

# RESTORATIVE INJUSTICE

## BARRIERS TO VICTIM ENGAGEMENT IN RESTORATIVE JUSTICE:

### PERSPECTIVES OF VICTIMS OF ASSAULT IN DERBY

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#### ABSTRACT

Restorative Justice has been used informally by other names for many years, but it is only recently that it has become a source for widespread debate. With the current economic crises, finding the most effective way of combatting recidivism and so reducing the cost of crime has become paramount in the eyes of the police, the public, and the government. Restorative Justice is often posited as a cheaper, more effective alternative to imprisonment, but it has the shortcoming of relying almost solely on the permission and participation of the victims. This report seeks to discover and analyse possible barriers to victim engagement in Restorative Justice with a view to making recommendations on how to remove or alleviate these. By creation of a Literature Review, it was discovered that, although popular media represents a usually negative view of Restorative Justice, the majority of victims and offenders in studies discussed felt positively about it. The statistics also showed Restorative Justice in a good light when considering recidivism. However, there were no projects that addressed victims of assault in Derby. To this end, a questionnaire was created and completed by thirty victims of assault selected through Witness Service in Derby. The answers were then analysed to fully benefit from the information within and the results were presented within coding frames. It was found that Restorative Justice was not a well-known practise, with less than half of the sample having previous awareness of the scheme. It was also found that there was a great deal of confusion concerning perceived effectiveness of the scheme, and there were few that answered directly to the questions over choosing an ambivalent answer. Overall, there was a general view that Restorative Justice can be good for both victims and offenders in certain situations, but can also be damaging if not applied properly.

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## CHAPTER 1: INTRODUCTION

Restorative Justice (“RJ”) is the practise of dealing with offenders and victims outside of the Criminal Justice System (“CJS”), in which the offender is encouraged to make amends for his crime, either physically or by way of an apology<sup>2</sup>. The terms of the RJ program are usually decided almost solely by the victims, and can range from a written apology to actual reparation such as cleaning off graffiti, but all terms must be agreed on by the victim, the offender and the police<sup>3</sup>. RJ is usually only used in cases of petty, community-based crimes, and most commonly amongst youth offenders, where there is a desire to avoid criminalising them early in their lives<sup>4</sup>. RJ has been around for a long time, dating back to circa 2000 BC in the Code of Hammurabi, one of the earliest known written forms of law<sup>5</sup>. It was not until 1066 AD that the law began to move away from crime being an offence against a person towards crime being an offence against the state<sup>6</sup>. This is what is known as Retributive Justice. A rather simplified distinction between the two is that Retributive Justice concerned blame, and RJ concerned apologies<sup>7</sup>. However, the term ‘Restorative Justice’ was not created until the 1970s<sup>8</sup>, which is when the majority of RJ programs and approaches started to be considered as an appropriate alternative to Retributive programs<sup>9</sup>.

Over the past few years, RJ has become a buzz word among criminologists and various political figures. With the recidivism rate of those coming out of prison being over fifty percent<sup>10</sup>, a great deal of interest has been placed into research concerning alternative forms of offender management. Society’s needs puts pressure on the controlling government to show that effort is being made to reduce recidivism as well as keeping the public safe, which highlights contradictions when considering the multi-aim views of

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<sup>2</sup> Marshall, T. (1999) *Restorative Justice: An Overview*. London: Home Office Research Development and Statistics Directorate Publications

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*

<sup>5</sup> Graef, R. (2000) *Why Restorative Justice? Repairing the Harm Caused by Crime*. London: Calouste Gulbenkian Foundation (p. 22)

<sup>6</sup> *Ibid.*

<sup>7</sup> Brownlee, K. (2010) *Retributive, Restorative and Ritualistic Justice*. In: ‘Oxford Journal of Legal Studies’ (pp. 1 - 13)

<sup>8</sup> Gavrielides, T. (2011) *Restorative Practices: From The Early Societies To The 1970s*. In: ‘The Internet Journal of Criminology’. <[http://www.internetjournalofcriminology.com/Gavrielides\\_Restorative\\_Practices\\_IJC\\_November\\_2011.pdf](http://www.internetjournalofcriminology.com/Gavrielides_Restorative_Practices_IJC_November_2011.pdf)> Accessed 14 January 2013

<sup>9</sup> Zehr, H. (2002) *The Little Book of Restorative Justice*. Intercourse: Good Books (p. 2)

<sup>10</sup> Ministry of Justice (2012) *Proven Re-offending: Statistics Quarterly Bulletin - April 2010 to March 2011, England and Wales*. <<http://www.justice.gov.uk/statistics/reoffending/proven-re-offending>> Accessed 8 January 2013

sentencing addressed through RJ. Eric Grief describes RJ as a process that involves creating a balance through a number of tensions:

‘a balance between the therapeutic and the retributive models of justice  
a balance between the rights of offenders and the needs of victims  
a balance between the need to rehabilitate offenders and the duty to protect the public.’<sup>11</sup>

Regarding the first point, the therapeutic and the retributive models of justice often differ according to which government is in charge, with Labour typically being in favour of the therapeutic approach, and the Conservative party leaning more towards retribution than rehabilitation<sup>12</sup>. This strong divide can create a great deal of tension in the public; it is obvious that political parties not in power will pick out what they believe to be the flaws in the governing party’s system in order to bring favour to their own party, which can prejudice the thinking of the general public as to what is the ‘correct’ manner of dealing with offenders. As to the second point, a great deal of discussion has been picked up regarding Human Rights and its link to both offenders and victims. The tabloid media habitually sensationalise this side of RJ, stating that it is against the rights of the victim, especially when done without their consent<sup>13</sup>. In a 2006 survey by Smart Justice and Victim Support, it was found that 53% of over 3000 victims of crime questioned believed that the current CJS does not take into account the needs of victims<sup>14</sup>, which is clearly not an acceptable statistic. The balance between protecting the public and rehabilitating offenders is also a delicate one, and is often picked up by the media, which often reduces confidence in the scheme amongst the public.

Despite this lack of public confidence, research has shown that RJ works significantly more effectively than imprisonment in terms of rehabilitation, and has also

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<sup>11</sup> Grief, Eric cited in: Liebmann, M. (2007) *Restorative Justice: How it Works*. London: Jessica Kingsley Publishers (p. 33)

<sup>12</sup> Bednarova, J. (2011) *The Heart of the Criminal Justice System: A Critical Analysis of the Position of the Victim*. In: ‘Internet Journal of Criminology.’ <[http://www.internetjournalofcriminology.com/Bednarova\\_The\\_Heart\\_of\\_the\\_Criminal\\_Justice\\_System.pdf](http://www.internetjournalofcriminology.com/Bednarova_The_Heart_of_the_Criminal_Justice_System.pdf)> (p. 17)

<sup>13</sup> The Sun (2012) *Street Law ‘Failure’*. In: ‘The Sun Online’ (18/09/12) <<http://www.thesun.co.uk/sol/homepage/news/politics/4543918/Street-law-failure.html>> Accessed 10 January 2013

<sup>14</sup> Smart Justice (2006) *Victims Say Stopping Re-Offending Is More Important Than Prison*. <[http://www.restorativejustice.org.uk/assets/\\_ugc/fetch.php?file=mdwf\\_smart\\_justice\\_and\\_victim\\_support\\_victims\\_say\\_stopping\\_reoffending\\_is\\_more\\_important\\_than\\_prison.pdf](http://www.restorativejustice.org.uk/assets/_ugc/fetch.php?file=mdwf_smart_justice_and_victim_support_victims_say_stopping_reoffending_is_more_important_than_prison.pdf)> Accessed 13 January 2013

been shown to positively alter both the victim's and offender's attitudes towards the crime<sup>15</sup>. However, no matter how effective RJ may be, it relies almost completely on the participation of the victim, which therefore makes the study of what may prevent victims from wanting to become involved in RJ a relevant topic in the field of offender management. During the Literature Review, it was found that, although there was some research into the concerns of victims undertaken in Derby, there was no research dedicated specifically to victim of assault; this allowed the report to fill a gap in the research with an eye to perhaps discover alternative views to that in the research that already exists, making it a worthy line of pursuit. This led to the research question: 'Barriers to Victim Engagement in Restorative Justice: Perspectives of Victims of Assault in Derby'. The topic was explored via use of four distinct research aims:

- To discover possible barriers to victim engagement in Restorative Justice.
- To examine the views of victims of assault on Restorative Justice.
- To discover if these views change according to the severity or nature of the offence.
- To determine whether previous knowledge of Restorative Justice has an effect on these views.

Subsequent to this introduction, Chapter 2 contains a comprehensive Literature Review which was created in order to properly inform the chosen aims and objectives. This will be followed by the Methodology in Chapter 3, which will describe the process of which this project was created, along with a justification of the research method chosen, and an analysis of other research methods that could have been used. The Analysis will be then be broken into six separate chapters in accordance with the coding forms used: 4.1: Sample Characteristics, 4.2: Helping Victims, 4.3: Helping Offenders, 4.4: Perceptions of 'Justice', 4.5: Knowledge and Understanding, and 4.6: Barriers to Victim Engagement. The report will then be brought to a close by the Conclusions section in Chapter 5.

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<sup>15</sup> Restorative Justice Council (2013) *Restorative Justice Works - The Evidence*. <[http://www.restorativejustice.org.uk/restorative\\_justice\\_works](http://www.restorativejustice.org.uk/restorative_justice_works)> Accessed 10 January 2013

## CHAPTER 2: LITERATURE REVIEW

Due to the current rise of interest in alternative forms of offender management, there is a great deal of data available on RJ. However, RJ itself can be difficult to define. According to Prison Fellowship International, there are many different types of RJ, all of which focus on reparation, but are separated into four distinct stages:

- ‘Encounter’, where the victims and offenders come together to discuss the aftermath of the crime.
- ‘Amends’, an expectation on the offender to attempt to amend the harm they have caused.
- ‘Reintegration’ of offenders and victims.
- And ‘inclusion’ of all parties involved in the crime committed.<sup>16</sup>

Prison Fellowship International also outlines several programs that are considered under the banner of RJ, including various forms of victim-offender mediation, and programs that allow the offender to repair the harm they have done<sup>17</sup>. Prison Fellowship International also make clear the difference between restorative processes and restorative outcomes - processes being where the victims and other agencies participate in the progression of rehabilitation, and outcomes being the final result, which does not necessarily require victim participation<sup>18</sup>. They also stress that RJ is an ongoing process, and not any one particular procedure<sup>19</sup>. However, Tony Marshall, writer of a report for the Home Office, states that RJ is not a process in and of itself<sup>20</sup>. Instead, he describes RJ as a set of principles used by any agency involved in the crime, which he describes as allowing personal participation of all people or agencies that were affected by the offence, and the ability to see a crime as a social problem in a social context<sup>21</sup>. Marshall also describes RJ as a ‘problem-solving approach to crime’<sup>22</sup>, suggesting that RJ should focus more on the

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<sup>16</sup> Prison Fellowship International (2012) *Restorative Justice*. <<http://www.pfi.org/issues/restorative-justice>> Accessed 10 January 2013

<sup>17</sup> *Ibid.*

<sup>18</sup> Prison Fellowship International (2009) *Restorative Justice Briefing Paper*. <[http://www.pfi.org/cjr/restorative-justice/introduction-to-restorative-justice-practice-and-outcomes/briefings/what-is-restorative-justice/at\\_download/file](http://www.pfi.org/cjr/restorative-justice/introduction-to-restorative-justice-practice-and-outcomes/briefings/what-is-restorative-justice/at_download/file)> Accessed 14 January 2013

<sup>19</sup> *Ibid.*

<sup>20</sup> Marshall (1999) p. 5

<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*

harm caused by the crime than it should the crime itself. This puts more weight on the concerns of those involved than a more legalistic response the crime should receive.

A widely accepted definition of RJ is a 'process through which 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'<sup>23</sup>. As this definition is quoted by the Crown Prosecution Service, it can be relied on as an official, legal definition. This corresponds with both Marshall's and the Prison Fellowship International's views, as it confirms that RJ was made to be inclusive to all parties involved, not just the offender as is the case with traditional punishment such as imprisonment. As opposed to the Retributive Justice system, Braithwaite describes RJ as a process that focuses on the 'consequences of injustices'<sup>24</sup>, placing the importance on the reason and effects of a crime, not the offence itself. This is derived from a theory called Consequentialism, an ethical theory which holds that judgement should concern only the consequences of any action, not the action itself<sup>25</sup>. In legal definitions, this would be focussing on the crime itself - or *actus reus* - as opposed to the motive of the offender - the *mens rea*<sup>26</sup>. Consequentialism believes that, because of this link, an act may only be called morally correct if it produces a good outcome, and vice versa. This can be a difficult concept to consolidate with when considering crime, as many things are against the law that do not necessarily always cause harm, for instance, drink driving; Consequentialism does not allow for the *potential* of bad outcomes as the law does. Motive plays a large role in criminal punishment, for instance in the difference between murder and manslaughter. It is important to note, however, that not all crimes need a *mens rea* to be present. These are prevalently strict liability cases, which cover crimes such as in the *Pharmaceutical Society of Great Britain v Storkwain*, in which a pharmacist was convicted for supplying medication to a patient with a forged prescription<sup>27</sup>. With Consequentialism in mind, the use of RJ would be beneficial, as the victim has time to understand the motive of the offender, something which they may not receive with conventional punishment. It has also long been stated that understanding the

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<sup>23</sup> Crown Prosecution Service (2013) *Legal Guidance: Restorative Justice*. <[http://www.cps.gov.uk/legal/p\\_to\\_r/restorative\\_justice/](http://www.cps.gov.uk/legal/p_to_r/restorative_justice/)> Accessed 10 January 2013

<sup>24</sup> Braithwaite, J. (2002) *Setting Standards for Restorative Justice*. In: 'The British Journal of Criminology', Vol. 42, No. 3 (pp. 563 - 577) p. 564

<sup>25</sup> Darwell, S. (2003) *Consequentialism*. Chichester: Wiley Publishing

<sup>26</sup> Singer, R. & La Fond, J. (2010) *Criminal Law* (5<sup>th</sup> Ed.) New York: Wolters Kluwer (p. 72)

<sup>27</sup> *Pharmaceutical Society of Great Britain v Storkwain* [1986] 2 ALL ER 63

motive of an offender can play a crucial part in deterring them from crime<sup>28</sup>. If RJ then focuses on the motives and reasoning of the offender, it would logically follow that RJ practitioners would have more of a chance of reducing recidivism in offenders that participate in their programs.

However, this raises the question of whether RJ is in fact punishing - or omitting punishment, in this case - purely by motive alone. In some cases, such as with deterrence, this may be an advantage, but it does raise difficulties involving differentiating between different types of crimes. Motive is also not a fixed, scientific fact; it cannot be established to the standard of proof used in criminal courts - *beyond a reasonable doubt* - and so perhaps should not carry the weight afforded to it in RJ processes. As well as this, Carissa Hessick suggests that motives the public would be more sympathetic to, such as stealing out of necessity, would be more difficult to deter, as they were seen as necessary during the time and situation<sup>29</sup>. This muddies the waters concerning the correct sentence for the crime, therefore placing the decision as to what sort of reparation is appropriate almost solely on the victim.

With this in mind, should RJ then only be used for certain types of offences? There is much literature available concerning opinions and research concerning the appropriateness of RJ in different crimes, and the responses have been incredibly varied. Particularly controversial crimes can be separated into three separate categories: prolific or mass crimes, inherent offences or crimes the offender has committed due to an inherent belief system or desire, and violent crimes. Any crimes can be committed prolifically, but this category usually refers to less serious crimes that carry a lower sentence, therefore making them easier to be committed repeatedly, such as driving offences, theft and crimes to fund various addictions. It is clear that with prolific offenders RJ approaches may not be the best course of action. A paper comprised by the Ministry of Justice stated that RJ is the best way to address prolific offenders, including those who commit crimes due to drug or alcohol addictions<sup>30</sup>. On the other hand, John Haley maintained that victim-offender apologies are not effective with repeat offenders, especially those who are committing

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<sup>28</sup> Cochran, J., Gove, W. & Wood, P. (1994) *Motivations for Violent Crime among Incarcerated Adults: A Consideration of Reinforcement Processes*. In: 'Journal of the Oklahoma Criminal Justice Research Consortium', Vol. 1, No. 1 (pp. 63 - 80)

<sup>29</sup> Hessick, C. (2006) *Motive's Role In Criminal Punishment*. In: 'Southern California Law Review', Vol. 80, No. 89 (pp. 89 - 150) p. 116

<sup>30</sup> Ministry of Justice (2010) *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders*. Cm 7972 (p. 27)

crimes to fund their habits<sup>31</sup>. This theory relies on the idea that the offender has to regret or be ashamed of the crime he has committed to ever fully desist, a process John Braithwaite called 'reintegrative shaming'<sup>32</sup>. When this theory is applied to the hypothetical situation suggested earlier - stealing due to necessity - it is clear that the offender may never come to see his offence as wrong, and therefore may never truly desist. However, the lack of desistance on the offender's part does not negate the positive effect RJ sessions may have on the victim. Braithwaite is also an Abolitionist - meaning that he opposes prison sentences - which may have put some bias in his writing.

Inherent crimes cover offences such as hate crimes. Inherent crimes can be difficult to deal with through RJ, as often these offenders do not see their crime as wrong. In these cases, the feelings of the offender may be so ingrained that it would be very difficult to alter them, and so help them to desist from crime. Gavrielides states that this is a factor especially in cases of racist offenders, suggesting that this could also have an effect on the victim, as RJ would 'expose [them] to further victimisation'<sup>33</sup>. The rationale behind hate crime often leads it to be classified as a different sector of crime altogether. Bennett *et al* argue that the motivation of such crimes make the offender more difficult to rehabilitate, as their crimes stem from entrenched causes that cannot easily be altered<sup>34</sup>. These theories would therefore lead to the conclusion that RJ would perhaps not be the best course of action for hate crimes due to the lack of surety of the overall outcome. However, in his earlier work, Gavrielides also states that 'bringing people face to face with their fears and biases may help dispel myths and stereotypes that underlie hate attitudes.'<sup>35</sup> Marian Liebmann also maintains that RJ can be very beneficial in trying to convince the offender to see the victim as a person, 'rather than just stereotypes'<sup>36</sup>, which can help alter behaviour in the future, thereby reducing reoffending, and also bring some comfort to the victim.

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<sup>31</sup> Messmer, H. & Otto, H. (Eds.) *Restorative Justice on Trial: Pitfalls and Potentials of Victim-Offender Mediation International Research Perspectives*. London: Kluwer Academic Publishers, 1992 (p. 122)

<sup>32</sup> Braithwaite, J. (1997) *Crime, Shame and Reintegration*. Cambridge: Cambridge University Press.

<sup>33</sup> Gavrielides, T. (2012) *Conceptualising and Contextualising Restorative Justice for Hate Crimes*. In: 'CrimSoc: The Journal of Social Criminology', Vol. 1, No. 1 <<http://crimsoc.org/the-journal/volume-i-issue-1/74-4-conceptualising-and-contextualising-restorative-justice-for-hate-crimes-theo-gavrielides>> Accessed 20 January 2013

<sup>34</sup> Bennett, S., Levin, J. & McDevitt, J. (2002) *Hate Crimes Offenders: An Expanded Typology*. In: 'Journal of Social Issues', Vol. 58, No. 2 (pp. 303 - 317)

<sup>35</sup> Gavrielides, T. (2007) *Restoring Relationships: Addressing Hate Crime Through Restorative Justice*. <[http://ventura.xssl.net/~rotaadmin/?q=webfm\\_send/54](http://ventura.xssl.net/~rotaadmin/?q=webfm_send/54)> Accessed 20 January 2013

<sup>36</sup> Liebmann, M. (2007) *Restorative Justice: How it Works*. London: Jessica Kingsley Publishers (p. 304)

The last category - violent crime - is often a cause of huge debate. Stubbs explores the idea that some crimes may be 'beyond apology', specifically domestic violence<sup>37</sup>. Stubbs also argues that, although RJ is seen as the only true way of dealing with crime that allows true emotional engagement, it is rarely explored from a gendered perspective. RJ encompasses the virtues of remorse, apology and forgiveness, which must be carefully analysed to recognise if it is appropriate for the type of offence committed. If some crimes are truly *beyond apology*, this would make the whole system worthless for those particular crimes, and especially for the victim involved. Jill Filipovic also agrees with this sentiment, stating that the use of RJ in crimes of domestic violence can encourage what is often called 'domestic abuse syndrome', where the victim believes they were somehow deserving of the acts of the perpetrator, and so must forgive them for it<sup>38</sup>. It is clear that this approach would not be beneficial for either the victim or the offender, and may even be damaging for the victim's mental state, which would result in the whole experience being futile. On the other hand, many theorists make a strong case for the use of RJ in cases of domestic violence, including Marilyn Fernandez. Fernandez states that many victims of domestic violence are disenchanted with the way their crimes are dealt with in the CJS, and left with a 'lingering hunger for closure and healing'<sup>39</sup>. She goes on to argue that what victims of domestic violence truly want from the situation is a feeling of empowerment which they have lost due to their assaults, which would be returned to them through RJ. Weitekamp and Kerne reinforce this idea by stating that 'the status quo [the CJS] *disempowers* the primary stakeholders in the conflict. Typically, it silences and marginalises them.'<sup>40</sup>

Another similar case of violent crime is sexual violence and abuse. This section of crimes is especially controversial, with the stigma surrounding sex offenders resulting in a resounding opinion of the public that the Government should *just lock them up*. However, there is a great deal of data available stating that RJ is beneficial for victims in helping them to move on from the crime. Much research states that 'for victim-survivors who wish to pursue this option and are properly supported to do so, [RJ] may offer the potential to

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<sup>37</sup> Stubbs, J. (2007) *Beyond Apology? Domestic Violence and Critical Questions for Restorative Justice*. In: 'Criminology and Criminal Justice', Vol. 7, No. 2 (pp. 169 - 187)

<sup>38</sup> Filipovic, J. (2013) *Restorative Justice in Domestic Violence Cases is Justice Denied*. In: 'The Guardian Online' (12/01/13) <<http://www.guardian.co.uk/commentisfree/2013/jan/12/restorative-justice-domestic-violence>> Accessed 15 January 2013

<sup>39</sup> Fernandez, M. (2010) *Restorative Justice for Domestic Violence Victims: An Integrated Approach to Their Hunger for Healing*. Plymouth: Lexington Books (p. 139)

<sup>40</sup> Weitekamp, E. & Kerne, H. (Eds.) *Restorative Justice, Theoretical Foundations*. Collompton: Willan Publishing, 2012 (p. 15)

secure some measure of justice.<sup>41</sup> Carrington also confirms that RJ can be very beneficial for the offender as well<sup>42</sup>. Carrington states that many sex offenders, especially children, are sometimes unaware of the full impact their crime has had, and so meeting with the victim can help them to further understand this, and so makes desistance a more likely prospect<sup>43</sup>. However, Wright makes the suggestion that, although the nature of sexual violence can make RJ a very difficult course of action for the victim, it is a myth that sex offenders can never be rehabilitated, and it is this myth that prevents victims from engaging in RJ<sup>44</sup>. It is clear that the overwhelming view of the general public is that sex offenders should not be allowed to participate in RJ. Although it is clearly not an official source, this attitude can be seen in a question asked by user Mary Jane via YahooAnswers which enquired whether others thought sex offenders could be rehabilitated. Unsurprisingly, nearly all of the responses were negative, with one stating: 'They shouldn't even be given the chance to "change".'<sup>45</sup> While this resource certainly cannot be said to be proportionate to the views of the public, it is perhaps this view that prevents many victims from engaging in RJ.

Victim participation is an essential part of RJ, as the sessions themselves rely almost completely on the victim's consent. In a 2007 research project, it was found that, in Northumbria adult court cases, only 51% of the 164 victims who were offered RJ conferences agreed to participate, though the percentage did rise to 75% in youth final warning cases<sup>46</sup>. Smaller programs such as CONNECT, a service run by NACRO and the National Probation Service based solely in London, had a higher rate of victims willing to participate, but a much lower sample size<sup>47</sup>. Shapland's research took place between 2004 and 2008, so these figures may have changed, but the project can be seen as proportionate due to very large sample size of over 1,700 victims approached. In 2010, the Ministry of Justice released a paper that stated the number of those willing to participate was in the

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<sup>41</sup> McGlynn, C., Westmarland, N. & Godden, N. (2011) *Is Restorative Justice Possible in Cases of Sexual Violence?* <<http://www.dur.ac.uk/resources/glad/ResearchBriefing-Isrestorativejusticepossibleincasesofsexualviolence.pdf>> Accessed 20 January 2013

<sup>42</sup> Carrington, K. (2009) *Offending Youth: Sex, Crime and Justice*. Leichhardt: The Federation Press (p. 145)

<sup>43</sup> *Ibid.*

<sup>44</sup> Wright, R. (Ed.) *Sex Offender Laws: Failed Policies, New Directions*. New York: Springer Publishing Company, 2009 (p. 449)

<sup>45</sup> User 'Sweetgurl13069' cited in: Mary Jane (2010) *Question: Do You Think Sex Offenders Are Ever Fully Rehabilitated?* In: 'YahooAnswers' (28/10/06) <<http://uk.answers.yahoo.com/question/index?qid=20061028164618AAcQiRD>> Accessed 20 January 2013

<sup>46</sup> Shapland, J. *et al* (2007) *Restorative Justice: The Views of Victims and Offenders. The Third Report from the Evaluation of Three Schemes*. London: Ministry of Justice (p. 43)

<sup>47</sup> *Ibid.*

minority, but ‘those victims who do report high levels of satisfaction.’<sup>48</sup> When analysing the literature, a clear trend began to arise in suggested reasons for victims refusing RJ sessions. These reasons could be summarised as the victim not believing the RJ will stop the offender from reoffending or seeing the session as a lenient punishment, victims doubting the sincerity of the offender, victims being unsure that the sessions will help them personally, and other technical problems such as a basic lack of information about the project.

The idea that RJ will not stop recidivism is a prominent obstacle for those considering alternative forms of offender management. In a 2006 survey by Smart Justice and Victim Support, it was found that 62% of over 3,000 victims of non-violent crime questioned believed the use of prison did not reduce re-offending<sup>49</sup>. The sample of this study consisted of a near equal male female divide, and was collected from varying age groups, social classes and geographic locations, all within England, Scotland and Wales, therefore allowing a reasonable level of generalisation to be applied. With these statistics in mind, coupled with the actual recidivism rates of offenders coming out of prison being over 50%<sup>50</sup>, it is understandable that the general public would be searching for another option - one that is seen to work. In the Victim Support’s survey, perhaps a little surprisingly, there was an overwhelming support for RJ and other similar schemes. Over half of the sample thought recidivism could be reduced by offenders working in the community in reparation for their crimes, and over half also believed that offenders and victims should be allowed to meet in order for the offender to personally make amends<sup>51</sup>. In another similar study headed by Joanna Shapland, it was found that offenders also thought that RJ would reduce the chance of them reoffending, with only a fifth of all offenders questioned stating that it would make little difference<sup>52</sup>.

On the other hand, there is still a proportion of the general public that believes that RJ does not help reduce recidivism, and view it as a ‘soft’ punishment. There are often articles in newspapers or other media pointing out the flaws in the RJ system, for example, the aptly named Daily Telegraph article *Thief Stole Laptop After Apologising To Victim*<sup>53</sup>.

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<sup>48</sup> Ministry of Justice (2010) p. 22

<sup>49</sup> Smart Justice (2006) Accessed 13 January 2013

<sup>50</sup> Ministry of Justice (2012) Accessed 8 January 2013

<sup>51</sup> Smart Justice (2006) Accessed 13 January 2013

<sup>52</sup> Shapland *et al* (2007) p. 4

<sup>53</sup> The Daily Telegraph (2012) *Thief Stole Laptop After Apologising To Victim*. (22/03/12) <<http://www.telegraph.co.uk/news/uknews/crime/9160442/Thief-stole-laptop-after-apologising-to-victim.html>> Accessed 20 January 2013

Catherine Baksi, journalist for The Law Society Gazette, suggests that some may see it as a way to avoid the high cost of sentencing<sup>54</sup>. Many also seem of the view that RJ may work with lesser offences, but believe that ‘for burglaries and other serious offences only custodial sentences will do’<sup>55</sup>. In an online article describing the benefits of RJ, one user self-named ‘Bewildered why we take it’ commented:

‘Soft sentences, soft prisons, soft laws, soft police, soft schools, soft teachers, soft politicians, soft options, soft discipline. We live in a Softocracy.’<sup>56</sup>

It is also a common belief amongst those in Government, especially those of the Conservative party or those with Right-wing views. During a Hansard session discussing community sentences and RJ conferences, David Ruffley, Conservative MP for Bury St Edmunds, Suffolk, called for the Government to introduce ‘tough sentences, not the soft ones we have had up until now.’<sup>57</sup>

Along with this idea of RJ being a ‘soft’ punishment is the victims’ lack of trust in the sincerity of the offender. It can sometimes be very difficult to gauge the authenticity of a person, especially when they have something to gain by lying, and the idea that the offender may not be sincere could stop many victims from taking part in RJ. Baksi states that the many often feel RJ is targeted by offenders as a way to ‘escape prosecution or get a lighter sentence’<sup>58</sup>. The public is consumed with the idea - right or not - that a victim, especially of a violent or sexual crime, would never want to meet their offender, and are therefore being pushed into the RJ system by the police or other parties<sup>59</sup>. Legally, this is not the case, as RJ often needs the approval of the victim, the police and the offender

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<sup>54</sup> Baksi, C. (2012) *How To Judge Restorative Justice*. In: ‘The Law Society Gazette’ (05/04/12) <<http://www.lawgazette.co.uk/blogs/blogs/news-blogs/how-judge-restorative-justice>> Accessed 20 January 2013

<sup>55</sup> User ‘Ryan Salmon’ cited in *ibid*.

<sup>56</sup> User ‘Bewildered why we take it’ cited in: Doyle, J. (2012) ‘*Street Courts’ Are a Vote in Favour of Localism and Restorative Justice - And Could Save on Expensive Court Hearings*. In: ‘The Daily Mail Online’ (16/04/12) <<http://www.dailymail.co.uk/debate/article-2130528/Street-courts-vote-favour-localism-restorative-justice--save-expensive-court-hearings.html>> Accessed 15 January 2013

<sup>57</sup> Ruffley, D. cited in: Hansard HC Daily Debate, Col. 157 (13/11/12) <<http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm121113/debtext/121113-0001.html>> Accessed 20 January 2013

<sup>58</sup> Baksi (2012) Accessed 20 January 2013

<sup>59</sup> *Ibid*.

before sessions can be put into place<sup>60</sup>. As well as this, in Shapland's research, it was found that 90% of victims who had taken part in an RJ conference had received an apology from their offender, in comparison to only 19% of victims who had not taken part<sup>61</sup>. In addition, one participant was quoted to say 'I was really pleased with what the offender said. He was sincere [and] I am pleased with the outcome.'<sup>62</sup> By examining the literature, it also appears that RJ has a perhaps unexpectedly high level of victim satisfaction. Bazemore and Green maintain that victim satisfaction for RJ is much higher than in the CJS, though they also state that this could be more because the RJ typically treats victims with more respect and dignity, and so therefore could be having a positive effect on victim satisfaction regardless of whether they meet their offender<sup>63</sup>. Braithwaite states that, contrary to the CJS, RJ was built as a form of healing justice, one that keeps the victim central to the process, thereby increasing victim satisfaction<sup>64</sup>. 78% of Shapland's victims stated that they would 'definitely or probably recommend [RJ] to others'<sup>65</sup>, and the Ministry of Justice stated that RJ helps return power to the victims<sup>66</sup>, a statement corroborated by Braithwaite, who states that victim empowerment is a main aim of RJ<sup>67</sup>.

The amount of accessible information about RJ can have a huge effect on what people will think of RJ, and misinformation can become a major barrier to victim engagement. In the law, the Criminal Justice Act 2003 describes five purposes of sentencing:

- (a) the punishment of offenders,
- (b) the reduction of crime (including its reduction by deterrence),
- (c) the reform and rehabilitation of offenders,
- (d) the protection of the public, and

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<sup>60</sup> Brownlee (2010)

<sup>61</sup> Shapland *et al* (2007) p. 3

<sup>62</sup> *Ibid.* (p. 21)

<sup>63</sup> Bazemore, G. & Green, D. (2007) "Yardsticks" for Victim Sensitive Process: Principle-Based Standards for Gauging the Integrity of Restorative Justice Process. In: 'Victims & Offenders: An International Journal of Evidence-based Research, Policy, and Practice', Vol. 2, No. 3 (pp. 289 - 301) p. 291

<sup>64</sup> Braithwaite, J. (2004) *Restorative Justice and De-Professionalization*. In: 'The Good Society', Vol. 13, No. 1 (pp. 28 - 31) p. 28

<sup>65</sup> Shapland *et al* (2007) p. 4

<sup>66</sup> Ministry of Justice (2010) p. 80

<sup>67</sup> Braithwaite (2002) p. 564

- (e) the making of reparation by offenders to persons affected by their offences.<sup>68</sup>

It could be implied that the priority of the CJS has been consumed into this Act, with punishment at the top of the list and reparation at the bottom. It is also clear that the media and other sources, official or otherwise, have a huge effect on the amount of information the general public has access to. RJ has often been the subject of ridicule by tabloid newspapers. Like a small section of the public, the media often portray RJ, along with many other alternate forms of punishment, as the 'soft' option, a joke abused by offenders to escape jail time or improve their image for a parole board. The tabloids often circulate the common perception that the offender is taking both the victim and the police for a fool, faking an apology purely to look better when the crime comes to court. For example, the Sun's headline of *Street Law 'Failure'*<sup>69</sup>, or the Daily Mail's *Trendy 'Restorative Justice' Schemes To Stamp Out Bullying At Schools 'Do Not Work'*<sup>70</sup>. On the other hand, other papers such the Guardian and the Telegraph often print very encouraging reviews of RJ, such as their respective articles *Does Restorative Justice Work? Yes!*<sup>71</sup>, and *Restorative Justice Could Actually Restore Justice*<sup>72</sup>. In an unusual twist<sup>73</sup>, the typically very retribution-sided Daily Mail has also recently been coming forwards in favour of RJ systems<sup>74</sup>. Interestingly, this turn of events has not been well received by its readers<sup>75</sup>, thereby showing that, although the media may have a strong effect on people's views, it is not always the case that the public will believe whatever it hears.

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<sup>68</sup> Criminal Justice Act 2003, s. 142

<sup>69</sup> The Sun (2012) Accessed 15 January 2013

<sup>70</sup> Clark, L. (2009) *Trendy 'Restorative Justice' Schemes To Stamp Out Bullying At Schools 'Do Not Work'*. In 'The Daily Mail Online' (02/07/09) <<http://www.dailymail.co.uk/news/article-1197102/Trendy-restorative-justice-schemes-stamp-bullying-schools-work.html>> Accessed 15 January 2013

<sup>71</sup> Laughland, O. (2011) *Does Restorative Justice Work? Yes!* In: 'The Guardian Online: The Conversation' (21/05/11) <<http://www.guardian.co.uk/commentisfree/2011/may/21/conversation-restorative-justice>> Accessed 15 January 2013

<sup>72</sup> Palmer, A. (2009) *Restorative Justice Could Actually Restore Justice*. In: 'The Telegraph Online' (31/10/10) <<http://www.telegraph.co.uk/comment/personal-view/6475013/Restorative-justice-could-actually-restore-justice.html>> Accessed 15 January 2013

<sup>73</sup> For an example of their usual attitude towards RJ, see: Doyle, J. (2013) *How 34,000 Criminals Have Been Given a Let-Off By Police... Because They Said Sorry*. In: 'The Daily Mail' (30/04/13) <<http://www.dailymail.co.uk/news/article-2316961/How-34-000-criminals-given-let-police-said-sorry.html>> Accessed 30 April 2013. Note both the author and the date for an example of media changeability.

<sup>74</sup> Doyle (2012) Accessed 15 January 2013

<sup>75</sup> For instance, see comment by user 'Nanuk of the North': 'Which planet are you on Mr. Doyle? Talk about trying to get into Call me Dave's good books.' cited in *ibid*.

However, it is clear that the media is a substantial source of information for a significant percentage of the population, and, with the majority of the media being against RJ, it can be said that the preponderance of the information the public is receiving is also negative. In answer to this conundrum, Vicky De Mesmaecker states that there must be a better relationship between the media and criminologists, where sharing of information becomes more open, therefore allowing the public access to the factual information that it needs<sup>76</sup>. Kelly Richards explored this theory, suggesting that the idea of RJ would only truly be accepted in the minds of the public after it had been explicitly explained<sup>77</sup>. Granted, there is clearly a great deal of information accessible about RJ, but, arguably, the majority of information that the public will have access to will be through the media, which is clearly not a trustworthy source. Nonetheless, although this idea is sound in theory, it would be a very difficult thing to bring into practise. The media's freedom of speech allows them to sensationalise projects such as RJ, and with this also selling more newspapers, it is perhaps unlikely that they would concede to what is, for all intents and purposes, a method of keeping them controlled.

It is clear that there is a great deal of literature available on RJ. However, on completion of this Literature Review, it became clear that, although there was some research from wider Derbyshire and the West Midlands, there was little available from the city of Derby. It also became clear that the presiding force behind RJ was the victims, as they are the ones who ultimately decide whether the RJ sessions will take place. This Literature Review therefore led to the creation of the research question: 'Barriers to Victim Engagement in Restorative Justice: Perspectives of Victims of Assault in Derby'. To explore this question, four aims were created. The first aim will be simple: to discover possible barriers to victim engagement in RJ. It has been found that victim engagement in RJ can have a huge impact on the rehabilitation and reintegration of offenders in society, and so it is important to research what factors can prevent victims from participating in RJ with a view to recommending changes. There were also few studies concerning as specific a field as victims of assault, so the second aim will then be to examine the views of victims of assault on RJ. Another point of interest revealed during this literature review was the idea that the views of offenders, the general public, and specifically victims themselves on

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<sup>76</sup> De Mesmaecker, V. (2010) *Building Social Support For Restorative Justice Through The Media: Is Taking The Victim Perspective The Most Appropriate Strategy?* In: 'Contemporary Justice Review: Issues in Criminal, Social, and Restorative Justice', Vol. 13, No. 3 (pp. 239 - 267)

<sup>77</sup> Richards, K. (2005) *Unlikely Friends? Oprah Winfrey And Restorative Justice*. In: 'Australian & New Zealand Journal of Criminology', Vol. 38, No. 5 (pp. 381 - 399)

RJ often change according the type of crime that has been committed. However, these views are not often consistent or identical across different people, leading to the third aim of discovering if these views change according to the severity or nature of the offence. The final aim will be to determine whether previous knowledge of RJ has an effect on these views, as there seemed to be a huge issue of misinformation among the general public and especially the media, which could have a significant effect on whether a person approved or disproved of the RJ system.

### CHAPTER 3: METHODOLOGY

To fulfil the aims and answer the main objective, a questionnaire was designed to be handed to thirty victims of assault over the age of eighteen selected through the Witness Service in Derby Magistrates' Court. The participants will only be selected if they have not had any flags put against their name by the Witness Care Unit, a system which highlights those of a vulnerable or intimidated nature. Attempts will be made to ensure an equal number of males and females are chosen, so some potential participants will be passed up in favour of others, and all participants will be chosen between 1<sup>st</sup> December 2012 and 30<sup>th</sup> March 2013. In accordance with ethical considerations, the questionnaire will be accompanied by a participant information form, which will describe withdrawal procedure and the purpose of the project, and a detailed consent form to ensure full, informed consent. The participants will also receive a written debrief reiterating the means of withdrawal and thanking them for their time, which they will be allowed to keep. The debrief section will also advise participants to seek help from Victim Support if they are affected by the content of the questionnaire, and will provide their contact information. As well as this, the participant information form will include a brief explanation of RJ in case the participants are unaware of the process. Each questionnaire will contain a unique number created by stating initials and the last two digits of their phone number that participants will have to quote should they wish to withdraw, therefore removing the need to place names on questionnaires and increasing confidentiality. Participants will be given an envelope to seal their papers into, and all completed questionnaires will be kept in a locked drawer during the creation of this report, and then destroyed after use.

The questionnaire included sixteen questions; this number of questions was chosen so that the number was not too high to lack in-depth information or possibly dissuade potential participants, but not too low that there would be insufficient data taken<sup>78</sup>. The questionnaires will be self-administered in Derby Magistrates Court. A disadvantage of this is that the setting of research can have an effect on the attitude of the participants<sup>79</sup>, and the stress of their court case could clearly exacerbate this, but all possible steps will be taken to keep them at ease, including the use of a waiting room away from the main court rooms. A questionnaire was chosen over other similar data collection methods for several

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<sup>78</sup> Opdenakker, R. (2006) *Advantages and Disadvantages of Four Interview Techniques in Qualitative Research*. In: 'Forum Qualitative Sozialforschung / Forum: Qualitative Social Research', Vol. 7, No. 4. <<http://nbn-resolving.de/urn:nbn:de:0114-fqs0604118>> Accessed 13 January 2013

<sup>79</sup> Bowling, A. (2005) *Mode Of Questionnaire Administration Can Have Serious Effects On Data Quality*. In: 'Journal of Public Health', Vol. 27, No. 3 (pp. 281 - 291)

reasons. Firstly, the sample size of thirty participants made interviewing impractical due to time constraints, and the use of a questionnaire was more practical for sampling through Witness Service, as it could be completed while the participant was waiting for court. Although there are clear benefits for the researcher in having more time with the participants, this method would cause less of an inconvenience, and so theoretically create a higher level of response<sup>80</sup>. Another benefit concerning questionnaires is that they are also able to capture both qualitative and quantitative data in a simple, easily legible fashion.

Ghosh and Chopra describe the difference between qualitative and quantitative data by stating that qualitative questions capture description, whereas quantitative questions can only gain answers that can be expressed or analysed numerically<sup>81</sup>, such as dichotomous questions. Both types of data clearly have their own levels of significance, and being able to capture both in one research method would be advantageous. A questionnaire also can include many different varieties of question, such as open and closed format, importance, likert scale, dichotomous and rating scale questions. Although an interview can allow a researcher to clarify the exact meaning of the participant, using a variety of different question formats in questionnaires allows the researcher to gain a higher level of understanding than by using purely quantitative questions<sup>82</sup>.

Another benefit of using questionnaires is the lack of face-to-face contact during completion. Many participants can become nervous during interviews, which can affect the quality of the answers they give and also their willingness to participate<sup>83</sup>. As well as this, participants are more likely to be candid and descriptive during a questionnaire due to an increased perception of confidentiality<sup>84</sup>. An act as simple as being able to leave the room while the participants complete their questionnaire can relax the participant enough to gain measured, considered responses, and can also help combat the social desirability bias, a tendency of participants to answer as they believe the researcher wishes them to<sup>85</sup>. This bias could have a huge effect on the results gained and completely change the overall findings, and so must be avoided as much as possible.

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<sup>80</sup> Seale, C. (Ed.) *Social Research Methods: A Reader*. London: Routledge, 2004 (p. 164)

<sup>81</sup> Ghosh, B. and Chopra, P. (2010) *A Dictionary of Research Methods*. Leeds: Wisdom House Publications

<sup>82</sup> Seale, C. (Ed.) *Social Research Methods: A Reader*. London: Routledge, 2004 (p. 99)

<sup>83</sup> Shelly, G. & Rosenblatt, H. (2009) *Systems Analysis and Design* (8<sup>th</sup> Ed.) Boston: Cengage Learning (p.165)

<sup>84</sup> *Ibid.*

<sup>85</sup> McBurney, D. & White, T. (2007) *Research Methods* (8<sup>th</sup> Ed.) Belmont: Cengage Learning (p. 249)

The main disadvantages of adopting a questionnaire method are mainly to do with the subjectivity of the answers received and the way the researcher will interpret them<sup>86</sup>. In this case, however, the nature of the research question allows a certain amount of subjectivity, as it analyses the thoughts and ideas of the victims, which invites a more qualitative approach. Qualitative approaches, however, can be difficult to replicate if the study should be attempted again<sup>87</sup>, which reduces the study's validity. The use of coding employs the researcher as the sole decider on whether or not a piece of information is important, which may cause misinterpretation about what a participant truly meant. As well as this, there is the danger of participants misunderstanding the nature of the questions. During an interview, participants can ask the researcher to clarify or explain a question if they do not understand, which they can not to a certain extent during a questionnaire<sup>88</sup>. To try and combat this, the questionnaire was written in clear, concise language to allow better understanding for the participants. There is always, however, the potential for the participant to have not read the participant information form properly, or to have misunderstood the meaning, and therefore have no real understanding of RJ, which will affect their answers.

As well as this, there is also the potential to encounter acquiescence response bias. Particularly prevalent during questionnaires significantly composed of dichotomous, close-ended questions, acquiescence response bias is where a participant may have a tendency to choose the positive answer to every question supplied; for example, continuously choosing 'true' over 'false'<sup>89</sup>. To try and avoid this predicament, the questions created will be a mix of many different forms of question, including open-format, so there is less of a chance of a participant 'just ticking the boxes'<sup>90</sup>. Some questions will also be repeated during the questionnaire in a different format, which could help to discover if the participant has acquiescence response bias. For instance, the first question could be a true or false 'Do you think that RJ helps victims to move on from the crime?', with the second being reversed into an open-ended 'Why do you think victims participate in RJ?' This will allow the end results to be a great deal more reliable than if it was created using just closed, dichotomous questions.

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<sup>86</sup> *Ibid.*

<sup>87</sup> Shelly, G. & Rosenblatt, H. (2009) *Systems Analysis and Design* (8<sup>th</sup> Ed.) Boston: Cengage Learning (p.165)

<sup>88</sup> McBurney & White (p. 248)

<sup>89</sup> *Ibid.* (p. 249)

<sup>90</sup> *Ibid.*

After the collection of all finished questionnaires, the answers will be collated and analysed. Graphs and charts will be created to examine quantitative data responses, and qualitative responses will be analysed using coding frames. The use of coding frames is a form of analysis where the researcher selects the most significant responses, paying attention to details or specific words which are repeated across questionnaires, and analyses them under specific headings<sup>91</sup>. There are several disadvantages of this form of analysis. As mentioned, coding is subjective as it relies on the researcher to decide which pieces of information are important. Seale states that, during coding, the researcher is 'inevitably going to lose information'<sup>92</sup>, which can make the findings less reliable. On the other hand, coding is an excellent way of gaining a broad perspective of the information gained, and also of seeing the major similarities and differences between the consciousnesses of the participant<sup>93</sup>. Another positive is that coding allows the researcher to pay specific attention to points pertaining to the objectives of the research, which helps to fully answer the research question. Coding is also useful for showing contrasting points, which can show the differing views on RJ amongst the general population, and inform the chosen aims. To this aim, word maps will be created to straightforwardly show the prevalence of certain key terms, therefore allowing further analysis of why they appear to be reoccurring.

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<sup>91</sup> Opdenakker (2006) Accessed 14 January 2013

<sup>92</sup> Seale, C. (Ed.) *Social Research Methods: A Reader*. London: Routledge, 2004 (p. 142)

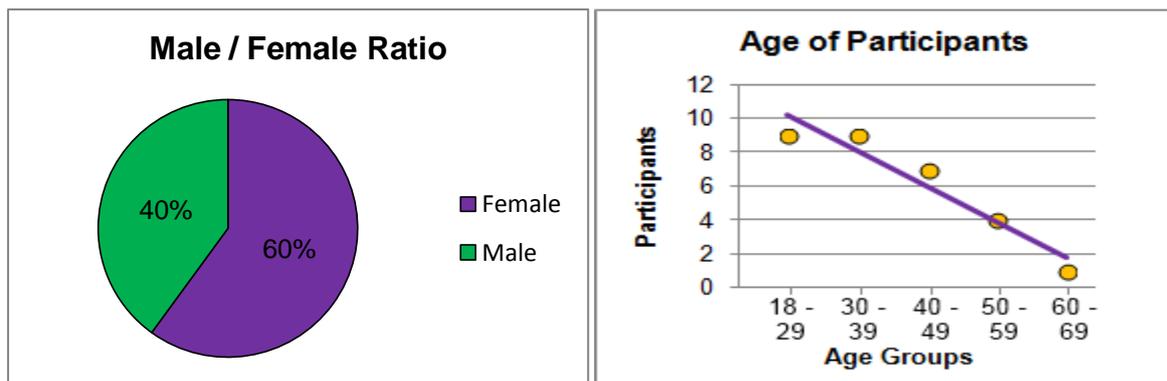
<sup>93</sup> *Ibid.*

## CHAPTER 4: ANALYSIS

Before the analysis could be completed, the participants were split into two categories: those who knew of RJ before this study, the ‘aware’ category, and those who did not, the ‘unaware’ category. All data was analysed according to these two categories. To create these findings, all data responses were calculated in forms of percentage, due to the differing number of ‘aware’ and ‘unaware’ participants. The quantitative data was then assembled into pie charts, bar graphs and scatter diagrams as appropriate, and qualitative data was arranged in word maps for ease of viewing.

According to coding frames, the findings and analysis in this chapter will be split into six distinct sections: Sample Characteristics, Helping Victims, Helping Offenders, Perceptions of ‘Justice’, Knowledge and Understanding and Barriers to Victim Engagement. These frames were discovered by the researcher during analysis of the raw data as the most important and repetitious factors discussed by the participants. Because of this, the questions analysed may not appear in the order of the questionnaire, but more in the order of subject data.

### 4.1: Sample Characteristics



Graph 1: Male/Female Subject Ratio

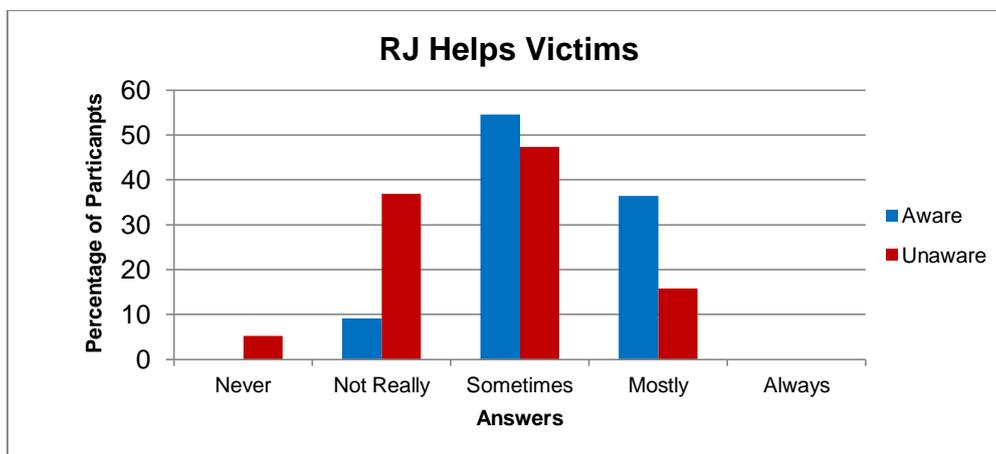
Graph 2: Age of Participants

All in all, forty questionnaires were handed out with thirty-two being returned. Two questionnaires had to be destroyed due to non-completion, and their data was not used in this report. As shown, there were a disproportionate number of male subjects (twelve) compared to female (eighteen), and the number of participants narrowed as the age groups increased, with the largest being the ‘18 to 29’ and ‘30 to 39’ age groups with nine participants each.

### 4.2: Helping Victims

*“For the first time they’re given a voice. They can ask questions and then maybe get some answers. They can know it wasn’t their fault.”*

*“What if they don’t get what they came for? What if the offender refused to apologise? That would just make things worse.”*

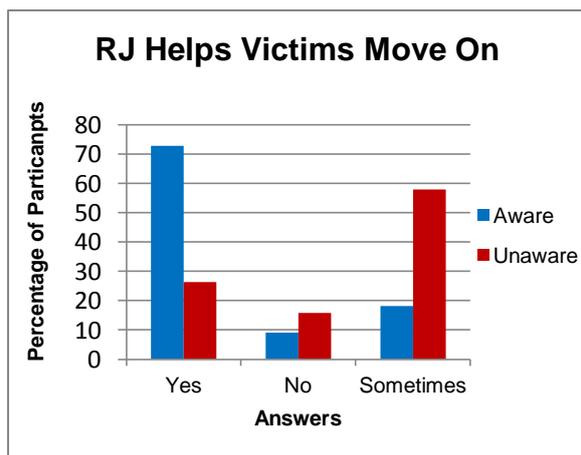


Graph 3: Question 3

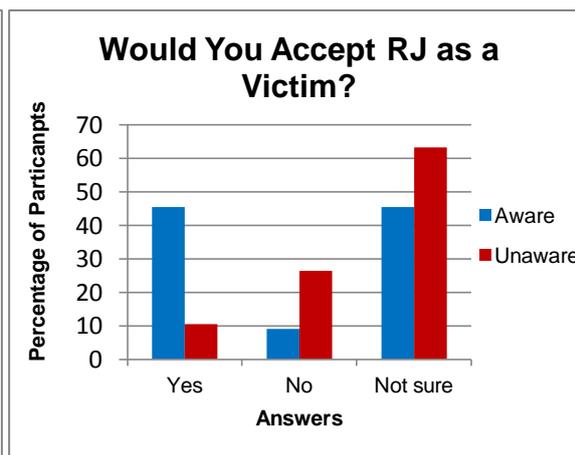
Questions 3 and 5 explored the participants’ belief in whether RJ helped victims of crime. As victims themselves, they would no doubt have a unique view on this, as they could relate it to their own scenario and so create a more emotive response. As shown by Graph 3, there was a variety of responses to this, with the answers more likely to be positive if the participants were in the ‘aware’ category, but the majority of both categories answered ‘Sometimes’. This seems to contrast what appeared to be the general view of the public and media discussed in the Literature Review, but supports the statement that victims’ views are not often consistent. However, there were some strong objections by the minority here, though strangely, not from both sides. While one person in the ‘unaware’ category stated that RJ could ‘Never’ help victims, no participants stated that RJ could ‘Always’ help. This appears to be due to subjective nature of RJ; with a plethora of possible crimes, situations and offenders, it is undoubtedly impossible to say for sure whether a RJ session would help every single victim that participates in it. However, this does not explain the one subject that answered ‘Never’, but this participant seemed to be extremely against the whole process overall, perhaps due to a bad experience with the program, which would explain this anomaly.

In rationalising their choices, the main reasoning of the participants who gave a positive view of RJ seemed to be because RJ answered the questions of the victim. There were also references to the importance of gaining an apology from the offender, and one participant stated that RJ gives victims a voice. There was also a great deal of comment stating that it “depends on the victim and the crime”, thereby explaining and substantiating

the previous theory that the broad nature of RJ could be having an affect here.



Graph 4: Question 5



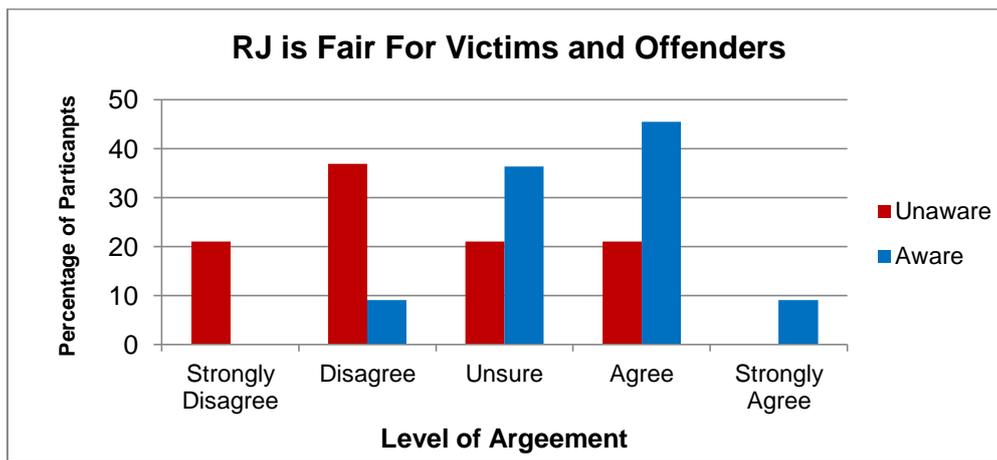
Graph 5: Question 4

Question 5 took question 3 into deeper analysis, and asked whether participants thought that RJ specifically helped victims to move on from the impact of their crimes. As shown by Graph 4, there is a clear divide between the ‘unaware’ and ‘aware’ categories, with the majority of the ‘aware’ category being very positive and the majority of ‘unaware’ participants being unsure. However, the majority of all participants selected the ‘Sometimes’ selection, suggesting that, again, the subjects believed that RJ depends on the situation. The explanations given for these choices included an overwhelming 80% of the people who selected ‘Yes’ or ‘Sometimes’ stating that it was a good way to “let their emotions out”, or to “get rid of their anger, and so move on”. Ten of these participants also suggested that the release of the emotions allowed the potential for forgiveness of the offender, suggesting that these participants thought forgiveness to be an important part of the RJ process. Again, 90% of the ‘Sometimes’ category stated that it depended on the crime, the victim or the circumstances of the offence, or a combination of the three.

Question 4 asked explicitly if the participant themselves would partake in RJ. In this case, despite the positive views of the participants before, even the ‘aware’ participants mostly answered ‘Not Sure’, showing a divide between how the subjects see RJ and whether they thought it would benefit them personally. The ‘unaware’ category, again, answered mostly with ‘No’ and ‘Not Sure’, making their answers more consistent.

It is interesting to note the anomaly in both question 4 and 5 - the ‘aware’ participant who both would not accept RJ and thought that RJ did not help victims to move on. While not anomalous in thought, of course, as it is perfectly acceptable to have these beliefs, this was uncharacteristic of the ‘aware’ group. On analysis, this was found to be the same participant who was also very pessimistic about RJ in general, and so perhaps had had a

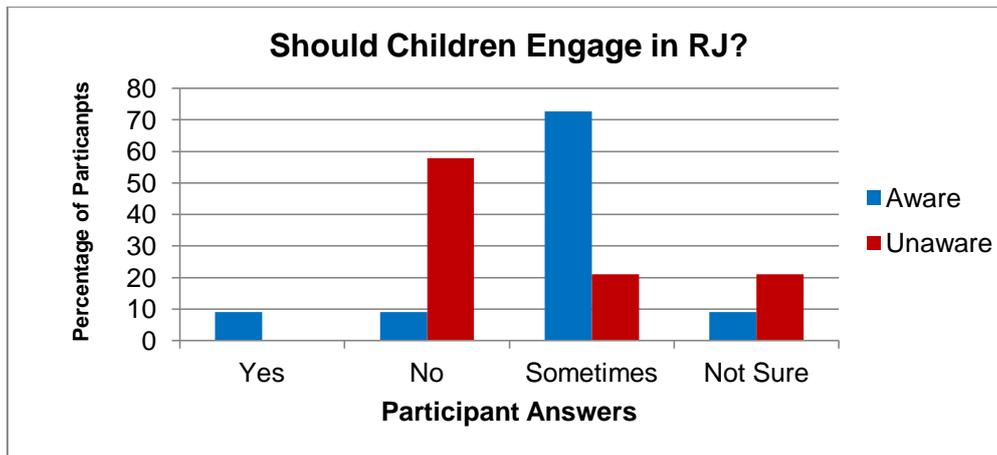
negative experience of RJ like the previous anomaly. This participant also noted that RJ “makes them [the victims] feel better at the time, but it doesn’t keep them feeling that way”, implying that the participant believed RJ was a short-term fix. In answering why they had picked their answers, many participants again stated that it depended on the crime and the circumstances. Three of the participants who had answered ‘No’ also stated that it would make them uneasy to meet their offender, and that it would cause them fear or anxiety. This links in with the possible barriers to victim engagement as outlined in the Literature Review<sup>94</sup>.



Graph 6: Question 8

Question 8 explored whether RJ was fair for both victims and offenders. As shown, the majority of participants reported answers within the middle three categories, while the ‘unaware’ category predominantly chose the most negative responses, and vice versa for the ‘aware’ category. Interestingly, this question also shows the first instance of the ‘aware’ category being less convinced of their answer than ‘unaware’, with forty percent choosing the ‘unsure’ option. However, this is also a question where both of the most extreme-sided options - ‘Strongly Agree’ and ‘Strongly Disagree’ - had at least ten percent of the subjects, with ‘Strongly Disagree’ having four votes, all from the ‘unaware’ section. This may be to do with the wording of the question compared to previous questions; the ‘fairness’ of RJ may be seen as a completely different matter to the more emotional and subjective question of whether it ‘helps’.

<sup>94</sup> For example: Baksi (2012) Accessed 20 March 2013; Shapland *et al* (2007)



Graph 7: Question 11

In order to explore whether the participants thought there should be restrictions on RJ, question 11 asked if they thought children should be allowed to engage. As shown by Graph 8, the majority of participants, surprisingly, reported a negative view of this, with highest selected answer being 'No', and the second highest being 'Sometimes'. Interestingly, only one participant stated that children should always be allowed to engage, stating that child offenders should to "lay down boundaries", and victims because "it would be good for them to learn not to be afraid to stand up to bullies." The rest of the concerns appeared to be for the wellbeing of child victims, with many participants stating that they could be "scarred" by the encounter. As well as this, there were concerns that a child offender may not "understand exactly what he's done", so making RJ useless for them. This contrasts what appeared to be the general view of the Literature Review - and, indeed, the main aims of RJ itself - because of the fact that the majority of RJ sessions are partaken by youths<sup>95</sup>. However, there were some strong objections by the minority who stated that it depended purely on the maturity or age of the child. There was also an interesting debate between the 'aware' and 'unaware' categories regarding the maturity of the children; many stated, as a negative, that children were "easily forgiving", whereas a few participants stated that, if a child was to participate in RJ, they had to be "mature enough to forgive."

#### 4.3: Helping Offenders

*"RJ forces an offender to realise the depth of what he has done. 'I am your victim. This is what you've done to me.' It forces them to recognise their victims as human. Maybe they'll think twice about doing it again."*

*"How could this ever help anyone? They'll just lie. Why would that ever make them change?"*

<sup>95</sup> Shapland *et al* (2007)



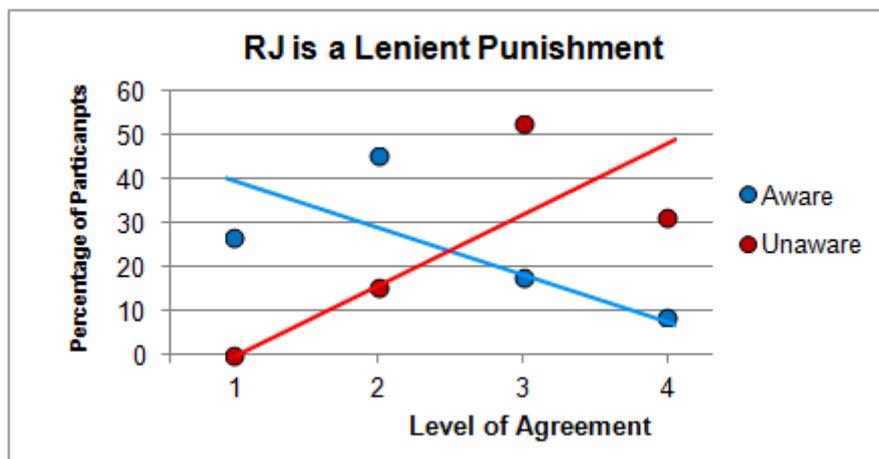
Graph 8: Question 2

An important part of examining perceptions of RJ is how the participants believed it affected offenders. To explore this in its basest form, question 2 asked whether the participants believed RJ helped stop crime. They were asked to scale their belief from one to four - one being not at all, four being very much. As shown, the results were quite diverse, but there is a definite trend line showing 'aware' participants to be more open to the idea than 'unaware' participants, though the trend line for the latter is a little steeper. In explanation of these answers, the majority of participants with positive views (three to four) referenced in some way the fact that the face-to-face contact with victims would "force them to realise the impact of their actions" by seeing the victim as an actual person. Many also stated that the offender's guilt would cause them to change their view of crime, similar to that of Braithwaite's 'reintegrative shame' theory<sup>96</sup>. This is supported by Smart Justice's report which found that offenders believed RJ would reduce the chance of them reoffending<sup>97</sup>. However, there were many objections to whether RJ actually stopped crime. Many of the negative participants (answers one to two) stated that RJ itself did not actually stop crime, but rather prevented crime from reoccurring. While this was actually what the question was asking, it is interesting to see that the participants were strongly against the view of RJ 'stopping' crime, as opposed to it preventing recidivism. As well as this, many were of the view that RJ would not stop recidivism either. One participant stated that "If they've done it once, they'll probably do it again", and many agreed with this statement, with the overall majority picking 'two'. This contrasts the Literature Review in that it was

<sup>96</sup> Braithwaite (1997)

<sup>97</sup> *Ibid.*

found that RJ has quite high desistance rates<sup>98</sup>, but matches in that the reverse belief was outlined as a potential barrier to victim engagement.



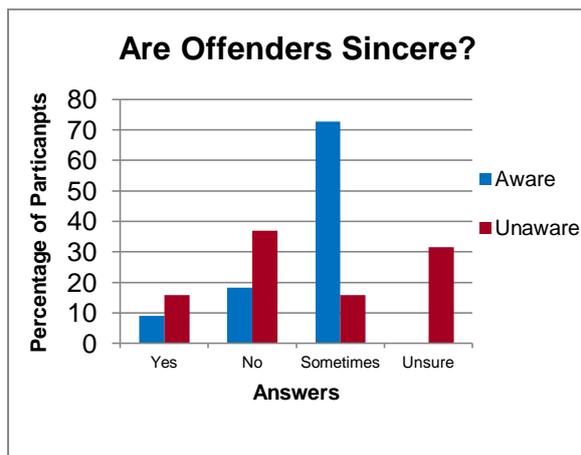
Graph 9: Question 6

Question 6 discussed whether the victims considered RJ a ‘lenient’ punishment. Again, the participants were asked to scale their belief from one, being not at all, to four, being very much. As shown, there is a clear correlation between the ‘unaware’ category and belief in this statement, and the ‘aware’ category and disbelief in this statement. However, there is one anomaly in the fact that three ‘unaware’ participants chose 1, the lowest level of belief. This is, however, perhaps explained by the fact that the first two were overall positively minded about RJ, and the last subject seemed to believe that RJ was very positive for offenders, but not for victims. The three subjects were also all in the 50 to 59 age group, perhaps suggesting that perhaps there is a link between positive view points of RJ and age. However, overall, the majority (40%) picked 3, despite the low percentage of ‘aware’ category subjects, thus showing an overall belief that RJ is somewhat considered to be a lenient punishment. This is supported by the media representation of RJ as discussed in the Literature Review, who also suggested that RJ was an offender’s way of ‘getting off easily’<sup>99</sup>.

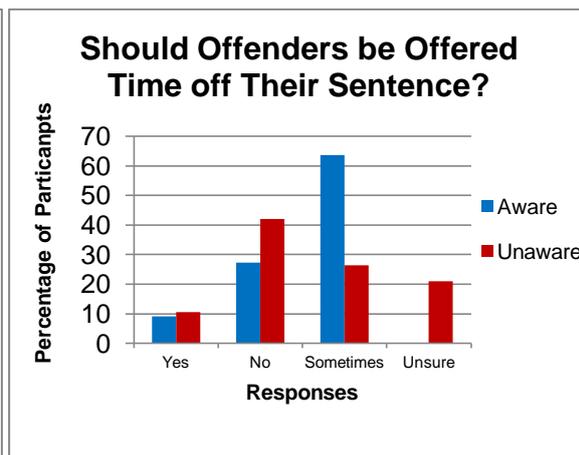
Many reasons were provided for these answers, including the usual that it would depend on the offender, but some also stated that RJ itself was not supposed to be a punishment - but that it was, instead, “reparation and compensation”. There was also a great deal of comments suggesting RJ is a lenient punishment because they doubted the sincerity of the offender.

<sup>98</sup> Smart Justice (2006) Accessed 20 March 2013

<sup>99</sup> Doyle (2013) Accessed 30 April 2013.



Graph 10: Adapted from Question 14



Graph 11: Question 15

On this line, question 14 discussed whether participants believed offenders would be sincere in their apologies. As this question was a qualitative, open-ended question, the results were adapted into the form of a graph by what the overall tone of their answer appeared to be. Four themes were chosen: ‘Yes’, ‘No’, ‘Sometimes’ and ‘Unsure’. As shown, the vast majority of ‘aware’ participants believed that this depended on many different factors, which included the offender, the offence and the victim. However, the ‘unaware’ category was more inconsistent, with some being overly positive or negative, and some appearing more uncertain in their answers. The participants who answered positively mostly quoted the belief that the offenders would not have been offered RJ if they had been considered insincere, or had a history of untruths, such as fraud convictions. However, those who answered negatively stated that many offenders would use RJ as an excuse to put them in a better light with either parole or the police, and would therefore not be perturbed about lying. Three participants also stated that RJ should never be offered to repeat offenders, as “they clearly aren’t sorry if they’ve done it more than twice.” This links into Haley’s theory that victim-offender apologies are not effective with repeat offenders, especially addicted offenders<sup>100</sup>. One participant also brought up the interesting point of whether it actually mattered if the offender lied. They proceeded to say that the RJ then would clearly not have had that much of an effect on the offender, but, so long as the victim is not aware that the offender is lying, “it’s still going to have the same result”, similar to a placebo effect.

Linking in closely with this was question 15, which asked whether participants thought offenders should be given a reduced sentence in return for their engagement in RJ

<sup>100</sup> Haley, John cited in: Messmer & Otto (1992) p. 122

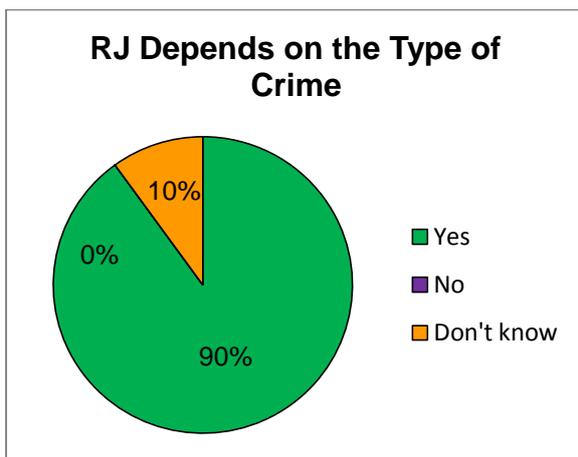
(Graph 11). Overall, the majority of participants (40%) chose 'Sometimes', and went on to reiterate the dependence of offender, victim and crime on their decision. Only 10% of participants agreed with the statement, of which, interestingly, only one was of the 'aware' category. Of those that agreed, one participant explained that it was beneficial as it gave offenders "hope for the future". Another stated that "they do something good, they get something good", and the last held that offering reduced sentences was "a good way to get victims what they need". Of those who gave negative answers, a common theme was that it would directly affect the sincerity of the offender; "if they know they'll get time off, they'll lie to get it."

#### 4.4: Perceptions of ‘Justice’

*“Their [sic] all bad people if they commit crime in the first place and its like the soft option.”*

*“It’s best when used with lesser crimes. That way the offender doesn’t get criminalised, the victim gets what they want (apology, fixing damage etc), and everybody wins.”*

A theme that kept arising during the course of the report was the feeling that RJ was an ‘injustice’ on the part of the offender. These views were sometimes very passionately stated, with a great deal of debate occurring in the questionnaires. This therefore convinced the researcher that the topic of whether RJ was ‘just’ could have a major impact on whether a person would accept a session or not. The first instance of this being observed was the type of crimes the participants believed RJ should be used for.



Graph 12: Question 9

Question 9 asked simply whether the participants believed RJ depended on the type of crime committed. As shown, the results were almost unanimous. Out of all thirty participants, only one did not state that their response depended on the victim, the crime or the offender at some point during the questionnaire, and only two answered question 9 with ‘Don’t know’. This is a very prominent point to take into account when considering possible barriers to victim engagement in RJ. None of the participants believed RJ was a universal decision, and so, as posited in the Literature Review, it is obviously necessary to consider the circumstances of the offence before allowing an RJ session to commence.

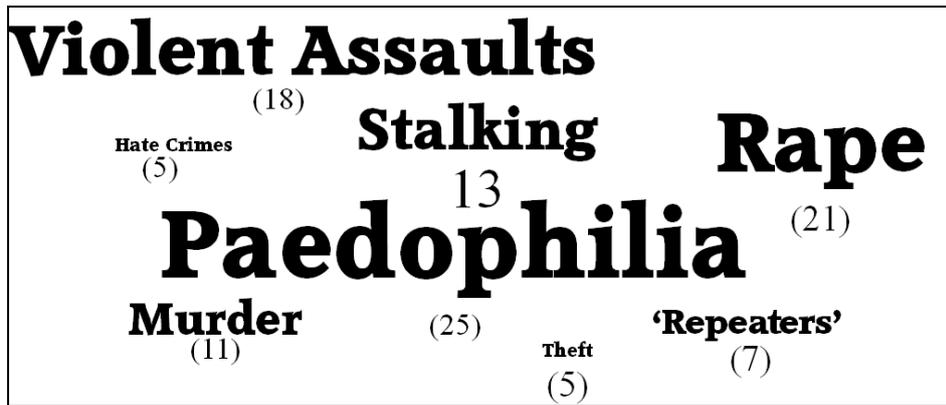


Figure 1: Word Map of Responses to Question 10

Question 10 asked what types of crime the participants believed RJ should *not* be used for. As this was a qualitative question, the results were formed into a word map which utilised various encompassing words for certain offences. The coding frame of 'rape', for example, also included answers along the lines of 'sexual assaults' or 'crimes of a sexual nature'. As predicted in the Literature Review<sup>101</sup>, the main cause for concern amongst the participants was paedophilia, followed closely by rape. Hate crime was also mentioned, which is another problem that was exposed in the Literature Review<sup>102</sup>. The concerns here were mainly for the mental wellbeing of the victim, but, with crimes such as theft and repeat offenders, the overall view was that the offenders would get nothing out of the session.

<sup>101</sup> Wright (Ed.) p. 449

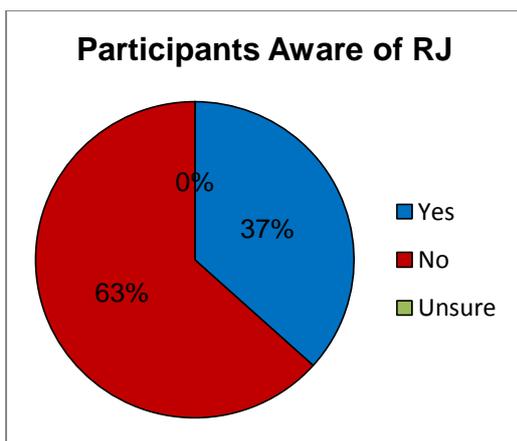
<sup>102</sup> Gavrielides (2012) Accessed 20 April 2013

#### 4.5: Knowledge and Understanding

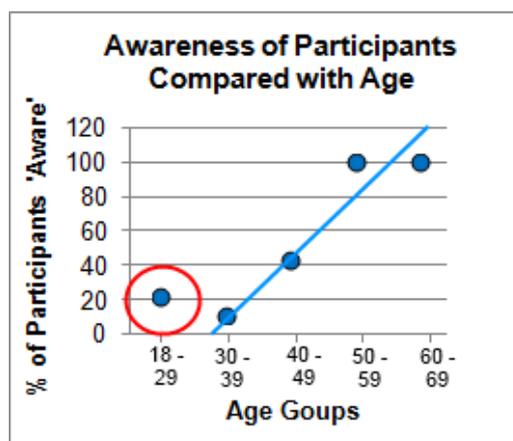
*“You hear reoffending rates are so high.”*

*“Maybe they don’t know RJ exists - it’s not well advertised.”*

The matter of knowledge and understanding of RJ is a complicated one. During the questionnaires, there was little reference by the participants on where or how they have gained their information concerning RJ, but the impact of popular media could be seen in their understanding of certain RJ practises, such as offender apologies. Many also had views very similar to those spread by certain tabloid newspapers, such as the habit of referring to RJ as a ‘soft option’.

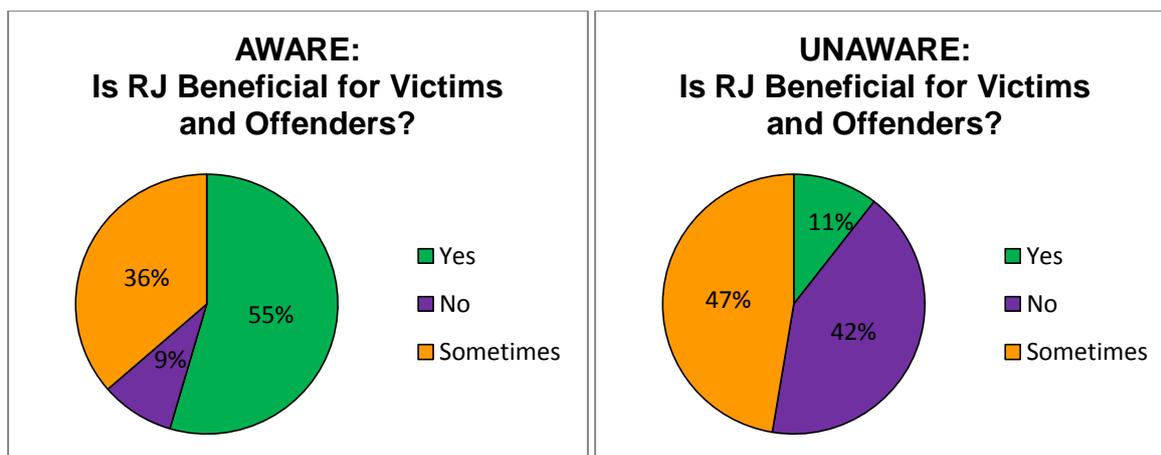


Graph 13: Question 1



Graph 14: Comparison of Age and Awareness

The first question asked was whether the participant had heard of RJ before the day of the report, which was the criterion used to separate the participants into the ‘unaware’ and ‘aware’ categories. Alarmingly, out of all participants, only eleven had heard of RJ, while nineteen had not - almost double the ‘aware’ participants. As well as this, when examining age in comparison with awareness, it became apparent that the older the participant, the more likely they were to have heard of RJ. Although this may seem obvious, it is a little unexpected considering that RJ is relatively new in terms of public promotion. On the other hand, the age discrepancy may be due to the fact that perhaps older participants were more likely to read about programs in this in the newspapers. There is, however, an anomaly (circled) in that the age group ‘18 - 29’ has more ‘aware’ participants than expected by the line of best fit. However, this may be due to the fact this age group is the most common age of students, which could therefore mean that some might be studying RJ for their courses, and so would obviously be more aware of it. There was little change between male (33% ‘aware’) and female (39% ‘aware’).



Graph 15: Question 16 - 'Aware' Category

Graph 16: Question 16 - 'Unaware' Category

Question 16 asked if, overall, the participants thought RJ was beneficial for both victims and offenders. Although this question is remarkably similar to question 8 (see Graph 6, p. 24), the fact that this was the last question means the participants have had more time to consider what they believe during the course of the questionnaire, and so will perhaps gain more informed answers than the former version. These two graphs show a clear divide between the 'aware' and 'unaware' category. As found by Richards in her experiments<sup>103</sup>, the 'aware' participants are more open to the idea of RJ, and believe it has a more positive effect on both victims and offenders. However, there is still a great deal of uncertainty in the answers, with 43% of all participants choosing 'Sometimes'. Although there appears to be more uncertainty in the 'unaware' category, they still hold around the same level of consistency as the 'aware' participants, thereby making the graphs almost into exact opposites of each other.

<sup>103</sup> Richards (2005)

#### 4.6: Barriers to Victim Engagement

*“It would be really scary and I think most people wouldnt [sic] want to go through with seeing the man that did horrible things to them.”*

*“For some crimes, why not? For others, you’ve got to be careful. The wellbeing of the victim should always be the most important factor.”*

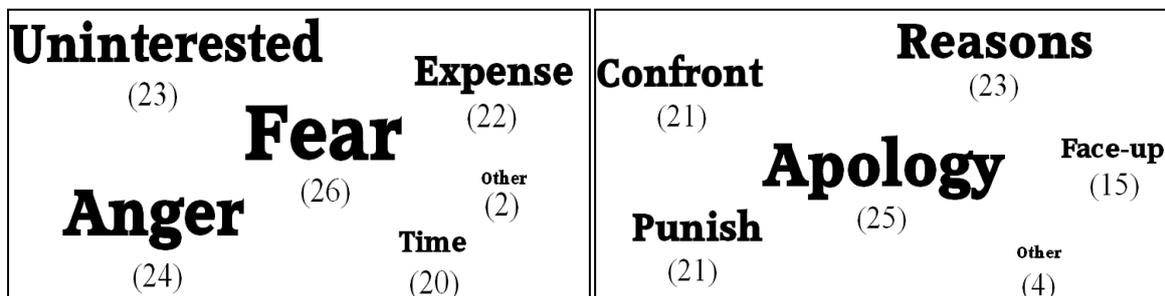


Figure 2: Word Map of Responses to Question 12 Figure 3: Word Map of Responses to Question 13

Question twelve and thirteen served as direct opposites, with thirteen asking what the participants thought prevented victims from engaging in RJ, and thirteen asking what they thought encouraged them to engage. The participants were asked to pick out of fear, possible expense, time, not interested and victim’s feelings of anger for question twelve, and to confront offender, to gain a reason for the crime, to gain an apology from offender, to see offender is punished and to face up to offender for question thirteen. As with question ten, the qualitative results were formed into word maps. As shown, the most prominent reason given for lack of engagement was fear, closely followed by anger, whereas the most given answer for participation was to gain an apology, followed by to gain a reason for the crime. This is similar to the Literature Review in the mentioned common view that most victims would not want to meet their offender due to fear<sup>104</sup>, and also due to the fact that many victims wish to gain a reason for why the crime was committed<sup>105</sup>. As well as these answers, the participants were given a space to mention any other reasons they could think of. In the matter of why victims would engage, several participants mentioned that perhaps the victim could only move on by not seeing offender, or would “just want to move on and forget about it”. As well as this, as mentioned, one participant suggested that “maybe they don’t know RJ exists - it’s not well advertised.” On the flip side, the majority of other reasons given for engagement in RJ were in order to create a form of rapport with the offender. One participant stated that it would be beneficial for the victim to “see they’re not monsters, but people just like us”, and another mentioned that this would “help them to forgive”. As well as this, several subjects stated that the

<sup>104</sup> Baksi (2012) Accessed 20 January 2013

<sup>105</sup> Fernandez (2010) p. 139

victims also might want to meet their offender to “see if they can do it”, suggesting some sort of test of their own willpower, or a challenge to see if they have completely emotionally moved on from the crime.

## CHAPTER 5: CONCLUSIONS

### 5.1: Limitations and Recommendations

During the course of this report, there were many difficulties in acquiring a proportionate sample. Firstly, due to recent complications involving sentencing in Derby, there was a huge drop in victims of assault coming through the Derby Magistrates' Court, which made the selection much more difficult. Due to the commonness of the offence, however, the sample was able to be raised to thirty participants at the last minute, which meant the end date outlined in the Methodology of 30<sup>th</sup> March 2013 had to be extended. There were also difficulties in finding time for the participants to complete the questionnaire, as a day in court can be very busy, and so many questionnaires were left uncompleted. If this report was to be repeated, perhaps an online method of completing the questionnaires would be more appropriate. This would also perhaps address the apathy noticed in some participants' questionnaires, as they would possibly be more likely to answer fully if they could complete them in their own time.

As well as this, due to the relatively small sample size, the findings in this report cannot be fully generalised to wider society, but do provide a sound understanding into the emotions and ideas of those in the Derby City area. For a repeat study, a bigger sample size would be beneficial, but would require more time to properly analyse the findings. It also could be argued that the results were disproportionate because of the uneven male to female ratio, as well as the fact that the age groups were uneven. However, the sample was taken from differing socioeconomic groups, ethnicities and religions due to the selection process of going through Witness Service, which services all kinds of individuals, making the results of this report directly applicable to victims of assault.

Another problem that arose during the completion of this project was the notion that perhaps the participants did not fully understand some of the questions, and that some were perhaps too vague. For questions such as question 8, which asked whether RJ was fair for both victims and offenders, there were a few cases of participants choosing the apathetic answer of 'Unsure' because they believed RJ was fair for victims but not offenders, or vice versa. Questions such as this would perhaps have received more in-depth answers if they were split into two separate inquiries instead of one. The qualitative questions, such as questions 7 and 8, were also difficult to gain inference from due to their lack of a space for the participant to explain their answers. Although these questions were easier to analyse via graphs, this could lead to the researcher misconstruing the participant's answers. On

the other hand, the strictly qualitative questions such as 10 and 14 were more difficult to display and therefore analyse due to the constraints of this report. They did, however, mean for more emotive responses, and were more difficult to misinterpret. A recommendation on this front would be to provide both a quantitative question such as a likert or rating scale question and a qualitative section for the sample to explain their answers, which the majority of questions in this report did include.

As well as these changes, it would be interesting to have gathered a little more demographic data from the participants. For instance, their employment could have a huge effect on their knowledge of RJ, especially if they were involved with the police or the CJS. This would also be so in the case of education; a law student in a university, for instance, would have a great deal more chance of knowing about RJ than someone who had not completed higher education. It would also have been interesting to examine where the 'aware' category participants had gained their information from; during Chapter 4.5 (p. 32), it was inferred that several of the participants had gained information from the media due to the wording of their answers and the context of their arguments, but this was, however, just an inference. Where the participants got their information from would help to understand where common misconceptions truly came from, and whether there was a lack of peer-reviewed information accessible on RJ.

## 5.2: Summary

This dissertation explored the research question of: 'Barriers to Victim Engagement in Restorative Justice: Perspectives of Victims of Assault in Derby', which was analysed in conjunction with four research aims:

- To discover possible barriers to victim engagement in Restorative Justice.
- To examine the views of victims of assault on Restorative Justice.
- To discover if these views change according to the severity or nature of the offence.
- To determine whether previous knowledge of Restorative Justice has an effect on these views.

In answer to the first and second aims, it was found that the main barrier to victim engagement according to the participants was that RJ depended on many differing

variables that the victim would have to consider before they participated. It was also clear that many of the participants would doubt the sincerity of the offender, which would be a pertinent reason to refuse RJ. As well as this, there was a great deal of reference to the feelings of the victim at meeting their offender, and many of the participants believed that a meeting would only make the emotions of the victim worse, with the main barriers suggested being the fear and anger generated by the offence. There was also some objection to the idea of RJ being used as an alternative to punishment, as many believed that this was far too lenient for many offenders, and saw it as a “soft option”. Both of these points were also found to be the case in the Literature Review, especially amongst the tabloid media. However, many of the participants believed that RJ was good for victims, stating that it could help them to move on from the crime. There was also some discussion on RJ being good for the offender and preventing recidivism, as the offender would be forced to recognise his victim, which would perhaps discourage him from committing the crime again.

With the third aim, to discover if these views change according to the severity or nature of the offence, it was found that the participants almost unanimously agreed that there were many variables which affected multiple aspects of RJ. Cited variables included the offence itself and the age, gender, maturity and beliefs of both the victim and the offender. While some agreed that RJ could be used in nearly any crime, most of the participants stated at least one crime that RJ should not be used in, with the most common response being paedophilia and sexual assaults. There was also debate over whether children should be allowed to participate in RJ, whether as victims or offenders. In this case, the most common response was that it depended on the crime and the mindset and maturity of both the victim and the offender, but there was also an equal amount of responses stating that they would not allow any children to participate.

With the final aim, to determine whether previous knowledge of restorative justice has an effect on these views, there was a great deal of information available to analyse concerning this. Overall, the ‘unaware’ category were much more negative towards RJ, as predicted by the Literature Review<sup>106</sup>, and were also much more likely to recite common misconceptions surrounding RJ, such as the belief that victims are forced into sessions by the police to keep crime rates down. However, there was also discontent amongst the ‘aware’ category, suggesting that it is not knowledge alone that constructs a person’s

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<sup>106</sup> Richards (2005)

favour of RJ. It was also noted that the 'aware' category seemed to put more thought into their answers than the 'unaware' category, shown by their writing of multiple reasons and viewpoints, and often writing the alternate view to theirs before making their conclusion, but this did lead to them taking the more apathetic route of often choosing 'Sometimes' or 'Unsure'. The 'aware' category also seemed to understand better the relationship between offenders and victims, showing this through their reasoning of why a victim would want to meet an offender and vice versa.

When considering the findings of this report, several recommendations can be drawn. Firstly, more awareness of RJ needs to be spread so victims are more aware of what will occur during sessions. This will help to reduce anxiety and concern over the experience, and also will theoretically have an effect on public confidence in the scheme. This could most efficiently be completed by an effective relationship between the criminologists and the media, thereby allowing the general public a more comprehensive access to factually accurate and unsensationalised information, as suggested by De Mesmaecker<sup>107</sup>. Secondly, it should be made known that victims or offenders should never be forced or manipulated into participating in RJ sessions, as this is likely to cause further discontent amongst both parties, and therefore lower public confidence. As well as this, it should be considered whether RJ is appropriate for every type of crime, and, if this sort of screening is already present in a local district, this should be advertised more highly. In the case of children engaging in RJ, it could be beneficial to attempt to score the victim or offender on maturity before allowing them to participate, as this could give the police a better understanding of how the child will react to the session. The final recommendation would also be to attempt to deal with repeat offenders differently from a first-time offender. Perhaps, in this case, a psychologist or counsellor of some sort could meet with the offender while considering them for RJ sessions to attempt to gauge honesty and remorse, which, while being advantageous for the offender in terms of getting something out of the scheme, would also be beneficial for the victims. However, at the end of the day, it is clear that 'Restorative Justice, like anything else, operates in an imperfect society and is carried out by imperfect actors'<sup>108</sup>, therefore suggesting that, no matter how regulated the sessions are, there will always be the opportunity for problems.

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<sup>107</sup> De Mesmaecker, V. (2010) *Building Social Support For Restorative Justice Through The Media: Is Taking The Victim Perspective The Most Appropriate Strategy?* In: 'Contemporary Justice Review: Issues in Criminal, Social, and Restorative Justice', Vol. 13, No. 3 (pp. 239 - 267)

<sup>108</sup> Filipovic (2013) Accessed 20 April 2013

## REFERENCES

- Baksi, Catherine (2012) *How To Judge Restorative Justice*. In: 'The Law Society Gazette' (05/04/12) <<http://www.lawgazette.co.uk/blogs/blogs/news-blogs/how-judge-restorative-justice>> Accessed 20 January 2013
- Bazemore, Gordon & Green, Diane (2007) "Yardsticks" for Victim Sensitive Process: Principle-Based Standards for Gauging the Integrity of Restorative Justice Process. In: 'Victims & Offenders: An International Journal of Evidence-based Research, Policy, and Practice', Vol. 2, No. 3 (pp. 289 - 301)
- Bednarova, Jana (2011) *The Heart of the Criminal Justice System: A Critical Analysis of the Position of the Victim*. In: 'Internet Journal of Criminology'. <[http://www.internetjournalofcriminology.com/Bednarova\\_The\\_Heart\\_of\\_the\\_Criminal\\_Justice\\_System.pdf](http://www.internetjournalofcriminology.com/Bednarova_The_Heart_of_the_Criminal_Justice_System.pdf)>
- Bennett, Sarah, Levin, Jack & McDevitt, Jack (2002) *Hate Crimes Offenders: An Expanded Typology*. In: 'Journal of Social Issues', Vol. 58, No. 2 (pp. 303 - 317)
- Bowling, Ann (2005) *Mode Of Questionnaire Administration Can Have Serious Effects On Data Quality*. In: 'Journal of Public Health', Vol. 27, No. 3 (pp. 281 - 291)
- Braithwaite, John (1997) *Crime, Shame and Reintegration*. Cambridge: Cambridge University Press.
- Braithwaite, John (2002) *Setting Standards for Restorative Justice*. In: 'The British Journal of Criminology', Vol. 42, No. 3 (pp. 563 - 577)
- Braithwaite, John (2004) *Restorative Justice and De-Professionalization*. In: 'The Good Society', Vol. 13, No. 1 (pp. 28 - 31)
- Brownlee, Kimberley (2010) *Retributive, Restorative and Ritualistic Justice*. In: 'Oxford Journal of Legal Studies' (pp. 1 - 13)
- Carrington, Kerry (2009) *Offending Youth: Sex, Crime and Justice*. Leichhardt: The Federation Press
- Clark, Laura (2009) *Trendy 'Restorative Justice' Schemes To Stamp Out Bullying At Schools 'Do Not Work'*. In 'The Daily Mail Online' (02/07/09) <<http://www.dailymail.co.uk/news/article-1197102/Trendy-restorative-justice-schemes-stamp-bullying-schools-work.html>>
- Cochran, John, Gove, Walter & Wood, Peter (1994) *Motivations for Violent Crime among Incarcerated Adults: A Consideration of Reinforcement Processes*. In: 'Journal of the Oklahoma Criminal Justice Research Consortium', Vol. 1, No. 1 (pp. 63 - 80)
- Crown Prosecution Service (2013) *Legal Guidance: Restorative Justice*. <[http://www.cps.gov.uk/legal/p\\_to\\_r/restorative\\_justice/](http://www.cps.gov.uk/legal/p_to_r/restorative_justice/)>
- Darwell, Stephen (2003) *Consequentialism*. Chichester: Wiley Publishing
- De Mesmaecker, Vicky (2010) *Building Social Support For Restorative Justice Through The Media: Is Taking The Victim Perspective The Most Appropriate Strategy?* In: 'Contemporary

Justice Review: Issues in Criminal, Social, and Restorative Justice', Vol. 13, No. 3 (pp. 239 - 267)

- Doyle, Jack (2012) *'Street Courts' Are a Vote in Favour of Localism and Restorative Justice - And Could Save on Expensive Court Hearings*. In: 'The Daily Mail Online' (16/04/12) <<http://www.dailymail.co.uk/debate/article-2130528/Street-courts-vote-favour-localism-restorative-justice--save-expensive-court-hearings.html>>
- Doyle, Jack (2013) *How 34,000 Criminals Have Been Given a Let-Off By Police... Because They Said Sorry*. In: 'The Daily Mail' (30/04/13) <<http://www.dailymail.co.uk/news/article-2316961/How-34-000-criminals-given-let-police--said-sorry.html>>
- Fernandez, Marilyn (2010) *Restorative Justice for Domestic Violence Victims: An Integrated Approach to Their Hunger for Healing*. Plymouth: Lexington Books
- Filipovic, Jill (2013) *Restorative Justice in Domestic Violence Cases is Justice Denied*. In: 'The Guardian Online' (12/01/13) <<http://www.guardian.co.uk/commentisfree/2013/jan/12/restorative-justice-domestic-violence>>
- Gavrielides, Theo (2007) *Restoring Relationships: Addressing Hate Crime Through Restorative Justice*. <[http://ventura.xssl.net/~rotaadmin/?q=webfm\\_send/54](http://ventura.xssl.net/~rotaadmin/?q=webfm_send/54)>
- Gavrielides, Theo (2011) *Restorative Practices: From The Early Societies To The 1970s*. In: 'The Internet Journal of Criminology'. <[http://www.internetjournalofcriminology.com/Gavrielides\\_Restorative\\_Practices\\_IJC\\_November\\_2011.pdf](http://www.internetjournalofcriminology.com/Gavrielides_Restorative_Practices_IJC_November_2011.pdf)>
- Gavrielides, Theo (2012) *Conceptualising and Contextualising Restorative Justice for Hate Crimes*. In: 'CrimSoc: The Journal of Social Criminology', Vol. 1, No. 1 <<http://crimsoc.org/the-journal/volume-i-issue-1/74-4-conceptualising-and-contextualising-restorative-justice-for-hate-crimes-theo-gavrielides>>
- Ghosh, B. & Chopra, Parvesh (2010) *A Dictionary of Research Methods*. Leeds: Wisdom House Publications
- Graef, Roger (2000) *Why Restorative Justice? Repairing the Harm Caused by Crime*. London: Calouste Gulbenkian Foundation
- Hansard HC Daily Debate (13/11/12) <<http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm121113/debtext/121113-0001.html>>
- Hessick, Carissa (2006) *Motive's Role In Criminal Punishment*. In: 'Southern California Law Review', Vol. 80, No. 89 (pp. 89 - 150)
- Laughland, Oliver (2011) *Does Restorative Justice Work? Yes!* In: 'The Guardian Online: The Conversation' (21/05/11) <<http://www.guardian.co.uk/commentisfree/2011/may/21/conversation-restorative-justice>>
- Liebmann, Marian (2007) *Restorative Justice: How it Works*. London: Jessica Kingsley Publishers
- Marshall, Tony (1999) *Restorative Justice: An Overview*. London: Home Office Research Development and Statistics Directorate Publications

- Mary Jane (2010) *Question: Do You Think Sex Offenders Are Ever Fully Rehabilitated?* In: 'YahooAnswers' (28/10/06) <<http://uk.answers.yahoo.com/question/index?qid=20061028164618AAcQiRD>>
- McBurney, Donald & White, Theresa (2007) *Research Methods* (8<sup>th</sup> Ed.) Belmont: Cengage Learning
- McGlynn, Clare, Westmarland, Nicole & Godden, Nikki (2011) *Is Restorative Justice Possible in Cases of Sexual Violence?* <<http://www.dur.ac.uk/resources/glad/ResearchBriefing1-Isrestorativejusticepossibleincasesofsexualviolence.pdf>>
- Messmer, Heinz & Otto, Hans-Uwe (Eds.) *Restorative Justice on Trial: Pitfalls and Potentials of Victim-Offender Mediation International Research Perspectives*. London: Kluwer Academic Publishers, 1992
- Ministry of Justice (2010) *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders*. Cm 7972
- Ministry of Justice (2012) *Proven Re-offending: Statistics Quarterly Bulletin - April 2010 to March 2011, England and Wales*. <<http://www.justice.gov.uk/statistics/reoffending/proven-re-offending>>
- Opdenakker, Raymond (2006) *Advantages and Disadvantages of Four Interview Techniques in Qualitative Research*. In: 'Forum Qualitative Sozialforschung / Forum: Qualitative Social Research', Vol. 7, No. 4. <<http://nbn-resolving.de/urn:nbn:de:0114-fqs0604118>>
- Palmer, Alasdair (2009) *Restorative Justice Could Actually Restore Justice*. In: 'The Telegraph Online' (31/10/10) <<http://www.telegraph.co.uk/comment/personal-view/6475013/Restorative-justice-could-actually-restore-justice.html>>
- Prison Fellowship International (2009) *Restorative Justice Briefing Paper*. <[http://www.pfi.org/cjr/restorative-justice/introduction-to-restorative-justice-practice-and-outcomes/briefings/what-is-restorative-justice/at\\_download/file](http://www.pfi.org/cjr/restorative-justice/introduction-to-restorative-justice-practice-and-outcomes/briefings/what-is-restorative-justice/at_download/file)>
- Prison Fellowship International (2012) *Restorative Justice*. <<http://www.pfi.org/issues/restorative-justice>>
- Restorative Justice Council (2013) *Restorative Justice Works - The Evidence*. <[http://www.restorativejustice.org.uk/restorative\\_justice\\_works](http://www.restorativejustice.org.uk/restorative_justice_works)>
- Richards, Kelly (2005) *Unlikely Friends? Oprah Winfrey And Restorative Justice*. In: 'Australian & New Zealand Journal of Criminology', Vol. 38, No. 5 (pp. 381 - 399)
- Seale, Cliver (Ed.) *Social Research Methods: A Reader*. London: Routledge, 2004
- Shapland, Joanna, Atkinson, Anne, Atkinson, Helen, Chapman, Becca, Dignan, James, Howes, Marie, Johnstone, Jennifer, Robinson, Gwen, & Sorsby, Angela (2007) *Restorative Justice: The Views of Victims and Offenders. The Third Report from the Evaluation of Three Schemes*. London: Ministry of Justice
- Shelly, Gary & Rosenblatt, Harry (2009) *Systems Analysis and Design* (8<sup>th</sup> Ed.) Boston: Cengage Learning
- Singer, Richard & La Fond, John (2010) *Criminal Law* (5<sup>th</sup> Ed.) New York: Wolters Kluwer Law & Business

- Smart Justice (2006) *Victims Say Stopping Re-Offending Is More Important Than Prison*. <[http://www.restorativejustice.org.uk/assets/\\_ugc/fetch.php?file=mdwf\\_justice\\_and\\_victim\\_support\\_victims\\_say\\_stopping\\_reoffending\\_is\\_more\\_important\\_than\\_prison.pdf](http://www.restorativejustice.org.uk/assets/_ugc/fetch.php?file=mdwf_justice_and_victim_support_victims_say_stopping_reoffending_is_more_important_than_prison.pdf)>
- Stubbs, Julie (2007) *Beyond Apology? Domestic Violence and Critical Questions for Restorative Justice*. In: 'Criminology and Criminal Justice', Vol. 7, No. 2 (pp. 169 - 187)
- The Daily Telegraph (2012) *Thief Stole Laptop After Apologising To Victim*. (22/03/12) <<http://www.telegraph.co.uk/news/uknews/crime/9160442/Thief-stole-laptop-after-apologising-to-victim.html>>
- The Sun (2012) *Street Law 'Failure'*. In: 'The Sun Online: Politics' (18/09/12) <<http://www.thesun.co.uk/sol/homepage/news/politics/4543918/Street-law-failure.html>>
- Weitekamp, Elmar & Kerne, Hans-Jürgen (Eds.) *Restorative Justice, Theoretical Foundations*. Collompton: Willan Publishing, 2012
- Wright, Richard (Ed.) *Sex Offender Laws: Failed Policies, New Directions*. New York: Springer Publishing Company, 2009
- Zehr, Howard (2002) *The Little Book of Restorative Justice*. Intercourse: Good Books

#### Cases / Acts Cited

- Criminal Justice Act 2003
- *Pharmaceutical Society of Great Britain v Storkwain* [1986] 2 ALL ER 63

## APPENDICES

### Appendix 1 - Questionnaire

PIC: \_\_\_\_\_

*Thank you for agreeing to complete this questionnaire.*

Before beginning, please create your personal identification code by writing your mother's initials and the last two digits of your telephone number into the space at the top right of the page - eg: MH89.

Gender: \_\_\_\_\_

Age: 18 - 29    30 - 39    40 - 49    50 - 59    60 - 69    70+

1. Before this study, were you aware of Restorative Justice (even if by another name)?

Yes                      No                      Not sure

2. How far do you think Restorative Justice helps offenders to stop committing crime (one being not at all, four being very much)?

1                      2                      3                      4

Why?

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3. Do you think Restorative Justice helps victims?

Never                  Not really                  Sometimes                  Mostly                  Always

Why?

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4. If you were offered a Restorative Justice meeting as a victim, would you accept?

Yes                      No                      Not sure

Why?

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5. Do you think that Restorative Justice helps victims to move on from the crime?

Why?                                      Yes                                      No                                      Sometimes

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6. How far do you consider Restorative Justice to be a lenient punishment (one being not at all, four being very much)?

Why?                                      1                                      2                                      3                                      4

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7. How important do you think it is for a victim to be able to face an offender?

Not important                      Not very important                      Somewhat important                      Very important                      Extremely important

8. "Restorative Justice programs are a fair system that allows closure for both the victim and the offender."

Strongly disagree                      Disagree                      Unsure                      Agree                      Strongly agree

9. Do you think that it depends on what kind of crime is committed whether Restorative Justice should be used?

Yes                      No                      Don't know

10. If yes, what kinds of crime do you think Restorative Justice should not be considered for?

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11. Do you believe children should be allowed to participate in Restorative Justice?

Yes                      No                      Sometimes                      Not sure

Please explain.

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12. Why do you think victims may possibly refuse to participate in Restorative Justice?

Fear                      Possible expense                      Time  
Not interested      Victim's feelings of anger

Other (please explain)

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13. Why do you think victims participate in Restorative Justice?

To confront offender      To gain a reason for the crime  
To gain an apology from offender      To see offender is punished  
To face up to offender

Other (please explain)

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14. Do you believe that most offenders would be sincere in their apologies? Please explain.

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15. Do you believe that offering an offender a reduced sentence in return for participating in Restorative Justice is a good idea?

Yes                      No                      Sometimes                      Not sure

Please explain.

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16. Overall, do you think Restorative Justice is beneficial for victims and offenders?

Yes                      No                      Sometimes                      Not sure

If you have any additional comments, please write them here (feel free to use the back of this sheet)

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Appendix 2 - Participant Information Form

Thank you for agreeing to complete this questionnaire. I am a third year student reading Applied Criminology at Derby University, and examining victims' views on Restorative Justice for my dissertation. I will also be looking at whether these views change according to the severity or nature of the offence.

This research is my own and is in no way linked to Witness Support. The questionnaire considers crime in general, not the specific crime you are here for today.

### **So what is Restorative Justice?**

Restorative Justice, also known as mediation, or offender apologising, is where the victim and offender meet to discuss the crime that has been committed. Restorative Justice allows everyone who has been affected by the crime to get involved in repairing the harm that has been caused.

In restorative processes, victims are allowed to talk to offenders about the real-world impact of their crime, and offenders are given an opportunity to apologise for what they have done.

### **What do people think?**

Many people argue over the effectiveness of Restorative Justice. Some call it a lenient punishment, but it is also viewed as very useful for offender rehabilitation. There is also the idea that Restorative Justice is good for the victim, as they are allowed a chance to face the offender. However, Restorative Justice relies on both the offender and the victim to engage.

This is what led to my study:

### **Barriers to Victim Engagement in Restorative Justice: Perspectives of Victims of Assault in Derby**

**My aims are:**

- To understand the original objectives of Restorative Justice.
- To discover possible barriers to victim engagement in Restorative Justice.
- To examine the views of victims on Restorative Justice.
- To discover if these views change according to the severity or nature of the offence.

All details from this questionnaire will be kept completely confidential, and you can withdraw from the study at any time by quoting your **personal identifier code** in an email to **100114842@unimail.derby.ac.uk**. All questionnaires will be kept in a secure location during the writing of the report, and will be destroyed once the report has been written. If you are affected by the content of the questionnaire, please talk to your Witness Service volunteer, who in turn can get you in contact with a member of Victim Support.

If you have any questions, please feel free to email me.

Sincerely,

Rachel Harding

### Appendix 3 - Consent Form

I can confirm that I have been made fully aware of the details of the questionnaire and what this research is for.

I retain my right to withdraw from the questionnaire at any point, and also retain the right to withdraw all information given by emailing [100114842@unimail.derby.ac.uk](mailto:100114842@unimail.derby.ac.uk) and quoting my personal identifier code. All personal details shall be kept anonymous and confidential either through censoring or changing names and places.

I give my permission for the researchers to use any information recorded on my questionnaire, and understand that the information shared will be treated in the strictest of confidence, with the original data being destroyed after transcription.

I understand that I may keep both my Participant Information Form and my debrief sheet.

Based upon acknowledgement of the above, I agree to take part in this study.

Participant's signature: .....

Date: .....

### Appendix 4 - Debrief Statement

I would like to thank you for participating in my study today. If you have any concerns regarding the conduct or questions raised during the questionnaire, please contact my supervisor at [m.pettigrew@derby.ac.uk](mailto:m.pettigrew@derby.ac.uk), and quote my name and student number: 100114842. Please remember that this research is my own and is in no way linked to Witness Support. All questions should be directed to either myself or my supervisor.

Your input is confidential to the researcher involved, and all results will be published anonymously in my dissertation. If you wish to receive a copy of the finished report (which should be completed by May 2013), then please let me know. If you would like any other information about the results of the research conducted once it is completed, you can contact me on [100114842@unimail.derby.ac.uk](mailto:100114842@unimail.derby.ac.uk).

If you have been affected by the content of this questionnaire, please talk to your Witness Service volunteer, who in turn can get you in contact with a member of Victim Support.

I wish you all good luck in your day at court. Please return these questionnaires in the envelopes provided to your allocated Witness Service volunteer.

Sincerely,

Rachel Harding