages)<sup>11</sup>

### *Case characteristics*

The limited information on victim characteristics made it impossible to investigate how these variables impact on victim outcomes. Therefore, case characteristics are used instead. The variables in this category are as follows:

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<sup>11</sup> Others include schemes which accept cases at post-sentence stage or more than one stage.



1. Types of offenders
  - a. Youth offenders only
  - b. Adult offenders or mixed groups
2. Types of offence
  - a. Property offence only or mainly
  - b. Violent offence or mixed offence
3. Seriousness of offence<sup>12</sup>
  - a. Non-serious offence
  - b. Medium or high serious offence
4. Seriousness of referred cases

In order to avoid the risk of strong inter-correlation among variables and false results in the regression analysis, the categorical variables in this cluster are combined and used as the continuous variable. This variable is created by scoring the characteristics of cases according to the case seriousness scale, which is specially made for this study (see appendix B). The scale consists of 3 items, that is, type of offence, type of offender, and seriousness of case<sup>13</sup>. The total score is 5, indicating that cases consist of adult offenders who commit assault offences which are serious in nature. The higher score means the more serious case.

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<sup>12</sup> This variable is distinguished from type of offence because some property offences or mixed offences consist of serious crime.

<sup>13</sup> Seriousness of case as defined by scheme administrators or researchers, not from the viewpoint of victims.

### *Study characteristics*

Since studies in restorative justice applied various research methodologies, for example different method of case assignment and different type of comparison group, their study characteristics were coded and used as independent variables. Variables in this category consist of types of comparison group, type of case, assignment, and methodological quality as scored by the specially designed scale.

1. Types of comparison group
  - a. Referred but no participation group
  - b. Court case group
2. Types of case assignment
  - a. Random assignment
  - b. Others
3. Methodological quality score

This variable combines different methodological characteristics together including type of comparison group and type of case assignment in order to avoid the risk of strong inter-correlation among variables and to examine other methodological characteristics. The methodological characteristics of each study were scored by a methodological quality scale adapted from Nugent, et al (2003) (see appendix C). The scale comprises 12 questions and produces the total score of 12. The higher score represents higher quality in term of research design and match of sample groups. The scale included questions about method of sample allocation, e.g. matched and randomised; match of sample on various aspects, e.g. gender, age, type of offender, etc.; and method of case assignment, e.g. random and non-random.

## **Dependent variables**

The dependent variables in this study are effect sizes of outcomes.

They are as follows:

1. Satisfaction with the way the case was handled or with outcomes of their cases
2. Perception of fairness with the way the case was handled or with outcomes of their cases
3. Fear of revictimisation
4. Attitude toward offenders
5. Agreement completion
6. Receiving of apology

However, only 2 outcomes, that is, victim satisfaction and perception of fairness, were included in the analysis of the relationship between independent variables and variability of effect size. These 2 outcomes were selected because they included sufficient studies for the analysis. Other outcomes were included for the effect size analysis only.

## ***Coding***

All selected research studies were coded by the researcher of this study using 2 forms designed for the data collection. The first form was designed for collecting data on study and scheme characteristics (see Appendix D). The second form was designed for the calculation of effect size so findings from each outcome from selected studies were collected (see Appendix E). Seventeen study sites from 10 studies were given an ID according to the scheme title. Data from 17 sites were coded twice and compared with other reports if they were found in different sources.

When the selected studies consisted of more than one comparison groups, only data from the most unbiased one were coded. For example, victims from the same jurisdiction who were not referred to the scheme were used as a comparison group instead of victims who were referred but did not participate. All outcomes relating to victims were coded but only some outcomes that are found in more than 2 studies were used for the analysis.

### *Data analysis*

The effect size index used in this study is odds ratio. This index was chosen because all outcome variables extracted from the reviewed studies are dichotomous and presented in the form of percentage or frequencies, for example number of victims who are satisfied against those who are not. In restorative justice studies, findings are always presented in dichotomous form (afraid/not afraid, satisfied/not satisfied) although raw data may be in ordinal scale.

Review Manager V.4.2.3 (RevMan), which is a free software program distributed by the Cochrane Collaboration, was used for effect sizes calculation, test of heterogeneity and categorical or subgroup analysis. Weighted regression analysis was used to analyse the relationship between effect sizes and other variables. The regression analysis was calculated by a macro written by David B. Wilson for using with SPSS<sup>14</sup>. This SPSS macro can perform modified weighted least squares regression for analysing any type of effect size. Where appropriate, the SPSS macros written by Wilson are also used for calculation of mean effect size, test of heterogeneity, and categorical or subgroup analysis in order to compare the result with RevMan program.

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<sup>14</sup> Since the automatic weighting procedure from SPSS command provides incorrect results in the standard errors of the regression coefficients, some calculations have to be performed by commands written in a macro. Detail of macros is available in Lipsey and Wilson (2001).

As explained earlier, studies generally use different sample sizes. Therefore, it is necessary to weight individual effect size by an appropriate value before conducting any statistical analysis in order to prevent any bias. In this research, the effect size was weighted by its inverse variance weight<sup>15</sup>. The effect size is also transformed into more convenient form when statistical analysis is conducted. In this case, odds ratio will be transformed by taking the natural logarithm (ln).

### *Publication bias and sensitivity analysis*

One problem that may occur in the meta-analysis is a publication bias or the 'file drawer' problem. Studies with a small sample size tend to yield nonsignificant findings and are unlikely to be published. They may be difficult to retrieve and are not included in the analysis. The underrepresentation of unpublished or unfound studies may cause a bias in the findings. In order to detect a publication bias, the fail-safe N statistic developed by Rosenthal (1991) was applied. The fail-safe  $n$  determines the number of studies with nonsignificant findings that, if added to the sample, would reduce the combined effect size to the point of nonsignificance. The fail-safe N formula adapted from Rosenthal's

technique is  $k_0 = k \left[ \frac{\overline{es}_k}{es_c} - 1 \right]$  where  $k_0$  is the number of effect sizes with a

value of zero needed to reduce the mean effect size to  $\overline{es}_c$ ,  $k$  is the number of studies in the mean effect size,  $\overline{es}_k$  is the weighted mean effect size, and  $\overline{es}_c$  is the criterion effect size level (Lipsey and Wilson, 2001, p.166).

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<sup>15</sup> Although the effect size can be weighted by its sample size, the optimal weight is its standard error (SE). Therefore the standard error of the effect size is used to weight each effect size. Because a larger standard error corresponds to a less precise effect size value, the actual weight will be computed as the inverse of the squared standard error value. The formula of the inverse

variance weight ( $w$ ) is  $w = \frac{1}{SE^2}$ .

Sensitivity analysis was also conducted in this study. Sets of data were analysed by different statistical programmes, i.e., SPSS and RevMan. Effect sizes were also compared between the fixed effects and random effect model<sup>16</sup>. If outliers exist, they were included and excluded from models in order to detect any change.

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<sup>16</sup> The fixed effects model assumes that each effect size differs from the true population effect size solely due to subject-level sampling error. Meanwhile, the random effects model assumes that each effect size is variable due to subject-level sampling error and study-level variability.

## Chapter 6

### Effects of restorative justice practices on victims

In this chapter, the effects of restorative justice practices on victims' restoration are systematically investigated in order to find out whether they have an actual effect on victims and whether they are superior to the conventional criminal justice process. After that, further analysis is conducted to investigate whether the proposed factors, that is, scheme characteristics, case characteristics, and study characteristics have an influence on these effects.

Six outcomes representing specific elements of victims' restoration in terms of material reparation, emotional reparation, sense of security, procedural justice, and satisfaction with the justice process and case outcome are investigated by the meta-analytical method. These outcomes are *victim satisfaction, perception of fairness, fear of revictimisation, attitude toward offenders, agreement completion, and apology*. The meta-analysis will reveal the mean effect size of each outcome by analysing and combining findings from 17 restorative justice schemes implemented in England, US, Australia, Canada, and New Zealand. The main characteristics of these schemes are presented in table 6-1.

**Table 6-1 Descriptive of scheme and study characteristics**

<b>Variable</b>	<b>No. of schemes</b>	<b>Percentage</b>
<i>Scheme characteristics</i>		
Restorative justice model		
Mediation style	10	59
Conferencing style	7	41
Point of case referral		
Pre-sentence only	10	59
Others (any stage)	7	41
<i>Case characteristics</i>		
Type of offender		
Youth	11	65
Adult	3	17.5
Mixed group	3	17.5
Type of offence		
Property offence	10	59
Violent offence	3	17
Mixed type of offence	4	24
Seriousness of offence		
Serious offence	7	41
Non-serious offence	10	59
Seriousness score of referred case		
0-1	10	59
2-3	4	24
4-5	3	17



Variable	No. of schemes	Percentage
<i>Study characteristic</i>		
Type of comparison group		
Court case	8	47
Referred but not participated group	9	53
Case assignment		
Random assigned	5	29
Non-random assigned	12	71
Methodological quality score		
0-3	10	59
4-7	5	29
8-12	2	12

## 6.1 Victim satisfaction

Ten studies yielded 17 effect sizes on the outcome of victim satisfaction. Fifteen effect sizes were from the outcome of victim satisfaction with the way their cases were handled and 2 effect sizes were from the outcome of victim satisfaction with the outcome of their cases. These studies used a comparison group for comparing the outcome with victims in restorative justice schemes and involved 941 victims in the restorative justice groups and 700 victims in the comparison groups.

## *Effect size*

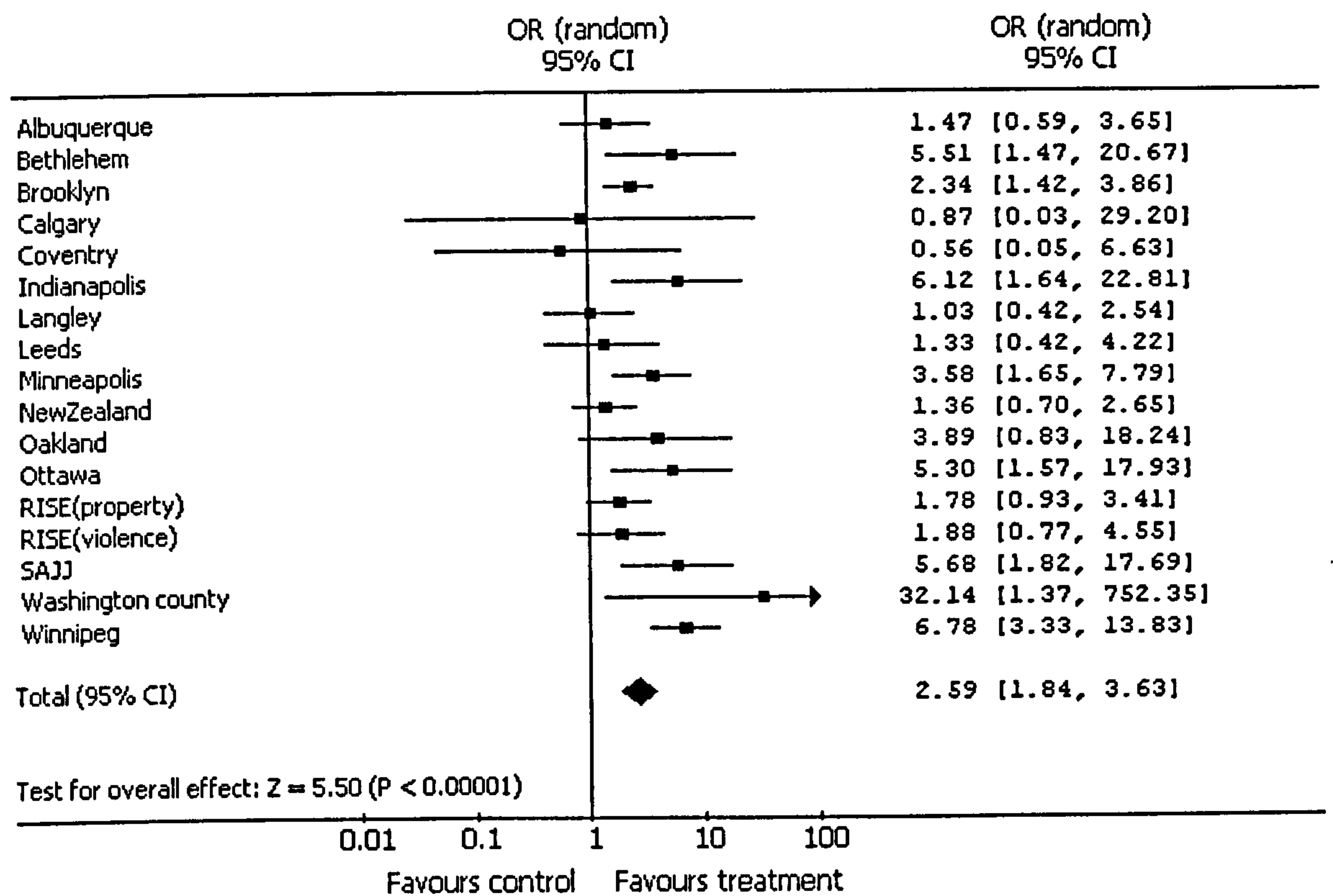
The overall mean effect size in this outcome was weighted and calculated by using a random effects model.<sup>1</sup> This model was used instead of a fixed effects model because effect sizes in this outcome show some variability, which will be discussed later. However, the fixed effects model as well as different methods of analysis were also used to check the sensitivity of the result.

The result in Figure 6-1 shows that participating in the restorative justice practice increased victim satisfaction with the way the case was handled significantly ( $Z=5.50$ ,  $p<0.00$ ). The mean effect size from 17 study sites is 2.59 (95% confidence interval, 1.84 to 3.63), meaning that the odds of victims being satisfied with the way the case was handled and case outcome are 2.59 times higher for victims who participated in the restorative justice practices than for those who did not. The result from the fixed effects model also showed similar result (odds ratio = 2.51, 95% confidence interval 2.02, 3.12). When including study sites from the same studies together, the mean odds ratio of 10 studies is slightly higher. The odds ratio is 2.68 (95% confidence interval, 1.90, 3.77). Therefore, this finding is consistent with the hypothesis 1, that is, victims in restorative justice practices will report higher rates of satisfaction than victims in comparison groups.

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<sup>1</sup> Meta-analysis research tends to use the random effects model for analysis rather than the fixed effects model (Lipsey and Wilson, 2001; Wilson, 2001) because the fixed effects model seems to be restrictive and untenable in many syntheses of social science research. This is because the variability of effect size may be caused by many dimensions, such as type of intervention and research methodology, not only by the sampling error. Therefore, when effect size shows some variability, it is more appropriate to use the random effects model of analysis.

**Figure 6-1 Effect size of the victim satisfaction outcome**



Of all 17 study sites or schemes, 8 of them show statistically significant results because the confidence interval did not overlap 1<sup>2</sup>. These schemes are the Bethlehem, Brooklyn, Indianapolis, Minneapolis, Ottawa, SAJJ, Washington, and Winnipeg schemes.

It should be noted that odds ratio higher than 1 shows positive result and lower than 1 shows negative result while odds ratio that equals 1 means no effect. In Figure 6.1, most effect sizes show positive results except 2 effect sizes from the Calgary scheme (odds ratio = 0.87) and the Coventry scheme (odds ratio = 0.56). The negative effect sizes may result from low number of victims

<sup>2</sup> For odds ratio, 1 means no effect or null value. If the confidence interval does not overlap 1, it is likely that with 95% confidence, the effect size calculated from the population does not include null value.

included in the studies. In these cases, there were only 2 victims in the comparison groups of the Calgary and Coventry schemes. Low number of victims also biased the positive result. In this case, the Washington County scheme showed very high odds ratio (odds ratio = 32.14). These 3 effect sizes also had high standard deviation ( $s = 1.79, 1.26, 1.60$ ) from the mean. They could be outliers so the mean effect size was calculated again by excluding them. The mean effect size excluding 3 study sites is 2.59, which is not much different from the original result so these 3 study sites will be included in further analysis.

Although the overall mean effect size of this outcome shows a significant positive result, this finding is not consistent across studies. For example the effect sizes of schemes in Albuquerque, Langley, Leeds, New Zealand, and RISE project were lower than the effect sizes of other schemes. The test of heterogeneity was done and the result shows the significance ( $\chi^2 = 30.46, d.f. = 16, p = 0.02$ ), indicating that variability across effect sizes is greater than expected from sampling error alone and may have resulted from systematic factors that can be identified. The heterogeneous distribution also exists when effect sizes were grouped to 10 studies or when the outliers were excluded. Therefore, further analysis was done to identify the factors related to variability of effect size.

### *Relationship of scheme, case, and study characteristics to effect size*

In order to find the relationship between factors and effects, a categorical or subgroup analysis was used. The categorical variables in scheme characteristic cluster, case characteristic cluster, and study characteristic cluster were selected. For scheme characteristic cluster, selected variables include type of intervention and point of case referral. For case characteristic cluster, selected variables include type of offender, type of offence, and seriousness of offence.

For study characteristic cluster, selected variables include type of comparison group and type of case assignment. Apart from these variables, another variable, i.e., satisfaction with the way the case was handled or with the case outcome, was also added since it might have some effect on the variability of effect sizes.

The analysis was done under the random effects model by including and excluding the outliers. However, results with the outliers show some inconsistency when analysed under fixed and random effects models so the outliers were excluded. The results were presented without the outliers. RevMan and SPSS macros written by David Wilson were used for the analysis. The results from both programs were consistent.

To test models using categorical variables, two further types of  $Q$  statistic must be calculated:  $Q_w$  (the within-group fit statistic) and  $Q_b$  (the between-group fit statistic). This is a meta-analytic analogue to the analysis of variance (ANOVA). For a variable to be a significant moderator, the  $Q_b$  must be statistically significant and the  $Q_w$  for the subgroups must not be significant (the within-group variance should be homogeneous). When this occurs, the confidence intervals for the groups that are compared do not overlap

Table 6-2 presents results of the relationship of some categorical variables with effect size. The results showed that none of these categorical variables significantly related to the variability of effect size. However, some variables show different effect sizes. When satisfaction with 'the way the case was handled' and 'the case outcome' are compared, the result shows that victims expressed higher satisfaction with the way the case was handled than with the outcome of their cases. However, there are only two studies that asked about the satisfaction with the outcome. Indeed, many studies evaluated victim satisfaction with the outcome but they do not compare it with comparison groups, which explains the limited numbers of effect size in this outcome.

**Table 6-1 Effect size of the victim satisfaction outcome and the relationship with categorical variables**

Variable	Mean effect size	95% CI		$Q_b$	$Q_w$
		Lower	Upper		
<b><i>Satisfaction</i></b>					
-With how the case was handled	2.87	1.94	4.23	ns	ns
-With outcome	1.81	0.85	3.86		
<b><i>Scheme characteristic</i></b>					
Type of intervention				0.00	12.21
- Mediation	2.63	1.65	4.19	ns	ns
- Conferencing	2.59	1.50	4.47		
Point of case referral				0.33	11.89
- Pre-sentence only	2.78	1.84	4.20	ns	ns
- Any stage	2.19	1.10	4.38		
<b><i>Case characteristic</i></b>					
Type of offender				2.84	10.77
- Youth	2.32	1.55	3.47	ns	ns
- Adult	4.02	2.09	7.71		
- Mixed	1.33	0.32	5.52		
Type of offence				2.26	11.60
- Mostly property	2.18	1.40	3.39	ns	ns
- Mostly violent	4.14	2.04	8.38		
- Mixed	2.53	1.27	5.06		
Seriousness of offence				0.11	12.01
- Non-serious	2.44	1.45	4.13	ns	ns
- Serious	2.76	1.70	4.48		

Variable	Mean effect size	95% CI		$Q_b$	$Q_w$
		Lower	Upper		
<i>Study characteristic</i>					
Type of comparison group				0.00	11.93
- Referred but not participate	2.60	1.50	4.50	ns	ns
- Court case	2.63	1.64	4.22		
Type of case assignment				0.00	11.87
- Non-random	2.60	1.65	4.10	ns	ns
- Random	2.64	1.46	4.74		

ns = not significant

The result also shows that there is no difference in effect size between the mediation style and conferencing style. However, some case characteristics are likely to yield higher effect. For example, cases consisting of adult offenders result in higher effect size on victim satisfaction than cases consisting of young or mixed group of offenders. Cases consisting of violent offence show higher effect on victim satisfaction than cases consisting of property or mixed type of offence.

The difference in victim satisfaction between victims of different types of offender and offence may be inconsistent with the finding from the study of Umbreit and Bradshaw (1997); however, it is not unexpected. Umbreit and Bradshaw (1997) compared the satisfaction rate between victims of juvenile and adult offenders who participated in mediation and did not find any difference. This is because they did not compare victim satisfaction of participating groups with those of non-participating groups. It is likely that if the comparison groups of non-participating victims had been employed, the findings might be different. Moreover, there were only 2 study sites included in their study.

Meanwhile, this study compared the difference between participating victims and non-participating victims who may be dealt with by the court system or otherwise by the conventional criminal justice system. The difference in their satisfaction showed the effect of the restorative process on them. The process might be more effective in some specific groups. In this case, it is possible that the restorative justice practice has more impact on victims of adult offender or violent offence than other types of victims.

The categorical analysis has some limitations, that is, it can analyse categorical variables only and cannot analyse more than one variable at a time. In addition, some factors might be related to each other, for example adult cases might be more likely to consist of violent offence than youth cases. Therefore, further analysis should be conducted to eliminate these limitations and to find the moderators relating to the effect of restorative justice practice. This analysis is present later in this chapter.

## **6.2 Perception of fairness**

Seven studies consisting of 13 restorative justice schemes evaluated this outcome. Ten schemes investigated victim perception of fairness with the way the case was handled and the other 3 schemes investigated fairness with the outcome of their cases. Overall, the included studies involved 730 victims in treatment groups and 487 victims in comparison groups.

### ***Effect size***

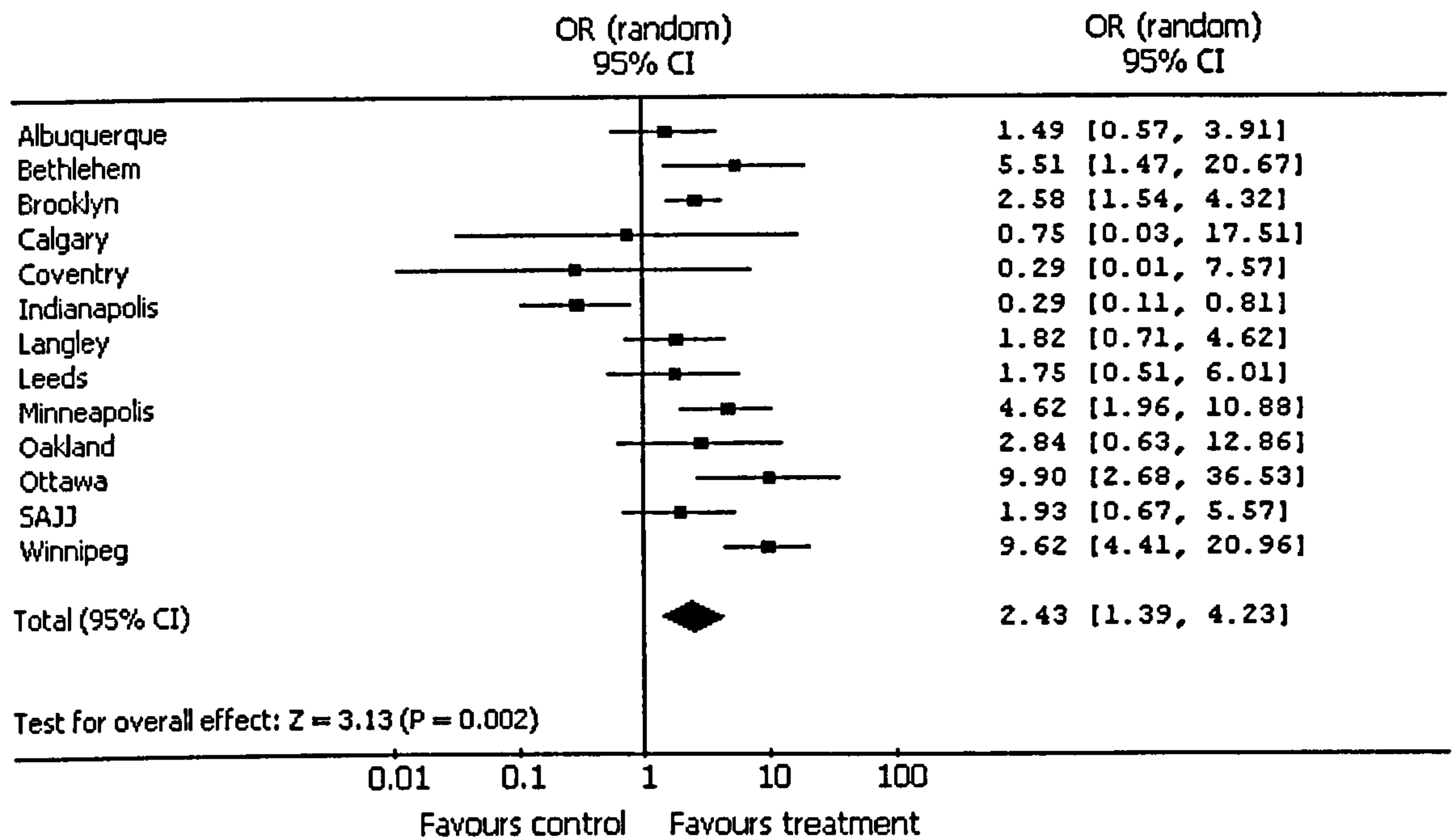
The random effects model was used to calculate the mean effect size. The overall mean effect size of this outcome is 2.43 (95% confidence interval, 1.39 to 4.23), meaning that the odds of victims perceiving fairness with the way the case was handled and the case outcome are 2.43 times higher for victims in the restorative justice schemes than for victims in the comparison groups. This result is statistically significant ( $Z=3.13$ ,  $p=0.002$ ). The mean effect



from the fixed effects model also shows consistency (odds ratio = 2.59, 95% confidence interval, 1.99 to 3.36). When 13 units of analysis were included to 7 studies, the mean effect size is slightly lower but it is still significant (odds ratio = 2.19, 95% confidence interval, 1.18 to 4.08). Therefore, this finding is consistent with hypothesis 2, that is, victims in restorative justice practices will report higher perception of fairness than victims in comparison groups.

Figure 6-2 shows the weighted effect size of each scheme. Five of 13 schemes show statistically significant results. These schemes include the Bethlehem, Brooklyn, Minneapolis, Ottawa, and Winnipeg schemes. There are no extreme effect sizes for this outcome. However, some schemes report negative effect sizes. These schemes were the Calgary (odds ratio = 0.75), Coventry (odds ratio = 0.29), and Indianapolis (odds ratio = 0.29) schemes. Again, the negative effect sizes in the Calgary and Coventry schemes might have resulted from low numbers of victims in the studies. For the Indianapolis scheme, the reason is more complicated. According to the finding of the Indianapolis study, victims in the restorative justice practice were more likely to describe the outcome as lenient than were victims in the comparison group (McGarrell, et al., 2000, p.44), which resulted in the lower rate of victims who felt the outcome was fair in the treatment group.

**Figure 6-1 Effect size of the perception of fairness outcome**



Although there were no extreme effect sizes in this outcome, there are 2 schemes, the Calgary and Coventry schemes, that could be the outliers because they have higher standard deviation from the mean when compared with others ( $s = 1.60, 1.67$ ). The mean effect size was calculated again by excluding these two schemes. The mean effect sizes excluding the outliers is 2.64 (95% confidence interval, 1.49 to 4.66), which is slightly higher than the effect size with the outliers. However, the outliers were included and excluded in the categorical analysis and regression analysis so any differences in the findings can be compared.

The heterogeneity of effect size was tested. The result shows some significance ( $\chi^2 = 40.40, d.f. = 12, p < 0.000$ ), indicating that variability across effect sizes is greater than expected from sampling error alone and may have resulted from systematic factors that can be identified. The heterogeneous distribution exists even when effect sizes were grouped to 7 studies or when the outliers were excluded. Further analysis was done to identify the source of the variability.

### *Relationship of scheme, case, and study characteristics to effect size*

The categorical variables in scheme characteristic cluster, case characteristic cluster, and study characteristic cluster were individually analysed. The analysis was done by including and excluding the outliers. When the outliers were included, the mean effect size in each category was slightly lower. Since the outliers may affect the analysis of relationship between variables and the variability of effect size, the results are presented by excluding them.

The SPSS macro written by David Wilson was used to analyse the relationship. Table 6-3 presents the effect size of perception of fairness in each categorical variable and  $Q$  statistic for testing the significant relationship between variables and effect size. The results show that type of offence may be a moderator that explains the variability of effect size since  $Q_b$  is significant ( $p=0.001$ ) and  $Q_w$  is not significant ( $p>0.05$ ) and the confidence interval of violent offences does not overlap with the interval of other groups. The mean effect size of cases consisting of violent offences is higher than cases consisting of other types of offence. It also means that the restorative justice practice has more impact on victims of violent offences than victims of property offences or mixed type of offence.

**Table 6-1 Effect size of the perception of fairness outcome and the relationship with categorical variables**

Variable	Mean effect size	95% CI		Q <sub>b</sub>	Q <sub>w</sub>
		Lower	Upper		
<b><i>Perception of fairness</i></b>					
-With how the case was handled	3.68	1.90	7.12	ns	ns
-With outcome	1.21	0.44	3.32		
<b><i>Scheme characteristic</i></b>					
Type of intervention				2.19	9.94
- Mediation	3.33	1.79	6.19	ns	ns
- Conferencing	1.32	0.46	3.80		
Point of case referral				0.09	9.40
- Pre-sentence only	2.45	1.15	5.21	ns	ns
- Any stage	2.98	1.08	8.22		
<b><i>Case characteristic</i></b>					
Type of offender				3.11	7.42
- Youth	1.89	0.91	3.93	ns	ns
- Adult	5.78	2.03	16.48		
- Mixed	1.75	0.23	13.13		
Type of offence				6.04	8.04
- Mostly property	1.87	0.94	3.72	sig.	ns
- Mostly violent	9.73	3.05	30.95		
- Mixed	2.13	0.85	5.30		
Seriousness of offence				1.45	9.21
- Non-serious	1.89	0.86	4.13	ns	ns
- Serious	3.81	1.66	8.75		
<b><i>Study characteristic</i></b>					
Type of comparison group				0.93	9.44
- Referred but not participate	3.60	1.52	8.53	ns	ns
- Court case	2.03	0.93	4.43		

Variable	Mean effect size	95% CI		Q <sub>b</sub>	Q <sub>w</sub>
		Lower	Upper		
Type of case assignment				1.20	8.81
- Non-random	3.24	1.61	6.50	ns	ns
- Random	1.56	0.52	4.69		

ns = not significant; sig.=significant

Again, if this outcome is compared between different types of offence without employing any comparison groups, it is likely that there would be no significant difference. For example, Strang (2002) found no significant difference between property and violent victims on the perception of fairness when asking victims participating in conferences only. However, when comparison groups were employed, differences in the impact of the restorative process were found among property and violent victims. Findings showed the impact of conferencing process was marked in victims of violent case. While significant differences between conference and court groups were not found in victims of property offence, they were found in victims of violent offence in these outcomes, such as a decrease in negative attitude toward offender and negative feeling about the way they were treated. These findings confirmed that the effect of the restorative justice practice was more apparent in victims of violent offence than victims of property offence in some aspects.

Apart from type of offence, other variables are not significantly related to the variability of effect size. However, the mean effect sizes show that some variables yield higher effect than others. For example, the effect size of victim perception of fairness with the way the case was handled is higher than the effect size of victim perception of fairness with the case outcome. The effect size of the mediation style also seems to be higher than the effect size of the conferencing style. For case and study characteristics, the results show that cases consisting of adult offenders show higher effect size than cases consisting of youth or mixed group of offenders. Cases consisting of serious offence show

higher effect size than cases consisting of non-serious offence. Studies using victims who were referred but did not participate as a comparison group show higher effect size than studies using victims from court cases as a comparison group. Finally, studies using non-random case assignment show slightly higher effect sizes than studies using random case assignment. Since these variables might relate to each other and show some significant results if they were analysed together, further analysis needed to be conducted and is presented later in this chapter.

### **6.3 Fear of revictimisation**

There are 4 studies investigating victim fear of revictimisation by the same offender, which yield 6 effect sizes. Three studies involved mediation schemes and only one involved conferencing schemes. These studies interviewed 501 victims participating in restorative justice practices compared with 400 victims in the comparison groups. Victims were asked questions related to fear of being victimised by the same offender and fear of revenge<sup>3</sup>. It should be noted that the Canadian study (Umbreit, 1999) did not report findings for individual study sites so the finding from the overall study was used.

#### *Effect size*

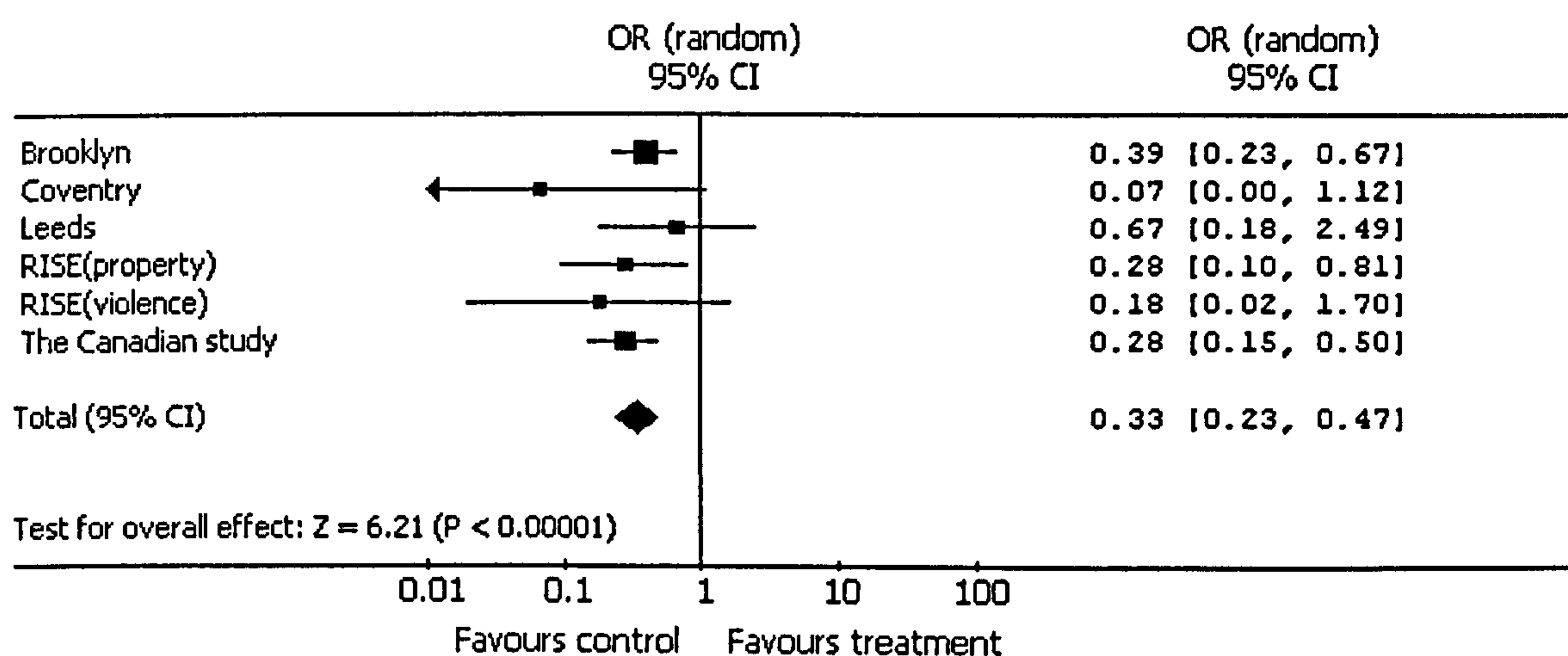
The results portrayed in figure 6-3 for this outcome are quite impressive. All study sites show consistent results that victims in the treatment groups expressed less fear of revictimisation than victims in the comparison groups. The overall mean effect size is 0.33 (95% confidence interval, 0.23 to 0.47), meaning that the odds of victims expressing fear of revictimisation are 0.33

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<sup>3</sup> Questions about fear of crime in general were not included since it is another issue needing to be separately investigated. However, fear of crime in general could not be analysed by meta-analysis in this study due to the limited number of studies that use comparison groups. The issue of fear of crime with regard to restorative justice was discussed in Chapter 4.

times less for victims in the restorative justice schemes than for victims in the comparison groups. The odds ratio of 0.33 can be inverted to 3.03 (1/0.33) and can be interpreted as the odds of victims expressing fear of revictimisation are 3 times higher for victims in the comparison groups than for victims in the restorative justice schemes. This mean effect size is statistically significant ( $Z=6.21$ ,  $p<0.000$ ). The mean effect size from the fixed effects model also shows identical result. This finding is consistent with the hypothesis 3, that is, victims in restorative justice processes will be less likely to report fear of revictimisation than victims in comparison groups.

**Figure 6-1 Effect size of the fear of revictimisation outcome**



The results from 6 schemes are homogeneously distributed ( $\chi^2 = 3.45$ ,  $d.f.=5$ ,  $p=0.63$ ), indicating that an individual effect size differs from the population mean only by sampling error. However, only 3 study sites, namely the Brooklyn, RISE (property), and Canadian study, show significant results. Since the result did not show any heterogeneity and the numbers of the included studies are limited, further analysis on the relationship between study and scheme characteristics is not conducted.

## 6.4 Attitude toward offenders

There are 4 studies that evaluated the outcome of victim attitude toward offenders, namely the Brooklyn study, RISE study, SAJJ study, and Canadian study. Two studies evaluated mediation schemes and 2 studies evaluated conferencing schemes. Some studies investigated both positive and negative attitude. The others only asked about the negative attitude toward offenders. In order to determine whether there is evidence to support hypothesis 4, the positive attitude of victims toward offenders are also investigated.

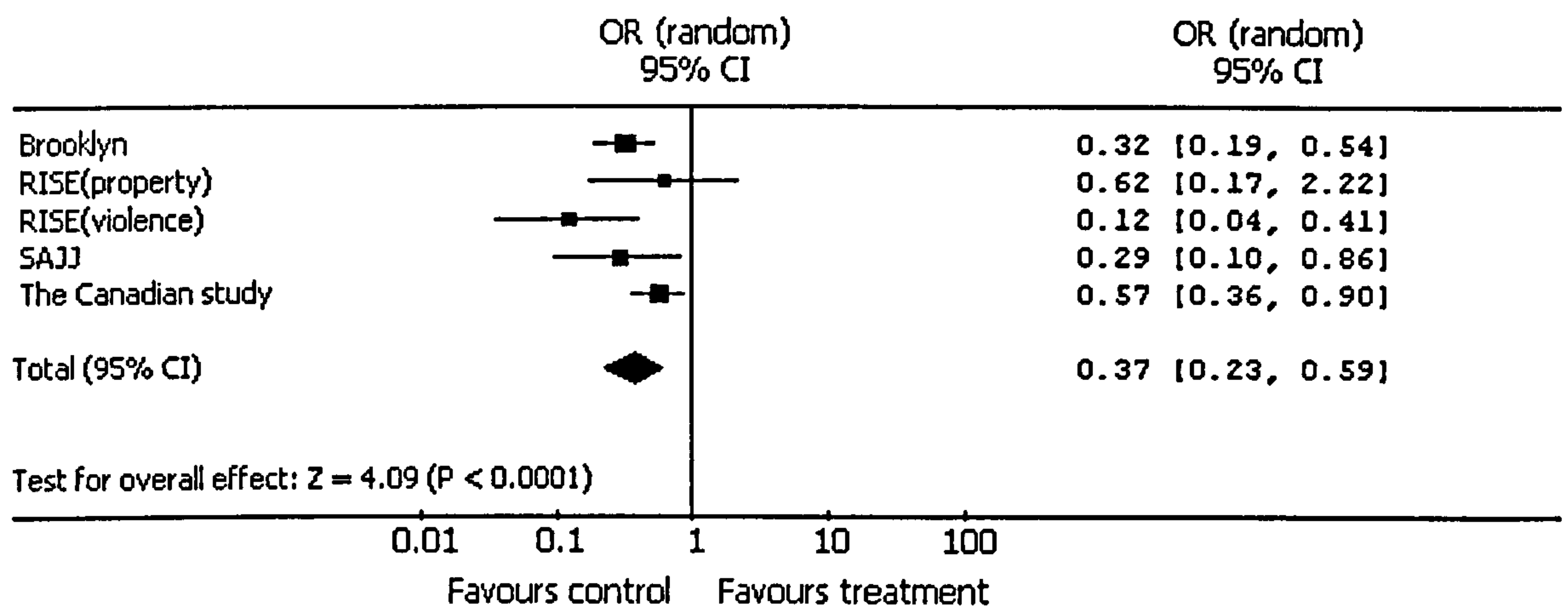
### *Effect size of the negative attitude*

There are 519 victims included in the restorative justice group and 394 victims included in the comparison group. Victims were asked questions, such as Are you still angry at offender?; Would you harm the offender if you had the chance?; Do you feel upset with the offender?.

Figure 6-4 shows the mean effect size of this outcome, that is, 0.37 (95% confidence interval, 0.23 to 0.59), meaning that the odds of victims reporting negative attitudes toward offenders are 0.37 times less for victims in the restorative justice schemes than for victims in the comparison groups. The odds ratio of 0.37 can be inverted to 2.70 (1/0.37) and can also be interpreted as the odds of victims reporting negative attitude toward offenders are 2.70 times higher for victims in the comparison groups than for victims in the restorative justice schemes. This result is statistically significant ( $Z=4.09$ ,  $p<0.000$ ). When the analysis was conducted under the fixed effects model, the odds ratio is similar. The result shows the odds ratio of 0.40 (95% confidence interval, 0.30 to 0.54). Therefore, this finding is consistent with hypothesis 4, that is, victims in restorative justice practices will be less likely to report negative attitudes toward offenders than victims in comparison groups.



**Figure 6-1 Effect size of the negative attitude with offenders outcome**



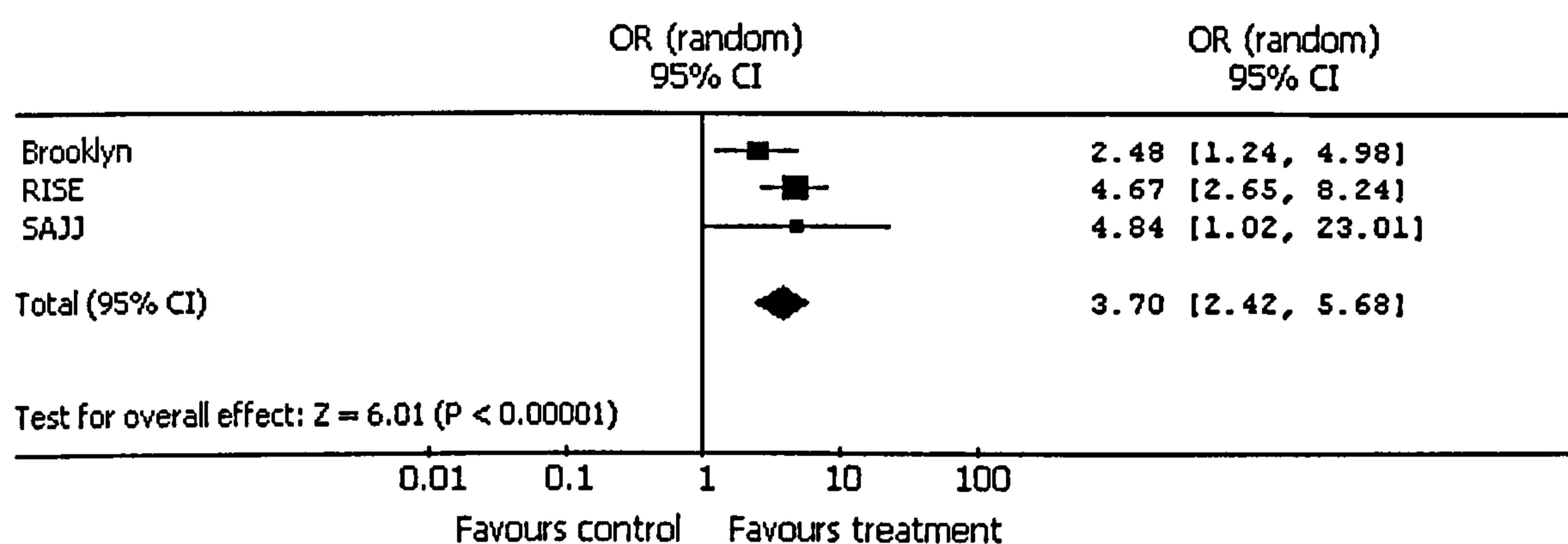
The test of heterogeneity was done and the result is not significant ( $\chi^2 = 7.43$ , d.f.=4,  $p=0.11$ ), indicating that an individual effect size may differ from the population mean only by sampling error. The findings also show that 4 of 5 studies, including the Brooklyn study, RISE (violence) study, SAJJ study, and Canadian study, reported significant results. Although the limited number of the included studies does not allow for the statistical analysis, the descriptive data reveals some interesting findings, that is, all 4 study sites reporting significant findings were schemes dealing with serious cases.

***Effect size of victim’s positive attitudes toward the offender***

Some studies investigated whether victim displayed positive attitudes toward offenders. They asked questions, such as whether the victim felt the offender was sincere; perception that the offender’s behaviour had improved; and feeling positive toward the offender. The results from these studies yield 3 effect sizes and include 262 victims in the restorative justice groups and 189 victims in the comparison groups.

The finding from this outcome is quite significant. The mean effect size is 3.70 (95% confidence interval, 2.42 to 5.68), meaning that the odds of victims reporting a positive attitude toward offenders are 3.70 times higher for victims in the restorative justice schemes than for victims in the comparison groups (see figure 6-5). The result from the fixed effects model is also similar. All 3 studies show statistically significant results and effect sizes were homogeneously distributed ( $\chi^2 = 2.02$ , d.f.=2,  $p < 0.36$ ).

Figure 6-1 Effect size of the positive attitude with offenders outcome



It can be concluded that victims in the restorative justice group not only show less negative attitude toward offenders but also show higher positive attitude toward offenders than victims in the comparison groups. In addition, both findings show significance and homogeneity.

## 6.5 Agreement completion

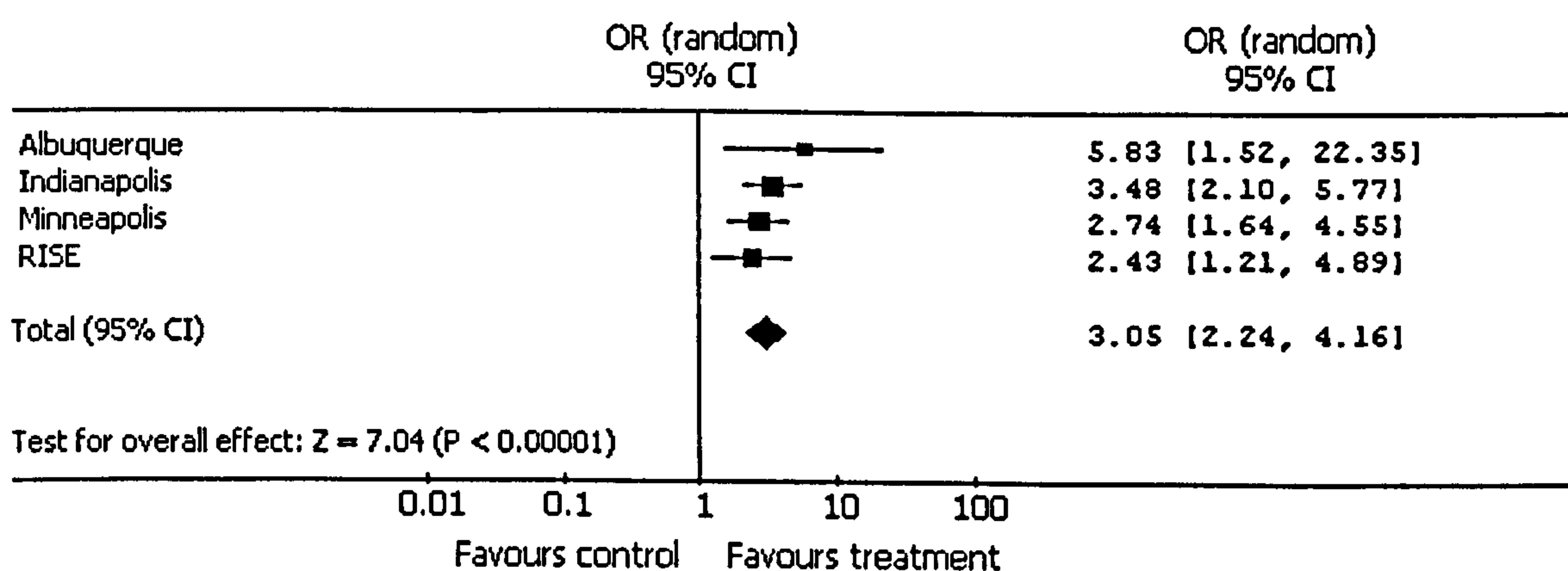
Although the completion of an agreement is commonly evaluated by many studies, only a few of them compare the outcome with the comparison group. There are 3 studies included in this analysis yielding 4 effect sizes. Two effect sizes were from mediation schemes and the other 2 effect sizes were from conferencing schemes. These studies included 450 cases in the restorative justice

groups and 505 cases in the comparison groups. It should be noted that this outcome was not directly obtained from victims but collected from the case record.

### *Effect size*

The study sites included in this outcome consisted of the Albuquerque, Indianapolis, Minneapolis, and RISE study. Since the RISE study reported this outcome by including all offences, there is one effect size for this study. Figure 6-6 shows that all study sites show consistent results that cases in the restorative justice groups are likely to report higher rates of agreement completion than cases in the comparison groups. The overall mean effect size is 3.05 (95% confidence interval, 2.24 to 4.16), meaning that the odds of an agreement being completed are 3.05 times higher for cases in the restorative justice schemes than for cases in the comparison groups. This mean effect size is statistically significant ( $Z=7.04$ ,  $p<0.000$ ). The mean effect size from the fixed effects model also shows identical results. This finding is consistent with the hypothesis 5, that is, cases in restorative justice practices will report higher rates of agreement completion than cases in comparison groups

**Figure 6-1 Effect size of the agreement completion outcome**



Additionally, the effect sizes in this outcome are homogeneously distributed ( $\chi^2=1.74$ , d.f.=3, p=0.63), indicating that an individual effect size differs from the population mean only by sampling error. All 4 study sites reported significant results. Although this outcome was not obtained directly from interviews of victims, it is nevertheless consistent with the proposition state that victims participating in the restorative justice practice are more likely to experience the completion of an agreement than those who do not participate.

## 6.6 Apology

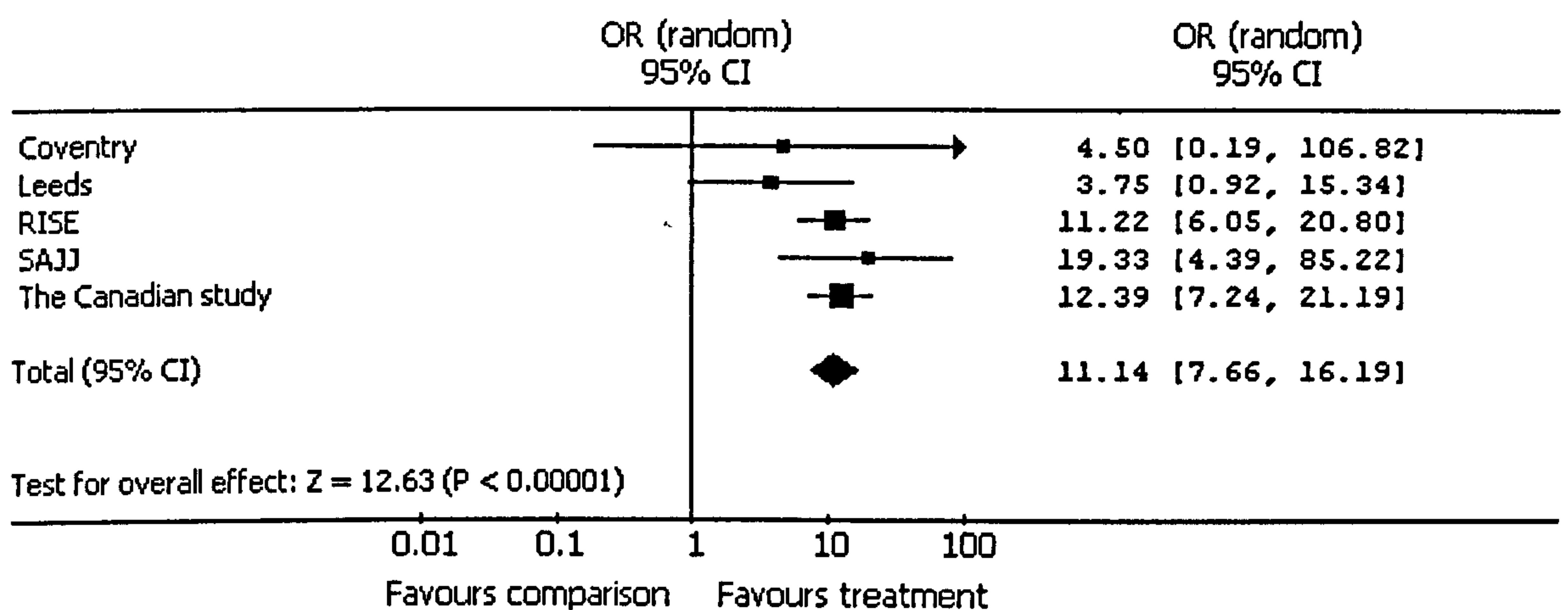
It is claimed that victims who participate in restorative justice practice are more likely to receive an apology than victims who do not participate. Nevertheless, this is not the only way for victims to receive an apology. Some victims who go through the court process without participating in the restorative justice practice may also receive a letter of apology from offenders through other victim support schemes. Thus, it is interesting to find if this claim is true. In addition, some studies also ask victims about the importance of an apology. This outcome was also compared with the comparison group and was analysed under this heading.

### *Effect size of receiving an apology*

There are 4 studies that compared this outcome with the comparison group, which yield 5 effect sizes. The UK study, RISE study, SAJJ study, and Canadian study together interviewed 390 victims in the restorative justice groups and 296 victims in the comparison groups. Two studies evaluated conferencing schemes in Australia and the others evaluated mediation schemes in UK and Canada. The research methodology used by researchers was also different. Cases in the RISE study were randomly assigned while cases in the SAJJ study and the UK and Canadian study were non-randomly selected and used cases that were referred to the schemes but which did not participate.

Although the research methodology and type of intervention were different, the results from studies are consistent and remarkable. The mean effect size shows that the odds of the receiving an apology are 11.14 times higher for victims in the restorative justice schemes than for victims in the comparison groups (odds ratio = 11.14, 95% confidence interval, 7.66 to 16.19) (see figure 6-7). This mean effect size is statistically significant ( $Z=12.63$ ,  $p<0.000$ ). The mean effect size from the fixed effects model also shows similar results.

**Figure 6-1** Effect size of the receiving of an apology outcome



The effect sizes are also homogeneously distributed ( $\chi^2 = 3.29$ ,  $d.f.=4$ ,  $p=0.51$ ). Three studies, that is, the RISE study, SAJJ study, and Canadian study show significant results. Therefore, this finding is consistent with hypothesis 6, that is, victims in restorative justice practices are far more likely to receive an apology than victims in comparison groups.

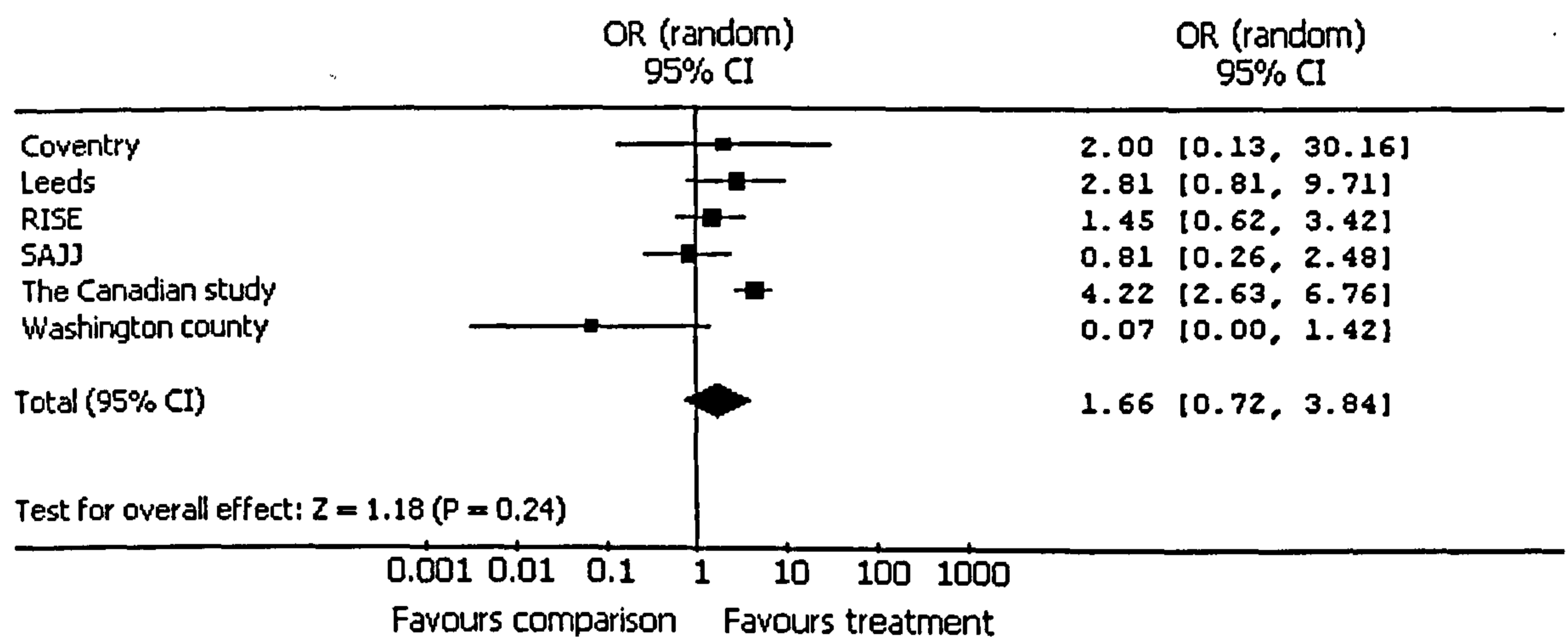
Moreover, there is some evidence that victims in the restorative justice group are likely to receive higher quality apologies than victims in the comparison groups. The RISE study reported that 77% of victims in the conferencing group believed the apology was sincere, compared with only 41% of victims in the court group (Strange, 2002, p.115).

**Effect size of the importance of apology**

Although victims in the restorative justice group are likely to receive an apology, they have different views on its importance. There are 5 studies, which yield 6 effect sizes, asking victims how important it was for them to have offenders apologise. Three studies evaluated conferencing schemes and 2 studies evaluated mediation schemes. About 405 victims were included in the restorative justice group and 303 victims were included in the comparison groups.

The overall mean effect size shows that the odds of victims viewing the apology as important are 1.66 times higher for victims in the restorative justice groups than for victims in the comparison groups (odds ratio = 1.66, 95% confidence interval, 0.72 to 3.84) (see figure 6-8). However, this mean effect size is not statistically significant ( $Z=1.18$ ,  $p=0.24$ ).

**Figure 6-1 Effect size of the important of apology outcome**



Although the mean effect size shows the odds of victims seeing an apology as important are higher for victims in the restorative justice groups, this finding is not consistent. Two studies, the SAJJ study and Washington County study, found that the odds of victims seeing an apology as important are higher for the comparison group. Particularly, in the Washington County study, the findings showed that rate of victims seeing an apology as important in the comparison

group is 100% while rate in the restorative justice group is 82%. When the findings from figure 6-7 and 6-8 were compared, they show that in some cases like the SAJJ study, victims in the comparison groups consider that an apology was important but they were less likely to receive an apology.

Since some victims view an apology as important for them, it is interesting to investigate how they might feel if they do not receive it. The RISE study and SAJJ study provided some detail in this issue. The RISE study reported that 53% of victims in the court group who did not receive apology said that an apology might help them to forgive their offenders (Strang, 2002, p.116). Additionally, the SAJJ study stated that 60% of victims who were not fully recovered from the offence said that the offender's lack of remorse played some role in hindering their recovery (Venables, 2000, p.55).

## **6.7 Significant factors relating to victim satisfaction and perception of fairness**

The findings from the categorical analysis of 2 outcomes, victim satisfaction and perception of fairness, show that some variables may relate to the variability of effect sizes. These variables include type of offence, type of offender, seriousness of offence, and different views concerning the way the case was handled and case outcome. However, the previous analysis was done by including only categorical variables and was tested by a singular variable at a time.

In order to analyse multiple variables and continuous variables, meta-analytic regression analysis is used to assess the relationship between multiple variables and effect size. This analysis is helpful when it is uncertain if the relationship between variables and effect sizes is the result of confounded variables. For example, the relationship between type of restorative justice intervention and effect size might be confounded with the methodological quality

of the study. If the methodological quality variable is put in the model of analysis, the result might be different from analysing the type of intervention variable alone.

In this analysis, the continuous variables and categorical variables were included. However, some categorical variables must be combined to new variables. This method was adopted because some variables, e.g. type of offence, type of offender, and seriousness of offence, are highly related to each other. The strong relationship of independent variables can cause multicollinearity<sup>4</sup>, which leads to unstable findings (Weisburd and Britt, 2003, p.482). Moreover, the small number of included studies makes it inappropriate to put too many variables in the model.

The new variables are seriousness of referred cases and methodological quality score. These variables were scored from 2 scales. The seriousness of referred cases was scored from the case seriousness scale (see appendix B). This scale includes variables of type of offence, type of offender, and seriousness of offence. High score means serious cases, which may consist of adult offender, assault offence, and serious crime<sup>5</sup>. The methodological quality score was from the methodological quality scale adapted from Nugent, et al (2003) (see appendix C). It includes variables relating to type of comparison group, type of research design, and method of case assignment. A high score means high quality in term of research design, match of sample groups, and unbiased sampling method.

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<sup>4</sup> Multicollinearity is a case of multiple regression in which the predictor variables are themselves highly correlated. The result of the multiple regression may show that the model significantly fits the data, even though none of the predictor variables has a statistically significant impact on predicting a dependent variable. The result might mislead the interpretation.

<sup>5</sup> However, serious cases in this study may well be considered as mid-range serious crimes as defined by researchers of the studies included in meta-analysis.



Apart from the continuous variables described above, 2 categorical variables were also included. They are type of intervention and attitude regarding the way the case was handled or the case outcome. For categorical variables, they have to be dummy coded as a set of binary variables, for example 0 and 1. Therefore, categorical variable were coded as follows:

Type of intervention

- The conferencing style is 1; the mediation style is 0.

View on the way the case was handled and case outcome

- The way the case was handled is 1; the case outcome is 0.

The weighted regression analysis modified by Mark Lipsey and David Wilson was used. Effect size was weighted by its inverse variance. SPSS macro written by David Wilson was used for the analysis. The analysis was done by including and excluding the outliers under the random effects model and fixed effects model. Each variable was included in the model according to its relevance to the outcome. For example, seriousness of referred case was included first and followed by other variables. After all variables were included, some variables, which were statistically redundant, were removed. The reduced model included variables that highly related to the outcome and highly contributed to the variance.

### *Regression analysis of the victim satisfaction outcome*

All variables were included in the model and the least effect variables were excluded one by one. In this case, type of intervention and methodological quality score seem to show the least effect on  $R^2$  change<sup>6</sup> and

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<sup>6</sup>  $R^2$ , also called multiple correlation or the coefficient of multiple determination, is the percent of the variance in the dependent variable explained uniquely or jointly by the independent variable. The *R-square* value is an indicator of how well the model fits the data (e.g., an *R-square* close to 1.0 indicates that we have accounted for almost all of the variability with the variables specified in the model).

were excluded. The final model included only 2 variables, seriousness of referred cases and satisfaction with the way the case was handled or the case outcome. Table 6-4 shows the result of weighted regression analysis of the reduced model. The results of the analysis with the outliers and without the outliers were not much different and showed that the model is not statistically significant at an alpha level of 0.05. However, the seriousness of referred cases seems to have the strongest effect on the variability of effect size since its exclusion reduced  $R^2$  the most.

**Table 6-1 Result of the regression model of the victim satisfaction outcome  
(Random effects model)**

Variable	B	p	B	p
	<i>With the outliers</i>		<i>Without the outliers</i>	
Seriousness of referred cases	0.16	0.06	0.15	0.07
The way the case was handled/ case outcome	0.60	0.11	0.60	0.10
$Q_{\text{model}}$	4.81; p = 0.09		3.69; p = 0.44	
$Q_{\text{residual}}$	15.02; p = 0.37		9.13; p = 0.42	
$R^2$	0.24		0.29	
N	17		14	

The fixed effects model was also conducted since it has more statistical power to detect the relationships between moderators and effect size (Lipsey and Wilson, 2001, p.125). The results show that 2 variables, seriousness of referred cases and the satisfaction with the way the case was handled or case outcome, are the significant moderators that explain the variability of effect sizes. Table 6-5 shows that the model is statistically significant when including and excluding the outliers. The significant  $Q_{\text{model}}$  ( $p < 0.05$ ) indicates that variables in the model account for a significant proportion of the variability across the effect sizes. Examination of the sum-of-squares residual ( $Q_{\text{residual}}$ ,  $p > 0.05$ ) shows the unexplained variability is no greater than would be expected from sampling error. This model explains 33 percent of the variability in effect size.

**Table 6-2 Result of the regression model of the victim satisfaction outcome (Fixed effects model)**

Variable	B	p	B	p
	<i>With the outliers</i>		<i>Without the outliers</i>	
Seriousness of referred cases	0.17	0.01	0.17	0.01
The way the case was handled/ case outcome	0.60	0.02	0.60	0.02
$Q_{\text{model}}$	10.02; p = 0.01		9.62; p = 0.01	
$Q_{\text{residual}}$	20.60; p = 0.11		16.76; p = 0.12	
$R^2$	0.33		0.36	
N	17		14	

One interpretation of results under the fixed effects model is that seriousness of referred cases and satisfaction with the way the case was handled or case outcome are significantly related to the effect of restorative justice interventions in an increase of victim satisfaction. Restorative justice practices seem to produce an increase of victim satisfaction with regard to victims of more serious cases, e.g. victim of adult offenders and assault offence, as opposed to victims of less serious cases, e.g. victims of youth offender and property offence. Restorative justice practices also show they are more likely to be associated with positive attitudes towards the way the case was handled as opposed to satisfaction with the case outcome

Although the fixed effects model has more statistical power to detect any relationships between moderators and effect size than the random effects model, it has high Type I error rate, which means that it is likely to reject the null hypothesis on the basis of a sample statistic when in fact there is no relationship in the population (Lipsey and Wilson, 2001, p.125). It is still questionable whether a fixed or random effects model is more appropriate for a certain heterogeneous distribution of effect sizes. From the analysis above, it

seems that the results from the random and fixed effects model are not contradicted although the random effects model did not show the significant relationship.

The higher impact of restorative justice practice on victims of more serious cases may be the result of low satisfaction rate among victims of serious cases who were dealt with by the court. The satisfaction rate of different types of victims, namely victims of property or violent offence, in the restorative justice group may be at the same level. But when the satisfaction rate of victims in restorative justice group was compared with the rate of victims in the court group, the difference is apparent among victims of more serious cases. Meanwhile, the satisfaction rate of victims in less serious cases differed less than did the rate in more serious cases when the restorative justice group and the court group were compared.

The picture of this explanation is clearer when the dissatisfaction rate is considered. Strang (2002) asked victims of property and violent offence who went to conferences and the court several questions about their dissatisfaction with their treatment. It is not surprising that the dissatisfaction rate of victims of violent offences was higher than the rate of victims of property offences in any groups but the interesting findings were that among victims of property offences the dissatisfaction rate was little different as between the conference group and the court group. In contrast, however, among victims of violent offences the dissatisfaction rate was significantly higher among the court group than for the conference group. For example, when victims were asked whether they felt bitter about the way they were treated, victims of property offences in both the conference and court group responded with similar rate (9% VS 13%). However, there was a marked difference in the way victims of violent offences responded as between the conference and court group (22% VS 31%).

Another variable that is related to the effect size is victim satisfaction with the way the case was handled or case outcome. The restorative justice process seems to have more of an impact on victim satisfaction with the

way the case was handled than satisfaction with the case outcome. This finding seems to be consistent with the study of Williams-Hayes (2003). Williams-Hayes found no significant relationship between participation in restorative justice practices and victim satisfaction with the outcome but found significant relationship between participation in restorative justice and victim satisfaction with the process.

The lesser impact of restorative justice on victims' satisfaction with the case outcome may be because some victims disagree with the agreement and think that it is in offender's favour (Davis, et al, 1980; Morris, et al, 1993). Victim dissatisfaction with the case outcome raises some interesting issues since most victims were recorded as agreeing with the agreement. It is possible that victims were unaware that they can have a veto with the agreement or some may feel that if they do they may look vindictive.

### *Regression analysis of the perception of fairness outcome*

The proposed variables were included in the full model of regression analysis. Only 2 variables, seriousness of referred cases and perception of fairness with the way the case was handled or case outcome, show a significant relationship and were included in the final model as shown in table 6-6. The results under the random effects model with the outliers and without the outliers were not much different. The analysis under the fixed effects model was also conducted (see table 6-7). The results were similar to the random effects model although  $R^2$  was higher.

**Table 6-1 Result of the regression model of the perception of fairness outcome (Random effects model)**

Variable	B	p	B	p
	<i>With the outliers</i>		<i>Without the outliers</i>	
Seriousness of referred cases	0.29	0.00	0.29	0.00
The way the case was handled/ case outcome	1.17	0.01	1.23	0.00
$Q_{\text{model}}$	15.09; p = 0.00		15.54; p = 0.00	
$Q_{\text{residual}}$	10.24; p = 0.42		8.15; p = 0.42	
$R^2$	0.60		0.65	
N	13		11	

**Table 6-2 Result of the regression model of the perception of fairness outcome (Fixed effects model)**

Variable	B	p	B	p
	<i>With the outliers</i>		<i>Without the outliers</i>	
Seriousness of referred cases	0.30	0.00	0.30	0.00
The way the case was handled/ case outcome	1.15	0.00	1.18	0.00
$Q_{\text{model}}$	25.60; p = 0.00		25.62; p = 0.00	
$Q_{\text{residual}}$	14.82; p = 0.14		12.40; p = 0.13	
$R^2$	0.63		0.67	
N	13		11	

The results under the random effects and fixed effects model show that 2 variables, seriousness of referred cases and the perception of fairness with the way the case was handled or case outcome, are the significant moderators that explain the variability of effect sizes of the perception of fairness outcome. The significant  $Q_{\text{model}}$  ( $p < 0.05$ ) indicates that variables in the model account for a significant proportion of the variability across the effect sizes. Examination of the sum-of-squares residual ( $Q_{\text{residual}}$ ,  $p > 0.05$ ) shows the unexplained variability is no greater than would be expected from sampling error. This model explains around 60 percent of the variability in effect size.

These results indicate that seriousness of referred cases and perception of fairness with the way the case was handled or case outcome are significantly related to the effectiveness of restorative justice interventions in an increase in victim perception of fairness. Restorative justice practices seem to have more of an impact on victim's perception of fairness in respect of more serious cases, e.g. victim of adult offenders and assault offences, than victims of less serious cases, e.g. victims of youth offender and property offences. Restorative justice processes also show a great effect on victims who were asked about their perception of fairness with the way the case was handled than on victims who were asked about their perception of fairness with the case outcome.

When the elements of fairness were examined, many victims reported that from their point of view, fairness was related to their participation in the process either by expressing their feeling or being kept informed about their cases (Hoyle, et al, 2002; Umbreit, 1990). If this assumption is true, it is not surprising why the impact of restorative justice practice was more obvious in victims of serious cases. There was evidence showing that victims of violent offences were more persistent in finding out about their court cases than victims of property offences but most of them were not informed (Strang, 2002, p.119). Meanwhile, victims in restorative justice have more chance to participate in the process and know about their case outcome during the participation. Again, the low perception of fairness among victims of serious cases handled by the court or other conventional criminal justice system made the impact of restorative justice higher on victims of serious cases than victims of less serious cases.

The higher impact of restorative justice processes on victim perception of fairness with how the case was handled than the case outcome also resulted from the opportunity to participate in the decision-making process. Victims in restorative justice may be more likely to feel the case was handled fairly when they have had a say about the outcome and have participated in the process while victims who were handled by the conventional criminal justice system are less likely to feel this.

In the mean time, the impact of restorative justice practice on the perception of fairness with regard to the case outcome was less obvious. This may be because victims in restorative justice feel the outcome was too lenient. Almost all victims who felt the outcome was not fair reported it was lenient (McGarrell, et al, 2000; Venables, 2000). Victims may view the outcome as lenient because it contained symbolic reparation, such as apology. If this symbolic reparation is not presented in a meaningful way, victims may think the offender has got off easily. In addition, victims may have wrong or unrealistic expectations about the restorative process and outcome. They may expect some financial reparation or feel the mediator or coordinator should be hard on the offender. When this does not happen, they might feel the agreement is for the offender and not fair for them.

In conclusion, the results from the weighted regression analysis are consistent with the hypothesis 12, that is, seriousness of referred case relates to the variability of effect size. Meanwhile, there is no evidence to support the hypotheses that types of restorative justice and methodological quality relate to the effect size.

## **6.8 Publication bias**

Since the underrepresentation of unpublished or unfound studies may cause a bias in the findings, the fail-safe N was conducted to detect this bias. Table 6-8 shows the result of the fail-safe N analysis. It shows numbers of unpublished or unfound studies with nonsignificant findings, which will reduce the mean effect size of each outcome to a null effect size (1). For example, for the victim satisfaction outcome, if 27 studies with nonsignificant findings are included in the analysis, the mean effect size of this outcome will be reduced to 1 (no effect). However, after careful investigation, it is unlikely that these studies using quasi-experimental design with null results will exist for most outcomes. Therefore, the publication bias might not be existed in this study.



**Table 6-1 Fail-safe N of all outcomes**

<b>Outcome</b>	<b>Fail-safe N</b>
Victim satisfaction	27
Perception of fairness	19
Fear of revictimisation	12
Negative attitude with offenders	9
Positive attitude with offenders	8
Agreement completion	8
Receiving an apology	51
Importance of an apology	4

## **6.9 Conclusion**

The findings from this study show that restorative justice practices have significant positive effects on crime victims in all outcomes. The effect size indicates that restorative justice practices are more effective in increasing victim satisfaction, perception of fairness, rate of agreement completion, receipt of an apology, and reducing fear of revictimisation and negative attitude toward offenders than the conventional justice system or other non-restorative justice practices. In other words, they reveal that restorative justice practices can physically and psychologically restore victims better than the conventional criminal justice process.

However, the effects in some outcomes are variable, which might result from some systematic factors. The analysis from the categorical variables indicated possible relationships between variables and effect sizes of victim satisfaction and perception of fairness but they were not significant, except the relationship between type of offences and perception of fairness. Further analysis was conducted by including seriousness of referred cases, methodological quality, types of intervention, and attitude regarding the way the case was handled or the case outcome as the moderators in the weighted regression analysis.

The regression analysis provides the interesting results that 2 variables, seriousness of referred cases and attitude regarding the way the case was handled or case outcome, are the only significant factors that explain the variability of effect sizes of victim satisfaction and perception of fairness. It shows that restorative justice practices are likely to increase victim satisfaction and perception of fairness among victims of serious cases, such as victims of violent offence and adult offenders, more so than among victims of less serious cases, such as victims of property offence and youth offenders. Moreover, they are likely to increase victim satisfaction and perception of fairness on victim's attitude toward the way their cases were handled than the case outcomes.

These findings are significant for restorative justice advocates and policy makers. It confirms that restorative justice is the right path that we must pursue if we need to restore victims. However, it may not be highly effective for all cases. In some cases, such as property offence, the effect of restorative justice practices is not much different from that of the conventional criminal justice process. Meanwhile, the effect of restorative justice practices is particularly strong in some serious cases, such as violent offence. This finding contributes some knowledge to the future of restorative justice, especially for those advocates who are in favour of a reformist approach and propose to integrate restorative justice within the conventional criminal justice system, where they would be available in suitable cases and leave inappropriate cases or cases which the conventional criminal justice system can have equal effect to be dealt with by more conventional methods. As far as victim satisfaction and perception of fairness are concerned, the findings reveal to them that the most suitable cases, which restorative justice should target, are not non-serious cases as we always assume but they should be serious cases.

Additionally, the finding also emphasises the importance of the restorative justice process. The higher impact of restorative justice on victim's attitude toward the way their cases were handled than the case outcome confirms that in view of victims, what restorative justice can satisfy them is not the

outcome but it is how the restorative justice process treats them. Therefore, if the future of restorative justice is to integrate with the conventional criminal justice system, restorative justice processes should be implemented whenever it is possible and it should be available to victims of serious cases since they are those who need it the most and restorative justice can have the most impact.

Finally, the findings show no evidence to support the argument that types of intervention, point of case referral, types of comparison group, types of case assignment, and methodological quality relate to the effect of restorative justice on crime victims. However, these findings have some significance and they will be discussed in detail in the next chapter.

# Chapter 7

## Conclusion

### 7.1 Conclusion and discussion

Studies of victims of crime reveal that victims suffer not only physically but also psychologically from the effects of crime. Their sufferings, especially psychological damage, have been exhibited in various symptoms of psychological distress, which can last for many years. However, when restorative justice claims that its approach can help victims recover from crime damage, this approach has some limitations.

First, it is possible that some restorative justice practices may focus on offender's rehabilitation rather than victim's restoration. Since restorative justice practices emerged from different background and related to different theories, it is likely that their primary goal may be different. Some practices, such as conferences and youth panels, may primarily focus on reintegrating, educating, and rehabilitating offenders and victims' restoration may be viewed as the secondary goal. Second, there is a concern that the restorative process may not be superior to the conventional criminal justice process in term of victim restoration. This is because very few victims participated in restorative justice practices. Some victims may feel that the restorative justice process and outcome are not superior to the conventional criminal justice process and cannot help them or respond to their needs.

These concerns lead to the argument that restorative justice practices may not have an effect on victims' restoration. Its effect on victims might not be superior to those of the conventional criminal justice system and

might be influenced by a variety of factors, such as type of intervention, type of crimes that victims experienced, scheme characteristics and even limitation of research methodology.

Realizing this problem, I have attempted to conduct a study investigating the effect of restorative justice practices on crime victims by using meta-analysis. The main objectives of the study are to

- comprehensively investigate the effect of restorative justice practices on crime victims by systematically analysing the quantitative and qualitative findings of the restorative justice research conducted in various countries
- compare the effect on crime victims of different types of restorative justice practices (namely, conferencing and mediation), with that of the conventional criminal justice system
- investigate factors that may affect the effect of restorative justice on crime victims, such as case characteristics (including types of offence and offender), scheme characteristics, and study characteristics.

In the following section, the results from the meta-analysis will be summarized and discussed under these headings:

- The actual effect of restorative justice practices on crime victims
- Different effect of mediation and conferencing on victims
- Factors relating to the effect
- Influence of methodological quality of research on the effect

### *The actual effect of restorative justice practices on crime victims*

Results from the meta-analysis reveal that restorative justice practices, consisting of conferencing and mediation, do have a profound effect on crime victims in respect of all the relevant outcome measures, i.e., victim satisfaction, perception of fairness, fear of revictimisation, attitude toward offenders, agreement completion, and apology. Furthermore, its effect is superior to those of the conventional criminal justice system in respect of all outcomes.

The effect size ranges from 2 to 12 times as opposed to the conventional justice system. The outcome showing the biggest difference was receiving of an apology (12.28) while the outcome showing the smallest difference was the perception of fairness (2.43). Findings show that victims participating in restorative justice practices are more satisfied and more likely to think their cases were handled fairly and that the case outcomes are fair than victims who did not participate. They felt less fear of revictimisation by the same offender and have less negative and more positive feeling with the offender than victims who did not participate. Victims in restorative justice also have a greater likelihood of their agreement being completed and receiving an apology than victims who were handled by the conventional criminal justice system. Overall, findings from this study are consistent with other meta-analysis studies (Latimer, et al, 2001; Poulson, 2003; William-Hayes, 2003). They show that restorative justice practices are superior to the conventional criminal justice system in all measured outcomes.

It is undeniable that the effect of the restorative justice process only occurs with victims who choose to participate, which is a small number when compared with all crime victims. This may cause the feeling that the effect of restorative justice is marginal. However, the literature review in Chapter 4 reveals that many victims are not able to participate in restorative justice approaches for various reasons. Not all non-participating victims refuse to participate because they feel that restorative justice is not what they want. On the contrary, many victims could not participate because they do not have an opportunity or are not

invited or do not receive sufficient information about the approach. Therefore, it is likely that the effect of restorative justice would be more apparent if more victims could get involved in the process since findings from this study show that the restorative justice process can restore them.

### *Different effect of mediation and conferencing on victims*

Some restorative justice practices may be different in terms of their background, relevant theories, and primary goals. However, when comparing the effect of 2 different models, i.e., mediation and conferencing, there is no evidence showing that these 2 models have different effect on victim satisfaction and perception of fairness although mediation is likely to have a somewhat more positive impact on victim satisfaction and perception of fairness than conferencing. The absence of any significant difference between the two approaches may be attributable to the small number of studies included in the investigation.

Other meta-analysis studies have also failed to identify any significant differences between mediation and conferencing in terms of their impact on victims (Latimer, Dowden, and Muise, 2001; William-Hayes, 2002). However, studies that compare the effect of mediation and conferencing by other methods, such as comparison of proportion rate and mean score, reported that conferencing was more effective than mediation in terms of victim satisfaction and victim sense of fairness with the process (McCold and Wachtel, 1998; McCold and Wachtel, 2002). The first study compared the effect of mediation and conferencing on victim outcomes by simply comparing the satisfaction rate between studies (McCold and Wachtel, 1998). Although they found that conferencing was more effective than mediation with regard to victim outcomes, their method of comparison seems to be biased. This is because they only compared 1 family group conferencing project with 8 victim-offender

mediation studies. In addition, the comparison was conducted without considering the differences between studies in terms of sample size, research methodological quality, and nature of offence.

The second study was also done by the same research group but using more sophisticated analysis. McCold and Wachtel (2002) compared the effect of conferencing and mediation with the non-restorative programmes by including more than 10 studies in each group. The proportionate rate of victim satisfaction and sense of fairness with process reported by individual studies were averaged and compared between different groups. They found that the averaged rate of victim satisfaction and sense of fairness were higher among conferencing than mediation. The research methodology of this study seems to be more reliable since each study was weighted by its sample size and more studies were included. However, the technique used in this study is not as systematic as in the case of meta-analysis because certain factors, for example research methodological quality, type of offence, and type of offenders were not controlled and analysed. In order to confirm the findings from this study, more research is needed.

### *Factors relating to the effect*

Findings from my study show that there are certain factors relating to the effect with regard to particular outcomes. The effect of restorative justice practices on victim satisfaction and perception of fairness is particularly strong with regard to victims of serious cases and also their attitude toward the way their cases were handled. These findings reveal that restorative justice practices are likely to increase victim satisfaction and perception of fairness among victims of serious cases, such as victims of violent offence and adult offenders, more so than among victims of less serious cases, such as victims of property offence and youth offenders. In addition, they are likely to increase victim satisfaction and perception of fairness on victim's attitude toward the way their cases were handled than the case outcomes.



The impact of restorative justice on victims of serious cases is surprising but not unpredictable. This is because victims of violent crimes suffer from the aftermath of crime in higher degree than victims of property crimes although they exhibit similar profiles of psychological distress (Daly, 2004; Norris and Kaniasty, 1994; Resick, 1987; Strang, 2002). Additionally, this group of victims is more likely to seek for help and is especially keen to know about their cases. There is evidence from New Zealand showing that victims of medium and maximum serious cases all attended family group conferences or had their views represented, but only 12% of victims of minimum serious cases did so (Morris, et al, 1993, p.311). Researchers suggested that this may be due to the greater efforts made by YJCs to get victims to conferences but it could also have been due to victim's interests in the benefit of conferences. Possibly they are more likely to believe that this kind of approach might have something to help them. The RISE study also reported that victims of violent crimes were more persistent in finding out about their cases than victims of property crimes (Strang, 2002, p.119).

These findings show that victims of serious cases are more distressed and eager to know how their cases were handled than victims of less serious cases. Therefore, if there are any approaches that can help them or fulfil their need, the impact of that approach is likely to be particularly strong, especially when comparing with similar kinds of victims who never have a chance to experience it.

It may be arguable that it is more difficult to deal with serious cases in the restorative process but it does not mean that the process will be less constructive. McCold and Wachtel (1998, p.38) suggested that conferencing appeared to work better with violent offences. Conferences of violent cases had a greater expression of emotion and a higher sense of reintegration between participants than those of retail theft conferences. Agreements for violent cases also included fewer and lesser sanctions, were more likely to involve only an apology, and were more individualized.

Some scholars would also argue that the restorative process may work better with less distressed victims. Daly (2004) explained that less distressed victims seem to be more capable of engaging in restorative behaviour with the offender and show less negative feeling toward the offender than highly distressed victims. Carriere, et al (1998) reported that it was more difficult for victims with greater psychological injury to reach an agreement and perceive it was appropriate than for victims with less severe psychological injury. However, it is these highly distressed victims who are more in need of help and the restorative justice process can have much greater impact on them as shown in the meta-analysis findings. Moreover, the restorative justice process is time-consuming work and requires much effort from staff. Therefore, it will be more cost-effective if this approach is applied with serious cases that victims really need help and the process shows higher impact than be applied with easy cases that victims might not be interested to participate and the restorative justice process has less impact.

Another factor that may influence the effect of restorative justice practices on victims is the attitude of victims regarding the way the case was handled and the case outcome. The restorative process is likely to have a great effect on victim satisfaction and perception of fairness with the way their cases were handled. This may be because the restorative justice approach provides them the opportunity to become involved, express their feeling and be listened to, which is what they need to be treated. Meanwhile, victims who were handled by the court may not have this opportunity. They may never attend the court proceeding or receive any information about their case outcome (Sherman, et al, 1997). For some victims, the experience may be worse. They may have to attend the court many times only to find that their cases are finally dismissed (Daly, 2004). It is apparent why victims in restorative justice practices are likely to be satisfied with the way their cases were handled and feel that they are being treated more fairly than victims dealt with by the conventional criminal justice system.

Other studies also support this finding about victim satisfaction with the way they were treated (Coupe and Griffiths, 1999; Norris and Thompson, 1993; Shapland, 1984). The perception of how they are treated by other criminal justice agencies, such as police, also highly influences their satisfaction. Perhaps, as Shapland (1984) suggested, it is not what criminal justice actually does but the attitude and concern that criminal justice expresses that influences victim satisfaction.

Meanwhile, restorative justice practices seem to have less effect on victim attitudes with regard to case outcomes. This finding is consistent with findings from the Williams-Hayes's study (2002). She also found that neither victims nor offenders who participated in either victim-offender mediation or family group conference reported greater levels of satisfaction with the outcome than participants in comparison groups.

The less pronounced effect of restorative justice practices on victim attitudes with regard to case outcomes may be because some victims felt disappointed with the agreement. 36% to 43% of victims felt the agreement was too lenient (McGarrell, et al, 2000; Morris, et al, 1993; Venables, 2000). Victims are much more likely than offenders to feel that a given outcome is too lenient (McGarrell, et al, 2000; Morris, et al, 1993). Victims' viewpoint about leniency of case outcome can be interpreted in two ways. It may suggest either that victims need more material reparation or they believe that the offender has not learnt their lesson and gets off too easily. In addition, victim dissatisfaction with the outcome may be because of unrealistic or high expectation of some victims. When the outcome is not in the way they expect, they may feel dissatisfaction. Although the number of victims who feel dissatisfied with the outcome or agreement is not large, future research is suggested to investigate this issue.

Nevertheless, it is the interaction during the process that matters to them. This finding underlines the importance of the restorative process. Although it is possible that restorative justice outcomes could be achieved without direct involvement in the restorative process, the impact of these alternatives

cannot easily be compared with the actual impact of the restorative process. Victims may be satisfied with the restorative outcome but it is the process that really affects them. It is so valuable that every effort should be made to encourage direct involvement when it is possible and not conflicted with participant's voluntariness.

### *Influence of methodological quality of research on the effect*

The methodological quality of existing research studies does not show any significant influence on the effect of restorative justice practices on victims. When different research methodologies in terms of type of comparison group, type of case assignment, and methodological quality score were examined, they did not show any significant relationship with the increase of victim satisfaction and perception of fairness. Again, the insignificant finding might have resulted from the small number of studies involved.

However, this finding is not consistent with the Williams-Hayes's study (2002), which found that methodological quality was significantly associated with victim satisfaction with the justice process. Research with high methodological quality scores seemed to be associated with high victim satisfaction rate. The inconsistency of the finding might be a result of differences in the methodological quality scale. This study applied the scale specially designed for victim studies while the study of Williams-Hayes applied the scale designed for offender studies, which did not measure the characteristics of victim sample. Research with high scores from Williams-Hayes's study may have good research design in term of offender sample but this is not applied with victim sample. It is possible that victim samples among these high score research studies may not be matched between treatment and comparison groups. Since the methodological quality scale is not designed for victim sample, it is doubtful that scores from this scale will be an appropriate factor in order to find the relationship with victim outcomes.

In summary, the present study employing the technique of meta-analysis has revealed some significant results. It confirms that the restorative justice process have a positive effect on crime victims on all assessed outcomes. Moreover, the results show that 'seriousness of referred cases' and 'attitude regarding the way the case was handled' or 'case outcome' are all factors that are significantly related to the effect of restorative justice practice on victim satisfaction and perception of fairness. Meanwhile, other variables consisting of 'type of restorative justice practice', 'point of case referral', and 'methodological quality of research study' do not show any significant relationship with the effect of restorative justice practices on victim satisfaction and perception of fairness. For other outcomes, such as 'fear of revictimisation' and 'receiving of an apology', the limited number of included studies does not allow for further analysis; however, the finding show that the effect of restorative justice practices on these outcomes is significant and positive.

## **7.2 Limitations**

Although the technique of meta-analysis provides some significant findings, these findings are based on existing studies. When considering the effect on victims, there are many issues that need to be investigated and this will necessitate further research. These issues include the effect of restorative justice practices on victim's psychological distress and fear of crime; and the relationship of factors relating to victim's characteristics and past victimisation, and the effect of restorative justice.

Another limitation of this study is the limited number of relevant studies contributing to certain of the outcomes. Although significant effects of restorative justice practice on crime victims are found in this study, the effect on some outcomes needs to be carefully interpreted since there were very few studies included in those outcomes. Moreover, other significant relationships between proposed variables and the variability of effect sizes might be found if

more studies are conducted and included. Especially, for the outcome of fear of revictimisation, it is possible that seriousness of referred cases might relate to this outcome since findings from the Strang' study (2002) showed this possibility.

Finally, research group bias might influence the results of this study. About 40% of included studies were conducted by Mark Umbreit and his colleagues. These studies might yield similar findings since they applied the same instrument and similar research design. When findings from a certain group of researchers were included more often than findings from others, it is possible that they might influence the concluded results.

### **7.3 Policy implication and recommendations**

Some policy implications and recommendations can be drawn from the findings of this study. Some recommendations relate to the implementation of restorative justice, others relate to restorative justice research.

#### ***Need for implementation of restorative justice in serious cases***

The findings from this study suggest that restorative justice schemes should focus more on victims of serious cases including victims of adult offenders and violent crime. Although this group of victims is viewed as the most difficult to deal with and least successful in the restorative process, they are the ones for whom the restorative justice approach could have the most impact. Since restorative justice approaches require much effort and time from staff, it will be more cost-effective if these efforts are devoted to those who will get the most benefit. Therefore, it is recommended that selection criteria for restorative justice schemes should include more serious cases, such as adult offenders and violent offences, and government policy should put more emphasis on the implementation of restorative justice in violent cases.

Fortunately, many countries, for example England and Wales, US, Canada, and New Zealand, are implementing pilot projects of restorative justice dealing with serious cases, such as homicide offence, adult offenders, and repeat offenders. In England and Wales, for example the Home Office is funded a major evaluation of 3 schemes operated by CONNECT, Justice Research Consortium, and REMEDI. CONNECT is a mediation and conferencing scheme dealing with adult offences between conviction and sentence, after sentence, or if sentence is deferred. Justice Research Consortium (JRC) is an experimental project offering conferencing to deal with both youth and adult offences including offenders sentenced to imprisonment for offences involving serious personal violence. REMEDI, a mediation scheme in South Yorkshire, aims to deal with both adult and youth offenders at several stages of criminal justice including in prison. These schemes are under the Home Office evaluation and one project, JRC, is using random assignment between an experimental and a control group. This study is influenced by the RISE project but it is more comprehensive since it also includes adult offenders with serious offences. It is expected that findings from this study will provide much valuable understanding with regard to the effect of conferencing on victims of adult and youth offenders. Presently, an interim report is now available (Shapland, J., et al, 2004). However, findings on victim outcomes have not been reported yet. Meanwhile, victim-offender mediation schemes in Texas and Ohio, US also dealing with serious cases, such as homicide, have already reported positive results on victims. Umbreit, Bradshaw, and Coates (2001, 2003) reported that 90% of participated victims were satisfied with the case preparation, 100% were satisfied with their overall involvement in the program, and 76% felt the meeting with the offender was very helpful.

### ***Need for improvement in victim participation techniques and strategies***

Difficulties experienced during the fieldwork of this research as well as low victim participation rate among some specific restorative justice schemes suggest that there is a need for better techniques and strategies with regard to victim involvement in restorative justice. The improvement in

techniques and strategies is required in many areas, such as victim consultation, briefing technique, and disclosure of victim information. Some improvement could be achieved by developing a standard victim contact procedure and a guideline for disclosure of victim information as well as reviewing existing law and guidelines in order to make necessary changes if they are in conflict and cause problems in the operational process. In addition, training restorative justice staff and criminal justice personnel could produce improvements in victim participation. Since victim contact work needs some skill and understanding about restorative justice principles itself, training is necessary especially with staff who come from criminal justice agencies which routinely focus on offender.

The other area that needs improvement is the briefing technique. It is suggested that victim dissatisfaction with the case outcome may be related to lack of adequate briefing (Morris, et al, 1993). Victims may not understand their role and the restorative process. Some victims have false expectation or unclear perceptions about the process. They may feel disappointed with the agreement but do not express it during the process or may think the coordinator or facilitator is making a decision in favour of offenders. This problem raises an issue about how well a victim is prepared before participation.

Restorative justice is a new idea and its approach requires skill and experience. In order to allow victims to gain most benefit from it, victims should be contacted by an effective means in an appropriate time and provided necessary information about their role, the restorative justice process and possible outcomes. Although this sounds to be difficult to achieve, the improvement in some strategies and techniques and training of responsible staff might be useful.

### *Need for victim-focused studies*

There is a need for studies focusing more specifically on victim outcomes. At present, the majority of studies in restorative justice focus their effect on offenders. Although some studies may include victim outcomes, results about victims are not comprehensive. According to victim-focused studies, there



are at least 3 issues that need to be dealt with. The first issue is research design. The review of restorative justice studies reveals that there is no research applying an experimental research design with victims sample. The existing research studies only applied the experimental research design with offender sample. When analysing victim outcomes, the treatment and control group may not be matched in terms of victim characteristics since victims are not the unit of random assignment. It is recommended that when studies focus on victims, victims should be the unit of analysis and randomly assigned to a treatment group and control group. Moreover, studies should provide more information about victim characteristics since it will be useful for future studies, which may need to generalise and compare findings.

Secondly, the criteria used to evaluate victim outcomes should be more objective. Existing studies always ask about victim satisfaction and perception of fairness with the process and outcome and use them as evaluation criteria. This research question may be useful at some point but it seems to be overly subjective. It could be problematic to understand what people actually mean when they said they were satisfied or not satisfied with something. For example, when victims were asked whether they are satisfied with the case outcome, they may interpret the case outcome as mainly having to do with the measures that the offender has to comply with and consider whether this adequately reflects the offender's wrongdoing rather than asking themselves how adequately or appropriately it meets their own needs. Since satisfaction and fairness are subjective terms, it is suggested that these terms should be more precisely defined so that a more objective measurement is possible.

Finally, there are some additional research questions that need to be conducted in order to more objectively evaluate victim outcomes. There is still a strong case for conducting research to evaluate whether restorative justice approaches can restore the harm experienced by victims. Research may be conducted to investigate the potential of restorative justice in responding to victim's needs and reducing harms caused by crime. Especially in terms of

reducing harm caused by crime, research should investigate how and to what extent restorative justice approaches could reduce psychological damage since studies in victimisation consistently report that victims suffer from this kind of harm. A study of the psychological effect of restorative justice on crime victims as originally proposed by my own research would still be very useful. Such a study would need to focus specifically on psychological distress and fear of crime. One way of investigating the effect of restorative justice would be to use a standardised psychological inventory of the kind that is normally used to measure distress symptoms in victimisation studies. This would enable the level of psychological distress to be measured before and after participation and between a treatment group and a comparison group. In this way, it should in principle be possible to objectively measure the effect of restorative justice on the victim's level of psychological well-being. This was the approach that had initially been adopted for the current study but as has been explained, is exceedingly difficult to successfully evaluate. Nevertheless, the information that would be elicited in this way would provide a valuable measure of the effectiveness of restorative justice from a victim's perspective if the methodological challenges could be overcome.

### *Need for research on the relationship between victimisation and restorative justice*

Studies on victimisation reveal some interesting findings that may have an influence on victim participation and the impact of restorative justice. Findings on victimisation show that a victim's psychological reactions may change as time passes. During the early stage after victimisation, victims still suffer from intense emotional symptoms and may not be ready to participate in restorative justice practice. However, they may be ready to participate after this stage is passed. Therefore, it is necessary to investigate how this process could affect victim participation in restorative justice and how victims at different stages of psychological reaction will react to the restorative justice process. Moreover, it is necessary to find out what is the best timing for inviting victims, especially when restorative justice interventions are conducted within the criminal justice

system. In this context, the best timing may be regulated by the criminal justice procedure and related policies and legislations. For example, restorative justice interventions conducted at the pre-court stage necessarily have to contact victims when the offence may still be having an intense effect on them. In this case, victims may not be ready or willing to participate. Or the need to speed up court proceedings may also conflict with the need to allow sufficient time to contact and consult with victims. This concern should also be addressed in future research.

Another issue relating to victimisation and restorative justice that needs to be investigated is victim's coping strategies and victim's involvement in restorative justice. Studies in victimisation show that victims employ different coping strategies in order to deal with the aftermath of crimes. These strategies, such as cognitive and behavioural strategies, may affect a victim's decision to participate in restorative justice. In addition, victims exercising different coping strategies may react differently to the restorative process. Victims who employ adaptive strategies might be able to gain more benefit and likely to participate in restorative justice approaches than victim who employ maladaptive strategies. For example, victims who employ the behaviour coping strategy in the way that they want to seek help from others or interpret their victimisation as personal growth may be willing to participate in restorative justice approaches and may gain much benefit from the restorative process. Meanwhile, victims employing the cognitive coping strategy, that interpret themselves to a hypothetical worst world, may attach greater significant to the harm they have experienced and may fear that a restorative justice encounter will result in a worse outcome. This type of victims may be too afraid to meet the offender or feel that the restorative process is incapable of helping them. This issue requires further research. It is necessary to investigate whether these strategies could be associated with victim participation and the impact of restorative justice.

It is recommended that future research on these topics should be taken and findings from these studies should provide more understanding about victim participation in restorative justice and more information for developing better practice.

*Need for research on fear of crime, fear of revictimisation, and restorative justice*

The relationship of fear of crime, fear of revictimisation and the effect of restorative justice on victims is an issue that needs further investigation because this relationship seems to be complicated and its finding may be useful for understanding the effect of restorative justice. Studies in restorative justice suggest that the restorative justice process may have an effect on victims' fear of revictimisation but it may not have an effect on fear or concern about crime in general. Moreover, victims of different types of crimes may react to both types of fear differently. Many studies in victimisation report that property crime has a stronger influence on victims' fear of crime and revictimisation than personal crime. Therefore, the effect of restorative justice process may vary among these victims. In order to understand the effect of restorative justice thoroughly, more research studies focusing on this issue are also needed.

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## **Appendix A**

**(Original plan of study)**

# **The psychological effect of victim-offender mediation on crime victims**

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## **Background**

A number of studies have shown that crime victims suffer from psychological consequences as a result of crimes (Lurigio, 1987; Norris et al, 1997; Norris and Kaniasty, 1994; Resick, 1987; Smale, 1984). When compared to nonvictims, crime victims report higher levels of vulnerability and fear as well as varying manifestations of distressing symptomology, e.g. anxiety, unpleasant thoughts, and upset stomach (Lurigio, 1987; Norris, Kaniasty, and Thompson, 1997). Norris and Kaniasty (1994) found that crime victims experience psychological distress, e.g., depression, anxiety, somatisation, hostility, and fear. These symptoms still persisted after 15 months although some crime victims were less symptomatic than others. Among the common symptoms found in crime victims are difficulties in resuming normal activities, depression, anxiety, a loss of emotional control, guilt, sleep disturbances, and obsessive thoughts about the crime incidents (Lurigio, 1987).

Some studies also found that victimisation related to fear of crime (Norris and Kaniasty, 1994; Skogan, 1987; Winkel, 1998). Skogan (1987) found that people who were victimised thought there was more crime around, were more worried about being a victim, and did things to protect themselves. Winkel (1998) confirms this finding by concluding criminal victimisation sometimes does result in enhanced fear of crime.

In addition, these studies commonly report that victims of different crimes experience many of the same psychological reactions (Lurigio, 1987; Resick, 1987; Skogan, 1987). For example, Lurigio (1987) studied the psychological effect of crimes on 3 types of crime victims, namely victims of burglary, robbery, and felonious assault, and found that there were no patterns of clear or consistent differences among these groups of victims. Resick (1987) reported that victims' reactions to robbery were quite similar to those of rape. Robbery victims also reported problems with fear and anxiety although they recovered at a faster rate than rape and, particularly, rape-robbery victims. Markesteyn (1992) concludes that types of crimes have a considerable influence on the level of victim distress but the differences between the groups are determined to be a matter of degree rather than type.

Meanwhile, restorative justice, a newly emerging theory responding to crime and victimisation, has emerged and interested many criminal justice practitioners and scholars in recent decades. The novelty of this theory lies in the new concept of involving of victims, offenders, and the community in crime response. In contrast to conventional criminal justice, restorative justice seeks to redefine crime, interpreting it not so much as breaking the law, or an offence against the state, but as an injury or wrong done to other persons (Zehr, 1995). It emphasises the importance of elevating the role of crime victims and community members, holding offenders directly accountable to the people they violate, and restoring the emotional and material losses of victims (Umbreit, 1998).

Restorative justice is expressed through a wide range of policies and practices directed toward offenders and crime victims. Among these practices, victim-offender mediation is claimed to be one of the oldest and most visible expressions of restorative justice and the subject of numerous studies in North America and Europe over the past two decades (Umbreit, 1998). Areas of evaluation include victim satisfaction, restitution completion rate, effect on victim's fear of crime, and reoffending. Positive outcomes were found with respect to both victims and offenders (Coat and Gehm, 1989; Dignan, 1991; Galaway and Hudson, 1996; Marshall and Merry, 1990; Umbreit, 1994; Umbreit, 1999; Umbreit and Coates, 1993).

One of the positive outcomes of the victim-offender mediation programmes is the psychological benefit of mediation on victims. Marshall and Merry (1990) suggest that mediation between victims and offenders can reduce victims' fear and help them to see offenders as less threatening, and with a greater possibility of reparation from offenders. Both victims and offenders also develop more positive attitudes toward each other in the process. Moreover, schemes in Britain have generally found that the meeting as a psychological event, as an emotional process, has been much more remarkable than a mere forum for arranging reparations.

Some research findings confirm this outcome. Umbreit (1994) found that victim-offender mediation programs in Albuquerque, Minneapolis, and Oakland significantly reduced fear and anxiety among juvenile crime victims. Prior to meeting the offender, 23 percent of victims were afraid of being revictimised by the same offender. After actually meeting the offender and talking about the offense

and its impact on all involved, only 10 percent of victims were still fearful of being revictimised. Similarly, prior to mediation, 67 percent of victims were upset about the crime, while only 49 percent were upset afterwards. Similar findings were found in Canada. Umbreit (1999) found that a feeling of upset about the crime and fear of being revictimised by the same offender was significantly less likely to be expressed among victims who participated in mediation sessions in four programs in Canada. He concluded that victim-offender mediation makes a significant contribution to reducing fear and anxiety among crime victims (Umbreit, 1994).

## **Rationale**

However, research into the psychological effect of the mediation has only features in evaluation research to a very limit extent and has been measured by means of questionnaires or interviews. Presently, until now there is no research specifically focuses on this subject and uses standardised psychological tests to assess the actual effect.

We are still not clear how the mediation process has an effect on them or if any factors relate to this process. For example, we know that many victims suffer from fear of crime and fear of revictimisation. But we do not know how victim-offender mediation affects them. Some studies pointed out that the mediation experience reduced fear of revictimisation from the same offender but we do not know whether this experience reduces fear of crime in general or not. Victim's needs are other factors, which need to be explored. Victim-offender mediation is claimed to provide an opportunity for victims to fulfill their needs. Surprisingly, we do not know whether these experience, such as exchange of information, reparation, validation and empowerment have any effect on victim's recovery or not.

In addition, the recent studies have many limitations in their methodology. Some studies do not use the comparison group or use either pre or post test. The lack of a comparison group makes it unclear whether the passage of time has contributed to the recovery of victims or not. Whereas the other studies used a comparison group, they did not do the pre-test. Therefore, it is possible that the low rate of fear and upset among victims may result from other factors.



To summarise, crime victims of either property or personal crimes, experience psychological distress. If victim-offender mediation could have an effect on this distress or cause any positive effect on crime victims, it should be studied more thoroughly and carefully. It is the purpose of this research to answer the research questions which are unanswered and strengthen the research methodology by using a quasi-experimental design with pre-test and post-test. The psychological effect is also investigated by standardised psychological tests.

## **Research questions**

- Does victim-offender mediation reduce psychological distress and fear of crime among victims? And in what extent?
- Do victims, who experience exchange of information, validation, material reparation, symbolic reparation and empowerment during the mediation process show less distress and fear of crime than those who do not?

## **Purposes of the Study**

- To investigate psychological distress and fear of crime among victims who participate and do not participate in victim-offender mediation
- To compare the difference in psychological distress and fear of crime between victims who participate and victims who do not participate in victim-offender mediation
- To examine the factors relating to the psychological distress and fear of crime of victims. These factors are victim characteristics, types of offence, types of mediation (direct/indirect), outcome of mediation, attitude toward offenders and mediator, and experience with the restorative process

## **Research Methodology**

### ***A. Research Design***

This research is designed to explore psychological distress and fear of crime caused by victimization among crime victims and to evaluate the effect of the mediation process on them. The quasi-experimental design is employed. Victims from selected victim-offender mediation schemes conducted in the United Kingdom

will be the experimental group and victims matched on types of offence selected from victim support schemes will be the comparison group. The pre and post level of psychological distress and fear of crime of crime victims who participate in the scheme will be compared with those who do not participate. The standardised tests are used to measure the psychological distress and fear of crime among victims in both groups.

### ***B. Study Setting***

*Experimental group* - Reparation and Mediation Initiatives (REMEDI) in South Yorkshire

*Proposed comparison group* - Victim Support Sheffield

### ***C. The Population and Sample***

The population for the research is victims of juvenile crimes who experienced the serious offences, such as sexual offence, robbery, burglary, and harassment. The study sample is approximately 100 victims including 50 victims who participate in the victim-offender mediation scheme and 50 victims who do not participate in the scheme.

### ***D. Sampling Method***

A convenience sampling is used to select 100 victims of juvenile crime whose cases are matched on age, sex, race, and type of offence.

### ***E. Variables***

<b>Independent variables</b>	<b>Dependant variables</b>
<ul style="list-style-type: none"> <li>• Experience with mediation               <ul style="list-style-type: none"> <li>• Type of mediation (direct/indirect)</li> <li>• Outcome of mediation</li> <li>• Mediation experience                   <ul style="list-style-type: none"> <li>-exchange of information and validation</li> </ul> </li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Difference in psychological distress and fear of crime</li> </ul>

<b>Independent variables</b>	<b>Dependant variables</b>
<ul style="list-style-type: none"> <li>-material and symbolic reparation</li> <li>-empowerment</li> <li>• Attitude toward mediator</li> <li>• Attitude toward offender</li> <li>• Victim characteristics (age, gender)</li> <li>• Types of offence</li> </ul>	

### ***F. Operational Definitions***

1) Psychological distress includes

- a) Somatisation
- b) Obsessive-Compulsive
- c) Interpersonal sensitivity
- d) Depression
- e) Anxiety
- f) Hostility
- g) Phobic Anxiety
- h) Paranoid Ideation
- i) Psychoticism

2) Fear of crime is an emotional response of dread or anxiety to crime or symbols that a person associates with crime (Ferrao,1995).

### ***G. Measurement Instruments***

Measurement instruments are a questionnaire developed for this research, Brief Symptom Inventory, and Measures of fear of crime.

<b>Questionnaire</b>	<b>Content</b>	<b>Time</b>
Victim interview schedule - pre-intervention consists of 33 items - post-intervention consists of 49 items	<ul style="list-style-type: none"> <li>- Demographic data</li> <li>- Incident information</li> <li>- Attitude toward the case outcome</li> <li>- Attitude toward the justice system</li> </ul>	5-10 minutes

<b>Questionnaire</b>	<b>Content</b>	<b>Time</b>
<b>Brief Symptom Inventory (BSI)</b> - 53 items - 5-point rating scales	<b>Measuring distress symptom</b> - Somatization - Obsessive-Compulsive - Interpersonal Sensitivity - Depression - Anxiety - Hostility - Phobic Anxiety - Paranoid Ideation - Psychoticism	10 minutes
<b>Measure of Fear of crime (developed by Kenneth F. Ferraro)</b> - 9 items - 5-point rating scales	<b>Fear of crime</b> - personal crime - property crime	3 minutes

### ***H. Data Collection Procedures***

*Experimental group* – Since this study is designed for pre and post test, participating victims would be asked to complete two sets of questionnaires. The first set will be conducted as soon as possible after victims have been contacted by mediators. The second set will conduct after the last contact from the mediator or approximately 2 months after the mediation.

Two possible data collection approaches are envisaged:

- A) Face to face interview
- B) Self-administered questionnaires

Procedure for contacting and recruiting victims:

A covering letter containing the consent form (Appendix A) is presented to the victim at the initial point of contact. If they agree to participate, the pre-intervention schedule (Appendix B) is administered (either by interview or on a self-completion basis) at the earliest opportunity and preferably before the intervention begins.

The post-intervention schedule (Appendix C) would need to be administered within few weeks after the mediation has been completed. If there is a final meeting, it might in principle be possible for the researcher to administer the questionnaire after it is over. Alternatively, the victim could be given the questionnaire with SAE and invited to complete and return the questionnaire to the researchers.

*Comparison group* – The self-administered questionnaire is proposed to collect the data from the comparison group. A covering letter containing the consent form is presented to the victim. If they agree to participate, they will administer the pre-intervention schedule and post it back to the researcher by using an enclosed prepaid envelope. After approximately 2 months, the post-intervention schedule with a prepaid envelope will be post to the same address. The questionnaire is designed to be the self-administration and should take no longer than 25 minutes to complete.

## ***I. Data Analysis***

The frequency distribution is used to analyze the demographic data and the information on the psychological distress and fear of crime. The z-test is used to test the hypotheses. The 0.5 alpha level is the criterion for significance in all analyses. The Statistical Package for the Social Science (SPSS) is used to analyze the data.

## **Fieldwork experience**

The empirical work started since the beginning of year 2001. At least 3 victim-offender mediation schemes were contacted to conduct the fieldwork. Originally, the Victim Offender Mediation Service (REMEDI) in South Yorkshire was selected because it is an experimental restorative justice project aiming to deal with adult offenders committing a wide range of offences including violent and property offences. These case characteristics seem to be qualified for the investigation. However, it was also under the Home Office evaluation and referred cases that resulted in direct (face to face) mediation seemed to be very limited at the beginning of the implementation so it was not pursued. Later, the West Midlands Victim Offender Unit was contacted instead. This mediation scheme also deals with adult and serious cases. However, after lengthy consultation with a senior member

of staff, it was found that the number of referred cases to the scheme had declined and it was unlikely that there would be enough cases for the treatment group targeted at 50 cases.

In January 2003, the next scheme that was pursued was the Mediation and Reparation Service (MARS) in Southampton. Although this scheme deals with youth offenders only, they also serve some violent offences, such as robbery and harassment, and have a reasonable rate of victim involvement. The coordinator was interested and willing to participate in this study. Since the scheme is located far from South Yorkshire and the limited budget did not allow for regular journeys, a change in the method of data collection was proposed, from face to face interview to telephone interview. However, telephone interview conducted by myself was considered inappropriate because my foreign accent might cause language barrier during the interview. Additionally, the coordinator strongly recommended that face to face interview would be preferable and offered herself to do the interview. Although this procedure might have some disadvantages, such as a bias from the interviewer and extensive contribution from the staff and victims, it seemed the best option at that time so this procedure was followed. Unfortunately, however, the period when the interview was due to take place, was also the early stage of the implementation of the referral order and unexpectedly large numbers of cases were referred from youth offending teams. Although number of referred cases was increased, cases resulting in direct involvement with victims were low. Due to sheer volume of the caseload, the coordinator and staff could not provide time for this study. Therefore, the data collection at the Southampton scheme would not be accomplished after all.

After MARS, I tried to contact other restorative justice schemes, such as a scheme in Wandsworth. However, all of them were unable to participate in the study because they had low rate of victim involvement. Meanwhile, I also contacted a victim support scheme in Sheffield for the interview of a comparison group but they were not willing to participate due to the data protection policy and concern regarding secondary victimisation.

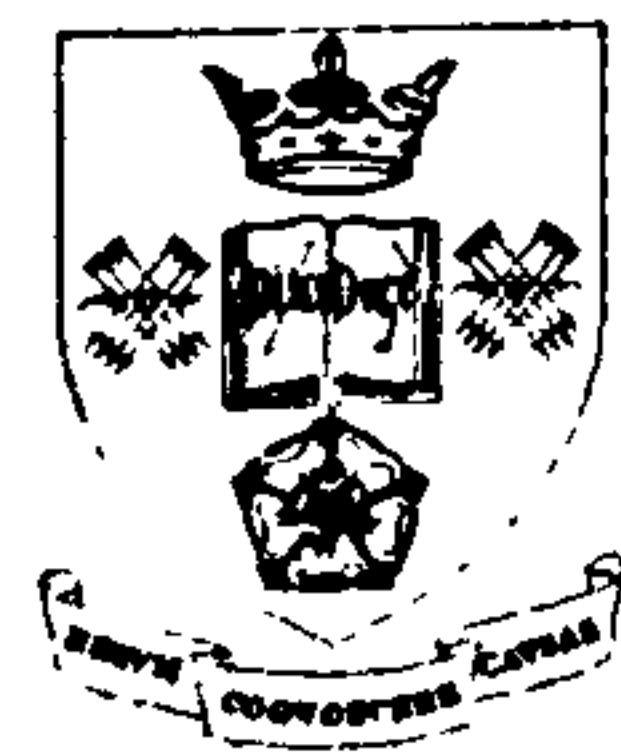
Subsequently, in June 2003, the South Yorkshire Victim Offender Mediation Service (REMEDI) did become available since the Home Office evaluation research had come to the conclusion phase and the case interview was almost completed. The coordinator was committed to the aims of the research study

and agreed to participate. Due to the data protection policy and fear of secondary victimisation, however, it was agreed that the researcher should not contact the victims directly. Therefore, the arrangement was for mediators to distribute the consent form and the pre-mediation self-administered questionnaire to victims. If victims agreed to participate, they were asked to return them by the pre-paid envelope and the post-mediation questionnaires would then be sent directly to their address. However, after 6 months, the response rate was still incredibly low. Only 4 of 50 questionnaires were returned. Thus, I proposed to conduct telephone interview provided victims give consent. This procedure was also rejected. Again because of the interpretation of the Data Protection Act and fear of secondary victimisation, the staff were concerned that it was inappropriate for people not working for the scheme to contact victims directly. Finally, in December 2003, the fieldwork was dropped since the response rate did not increase.

## **Ethical concern**

Researchers are acutely conscious of the possibility of revictimisation among victims and are anxious to incorporate whatever safeguards may be felt to be needed in order to minimise this situation. Thus, victims will not be approached directly by the researchers, who hope that it may be possible for letters of explanation and consent forms to be presented to eligible victims. Only those who agree sign and return the form will be contacted. They are free to withdraw their participation at anytime and are invited to ask any questions they may have by contacting to the researchers at the provided address. The information from questionnaires and other inventories is strictly confidential and will be anonymised from the outset. Only researchers in this study can access to this information. All questionnaires and inventories will be destroyed after the study is completed.

Appendix 1



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## **EVALUATION OF VICTIM EXPERIENCE OF CRIME AND CRIMINAL JUSTICE**

Dear Participant,

You have been invited to participate in an evaluation study I am conducting as part of my doctor's degree in the Department of Law at the University of Sheffield under the supervision of Professor Jim Dignan. I am looking to see how crime affects people and what is the best way to respond to its aftermath. Your views will help us to understand what needs to be done to improve the justice system in meeting the needs of crime victims. I hope that you will agree to take part in this evaluation, which will take only a small amount of your time.

You will be asked if you would fill in two brief sets of questionnaires about your experience with regard to the crime itself and also the justice system. The first questionnaire is enclosed in this package. After approximately three months, a follow-up questionnaire will be sent to your address, together with a pre-paid return envelope. These questionnaires are self-administered and should take no longer than 25 minutes to complete.

The completed questionnaires are confidential and will be seen only by researchers of this study. You will not be identified or be able to be identified in any results or any publication of the results. If you have any queries or concerns, please do contact me or Professor Jim Dignan, using the above contact details.

Thank you for taking the time to consider this request and thank you in advance if you feel you are able to assist in this study.

Yours sincerely,

Yossawan Boriboonthana





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**If you agree to take part in this study, please sign and complete the form below and return it in the self-addressed, pre-paid envelope that is enclosed.**

I agree to participate in a study being conducted by Miss Yossawan Boriboonthana of the Department of Law, University of Sheffield under the supervision of Professor Jim Dignan. I understand that my details will be made available to Miss Boriboonthana so that a questionnaire can be sent to me. It has been explained to me, and I understand, that what I say in the interview is entirely confidential, in the sense that I will not be able to be identified in any report or publication, nor in any communication to anyone at REMEDI.

Name (Please print): \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

If you are under 18, please ask your parent or guardian to print their name and sign below.

Parent/guardian's name: \_\_\_\_\_

Parent/guardian's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

**Please fill out this form.**

ADDRESS \_\_\_\_\_

\_\_\_\_\_ Postcode \_\_\_\_\_

Contact phone no. (\_\_\_\_\_) \_\_\_\_\_

*Thank you for taking part in this research. This questionnaire will not take much of your time to complete. Please follow the suggestions in each part and answer the questions as much as you can. After completing the questionnaire, please use the postage-paid envelope provided and return within 15 days of receipt.*

---

Date of completion: \_\_\_\_\_

***I would like to begin by asking you a few general questions. Please check  the answer that is most relevant to you.***

1. In general, what kind of neighbourhood would you say you live in?

Would you say it is a neighbourhood in which people feel a sense of community spirit or one in which people feel isolated?

1 Community spirit

2 Isolated

3 Mixture

4 Don't know

2. How much would you say the crime rate here has changed since two years ago? In this area, would you say there is more crime or less crime?

1 more crime

2 about the same

3 less crime

3. Have you been a victim of a crime before (excluding the recent incident)?

1 yes

2 no

Appendix 2

3A. IF YES: What kinds of offence were they? And on how many occasions?

	How many occasions?
<input type="checkbox"/> 1 vandalism	_____
<input type="checkbox"/> 2 burglary	_____
<input type="checkbox"/> 3 theft of vehicle	_____
<input type="checkbox"/> 4 theft from vehicle	_____
<input type="checkbox"/> 5 bicycle theft	_____
<input type="checkbox"/> 6 assault	_____
<input type="checkbox"/> 7 sexual offences	_____
<input type="checkbox"/> 8 robbery	_____
<input type="checkbox"/> 9 other (please state)_____	_____
_____	

4. Date of most recent offence: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

5. What kind of offence was?

- 1 vandalism
- 2 burglary
- 3 theft of vehicle
- 4 theft from vehicle
- 5 bicycle theft
- 6 assault
- 7 sexual offences
- 8 robbery
- 9 other (please state)\_\_\_\_\_

6. In cases of property crime, was the total value of the loss or damage caused...

1 ...£50 or under                      2 ...or over £50?                      3 Don't know

7. Was any of the property that was stolen/damaged of sentimental value?

1 Yes                                      2 No

Appendix 2

8. Did the offender have a weapon or something they used as a weapon?

1 Yes                      2 No                      3 Don't know because\_\_\_\_\_

9. Did the offender threaten you in any way?

1 Yes                      2 No                      3 Don't know because\_\_\_\_\_

10. Did the offender harm you in any way?

1 Yes                      2 No                      3 Don't know because\_\_\_\_\_

10A. IF YES, were you or anyone injured in any way?

1 Yes    2 No

11. Did you know the offender before the crime occurred?

1 yes    2 no

11A. IF YES: How did you know the offender?

- 1 friend
- 2 acquaintance
- 3 neighbour
- 4 other (please state)\_\_\_\_\_

***Now I would like to ask you about your feelings regarding the offender and the incident. Please rate your FEELING ON EACH ITEM on a scale of 0 to 4 where 0 means not at all and 4 means very much.***

Items	not -----very at all    much				
	0	1	2	3	4
12. How afraid do you feel about the offender at this point in time?					
13. How afraid do you feel the offender will commit another crime against you?					
14. How likely do you think it is that the offender will commit another crime against somebody?					
15. How upset do you now feel about the crime committed against you?					
16. How angry are you with the offender?					

Appendix 2

17. Of the following items, please rank the **three** most important things you think the criminal justice system should be trying to achieve, with #1 being the most important.

Rank

- \_\_\_\_\_ a. Punishing the offender
- \_\_\_\_\_ b. Providing financial compensation to the victim
- \_\_\_\_\_ c. Trying to ensure that the offender does not repeat the offence
- \_\_\_\_\_ d. Allowing victims and offenders to participate in the criminal justice system
- \_\_\_\_\_ e. Encouraging offenders to apologise to victims
- \_\_\_\_\_ f. Getting help for the victim
- \_\_\_\_\_ g. Other (please state)\_\_\_\_\_

18. One way of dealing with crime involves victims meeting with their offenders in order to let them know how they feel about the offence, to ask any questions they might have, or to discuss the possibility of receiving reparation for the victim. Do you think such kind of the meeting with the offender might be helpful?

- 1 not at all helpful
- 2 somewhat helpful
- 3 very helpful

**(Continue next page)**



## Appendix 2

31. Marital status:
- 1 Married/Cohabiting
  - 2 Single
  - 3 Widowed
  - 4 Divorced/Separated

32. Education level: (please choose one that applies to you)

- 1 General Certificate of Secondary Education (GCSE)
- 2 Advanced (A) level
- 3 College or university

33. Employment status:

- 1 full-time employed
- 2 part-time employed
- 3 full-time student
- 4 retired
- 5 unemployed
- 6 housewife

34. Household income per annum:

- 1 Under £5,000
- 2 £5,000 - £15,000
- 3 £15,000 - £20,000
- 4 £20,000 - £40,000
- 5 £40,000 or over

**(Continue next page)**



**BSI**

*Brief Symptom Inventory*

---

Leonard R. Derogatis, PhD

**INSTRUCTIONS:**

On the next page is a list of problems people sometimes have. Please read each one carefully, and blacken the circle that best describes HOW MUCH THAT PROBLEM HAS DISTRESSED OR BOTHERED YOU DURING THE PAST 7 DAYS INCLUDING TODAY. Blacken the circle for only one number for each problem and do not skip any items. If you change your mind, erase your first mark carefully. Read the example before beginning.

						EXAMPLE
						HOW MUCH WERE YOU DISTRESSED BY:
1	①	①	②	●	④	Bodyaches



	NOT AT ALL	A LITTLE BIT	MODERATELY	QUITE A BIT	EXTREMELY	
1	①	②	③	④	⑤	Nervousness or shakiness inside
2	①	②	③	④	⑤	Faintness or dizziness
3	①	②	③	④	⑤	The idea that someone else can control your thoughts
4	①	②	③	④	⑤	Feeling others are to blame for most of your troubles
5	①	②	③	④	⑤	Trouble remembering things
6	①	②	③	④	⑤	Feeling easily annoyed or irritated
7	①	②	③	④	⑤	Pains in heart or chest
8	①	②	③	④	⑤	Feeling afraid in open spaces or on the streets
9	①	②	③	④	⑤	Thoughts of ending your life
10	①	②	③	④	⑤	Feeling that most people cannot be trusted
11	①	②	③	④	⑤	Poor appetite
12	①	②	③	④	⑤	Suddenly scared for no reason
13	①	②	③	④	⑤	Temper outbursts that you could not control
14	①	②	③	④	⑤	Feeling lonely even when you are with people
15	①	②	③	④	⑤	Feeling blocked in getting things done
16	①	②	③	④	⑤	Feeling lonely
17	①	②	③	④	⑤	Feeling blue
18	①	②	③	④	⑤	Feeling no interest in things
19	①	②	③	④	⑤	Feeling fearful
20	①	②	③	④	⑤	Your feelings being easily hurt

Appendix 2

	NOT AT ALL	A LITTLE BIT	MODERATELY	QUITE A BIT	EXTREMELY	
21	①	②	③	④	⑤	Feeling that people are unfriendly or dislike you
22	①	②	③	④	⑤	Feeling inferior to others
23	①	②	③	④	⑤	Nausea or upset stomach
24	①	②	③	④	⑤	Feeling that you are watched or talked about by others
25	①	②	③	④	⑤	Trouble falling asleep
26	①	②	③	④	⑤	Having to check and double-check what you do
27	①	②	③	④	⑤	Difficulty making decisions
28	①	②	③	④	⑤	Feeling afraid to travel on buses, subways, or trains
29	①	②	③	④	⑤	Trouble getting your breath
30	①	②	③	④	⑤	Hot or cold spells
31	①	②	③	④	⑤	Having to avoid certain things, places, or activities because they frighten you
32	①	②	③	④	⑤	Your mind going blank
33	①	②	③	④	⑤	Numbness or tingling in parts of your body
34	①	②	③	④	⑤	The idea that you should be punished for your sins
35	①	②	③	④	⑤	Feeling hopeless about the future
36	①	②	③	④	⑤	Trouble concentrating
37	①	②	③	④	⑤	Feeling weak in parts of your body
38	①	②	③	④	⑤	Feeling tense or keyed up
39	①	②	③	④	⑤	Thoughts of death or dying
40	①	②	③	④	⑤	Having urges to beat, injure, or harm someone

	<b>NOT AT ALL</b>	<b>A LITTLE BIT</b>	<b>MODERATELY</b>	<b>QUITE A BIT</b>	<b>EXTREMELY</b>	
41	①	②	③	④	⑤	Having urges to break or smash things
42	①	②	③	④	⑤	Feeling very self-conscious with others
43	①	②	③	④	⑤	Feeling uneasy in crowds, such as shopping or at a movie
44	①	②	③	④	⑤	Never feeling close to another person
45	①	②	③	④	⑤	Spells of terror or panic
46	①	②	③	④	⑤	Getting into frequent arguments
47	①	②	③	④	⑤	Feeling nervous when you are left alone
48	①	②	③	④	⑤	Others not giving you proper credit for your achievements
49	①	②	③	④	⑤	Feeling so restless you couldn't sit still
50	①	②	③	④	⑤	Feeling of worthlessness
51	①	②	③	④	⑤	Feeling that people will take advantage of you if you let them
52	①	②	③	④	⑤	Feeling of guilt
53	①	②	③	④	⑤	The idea that something is wrong with your mind

**THANK YOU VERY MUCH FOR YOUR WILLINGNESS TO PARTICIPATE IN THIS SURVEY.**

*Thank you for taking part in this research. This questionnaire will not take much of your time to complete. Please follow the suggestions in each part and answer the questions as much as you can. After completing the questionnaire, please use the postage-paid envelope provided and return within 15 days of receipt.*

---

Date of completion: \_\_\_\_\_

***I would like to ask a few questions about your case. Please cross  the answer that is most relevant to you.***

1. Do you feel that your being in the mediation scheme was your own choice?

1 yes

2 no

1A. IF YES: Why did you choose to participate in the mediation scheme? (can answer more than one)

1 to get paid back for losses

2 to let the offender know how I felt about the crime

3 to receive answers to questions I had

4 to help the offender

5 to receive an apology

6 other (please state) \_\_\_\_\_

1B. IF NO: Why?

---



---

2. As far as you're aware did the offender have any other punishment or court order imposed on them in addition to this mediation?

1 yes

2 no

3. Do you feel the mediator prepared you sufficiently for the mediation?

1 yes

2 no

Appendix 3

Of the following items, please rate **your satisfaction with the preparation** on a scale of 0 to 4 where 0 means not at all and 4 means very much.

How satisfied are you with...	not-----very				
	0	1	2	3	4
4. the amount of the information you were given about the mediation process?					
5. the extent to which someone was prepared to listen to you about what happened?					
6. the explanation you were given about the benefits of the mediation process?					

7. Do you take part in a meeting with the offender?

- 1 If yes, please specify the date of mediation \_\_\_/\_\_\_/\_\_\_ and go to question 8
- 2 If no, please go to question 13

8. Who was present at the mediation session?

- 1 number of mediators\_\_\_\_\_
- 2 number of victims\_\_\_\_\_
- 3 number of offenders\_\_\_\_\_

9. How long did the mediation session last?\_\_\_\_\_hrs\_\_\_\_\_mins

10. Would you say the tone of the meeting was generally....

- 1 friendly
- 2 hostile
- 3 other (please state)\_\_\_\_\_

11. How would you describe the offender during the mediation session?

- 1 The offender seemed apologetic.
- 2 The offender was sincere.
- 3 The offender was arrogant or hostile.
- 4 The offender was evasive or reluctant to take part.
- 5 Other (please state)\_\_\_\_\_

Appendix 3

12. Was it helpful to meet the offender?

- 1 not at all helpful
- 2 somewhat helpful
- 3 very helpful

***Now I would like to ask you some questions about your experience during the mediation (whether you met the offender or not). For each of the following items, PLEASE RATE YOUR FEELING ON EACH ITEM AND THEN TELL ME HOW IMPORTANT IT IS. Please rate on a scale of 0 to 4 where 0 means not at all and 4 means very much.***

Now the mediation session is over, do you feel that ....	How much?					How important is it?				
	0 not at all	1	2	3	4 very much	0 not at all	1	2	3	4 very much
13. you received answers to questions you may have wanted ask the offender?										
14. you were able to tell the offender how the crime affected you?										
15. you were paid back for your losses by the offender?										
16. the offender will get some counseling or other type of help?										
17. the offender will be punished in some other way?										
18. the offender has said he or she is sorry?										
19. you have had the opportunity to discuss with the offender how the offence should be dealt with?										
20. you have a better understanding of why the crime was committed against you?										

21. Was an agreement negotiated during the mediation with the offender?

- 1 yes (go to question 22)    2 no (go to question 26)

Appendix 3

22. What did the offender agree to? (can answer more than one)

1 Money paid to you

5 Donation to charity

2 Work for you

6 Community service

3 Written apology

7 other \_\_\_\_\_

4 Verbal apology

23. Was the agreement fair to you?

1 yes

2 no

24. Was the agreement fair to the offender?

1 yes

2 no

25. Did the offender comply with the agreement?

1 yes

2 no

26. Of the following items, please rank the **three** most important tasks of the mediator, with #1 being the most important.

Rank

\_\_\_\_\_ a. providing leadership in the meeting

\_\_\_\_\_ b. making me and the offender feel comfortable and safe

\_\_\_\_\_ c. taking charge and doing most of the talking

\_\_\_\_\_ d. allowing plenty of time for me to talk directly with the offender

\_\_\_\_\_ e. being a good listener

\_\_\_\_\_ f. achieve a satisfactory outcome for the victim

\_\_\_\_\_ g. helping to formulate the reparation agreement

\_\_\_\_\_ h. other \_\_\_\_\_

Appendix 3

**Please rate your feeling on each item on a scale of 0 to 4 where 0 means not at all and 4 means very much.**

Items	not-----very				
	0	1	2	3	4
27. How afraid do you feel about the offender at this point in time?					
28. How afraid do you feel the offender will commit another crime against you?					
29. How likely do you think it is that the offender will commit another crime against somebody else?					
30. How upset do you now feel about the crime committed against you?					
31. How angry are you with the offender?					
32. How much do you now feel you can forgive the offender?					
33. How likely do you think the offender participated only because he/she was trying to stay out of jail or get off lightly?					
34. Do you believe the mediator was fair?					
35. How satisfied were you with the mediator?					

36. If you were victimised again on another occasion, would you again choose to meet the offender with a mediator?

1 yes

2 no

37. Would you recommend victim-offender mediation to other victims of crime?

1 yes

2 no

38. Were there any aspects of the victim-offender mediation experience that you felt were not satisfactory?

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_



Appendix 3

39. Of the following items, please rank the **three** most important things you think the criminal justice system should be trying to achieve, with #1 being the most important.

Rank

- \_\_\_\_\_ a. Punishing the offender
- \_\_\_\_\_ b. Providing financial compensation to the victim
- \_\_\_\_\_ c. Trying to ensure that the offender does not repeat the offence
- \_\_\_\_\_ d. Allowing victims and offenders to participate in the criminal justice system
- \_\_\_\_\_ e. Encouraging offenders to apologise to victims
- \_\_\_\_\_ f. Getting help for the victim
- \_\_\_\_\_ g. Other (please state)\_\_\_\_\_

40. Do you think the criminal justice system was fair in the way it handled your case?

1 yes

2 no why?\_\_\_\_\_

\_\_\_\_\_

41. After the incident, did you install any security devices?

1 yes

2 no

41A. IF YES, what kinds of devices?

1 Burglar alarm

2 Security gate over front door

3 Bars/grilles on any windows

4 Estate/block security lodge/guards

5 Entry phone

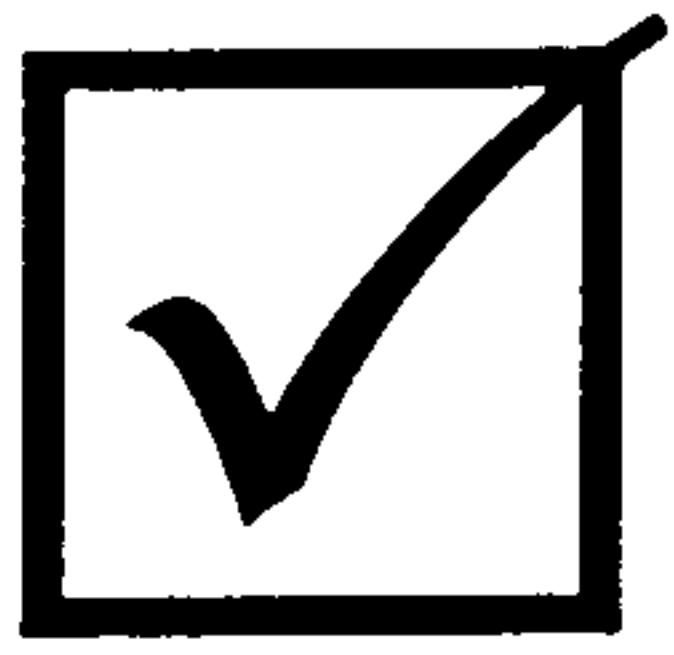
6 Other security device(s) (please state)\_\_\_\_\_

42. Have you changed your routine activities after the incident?

1 yes

2 no





**BSI**

*Brief Symptom Inventory*

Leonard R. Derogatis, PhD

**INSTRUCTIONS:**

On the next page is a list of problems people sometimes have. Please read each one carefully, and blacken the circle that best describes HOW MUCH THAT PROBLEM HAS DISTRESSED OR BOTHERED YOU DURING THE PAST 7 DAYS INCLUDING TODAY. Blacken the circle for only one number for each problem and do not skip any items. If you change your mind, erase your first mark carefully. Read the example before beginning.

	NOT AT ALL	A LITTLE BIT	MODERATELY	QUITE A BIT	EXTREMELY	
1	①	②	●	④	Bodyaches	EXAMPLE HOW MUCH WERE YOU DISTRESSED BY:

Appendix 3

						<b>HOW MUCH WERE YOU DISTRESSED BY:</b>
						<b>NOT AT ALL</b>
						<b>A LITTLE BIT</b>
						<b>MODERATELY</b>
						<b>QUITE A BIT</b>
						<b>EXTREMELY</b>
1	①	②	③	④	Nervousness or shakiness inside	
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17	①	②	③	④	Feeling blue	
18	①	②	③	④	Feeling no interest in things	
19	①	②	③	④	Feeling fearful	
20	①	②	③	④	Your feelings being easily hurt	

Appendix 3

**HOW MUCH WERE YOU DISTRESSED BY:**

	<b>NOT AT ALL</b>	<b>A LITTLE BIT</b>	<b>MODERATELY</b>	<b>QUITE A BIT</b>	<b>EXTREMELY</b>	
21	①	②	③	④	⑤	Feeling that people are unfriendly or dislike you
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28	①	②	③	④	⑤	Feeling afraid to travel on buses, subways, or trains
29	①	②	③	④	⑤	Trouble getting your breath
30	①	②	③	④	⑤	Hot or cold spells
31	①	②	③	④	⑤	Having to avoid certain things, places, or activities because they frighten you
32	①	②	③	④	⑤	Your mind going blank
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35	①	②	③	④	⑤	Feeling hopeless about the future
36	①	②	③	④	⑤	Trouble concentrating
37	①	②	③	④	⑤	Feeling weak in parts of your body
38	①	②	③	④	⑤	Feeling tense or keyed up
39	①	②	③	④	⑤	Thoughts of death or dying
40	①	②	③	④	⑤	Having urges to beat, injure, or harm someone

Appendix 3

**HOW MUCH WERE YOU DISTRESSED BY:**

	<b>NOT AT ALL</b>	<b>A LITTLE BIT</b>	<b>MODERATELY</b>	<b>QUITE A BIT</b>	<b>EXTREMELY</b>	
41	①	②	③	④	⑤	Having urges to break or smash things
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43	①	②	③	④	⑤	Feeling uneasy in crowds, such as shopping or at a movie
44	①	②	③	④	⑤	Never feeling close to another person
45	①	②	③	④	⑤	Spells of terror or panic
46	①	②	③	④	⑤	Getting into frequent arguments
47	①	②	③	④	⑤	Feeling nervous when you are left alone
48	①	②	③	④	⑤	Others not giving you proper credit for your achievements
49	①	②	③	④	⑤	Feeling so restless you couldn't sit still
50	①	②	③	④	⑤	Feeling of worthlessness
51	①	②	③	④	⑤	Feeling that people will take advantage of you if you let them
52	①	②	③	④	⑤	Feeling of guilt
53	①	②	③	④	⑤	The idea that something is wrong with your mind

**THANK YOU VERY MUCH FOR YOUR WILLINGNESS TO PARTICIPATE IN THIS SURVEY.**

## **Appendix B**

### **Case seriousness scale**

Case characteristics will be scored according to the following items.

#### **1. Type of offence**

If referred cases are

- mostly property offence, score 0
- both property and assault offence, score 1
- mostly assault offence, score 2.

#### **2. Type of offender**

If referred cases are

- mostly youth offender, score 0
- both youth and adult offender, score 1
- mostly adult offender, score 2.

#### **3. Seriousness of case**

If referred cases are

- non-serious case, score 0
- serious case, score 1

## Appendix C

### Methodological Quality Scale

Score 1 if the description of the methodological characteristics is true for the following items, otherwise score 0.

- \_\_\_\_\_ 1. Cases were randomly assigned to VOM/FGC and non-VOM/FGC groups.
- \_\_\_\_\_ 2. *Victims* in VOM/FGC and non-VOM/FGC groups were matched on *age* via (1) random assignment, (2) direct matching by researchers, (3) statistical tests reveal that the two groups were equivalent in terms of age within limits of sampling variability.
- \_\_\_\_\_ 3. *Victims* in VOM/FGC and non-VOM/FGC groups were matched on *gender* via (1) random assignment, (2) direct matching by researchers, (3) statistical tests reveal that the two groups were equivalent in terms of gender within limits of sampling variability.
- \_\_\_\_\_ 4. *Victims* in VOM/FGC and non-VOM/FGC groups were matched on *ethnicity* via (1) random assignment, (2) direct matching by researchers, (3) statistical tests reveal that the two groups were equivalent in terms of ethnicity within limits of sampling variability.
- \_\_\_\_\_ 5. *Victims* in VOM/FGC and non-VOM/FGC groups were matched on *number of prior victimisation* via (1) random assignment, (2) direct matching by researchers, (3) statistical tests reveal that the two groups were equivalent in terms of number of prior offence within limits of sampling variability.
- \_\_\_\_\_ 6. *Victims* in VOM/FGC and non-VOM/FGC groups were matched on *type of original offence* they were experienced via (1) random assignment, (2) direct matching by researchers, (3) statistical tests reveal that the two groups were equivalent in terms of type of original offence within limits of sampling variability.
- \_\_\_\_\_ 7. *Victims* in VOM/FGC and non-VOM/FGC groups were matched on *severity of offences* they are experienced via (1) random assignment, (2) direct matching by researchers, (3) statistical tests reveal that the two groups



were equivalent in terms of severity of prior offences within limits of sampling variability.

\_\_\_\_\_ 8. *Victims* in VOM/FGC and non-VOM/FGC groups were matched on *family type* (i.e., single parent, both natural parents, etc.) via (1) random assignment, (2) direct matching by researchers, (3) statistical tests reveal that the two groups were equivalent in terms of family type within limits of sampling variability.

\_\_\_\_\_ 9. *Victims* in VOM/FGC and non-VOM/FGC groups were matched on *years of education* (i.e., single parent, both natural parents, etc.) via (1) random assignment, (2) direct matching by researchers, (3) statistical tests reveal that the two groups were equivalent in terms of years of education within limits of sampling variability.

\_\_\_\_\_ 10. *Victims* in VOM/FGC and non-VOM/FGC groups were matched on *number of siblings* (i.e., single parent, both natural parents, etc.) via (1) random assignment, (2) direct matching by researchers, (3) statistical tests reveal that the two groups were equivalent in terms of number of siblings within limits of sampling variability.

\_\_\_\_\_ 11. *Victims* were placed into the *non-VOM/FGC group* in an unbiased manner (e.g. the non-VOM/FGC group was made up of victims who had been randomly assigned; or the non-VOM/FGC group was composed of victims whose cases were randomly assigned; or the non-VOM/FGC group was composed of victims who went through the justice system prior to the existence of a VOM/FGC scheme. Examples of biased assignment would be placing victims who could have been referred to VOM/FGC, but were not, into the group; or placing victims into the group who had been referred to VOM/FGC but did not participate for any reasons.

\_\_\_\_\_ 12. *Victims* were placed into the *VOM/FGC group* in an unbiased manner (e.g. the non-VOM/FGC group was made up of victims who had been randomly assigned; or the non-VOM/FGC group was composed of victims whose cases were randomly assigned. Examples of biased assignment would be referring only certain victims to a VOM/FGC scheme.

## Appendix D

### Form 1: Scheme and study characteristics

STUDY ID	AUTHOR	YEAR	START YEAR	COUNTRY	TYPE OF PUBLICATION	TYPE OF INTERVENTION	QUALITY SCORE	SERIOUSNESS SCORE	PRIVATE/GOV. FUND

(continue)





## Appendix E

### Form 2: Effect size data

Study			
Author			
Outcome1			
Ne		Nc	
Ee		Ec	
Effect size			

Outcome2			
Ne		Nc	
Ee		Ec	
Effect size			

Outcome3			
Ne		Nc	
Ee		Ec	
Effect size			

Outcome4			
Ne		Nc	
Ee		Ec	
Effect size			

(continue)

Outcome5			
Ne		Nc	
Ee		Ec	
Effect size			

Outcome6			
Ne		Nc	
Ee		Ec	
Effect size			

Outcome7			
Ne		Nc	
Ee		Ec	
Effect size			

Outcome8			
Ne		Nc	
Ee		Ec	
Effect size			