

24. Does restorative justice work?

John Braithwaite

This chapter summarizes the now considerable empirical evidence about the effectiveness of restorative justice. The literature review is organized around three broad and simple hypotheses:

1. Restorative justice restores and satisfies victims better than existing criminal justice practices
2. Restorative justice restores and satisfies offenders better than existing criminal justice practices
3. Restorative justice restores and satisfies communities better than existing criminal justice practices

[. .]

Restorative justice practices restore and satisfy victims better than existing criminal justice practices

A consistent picture emerges from the welter of data reviewed in this section: it is one of comparatively high victim approval of their restorative justice experiences, though often lower levels of approval than one finds among other participants in the process. So long as the arrangements are convenient, it is only a small minority of victims who do not *want* to participate in restorative justice processes. Consistent with this picture, preliminary data from Lawrence Sherman and Heather Strang's Canberra experiments show only 3 per cent of offenders and 2 per cent of community representatives at conferences compared with 12 per cent of victims disagreeing with the statements: 'The government should use conferences as an alternative to court more often' (Strang, 2000). Most of the data to date are limited to a small range of outcomes; we are still awaiting the first systematic data on some of the dimensions of restoration [. .]. On the limited range of outcomes explored to date, victims do seem to get more restoration out of restorative justice agreements than court orders, and restorative justice agreements seem to be more likely to be delivered than court orders even when the former are not legally enforceable.

Operationalizing victim restoration

There is a deep problem in evaluating how well restorative justice restores. Empowerment of victims to define the restoration that matters to them is a keystone of a restorative justice philosophy. Three paths can be taken. One is to posit a list of types of restoration that are important to most victims [. .].

The problem with this is that even with as uncontroversial a dimension of restoration as restoring property loss, some victims will prefer mercy to insisting on getting their money back; indeed, it may be that act of grace which gives them a spiritual restoration that is critical for them.¹ The second path sidesteps a debate on what dimensions of restoration are universal enough to evaluate. Instead, it measures overall satisfaction of victims with restorative justice processes and outcomes, assuming (without evidence) that satisfaction is a proxy for victims getting restoration on the things that are most important for them. This is the path followed in the review of the next section, largely because this was the kind of information available when the earlier version of the review was published in 1999. The third path is the best one but also the most unmanageable in large quantitative evaluations. It is to ask victims to define the kinds of restoration they were seeking and then to report how much restoration they attained in these terms that matter most to them.

As this book goes to press, Heather Strang (forthcoming) has completed a manuscript that pulls off something close to this third approach. Strang reviewed the empirical literature on what victims said they wanted out of the criminal justice process and then confirmed the accuracy of that list of aspirations on Canberra crime victims whose cases were randomly assigned to court versus restorative justice conferences. The set of victim preferences she identified were:

- A less formal process where their views count
- More information about both the processing and the outcome of their case
- To participate in their case
- To be treated respectfully and fairly
- Material restoration
- Emotional restoration, including an apology

Strang then went on to show that indeed these victim aspirations were more consistently realized in cases randomly assigned to conferences as opposed to court:

Feelings of anger, fear and anxiety towards their offenders fell markedly after their conference while feelings of security for themselves and sympathy for their offender increased. The conference usually had a beneficial effect on victims' feelings of dignity, self-respect and self-confidence and led to reduced levels of embarrassment and shame about the offence. Overall, victims most often said their conferences had been a helpful experience in allowing them to feel more settled about the offence, to feel forgiving towards their offender and to experience a sense of closure. (Strang, 2000, pp. iv-v).

Strang's most striking result concerns the capacity of conferences to deal with the feeling of revenge that so often eat away at victims. More than half of court-assigned violence victims said they would harm their offender if they had the chance, compared with only 7 per cent of those assigned to restorative justice.

Notwithstanding the strong affirmation overall that victims were more likely to have their needs, especially their emotional needs, met in conference than in court, Strang found a subset of victims who were worse off as a result of their case being assigned to conference. She concluded that these were not so much cases that refuted principles of restorative justice as cases that revealed bungled administration of justice (see Box [22.]1). One group of victims who were more dissatisfied than victims whose case was sent straight to court were those whose case was assigned to a conference, but the conference fell through and actually ended up going to court. The lesson here is that badly administered programs that do not deliver on their restorative promises to victims can actually make things a lot worse for them. Overall, Strang's results are extremely encouraging, especially since no one today would suggest that the Canberra program is the best one in Australia. Canberra is a first-generation program, and the evidence reviewed here suggests higher levels of satisfaction of victims and others in the later Australian programs that learned from some of its mistakes.²

Victim participation and satisfaction

While traditional criminal justice practices are notoriously unsatisfying to victims, it is also true that victims emerge from many restorative justice programs less satisfied than other participants. Clairmont (1994, pp. 16–17) found little victim involvement in four restorative justice programs for First Nations offenders in Canada. There seems to be a wider pattern of greater satisfaction among First Nations leaders and offenders than among victims for restorative projects on Canadian Aboriginal communities (Obonsawin-Irwin Consulting Inc., 1992a, 1992b; Clairmont, 1994; LaPrairie, 1995).

Early British victim–offender mediation programs reported what Dignan (1992) called sham reparation, for example, Davis's (1992) reporting of offers rather than actual repair, tokenism, and even dictated letters of apology. In some of these programs victims were little more than a new kind of prop in welfare programs: the 'new deal for victims' came in Britain to be seen as a 'new deal for offenders' (Crawford, 1996, p. 7). However, Crawford's (1996) conclusion that the British restorative justice programs that survived into the 1990s after weathering this storm 'have done much to answer their critics' (p. 7) seems consistent with the evidence. Dignan (1992) reports 71 per cent satisfaction among English corporate victims and 61 per cent among individual victims in one of the early adult offender reparation programs.

In New Zealand, victims attended only half the conferences conducted during the early years of the program³ and when they did attend were less in agreement (51 per cent satisfaction) with family group conference outcomes than were offenders (84 per cent), police (91 per cent), and other participants (85 per cent; Maxwell and Morris, 1993, pp. 115, 120). About a quarter of victims reported that they felt worse as a result of attending the family group conference. Australian studies by Daly (1996) and Strang and Sherman (1997) also found a significant minority of victims who felt worse after the conference, upset over something said, or victimized by disrespect, though they were

Box [24.1]: Scapegoating: procedural injustice and the forgotten victim

Matthew, the 24-year-old victim in this assault matter, was drinking on licensed premises when a fight broke out involving one of his friends. He said that in the general melee he tried to pull his friend out of the fight, when a 'bouncer' hit him over the head and ejected him into the car park, where the fighting continued involving both patrons and security staff. Subsequently Charlie, aged 18 and employed on security at the pub, attended the police station and made full admissions about having punched Matthew in the face. In the view of the apprehending officer, other staff were directing blame at Charlie and it appeared that he had been offered as the sole offender because he was young with no prior convictions and likely not to be prosecuted.

The conference was attended by a large number of supporters of both Matthew and Charlie. As soon as it began, Matthew said that Charlie could not have been the person who assaulted him because he did not look anything like that person. Charlie's employer and workmates insisted that it was Charlie who was the assailant (though his family did not appear to believe that he had been involved). There were many claims and counter-claims in the course of the conference flowing from poor police investigation into the incident, including allegations that the victim and his friends had provoked the brawl. It was complicated by poor and untrusting relations between the licensee and the police, who frequently attended incidents at his premises. After about an hour of acrimonious discussion, the conference was abandoned as it was apparent that there was no agreement on what had happened and no likelihood of reaching an outcome acceptable to all the parties.

After further enquiries the police decided to take no further action with the case. Matthew was very angry and disappointed: his rage at the injustice of having effectively nothing happen following the assault led to his carrying a knife for several months, and in fact to pull it out when the same friend again got into a fight. He spontaneously said at interview that if he 'ran into' his assailants from the original incident he would probably attack them in revenge for what happened to him. He had been very upset at the way the conference unfolded, although he believed that the police had been fair and that he had had an opportunity to express his views. He wished the case had gone to court because he believed that way all the co-offenders would have been prosecuted and punished (in fact this could not have happened as only Charlie had been identified as being involved). Two years after the incident he remained extremely angry because he saw the licensee and his security staff as having 'got away' with assaulting him.

Source: From Strang, 2000, p. 168

greatly outnumbered by victims who felt healing as a result of the conference. Similarly, Birchall *et al.* (1992) report 27 per cent of victims feeling worse after meeting their offender and 70 per cent feeling better in Western Australia's Midland Pilot Reparation Scheme. The Ministry of Justice, Western Australia (1994), reports 95 per cent victim satisfaction with their restorative justice conference program (Juvenile Justice Teams). Chatterjee (2000, p. 3) reports

that 94 per cent of victims in Royal Canadian Mounted Police convened family group conferences were satisfied with the fairness of the agreement. McCold and Wachtel (1998) found 96 per cent victim satisfaction with cases randomly assigned to conferences in Bethlehem, Pennsylvania, compared with 79 per cent satisfaction when cases were assigned to court and 73 per cent satisfaction when the case went to court after being assigned to conference and the conference was declined. Conferenced victims were also somewhat more likely to believe that they experienced fairness (96 per cent), that the offender was adequately held accountable for the offence (93 per cent), and that their opinion regarding the offence and circumstances was adequately considered in the case (94 per cent). Ninety-three per cent of victims found the conference helpful, 98 per cent found that it 'allowed me to express my feelings without being victimized', 96 per cent believed that the offender had apologized, and 75 per cent believed that the offender was sincere. Ninety-four per cent said they would choose a conference if they had to do it over again. The Bethlehem results are complicated by a 'decline' group as large as the control group, where either offenders or victims could cause the case to be declined. In the Canberra RISE experiment, victim participation is currently 80 per cent (Strang, 2000). Reports on the Wagga Wagga conferencing model in Australia are also more optimistic about victim participation and satisfaction, reporting 90 per cent victim satisfaction and victim participation exceeding 90 per cent (Moore and O'Connell, 1994). Trimboli's (2000, p. 28) evaluation of the NSW Youth Justice Conferencing Scheme finds even higher levels of victim satisfaction than with the Wagga Wagga model conferencing programs, though lower levels of victim participation of 74 per cent than in Wagga and Canberra.

Trimboli's NSW victims were much more satisfied than the Canberra victims over being kept informed about what was happening, and were more likely to feel that they were treated with respect, that they had the opportunity to express their views in the conference, and that these views actually affected the decision on what should be done about the case. The highest published satisfaction and fairness ratings (both 98 per cent) have been reported by the Queensland Department of Justice conferencing program (Palk *et al.*, 1998). Seventy-eight per cent of victims felt the conference and the agreement helped 'make up for the offence', and only 6 per cent said they would be 'concerned if you met the young person in the street today' (Hayes *et al.*, 1998, pp. 26, 27). A high 90 per cent of offenders made verbal apologies, and a further 12 per cent made written apologies in this program. One reason for the program's exceptionally positive results is that it excludes conferencing from cases where victims do not wish to participate, meaning that no data are collected from the least cooperative victims who just want to walk away.

McGarrell *et al.* (2000, p. 45) not only found markedly higher levels of satisfaction among victims in cases randomly assigned to a restorative justice conference but also found that 97 per cent of conference victims 'felt involved', compared with 38 per cent of control group victims, and that 95 per cent of conference victims felt they had the opportunity to express their views, compared with 56 per cent of control group victims.

Umbreit and Coates's (1992) survey found that 79 per cent of victims who cooperated in four US mediation programs were satisfied, compared with only

57 per cent of those who did not have mediation (for earlier similar findings, see Umbreit, 1990). In a subsequent study Umbreit (1998) found victim *procedural* satisfaction at 78 per cent at four combined Canadian sites and 62 per cent at two combined English mediation sites. Victim satisfaction with *outcomes* was higher still: 90 per cent (four US sites), 89 per cent (four Canadian sites), and 84 per cent (two English sites). However, victim satisfaction was still generally lower across the sites than offender satisfaction. Eighty-three per cent of US mediation victims perceived the outcome as 'fair' (as opposed to being 'satisfied'), compared with 62 per cent of those who went through the normal court process. Umbreit and Coates (1992) also report reduced fear and anxiety among victims following mediation, a finding Strang (2000) has replicated on Canberra conferences. Victims afraid of being victimized again dropped from 25 per cent prior to mediation to 10 per cent afterward in a study by Umbreit and Coates (1992), again results comparable to those obtained by Strang on conferences. A survey of German institutions involved in model mediation projects found that the rate of voluntary victim participation generally ranged from 81 to 92 per cent and never dropped below 70 per cent (Kerner *et al.*, 1992).

McCold and Wachtel (2000) compared systematically thirty-nine program samples (including most of those discussed here) according to whether they were 'fully restorative', 'mostly restorative', or 'not restorative', where restorativeness was operationalized in terms of stakeholder participation. On average, victim perception of both fairness and satisfaction was highest for fully restorative programs and lowest for nonrestorative programs.

In summary, while many programs accomplish very high levels of victim participation, programs vary considerably on this dimension. Consistently, however, across disparate programs victims are highly satisfied with the fairness of procedures and outcomes – more satisfied than victims whose cases go to court, though not as satisfied as offenders and other participants in restorative justice processes. In a meta-analysis of 13 evaluations with a control group, Latimer, Dowden and Muise (2001) found victim satisfaction to be significantly higher in the restorative justice group. Victims also experienced reduced fear and increased emotional restoration after the restorative justice process. Heather Strang's (2000) data suggest, however, that one group whose satisfaction and emotional well-being are adversely affected by the offer of a restorative justice conference is victims whose conference falls through. This points up a methodological deficiency in most of the studies reviewed here (that does not apply to Strang's work): they measure satisfaction levels among victims whose conferences actually come to pass, failing to correct for the reduced levels of satisfaction that would apply if cases were included where conferences were offered but not delivered. Trimboli (2000) actually compares NSW results from completed conferences with RISE results of cases randomly assigned to conference (many of which actually ended up in court).

Honoring of obligations to victims

Haley and Neugebauer's (1992) analysis of restorative justice programs in the United States, Canada, and Great Britain revealed between 64 and 100 per

cent completion of reparation and compensation agreements. I assume here, of course, that completion of undertakings that victims have agreed to is important for victim restoration. Marshall's (1992) study of cases referred to mediation programs in Britain found that over 80 per cent of agreements were completed. Galaway (1992) reports that 58 per cent of agreements reached through mediation in New Zealand were fully complied with within one year. In a Finnish study, 85 per cent of agreements reached through mediation were fully completed (Iivari, 1987, 1992). From England, Dignan (1992) reports 86 per cent participant agreement with mediation outcomes, with 91 per cent of agreements honored in full. Trenczek (1990), in a study of pilot victim-offender reconciliation projects in Braunschweig, Cologne, and Reutlingen, West Germany (see also Kuhn, 1987), reports a full completion rate of 76 per cent and a partial completion rate of 5 per cent. Pate's (1990) study of victim-offender reconciliation projects found a rate of noncompletion of agreements of between 5 and 10 per cent in Alberta, Canada, and less than 1 per cent in the case of a Calgary program. Wundersitz and Hetzel (1996, p. 133) found 86 per cent full compliance with conference agreements in South Australia, with another 3 per cent waived for near compliance. Fry (1997, p. 5) reported 100 per cent completion of agreements in a pilot of twenty-six Northern Territory police-coordinated juvenile conferences, and Waters (1993, p. 9) reported 91 per cent payment of compensation agreed in Wagga Wagga conferences. In another Wagga-style program, McCold and Wachtel (1998, p. 4) report 94 per cent compliance with the terms of conference agreements. McGarrell *et al.* (2000, p. 47) found 83 per cent completion of conference agreements in Indianapolis, compared with 58 per cent completion of diversion programs in the control group.

Umbreit and Coates (1992) compared 81 per cent completion of restitution obligations settled through mediation to 58 per cent completion of court-ordered restitution in their multisite study. Ervin and Schneider (1990), in a random assignment evaluation of six US restitution programs, found 89 per cent completion of restitution, compared with 75 per cent completion of traditional programs. Most of Ervin and Schneider's restitution programs, however, were not restorative in the sense of involving meetings of victims and offenders. Latimer, Dowden and Muise (2001, p. 17) found in a meta-analysis of 8 studies with a control group that restitution compliance was 33 per cent higher in the restorative justice cases than among controls. In summary, the research suggests high levels of compliance with restorative justice agreements, substantially higher than with court orders.

Symbolic reparation

One reason that the level of satisfaction of victims is surprisingly high in processes that so often give them so little material reparation is that they get symbolic reparation, which is more important to them (Retzinger and Scheff, 1996). Apology is at the heart of this: preliminary results from the RISE experiment in Canberra show that 71 per cent of victims whose cases were randomly assigned to a conference got an apology, compared with 17 per cent

in cases randomly assigned to court; while 77 per cent of the conference apologies were regarded as 'sincere' or 'somewhat sincere', this was true of only 36 per cent of apologies to victims whose cases went to court (Strang, 2000). Sixty-five per cent of victims felt 'quite' or 'very' angry before the Canberra conferences, and 27 per cent felt so afterward. Obversely, the proportion of victims feeling sympathetic to the offender almost tripled (from 18 to 50 per cent) by the end of the conference (Strang, 2000). We will see that there is a large body of research evidence showing that victims are not as punitive as the rather atypical victims whose bitter calls for brutal punishment get most media coverage. Studies by both Strang and Sherman (1997) and Umbreit (1992, p. 443) report victim fear of revictimization and victim upset about the crime as having declined following the restorative justice process.

In Goodes's (1995) study of juvenile family group conferences in South Australia, where victim attendance ranges from 75 to 80 per cent (Wundersitz and Hetzel, 1996), the most common reason victims gave for attending their conference was to try to help the offender, followed by the desire to express feelings, make statements to the offender, or ask questions like 'why me' (what Retzinger and Scheff [1996] call symbolic reparation), followed by 'curiosity and a desire to "have a look"', followed by 'responsibility as citizens to attend'. The desire to ensure that the penalty was appropriate and the desire for material reparation rated behind all of these motivations to attend. The response rate in the Goodes (1995) study was poor, and there may be a strong social desirability bias in these victim reports; yet that may be precisely because the context of conference attendance is one that nurtures responsible citizenship cognitions by victims. Eighty-eight per cent of Goodes's (1995) victims agreed with the conference outcome, 90 per cent found it helpful to them, and 90 per cent said they would attend again if they were a victim again (Goodes, 1995).

With all these quantitative findings, one can lose sight of what most moves restorative justice advocates who have seen restorative processes work well. I am not a spiritual enough person to capture it in words: it is about grace, shalom. Van Ness (1986, p. 125) characterizes shalom as 'peace as the result of doing justice'. Trish Stewart (1993, p. 49) gets near its evocation when she reports one victim who said in the closing round of a conference: 'Today I have observed and taken part in justice administered with love.' Psychologists are developing improved ways of measuring spirituality – self-transcendence, meaning in life beyond one's self. So in the future it will be possible to undertake systematic research on self-reported spirituality and conferences to see whether results are obtained analogous to Reed's (1986, 1987, 1992) findings that greater healing occurred among terminally ill individuals whose psychosocial response was imbued with a spiritual dimension.

For the moment, we must accept an East–West divide in the way participants think about spiritual leadership in conferences. Maori, North American, and Australian Aboriginal peoples tend to think it important to have elders with special gifts of spirituality, what Maori call *mana*, attend restorative justice processes (Tauri and Morris, 1997, pp. 149–50). This is the Confucian view as well. These traditions are critical of the ethos Western advocates such as myself have brought to conferences, which has not seen it as important to have elders with *mana* at conferences. Several years ago in Indonesia I was told

of restorative justice rituals in western Sumatra that were jointly conducted by a religious leader and a scholar – the person in the community seen as having the greatest spiritual riches and the person seen as having the greatest riches of learning. My inclination then was to recoil from the elitism of this and insist that many (if not most) citizens have the resources (given a little help with training) to facilitate processes of healing. While I still believe this, I now think it might be a mistake to seek to persuade Asians to democratize their restorative justice practices. There may be merit in special efforts to recruit exemplars of virtue, grace, *mana*, to participate. Increasingly, I am tempted to so interpret our experience with RISE in recruiting community representatives with grace to participate in drunk driving conferences where there is no victim. However, as Power (2000) and Miller and Blackler (2000) correctly point out, the Canberra experience with community representatives has been far from universally positive. Many have been decidedly short of *mana* and long on punitive speech. Nevertheless, a research and development program for restorative justice that still appeals to me is how to do well at locating elders with grace to act as community representatives in restorative justice programs in Western cities.

Restorative justice practices restore and satisfy offenders better than existing criminal justice practices

This section concludes that offender satisfaction with both corporate and traditional individual restorative justice programs has been extremely high. The evidence of offenders being restored in the sense of desisting from criminal conduct is extremely encouraging with victim–offender mediation, conferencing, restorative business regulatory programs, and whole-school antibullying programs, though not with peer mediation programs for bullying.⁴ However, only some of these studies adequately control for important variables, and only five randomly assigned cases to restorative versus punitive justice. The business regulatory studies are instructive in suggesting that (1) restorative justice works best when it is backed up by punitive justice in those (quite common) individual cases where restorative justice fails and (2) trying restorative justice first increases perceived justice. ➤

Fairness and satisfaction for offenders

[... Offenders] are more likely to respond positively to criminal justice processing when they perceive it as just. Moore with Forsythe's (1995, p. 248) ethnographic work concludes that most offenders, like victims, experienced quite profound 'procedural, material and psychological justice' in restorative justice conferences. Umbreit (1992) reports from his cross-site study in the United States an 89 per cent perception of fairness on the part of offenders with victim–offender mediation programs, compared with 78 per cent perceived fairness in unmediated cases. Umbreit (1998) reports 80 per cent

offender perception of fairness of victim-offender mediation across four Canadian studies and 89 per cent at two combined English sites. The Ministry of Justice, Western Australia (1994), reports 95 per cent offender satisfaction with its restorative justice conference program (Juvenile Justice Teams). McCold and Wachtel (1998, pp. 59–61) report 97 per cent satisfaction with 'the way your case was handled' and 97 per cent fairness in the Bethlehem police conferencing program, a better result than in the four comparisons with Bethlehem cases that went to court. McGarrell *et al.* (2000, p. 45) report that conference offenders in Indianapolis were more likely than control group offenders to have 'felt involved' (84 per cent versus 47 per cent) and to feel they have had an opportunity to express their views (86 per cent versus 55 per cent). Coates and Gehm (1985, 1989) found 83 per cent offender satisfaction with the victim-offender reconciliation experience based on a study of programs in Indiana and Ohio. Smith, Blagg and Derricourt (1985), in a limited survey of the initial years of a South Yorkshire mediation project, found that 10 out of 13 offenders were satisfied with the mediation experience and felt that the scheme had helped alter their behavior. Dignan (1990), on the basis of a random sample of offenders (N=50) involved in victim-offender mediations in Kettering, Northamptonshire, found 96 per cent were either satisfied or very satisfied with the process. [...] Barnes (1999) found higher perceptions of a number of facets of procedural and outcome fairness in RISE conferences compared with Canberra courts. However, Trimboli (2000, pp. 34–54) has reported even higher levels of offender perceptions of fairness and outcome satisfaction in NSW compared with RISE conferences. The strongest published result was again on 113 juvenile offenders in the Queensland Department of Justice conferencing program, where 98 per cent thought their conference fair and 99 per cent were satisfied with the agreement (Palk *et al.*, 1998). Ninety-six per cent of young offenders reported that they 'would be more likely to go to your family now if you were in trouble or needed help' and that they had 'been able to put the whole experience behind you'.

McCold and Wachtel (2000) compared systematically thirty-four program samples (including most of those discussed here) according to whether they were 'fully restorative', 'mostly restorative', or 'not restorative', where restorativeness was operationalized in terms of stakeholder participation. As with victim perceptions, offender perception of both fairness and satisfaction was highest for fully restorative programs and lowest for nonrestorative programs. For 13 studies with a control group, Latimer, Dowden and Muise's (2001, p. 14) meta-analysis found restorative justice offenders to be more satisfied about how their case was handled compared with controls.

Reduced reoffending as offender restoration

Meta-analysis of restitution programs suggests that these have some (modest) effect in reducing reoffending (e.g. Gendreau *et al.*, 1996; Cullen and Gendreau, 2000; see also Butts and Snyder, 1991; Schneider, 1986; Geudens and Walgrave, 1998; Schiff, 1998; Bazemore, 1999). I do not consider this literature here because most of these programs do not involve a restorative

process (i.e. the restitution is usually imposed by a traditional court, often as punishment rather than in pursuit of any restorative *values*).

Pate (1990), Nugent and Paddock (1995), and Wynne (1996) all report a decline in recidivism among mediation cases. Umbreit, with Coates and Kalanj (1994) found 18 per cent recidivism across four victim-offender mediation sites (N=160) and 27 per cent (N=160) for comparable nonmediation cases at those sites, a difference that was encouraging but fell short of statistical significance. However, a follow-up in 2000 on these and several other programs on a much expanded sample of 1,298 again found mediation recidivism to be one-third lower than court recidivism (19 per cent versus 28 per cent), this time a statistically significant result after entering appropriate controls (Nugent *et al.* forthcoming). Similarly, Marshall and Merry (1990, p. 196) report for an even smaller sample than Umbreit, with Coates and Kalanj (1994) that offending declined for victim-offender mediation cases, especially when there was an actual meeting (as opposed to indirect shuttle diplomacy by a mediation), while offending went up for controls. However, the differences were not statistically significant. A German study by Dolling and Hartman (2000) found reoffending to be one-third lower in cases where victim-offender mediation was completed compared with a control group. The effect was significant after entering controls. However, including cases where mediation was not successfully completed reduced the *p* value to .08, which would not normally be accepted as significant.

In an experimental evaluation of six US restitution programs, Schneider (1986, 1990) found a significant reduction in recidivism across the six programs. This result is widely cited by restorative justice advocates as evidence for the efficacy of restorative justice. However, all but one of these programs seem to involve mandated restitution to victims without any mediation or restorative justice deliberation by victims and offenders. The one program that seems to meet the process definition of restorative justice, the one in Washington, DC, did produce significantly lower rates of reoffending for cases randomly assigned to victim-offender mediation and restitution compared with cases assigned to regular probation.⁵

There is no satisfactory evidence on the impact of the New Zealand juvenile family group conferences on recidivism. The story is similar with Wagga Wagga. Forsythe (1995) shows a 20 per cent reoffending rate for cases going to conference, compared with a 48 per cent rate for juvenile court cases. This is a big effect; most of it is likely a social selection effect of tougher cases going to court, as there is no matching, no controls, though it is hard to account for the entire association in these terms given the pattern of the data (see Forsythe, 1995, pp. 245-46).

Another big effect with the same social selection worry was obtained with only the first sixty-three cases to go through family group conferences in Singapore. The conference reoffending rate was 2 per cent, compared with 30 per cent over the same period for offenders who went to court (Chan, 1996; Hsien, 1996).

McCold and Wachtel's (1998) experimental evaluation of Bethlehem, Pennsylvania's, Wagga-style police conferencing program involved a more determined attempt to tackle social selection problems through randomization.

Unfortunately, however, this study fell victim to another kind of selection effect as a result of unacceptably high crossover rates on the treatments assigned in the experiment. For property cases, there was a tendency for conferenced cases to have higher recidivism than court cases, but the difference was not statistically significant. For violence cases, conferenced offenders had a significantly lower reoffending rate than offenders who went to court. However, this result was not statistically valid because the violent offenders with the highest reoffending rate were those who were randomly assigned to conference but who actually ended up going to court because either the offender or the victim refused to cooperate in the conference. In other words, the experiment failed to achieve an adequate test of the effect of conferences on recidivism both on grounds of statistical power and because of unsatisfactory assurance that the assigned treatment was delivered.

Clearer results were obtained from McGarrell *et al.*'s (2000) Indianapolis Restorative Justice Experiment, which involved random assignment of young first offenders to a Wagga-style conference convened by the police versus assignment to the normal range of diversion programs. Rearrest was 40 per cent lower in the conference group than in the control group after six months, an effect that decayed to a 25 per cent reduction after twelve months. At the Winchester conference in 2001 McGarrell reported that the analysis of further cases revealed a decay to higher than this 25 per cent reduction, but these results are not yet published.

Preliminary reoffending results have been put up on the Web (aic.gov.au) by Sherman, Strang and Woods (2000) from the RISE restorative justice experiment in Canberra. In this experiment 1,300 cases were randomly assigned either to court or to a restorative justice conference on the Wagga model. While the experiment showed a sharp decline in officially recorded repeat criminal offending for violent juvenile and young adult offenders randomly assigned to conference in comparison to those assigned to court, the results were not encouraging on adult drunk drivers and juvenile property offenders (though not all the latter results were discouraging). Sherman, Strang and Woods (2000, p. 20) conclude that compared with court, the effect of diversionary conferences is to cause the following:

- Big drop in offending rates by violent offenders (by 38 crimes per 100 per year)
- Very small increase in offending by drink drivers (by 6 crimes per 100 offenders per year)
- Lack of any difference in repeat offending by juvenile property offenders or shoplifters (though after-only analysis shows a drop in reoffending by shoplifters)

The drunk driving results are particularly disappointing. These are conferences without a victim, as all cases involve nonaccidents detected by random breath testing. Sherman, Strang and Woods (2000, p. 11) interpret the pattern of the results as suggesting that courts reduce reoffending through their power to suspend drivers' licenses, a power not available to conferences in the experiment. However, more detailed decomposition of results is yet to be done on this question.

One conferencing program that has dealt convincingly with the social selection problem without randomization is a Royal Canadian Mounted Police program in the Canadian coal mining town of Sparwood, British Columbia. For almost three years from the commencement of the program in 1995 until late 1997, *no* young offender from Sparwood went to court.⁶ All were cautioned or conferenced. Three youths who had been conferenced on at least two previous occasions went to court in late 1997. No cases have been to court during 1998 up until the time the data could be checked (20 October 1998). In the year prior to the program (1994), sixty-four youths went to court. Over the ensuing three years and nine months, this net was narrowed to eighty-eight conferences and three court cases. This was probably not just a net-narrowing effect, however. It looks like a real reduction in offending. According to police records, compared with the 1994 youth offending rate, the 1995 rate was down 26 per cent, and the 1996 rate was down 67 per cent. Reoffending rates for conference cases were 8 per cent in 1995, 3 per cent in 1996, 10 per cent in 1997, and 0 per cent for the first nine months of 1998, compared with a national rate of 40 per cent per annum for court cases (which is similar to that in towns surrounding Sparwood). Reoffending rates for Sparwood court cases prior to 1995 have not been collected. While social selection bias is convincingly dealt with here by the universality of the switch to restorative justice for the first three years, eighty-eight conferences are only a modest basis for inference.

Burford and Pennell's (1998) study of a restorative conference-based approach to family violence in Newfoundland found a marked reduction in both child abuse/neglect and abuse of mothers/wives after the intervention. A halving of abuse/neglect incidents was found for thirty-two families in the year after the conference compared with the year before, while incidents increased markedly for thirty-one control families. Pennell and Burford's (1997) research is also a model of sophisticated process development and process evaluation and of methodological triangulation. While sixty-three families might seem modest for quantitative purposes, this is actually a statistically persuasive study in demonstrating that this intervention reduced family violence. There were actually 472 participants in the conferences for the thirty-two families, and 115 of these were interviewed to estimate levels of violence affecting different participants (Pennell and Burford, 2000). Moreover, within each case a before and after pattern was tested against thirty-one types of events (e.g. abuse of child, child abuses mother, attempted suicide, father keeps income from mother) where events can be relevant to more than one member of the family. Given this pattern matching of families by events by individual family members, it understates the statistical power of the design to say it is based on only sixty-three cases. Burford and Pennell (1998, p. 253) also report reduced drinking problems after conferences. The Newfoundland conferences were less successful in cases where young people were abusing their mothers, a matter worthy of further investigation.

While the universality of the New Zealand juvenile conferencing program has made it difficult to evaluate the impact on recidivism compared with a control group, Maxwell, Morris and Anderson (1999) have now published an important evaluation of two adult programs, which they describe as sharing

enough of the core principles of restorative justice to serve as case studies of restorative justice. Te Whanau Awhina (a program only for Maori offenders) and Project Turnaround refer adult offenders to a panel (rather akin to the Vermont Reparation Boards). However, family and social service providers for the family, victims and victim supporters, and the police also frequently attend. For 100 offenders referred to each of these schemes, both reoffending and the seriousness of reoffending were significantly reduced under both schemes compared with 100 controls matched for criminal history, demographic factors, and offence characteristics who went to court. Twelve-month reconviction rates were 16 per cent for Project Turnaround compared with 30 per cent for controls. For Te Whanau Awhina, reconviction was 33 per cent, compared with 47 per cent for controls.

Another important recent adult evaluation is of the John Howard Society's Restorative Resolutions program in Winnipeg (Bonta *et al.*, 1998). The seriousness of the offending gives special importance to this evaluation: there was 90 per cent success in reserving entry to the program to serious adult offenders who were facing a prosecutorial recommendation of at least six months prison time (and preferably having histories of incarceration and probation violation). Like the New Zealand programs discussed in the previous paragraph, Restorative Resolutions secured enough of the principles of restorative justice to be accepted as a test of the approach without securing all of them: notwithstanding good-faith consultation with victims, most offenders did not actually meet their victim, and eighteen offenders had their restorative resolution accepted by the court but then with a judicially imposed sentence on top of it. Since this initial report was published, there has been follow-up over three years of a control group of seventy-two offenders, carefully matched on a variety of risk factors; the seventy-two Restorative Resolutions serious offenders had half the criminal reoffending of the control group.

[A] recent study by Michael Little (2001), is of particular importance in that it applies restorative justice to the most persistent offenders. Little's study was conducted in Kent, England. It applied to juvenile offenders who either had been previously sentenced to custody or had failed to complete a community sentence. A second condition for entry was being charged or cautioned on three or more occasions for offences that would permit a court to sentence to custody. Basically they were the most persistent young offenders in Kent. Twenty-four offenders were randomly assigned to a multisystemic approach that involved a family group conference, joint and heightened supervision by police and social services staff, and improved assessment combined with an individual treatment plan and mentoring by a young volunteer. This was called the Intensive Supervision and Support Program. Fifty-five young offenders were assigned to two control groups. The reduction in rearrest during two years of follow-up was substantial and statistically significant. Because the treatment was multisystematic, however, there was no way of assessing whether it was restorative justice, some other component of the program, or a general placebo effect that produced the success. [Elsewhere] we consider the theoretical reasons why a combination of restorative justice and intensive rehabilitation in hard cases may be more effective than restorative justice and intensive rehabilitation alone. The results of this randomized trial are

Box [24.]2: Pig, pig, pig!

The incident began during the morning roll call when the boy in charge called a girl by her (unappreciated) nickname of 'pig'. The girl was offended and refused to answer, so the boy raised his voice and yelled the word several times . . . Later that morning during the break several children gathered around the girl and chanted, 'Pig, pig, pig'. Deeply hurt . . . she ran away from the group. For the remainder of the school day she did not speak a word; that afternoon she went home and would refuse to return for a week. The teacher in charge of the class had not been present during the periods when the girl was insulted, so she did not appreciate what had happened.

Later that day the girl's mother called to ask what had gone on. Immediately the principal began a quiet investigation in co-operation with the teacher. By that evening, parts of the story were known, and the principal visited the child's home to apologise to her parents. The next day, and on each successive day until the problem was solved, special teachers' meetings were held with all present to seek a solution. On three occasions the principal or the girl's homeroom teacher went to the girl's home and talked with her. The final resolution involved a visit by the entire class to the girl's home, where apologies were offered along with a request that the insulted girl forgive her friends. Two days later she returned to school, and two weeks later the teacher read a final report to the regular teachers' meeting and then apologised for having caused the school so much trouble.

Source: Cummings, 1980, pp. 118–19, cited in Masters, 1997

compelling because part of the intervention was more intensive police surveillance. This should have produced an increase in the number of offences detected by the police in the restorative justice group.

Restorative antibullying programs in schools, generally referred to as *whole-school* approaches (Rigby, 1996), which combine community deliberation among students, teachers and parents about how to prevent bullying with mediation of specific cases, have been systematically evaluated with positive results (Farrington, 1993; Pitts and Smith, 1995; Pepler *et al.*, 1993; Rigby, 1996) the most impressive being a program in Norway where a 50 per cent reduction in bullying has been reported (Olweus, 1993). Gentry and Benenson's (1993) data further suggest that skills for mediating playground disputes learned and practiced by children in school may transfer to the home setting, resulting in reduced conflict, particularly with siblings. The restorative approaches to bullying in Japanese schools, which Master's (1997) qualitative work found to be a success, can also be read as even more radically 'whole-school' than the Norwegian innovations (see Box [22.]2).

However, Gottfredson's (1997) and Brewer *et al.*'s (1995) reviews of school peer mediation programs that simply train children to resolve disputes when conflicts arise among students showed nonsignificant or weak effects on observable behavior such as fighting. Only one of four studies with quasi-experimental or true experimental designs found peer mediation to be associated with a decrease in aggressive behavior. Lam's (1989) review of

fourteen evaluations of peer mediation programs with mostly weak methods found no programs that made violence worse. It appears a whole-school approach is needed that not just tackles individual incidents but also links incidents to a change program for the culture of the school, in particular to how seriously members of the school community take rules about bullying. Put another way, the school not only must resolve the bullying incident; but also must use it as a resource to affirm the disapproval of bullying in the culture of the school.

Statistical power, randomization, and control have been weak in much of the research reported here. Fairly consistently encouraging results from these weak designs, however, should be combined with the reduced reoffending evident under stronger designs in the studies by Schneider (1986), Olweus (1993) and the other antibullying researchers, Burford and Pennell (1998), the Sparwood police, Maxwell, Morris and Anderson (1999), Bonta Rooney and Wallace-Capretta (1998), McGarrell *et al.* (2000), and Little (2001). However, the research with the strongest design, by Sherman, Strang and Woods (2000), is encouraging only with respect to violent offenders. My own reading of the three dozen studies of reoffending reviewed is that while restorative justice programs do not involve a consistent guarantee of reducing offending, even badly managed restorative justice programs are most unlikely to make reoffending worse. After all, restorative justice is based on principles of socializing children that have demonstrably reduced delinquency when parents have applied them in raising their children (in comparison to punitive/stigmatizing socialization) (Braithwaite, 1989; Sampson and Laub, 1993). If we invest in working out how to improve the quality of the delivery of restorative justice programs, they are likely to show us how to substantially reduce reoffending. That investment means looking below the surface to understand the theoretical conditions of success and failure [. . .].

Restorative justice advocates are frequently admonished not to make 'exaggerated claims' for the likely effects on recidivism of a one- or two-hour intervention. Yet when it is modest benefits on the order of 10 to 20 per cent lower levels of reoffending that are predicted, it can be equally irresponsible to cite a study with a sample size of 100 (which lacks the statistical power to detect an effect of this order as statistically significant) as demonstrating no effect. If we are modest in our expectations, we should expect reviewers like Braithwaite (1999) to report a study by Umbreit (1994) on a small sample finding a nonsignificant reduction in offending and then in this review to have Braithwaite report an expanded sample by Umbreit and his colleagues to now be strongly significant. [Recently] there has been a surge of positive recidivism results from the United States, Canada, Germany, the United Kingdom, Australia, and New Zealand. [Most] of these very recent positive results are not incorporated into the meta analysis of thirty-two studies with control groups conducted for the Canadian Department of Justice by Latimer, Dowden and Muise (2001). Equally, Latimer, Dowden and Muise have uncovered unpublished evaluations of a dozen recent restorative justice programs not covered by the review in this chapter. Across their thirty-two studies Latimer, Dowden and Muise found a modest but statistically significant effect of restorative justice in reducing recidivism (effect size 0.07). This means

approximately seven per cent lower recidivism on average in the restorative justice programs compared to controls or comparison groups. This is indeed a modest accomplishment compared to effect sizes for the best rehabilitation programs. During R and D on first and second generation programs, however, our interest should not be on comparing average restorative justice effect sizes with those of the best rehabilitation programs. It should be on the effect sizes we might accomplish by integration of best restorative justice practice with best rehabilitative practice [...]. One important difference in the conclusion reached from the set of studies reviewed in this chapter is that Latimer, Dowden and Muise found a bigger tendency for victim satisfaction to be higher in cases that went to restorative justice (effect size 0.19) than the tendency for offender satisfaction to be higher in restorative justice cases (effect size 0.10).

So now we must remember that it is possible to make Type II as well as Type I errors; we can make the error of wrongly believing that 'nothing makes much difference'. In recent criminological history we have seen this Type II error institutionalized in the doctrine that 'nothing works' with respect to offender rehabilitation. Restorative justice clearly has the promise to justify a huge R and D effort now. Certainly there are some notable research failures. Here we might remember the often-quoted retrospective of medical texts that it was not until the advances in medicine during World War I that the average patient left an encounter with the average doctor better off. The question at the beginning of the twentieth century was whether there was enough promise in medicine to justify a huge research investment in it. Clearly there was, notwithstanding a lot of mediocre results from mediocre practice. The results in this section show that there are very strong reasons to think that funding restorative justice R and D will be a good investment for the twenty-first century, especially when [...] restorative justice is conceived as a superior vehicle for delivering other crime prevention strategies that work, and conceived holistically as a way of living rather than just an eighty-minute intervention.

It may be that the key to explaining why the Indianapolis Juvenile Restorative Justice Experiment had a major effect on reoffending while the RISE adult drunk driving experiment did not can be understood in terms of the potential for restorative justice to be a superior vehicle for prevention to be realized in the former case but not the latter. Eighty-three per cent of those randomly assigned to conferences in Indianapolis completed their diversion program, whereas completion occurred for only 58 per cent of the control group assigned to the standard suite of diversion options (McGarrell *et al.*, 2000, p. 47). [Restorative] justice is potentially a superior vehicle for getting offenders and their families to commit to rehabilitative and other preventive measures. The RISE drunk driving conferences generally did not confront underlying drinking problems, with police encouraging the view that drunk driving, not drinking, is the offence. Court did not do any better in this regard, but at least the Canberra courts took away driver's licenses, a preventive measure that was not available to conferences and that probably worked.

Reduced reoffending in corporate restorative justice programs

[Elsewhere] I recounted how corporate crime researchers like myself began to wonder if the more restorative approach to corporate criminal law might actually be more effective than the punitive approach to street crime. What made us wonder this? When we observed inspectors moving around factories (as in Hawkins's [1984] study of British pollution inspectors), we noticed how talk often got the job done. The occupational health and safety inspector could talk with the workers and managers responsible for a safety problem, and they would fix it – with no punishment, not even threats of punishment. A restorative justice reading of regulatory inspection was also consistent with the quantitative picture. The probability that any given occupational health and safety violation will be detected has always been slight and the average penalty for Occupational Safety and Health Administration (OSHA) violations in the post-Watergate United States was \$37 (Kelman, 1984). So the economically rational firm did not have to worry about OSHA enforcement: when interviewed, its representatives would say it was a trivial cost of doing business. Yet there was quantitative evidence that workplace injuries fell after OSHA inspections or when inspection levels increased (Scholz and Gray, 1990).

There was even stronger evidence that Mine Safety and Health Administration inspections in the United States saved lives and prevented injuries (Braithwaite, 1985, pp. 77–84; Lewis-Beck and Alford, 1980; Perry, 1981a, 1981b; Boden, 1983). Boden's data showed that a 25 per cent increase in inspections was associated with a 7 to 20 per cent reduction in fatalities on a pooled cross-sectional analysis of 535 mines with controls for geological, technological, and managerial factors; these inspections took place at a time when the average penalty for a successful citation was \$173 (Braithwaite, 1985, p. 3). They were inspections ending with an 'exit conference' that I observed to be often quite restorative. Boden (1983) and the Mine Enforcement and Safety Administration (1977) found no association between the level of penalties and safety improvement, however.

This was just the opposite of the picture we were getting from the literature on law enforcement and street crime. On the streets, the picture was of tough enforcement, more police, and more jails failing to make a difference. In coal mines we saw weak enforcement (no imprisonment) but convincing evidence that what Julia Black later came to call 'conventional regulation' (Black, 1997, 1998) can work – more inspectors reduced offending and saved lives (Braithwaite, 1985).

My book was called *To Punish or Persuade: Enforcement of Coal Mine Safety*, and it concluded that while persuasion works better than punishment, credible punishment is needed as well to back up persuasion when it fails. Writing the book was a somewhat emotional conversion to restorative justice for me, as I came to it as a kind of victims' supporter, a boy from a coal mining town who wanted to write an angry book for friends killed in the mines. My research also found strong empirical evidence that persuasion works better when workers and unions (representing the victims of the crime) are involved in deliberative regulatory processes.⁷ Nearly all serious mine safety accidents can be prevented if only the law is obeyed (Braithwaite, 1985, pp. 20–4, 75–7); the great

historical lesson of the coal industry is that the way to accomplish this is through a rich dialogue among victims and offenders on why the law is important, a dialogue given a deeper meaning after each fatality is investigated. The shift from punitive to restorative justice in that industry and the results of that shift have been considerable. During the first fifty years of mine safety enforcement in Britain (until World War I), in a number of years a thousand miners lost their lives in the pits. Fatalities decreased from 1,484 in 1866 to 44 in 1982–83, after which the British industry collapsed. In the years immediately prior to World War I, the average annual number of criminal prosecutions for coal mine safety offences in the United Kingdom was 1,309. In both 1980 and 1981 there were none (Braithwaite, 1985, p. 4).

The qualitative research doing ride-alongs with mine safety inspectors in several countries resolved the puzzle for me. Persuasion worked much of the time; workers' participation in a dialogue about their own security worked. However, the data also suggested that persuasion worked best in the contexts where it was backed by the possibility of punishment.

In the United Kingdom during the 1970s, fifty pits were selected each year for a special safety campaign; these pits showed a consistently greater improvement in accident rates than other British pits (Collinson, 1978, p. 77). I found the safety leaders in the industry were companies that not only thoroughly involved everyone concerned after a serious accident to reach consensual agreement on what must be done to prevent recurrence but also did this after 'near accidents' (Braithwaite, 1985, p. 67), as well as discussing safety audit results with workers even when there was no near accident. In a remarkable foreshadowing of what we now believe to be reasons for the effectiveness of whole-school approaches to bullying and family group conferences, Davis and Stahl's (1967, p. 26) study of twelve companies that had been winners of the industry's two safety awards found one recurring initiative was 'safety letter to families of workers enlisting family support in promoting safe work habits'. That is, safety leaders engaged a community of care beyond the workplace in building a safety culture. In *To Punish or Persuade* I shocked myself by concluding that after mine disasters, including the terrible one in my hometown that had motivated me to write the book, so long as there had been an open public dialogue among all those affected, the families of the miners cared for, and a credible plan to prevent recurrence put in place, criminal punishment served little purpose. The process of the public inquiry and helping the families of the miners for whom they were responsible seemed such a potent general deterrent that a criminal trial could be gratuitous and might corrupt the restorative justice process that I found in so many of the thirty-nine disaster investigations I studied.

Joseph Rees (1988, 1994) is the scholar who has done most to work through the promise of what he calls *communitarian regulation*, which we might read as restorative regulatory justice. First Rees (1988) studied the Cooperative Compliance Program of OSHA between 1979 and 1984. OSHA essentially empowered labor-management safety committees at seven Californian sites to take over the law enforcement role, to solve the underlying problems revealed by breaches of the law. Satisfaction of workers, management and government participants was high because they believed the program 'worked'. It seemed

to. Accident rates ranged from one-third lower to five times as low as the Californian rate for comparable projects of the same companies, as the rate in the same project before the cooperative compliance program compared with after (Rees, 1988, pp. 2–3).

Rees' next study of communitarian regulation was of US nuclear regulation after the incident at Three Mile Island. The industry realized that it had to transform the nature of its regulation and self-regulation from a rule book, hardware orientation to one oriented to people, corporate cultures, and software. The industry's CEOs set up the Institute of Nuclear Power Operations (INPO) to achieve these ends. Peers from other nuclear power plants would take three weeks off from their own jobs to join an INPO review team that engaged representatives of the inspected facility in a dialogue about how they could improve. Safety performance ratings were also issued by the review team; comparative ratings of all the firms in the industry were displayed and discussed at meetings of all the CEOs in the industry and at separate meetings of safety officers. Rees (1994) sees these as reintegrative shaming sessions. The following is an excerpt from a videotape of a meeting of the safety officers:

It's not particularly easy to come up here and talk about an event at a plant in which you have a lot of pride, a lot of pride in the performance, in the operators . . . It's also tough going through the agonizing thinking of what it is you want to say. How do you want to confess? How do you want to couch it in a way that, even though you did something wrong, you're still okay? You get a chance to talk to Ken Strahm and Terry Sullivan [INPO vice presidents] and you go over what your plans are, and they tell you, 'No, Fred, you've got to really bare your soul' . . . It's a painful thing to do. (Rees, 1994, p. 107)

What was the effect of the shift in the center of gravity of the regulatory regime from a Nuclear Regulatory Commission driven by political sensitivities to be tough and prescriptive to INPO's communitarian regulation (focused on a dialogue about how to achieve outcomes rather than rule book enforcement)? Rees (1994, pp. 183–6) shows considerable improvement across a range of indicators of the safety performance of the US nuclear power industry since INPO was established. Improvement has continued since the completion of Rees' study. For example, more recent World Association of Nuclear Operators data show scrams (automatic emergency shutdowns) declined in the United States from over 7 per unit in 1980 to 0.1 by the late 1990s.

[Elsewhere] we saw that shifting nursing home regulation from rule book enforcement to restorative justice was associated with improved regulatory outcomes and that the inspectors who shifted most toward restorative justice improved compliance most (those who used praise and trust more than threat, those who used reintegrative shaming rather than tolerance or stigmatization, those who restored self-efficacy). [While these results are discussed elsewhere, for] the moment, I simply report that communitarian regulation has had considerable documented success in restoring coal mining firms, nuclear power plants, and nursing homes in a more responsible approach to compliance with the law. Equally, writers such as Gunningham (1995) and Haines (1997) have

shown that there are serious limits to communitarian regulation – rapacious big firms and incompetent little ones that will not or cannot respond responsibly. Deterrence and incapacitation are needed, and needed in larger measure than these regimes currently provide, when restorative justice fails (see also Ayres and Braithwaite, 1992; Gunningham and Grabosky, 1998).

Carol Heimer pointed out in comments on a draft of this chapter, ‘If high-level white collar workers are more likely to get restorative justice, it may be because their corporate colleagues and other members of the society believe that their contributions are not easily replaced, so that offenders must be salvaged’ (see Heimer and Staffen, 1995). This is right, I suspect, and a reason that justice is most likely to be restorative in the hands of communities of care that can see the value of salvaging the offender and the victim.

Restorative justice practices restore and satisfy communities better than existing criminal justice practices

In every place where a reform debate has occurred about the introduction of family group conferences, two community concerns have been paramount: (1) while victims might be forgiving in New Zealand, giving free rein to victim anger ‘here’ will tear at our community; (2) while families may be strong elsewhere, ‘here’ our worst offenders are alienated and alone, their families are so dysfunctional and uncaring that they will not participate meaningfully. But as Morris *et al.* (1996, p. 223) conclude from perspectives on this question summarized from a number of jurisdictions: ‘Concerns about not being able to locate extended family or family supporters, to engage families or to effectively involve so-called “dysfunctional” families, about families forming a coalition to conceal abuse and about families’ failing to honour agreements do not prove to have been well-founded in any of the jurisdictions reported in this book.’

In his discussion of the Hollow Water experience of using healing circles to deal with rampant sexual abuse of children in a Canadian First Nations community, Ross (1996, p. 150) emphasizes the centrality of restoring communities for restoring individuals: ‘If you are dealing with people whose relationships have been built on power and abuse, you must actually *show* them, then give them the experience of, relationships based on respect . . . [so] . . . the healing process must involve a healthy *group* of people, as opposed to single therapists. A single therapist cannot, by definition, do more than *talk* about healthy relationships.’

The most sophisticated implementation of this ideal that has been well evaluated is Burford and Pennell’s (1998) Family Group Decision Making Project to confront violence and child neglect in families. Beyond the positive effects on the direct objective of reducing violence, the evaluation found a posttest increase in family support, concrete (e.g. baby-sitting) and emotional, and enhanced family unity, even in circumstances where some conference plans involved separation of parents from their children. The philosophy of this

program was to look for strengths in families that were in very deep trouble and build on them. [Elsewhere,] building on the work of Mary Kaldor (1999), I argue that this is the restorative justice prescription to the nature of contemporary armed conflict – find the islands of civility in the war-torn nation and build out from the strength in those islands of civil society.

Members of the community beyond the offender and the victim who attend restorative justice processes tend, like offenders, victims, and the police, to come away with high levels of satisfaction. In Pennell and Burford's (1995) family group conferences for family violence, 94 per cent of family members were 'satisfied with the way it was run'; 92 per cent felt they were 'able to say what was important'; and 92 per cent 'agreed with the plan decided on'. Clairmont (1994, p. 28) also reports that among native peoples in Canada the restorative justice initiatives he reviewed have 'proven to be popular with offenders . . . and to have broad, general support within communities'. The Ministry of Justice, Western Australia (1994) reports 93 per cent parental satisfaction, 84 per cent police satisfaction, and 67 per cent judicial satisfaction, plus (and crucially) satisfaction of Aboriginal organizations with its restorative justice conference program (Juvenile Justice Teams). In Singapore, 95 per cent of family members who attended family group conferences said that they benefited personally from the experience (Hsien, 1996). For the Bethlehem police conferencing experiment, parents of offenders were more satisfied (97 per cent) and more likely to believe that justice had been fair (97 per cent) than in cases that went to court (McCold and Wachtel, 1998, pp. 65–72). Parental satisfaction and perceptions of justice were similarly high in the Indianapolis experiment (McGarrell *et al.*, 2000). Eighty per cent of the conference parents 'felt involved', compared with 40 per cent for the children who were randomly assigned to other diversion programs. Ninety per cent of the conference parents felt they had the opportunity to express their views, compared with 68 per cent in the control group.

A study by Schneider (1990) found that *completing* restitution and community service was associated with enhanced commitment to community and feelings of citizenship (and reduced recidivism). While the evidence is overwhelming that where communities show strong social support, criminality is less (Cullen, 1994; Chamlin and Cochran, 1997), it might be optimistic to expect that restorative justice could ever have sufficient impacts in restoring microcommunities to cause a shift in the macro impact of community on the crime rate (cf. Brown and Polk, 1996). On the other hand, Tom Tyler's most recent book with Yuen Huo (Tyler and Huo, 2001) finds that procedural fairness by authorities quite strongly increases trust in authorities, and trust in authorities in turn has considerable effects in increasing identification with one's community and society and ultimately participation in the community. [In Tyler's work we] see there is consistent evidence that restorative justice is perceived as more procedurally fair in a number of ways compared with courtroom justice. Tyler's work opens up exciting new lines of research on why restorative justice might contribute to community building.

Building the microcommunity of a school or restoring social bonds in a family can have important implications for crime in that school or that family. Moreover, the restoring of microcommunity has a value

of its own, independent of the size of the impact on crime. The previous section described how whole-school approaches can halve bullying in schools. There is a more important point of deliberative programs to give all the citizens of the school community an opportunity to be involved in deciding how to make their school safer and more caring. It is that they make their schools more decent places to live while one is being educated. Evidence from Australia suggests that restorative sexual harassment programs in workplaces may reduce sexual harassment (Parker, 1998). Again, more important than the improved compliance with the law may be the more general improvements in the respect with which women are treated in workplaces as a result of the deliberation and social support integral to such programs when they are effective.

We have seen restorative justice conferences where supporters of a boy offender and a girl victim of a sexual assault agreed to work together to confront a culture of exploitative masculinity in an Australian school that unjustly characterized the girl as 'getting what she asked for' (Braithwaite and Daly, 1994). Conversely, we have seen conferences that have missed the opportunity to confront homophobic cultures in schools revealed by graffiti humiliating allegedly gay men and boys (Retzinger and Scheff, 1996). After one early New Zealand conference concerning breaking into and damaging the restaurant of a refugee Cambodian, the offender agreed to watch a video of *The Killing Fields* and 'pass the word on the street' that the Cambodian restaurateur was struggling to survive and should not be harassed. A small victory for civil community life, perhaps, but a large one for that Cambodian man.

One of the most stirring conferences I know of occurred in an outback town after four Aboriginal children manifested their antagonism toward the middle-class matriarchs of the town by ransacking the Country Women's Association Hall. The conference was so moving because it brought the Aboriginal and the white women together, shocked and upset by what the children had done, to talk to each other about why the women no longer spoke to one another across the racial divide in the way they had in earlier times. Did there have to be such an incivility as this to discover the loss of their shared communal life? Those black and white women and children rebuilt that communal life as they restored the devastated Country Women's Association Hall, working together, respectfully once more (for more details on this case, see the Real Justice Web site at <http://www.realjustice.org/>).

One might summarize that the evidence of restorative justice restoring communities points to very small accomplishments of microcommunity-building and of modest numbers of community members going away overwhelmingly satisfied with the justice in which they feel they have had a meaningful opportunity to participate. Maori critics of Pakeha restorative justice such as Moana Jackson (1987) and Juan Tauri (1998) point out that it falls far short of restoring Maori community control over justice. Neocolonial controls from Pakeha courts remain on top of restorative justice in Maori communities. This critique seems undeniable; nowhere in the world has restorative justice enabled major steps toward restoring precolonial forms of community among colonized peoples; nowhere have the courts of the colonial power given up their power to trump the decisions of the Indigenous justice forums.

At the same time, there is a feminist critique of this Indigenous critique of community restoration. [. . .]

With all the attention we have given to the microcommunity-building of routine restorative justice conferences, we must not lose sight of historically rare moments of restorative justice that reframe macrocommunity. I refer, for example, to the release of IRA terrorists from prison so that they could participate in the IRA meetings of 1998 that voted for the renunciation of violent struggle. I refer to much more partially successful examples, such as the Camp David mediations of President Carter with the leaders of Egypt and Israel (more partially successful because they excluded the Palestinians themselves) and to more totally successful local peacemaking such as that of the Kulka Women's Club in the highlands of New Guinea (see Box [22.]3).

Conclusion

There do seem to be empirical grounds for optimism that restorative justice can 'work' in restoring victims, offenders, and communities. When the restorative practice helps bring a war-torn nation to peace, as in the civil wars

Box [24.]3: Kulka Women's Club peacemaking

Alan Rumsey (2000) has documented the extraordinary intervention of the Kulka Women's Club to end a New Guinea highlands tribal war. The context is that, after an initial period of colonial pacification, in many parts of the New Guinea highlands tribal fighting has become worse, and more deadly, in recent decades, with guns replacing spears and arrows. What the Kulka Women's Club did on 13 September 1982 was to march between two opposing armies under the national flag, exhorting both sides with gifts to put down their arms, which they did. Note that as in so many of the important non-Western forms of restorative justice, the victims move the offenders by giving them gifts rather than asking for compensation (see the Javanese case at note 1, and the Crow practice of buying the ways (Austin, 1984, p. 36)).⁸ The distinctive peacemaking intervention of the Kulka Women's Club seems to have been unique, rather than a recurrent Melanesian cultural pattern. Its importance is that it had a long-lasting effect, the peace having held until the present, during two decades when hostilities among surrounding tribes escalated. Though the intervention seems unique, Maev O'Collins (2000) links it to peace and reconciliation meetings organized by women in war-torn Bougainville and women marching in Port Moresby to protest against male violence. In June 2000 a group of seventy women wearing scarfs in the colors of the national flag approached the two warring groups in the Solomon Islands civil war, asking them to talk peace, which they did (*The Dominion*, 17 June 2000). Rumsay's (2000, p. 9) work is important because it shows the need for highly contextualized analysis of the macrotransformative moments of restorative justice: 'The very factors that make one area relatively conducive to peacemaking are the same ones that make it more difficult in the neighbouring region.'

of the Solomons and Bougainville (see Box [22.]3: Kulka Women's Club, Peacemaking [. . .]), we might say restorative justice works with dramatic effect. As the endeavors of the Truth and Reconciliation Commission in South Africa and those of a number of other nations now demonstrate, 'working' in terms of healing a nation is more important than working simply conceived as reducing crime. At a more micro level, 'working' as healing a workplace after sexual harassment (Parker, 1998), a school after bullying (Rigby, 1996), and a family after violence (Burford and Pennell, 1998) are exceptionally important outcomes that have been considered in this chapter. [. . .] Finally, to conceive 'working' in the traditional criminological way of reducing crime forgets victims. We conclude, following Strang (2000), that restorative justice mostly works well in granting justice, closure, restoration of dignity, transcendence of shame, and healing for victims.

All that said, we have found that restorative justice shows great promise as a strategy of crime reduction. A mistake criminologists could make now is to do more and more research to compare the efficacy of restorative justice, statically conceived, with traditional Western justice. Rather, we must think more dynamically about developing the restorative justice process and the values that guide it. In my view, this chapter demonstrates that we already know that restorative justice has much promise. The research and development agenda now is to enlarge our understanding of the conditions under which that promise is realized. It will become clear that my own theoretical position inclines me to believe that restorative justice can work better if it is designed to enhance the efficacy of deterrence, incapacitation, and particularly rehabilitation and community prevention. Obversely, these strategies of crime reduction can work better if they are embedded in a responsive regulatory pyramid that enhances the efficacy of restorative justice. It follows that comparing the efficacy of a pure restorative justice strategy with that of a pure punishment strategy is not the best research path for the future.

[. . .]

This extract is taken from 'Does Restorative Justice Work?', chapter 3 of Restorative Justice and Responsive Regulation (Oxford University Press, 2002), by John Braithwaite.

Notes

- 1 I am reminded of a village in Java where I was told of a boy caught stealing. The outcome of a restorative village meeting was that the offender was given a bag of rice: 'We should be ashamed because one from our village should be so poor as to steal. We should be ashamed as a village.'
- 2 The evidence reviewed below also in fact suggests lower levels of victim satisfaction and participation than in its predecessor the Wagga Wagga program, a difference I attribute to the extraordinary gifts Terry O'Connell brought to that program and the extraordinary way the Wagga community got behind the program.
- 3 The evidence seems to be that this was due mainly to limitations in the program administration that made it difficult for victims to attend, not to the fact that most

- victims did not want to attend; only 6 per cent did not want to meet their offender (Maxwell and Morris, 1996).
- 4 The word *extremely* has been added to this sentence since my 1999 review of the evidence, indicating an accumulation of encouraging results.
 - 5 This test is reported in Schneider, 1986, but for mysterious reasons Schneider, 1990 reports only the nonsignificant differences between before and after offending rates for the control and experimental groups separately, rather than the significant difference between the experimental and control group (which is the relevant comparison).
 - 6 I am indebted to Glen Purdy, a Sparwood lawyer in private practice, for these data. The data until early 1997 are also available at www.titanlink.com.
 - 7 For example, DeMichieci *et al.*'s (1982, p. i) comparison of mines with exceptionally high injury rates with matched mines with exceptionally low injury rates found that at the low injury mines: 'Open lines of communication permit management and labor to jointly reconcile problems affecting safety and health; Representatives of labor become actively involved in issues concerning safety, health and production; and Management and labor identify and accept their joint responsibility for correcting unsafe conditions and practices.'
 - 8 Cree elder Roland Duneuette tells the story of the father and mother of a homicide victim taking in the offender as a son to teach him the Cree ways. Alan Rumsay tells me that in the highlands of New Guinea more widely, when one tribe is owed substantial compensation by another that has wronged them, the process that leads to the paying of that compensation starts with the wronged tribe offering a gift to the wrongdoer. In New Guinea, even when the offender acts first by offering compensation to a victim, the preserving of relationships will often also involve the expectation of a smaller but significant reciprocal gift back to the offender by the victim. Such a way of thinking is not unknown in the West. We see it in *Les Misérables*, part of the Western literary canon, and in Pope John Paul visiting and presenting a gift to the man who shot him.

References

- Austin, W.T. (1984) 'Crow Indian Justice: Strategies of Informal Social Control', *Deviant Behavior*, 5, pp. 31-46.
- Ayres, I. and Braithwaite, J. (1992) *Response Regulation: Transcending the Deregulation Debate* (New York, NY: Oxford University Press).
- Barnes, G. (1999) 'Procedural Justice in Two Contexts: Testing the Fairness of Diversionary Conferencing for Intoxicated Drivers.' PhD dissertation, Institute of Criminal Justice and Criminology, University of Maryland.
- Bazemore, G. (1999) 'Communities, Victims, and Offender Rehabilitation: Restorative Justice and Earned Redemption', in Etzioni, A. (ed.) *Civic Repentance* (Lanham, MD: Rowman & Littlefield).
- Birchall, P., Namour, S. and Syme, H. (1992) 'Report on the Midland Pilot Reparation Scheme.' Unpublished paper, Western Australia.
- Black, J. (1998) 'Talking about Regulation', *Public Law*, spring, pp. 77-105.
- Boden, L.I. (1983) 'Government Regulation of Occupational Safety: Underground Coal Mine Accidents 1973-1975.' Unpublished manuscript, Harvard School of Public Health.
- Bonta, J., Rooney, J. and Wallace-Capretta, S. (1998) *Restorative Justice: An Evaluation of the Restorative Resolution Project* (Ottawa: Solicitor General Canada).

- Braithwaite, J. (1985) *To Punish or Persuade: Enforcement of Coal Mine Safety* (Albany, NY: State University of New York Press).
- Braithwaite, J. (1989) *Crime, Shame and Reintegration* (Cambridge: Cambridge University Press).
- Braithwaite, J. (1999) 'Restorative Justice: Assessing Optimistic and Pessimistic Accounts', in Tonry, M. (ed.) *Crime and Justice: A Review of Research Vol. 25* (Chicago, IL: University of Chicago Press).
- Braithwaite, J. and Daly, K. (1994) 'Masculinities, Violence and Communitarian Control', in Newbury, T. and Stanka, E. (eds) *Just Boys Doing Business* (London: Routledge).
- Brewer, D.D., Hawkins, J.D., Catalano, R.F. and Neckerman, H.J. (1995) 'Preventing Serious, Violent, and Chronic Juvenile Offending: A Review of Evaluations of Selected Strategies in Childhood, Adolescence, and the Community', in Howell, J.C. et al. (eds) *A Sourcebook: Serious, Violent, and Chronic Juvenile Offenders* (Thousand Oaks, CA: Sage).
- Brown, M. and Polk, K. (1996) 'Taking Fear of Crime Seriously: The Tasmanian Approach to Community Crime Prevention', *Crime and Delinquency*, 42, pp. 398-420.
- Burford, G. and Pennell, J. (1998) *Family Group Decision Making Project: Outcome Report Volume I* (St John's: Memorial University, Newfoundland).
- Butts, J. and Snyder, H. (1991) *Restitution and Juvenile Recidivism* (Pittsburgh, PA: National Center for Juvenile Justice).
- Chamlin, M.B. and Cochran, J.K. (1997) 'Social Altruism and Crime', *Criminology*, 35, pp. 203-28.
- Chan, W.Y. (1996) 'Family Conferences in the Juvenile Justice Process: Survey on the Impact of Family Conferencing on Juvenile Offenders and their Families', in *Subordinate Courts Statistics and Planning Unit Research Bulletin* (Singapore).
- Chatterjee, J. (2000) *RCMP's Restorative Justice Initiative* (Ottawa: Research and Evaluation Branch, Community Contract and Aboriginal Policing Services, Royal Canadian Mounted Police).
- Clairmont, D. (1994) 'Alternative Justice Issues for Aboriginal Justice.' Paper prepared for the Aboriginal Justice Directorate, Department of Justice, Ottawa.
- Coates, R. and Gehm, J. (1985) *Victim Meets Offender: An Evaluation of Victim Offender Reconciliation Programs* (Valparaiso, IN: PACT Institute of Justice).
- Coates, R. and Gehm, J. (1989) 'An Empirical Assessment', in Wright, M. and Galaway, B. (eds) *Mediation and Criminal Justice* (London: Sage).
- Collinson, J.L. (1978) 'Safety: Pleas and Prophylactics', *Mining Engineer*, July: pp. 73-83.
- Crawford, A. (1996) 'Victim/Offender Mediation and Reparation in Comparative European Cultures: France, England and Wales.' Paper presented at the Australian and New Zealand Society of Criminology Conference, Wellington, January-February.
- Cullen, F.T. (1994) 'Social Support as an Organizing Concept for Criminology: Presidential Address to the Academy of Criminal Justice Sciences', *Justice Quarterly*, 11, pp. 527-59.
- Cullen, P.T. and Gendreau, P. (2000) 'Assessing Correctional Rehabilitation: Policy, Practice, and Prospects', in Horney, J. (ed.) *Policies, Processes, and Decisions of the Criminal Justice System Vol. 3* (Washington, DC: US Department of Justice).
- Cummings, W.I. (1980) *Education and Equality in Japan* (Princeton: Princeton University Press).
- Daly, K. (1996) 'Diversionary Conference in Australia: A Reply to the Optimists and Skeptics.' Paper presented at the annual meeting of the American Society of Criminology, 20-23 November.
- Davis, G. (1992) *Making Amends: Mediation and Reparation in Criminal Justice* (London: Routledge).

- Davis, R.T. and Stahl, R.W. (1967) 'Safety Organization and Activities of Award-winning Companies in the Coal Mining Industry', in *Bureau of Mines Information Circular 8224* (Washington, DC: Bureau of Mines).
- DeMichiei, J.M., Langton, J.F., Bullock, K.A. and Wiles, T.C. (1982) *Factors Associated with Disabling Injuries in Underground Coal Mines* (Washington, DC: Mine Safety and Health Administration).
- Dignan, J. (1990) *An Evaluation of an Experimental Adult Reparation Scheme in Kettering, Northamptonshire* (Sheffield: Centre for Criminological and Legal Research, University of Sheffield).
- Dignan, J. (1992) 'Repairing the Damage: Can Reparation Work in the Service of Diversion?', *British Journal of Criminology*, 32, pp. 453-72.
- Dolling, D. and Harman, A. (2000) 'Reoffending after Victim-Offender Mediation in Juvenile Court Proceedings.' Paper to Fourth International Conference on Restorative Justice for Juveniles, Tübingen, Germany.
- Ervin, L. and Schneider, A. (1990) 'Explaining the Effects of Restitution on Offenders: Results from a National Experiment in Juvenile Courts', in Galaway, B. and Hudson, J. (eds) *Criminal Justice, Restitution and Reconciliation* (New York, NY: Willow Tree Press).
- Farrington, D.P. (1993) 'Understanding and Preventing Bullying', in Tonry, M. (ed.) *Crime and Justice Annual Review of Research. Vol. 17* (Chicago, IL: University of Chicago Press).
- Forsythe, L. (1995) 'An Analysis of Juvenile Apprehension Characteristics and Reapprehension Rates', in Moore, D. et al. (eds) *New Approach to Juvenile Justice: An Evaluation of Family Conferencing in Wagga Wagga. A Report to the Criminology Research Council* (Wagga Wagga, Australia: Charles Sturt University).
- Fry, D. (1997) *A Report on Diversionary Conferencing* (Alice Springs, Australia: Northern Territory Police).
- Galaway, B. (1992) 'The New Zealand Experience Implementing the Reparation Sentence', in Messmer, H. and Otto, H.U. (eds) *Restorative Justice on Trial: Pitfalls and Potentials of Victim-Offender Mediation - International Research Perspectives* (Dordrecht and Boston, MA: Kluwer Academic).
- Gendreau, P., Clark, K. and Gray, G.A. (1996) 'Intensive Surveillance Programs: They Don't Work', *Community Corrections Report*, 3:3, pp. 1-15.
- Gentry, D.B. and Benenson, W.A. (1993) 'School-to-Home Transfer of Conflict Management Skills among School-age Children', *Families in Society*, February, pp. 67-73.
- Geudens, H. (1998) 'The Recidivism Rate of Community Service as a Restitutive Judicial Sanction in Comparison with the Traditional Juvenile Justice Measure', in Walgrave, L. (ed.) *Restorative Justice for Juveniles: Potentialities, Risks and Problems for Research* (Leuven: Leuven University Press).
- Goodes, T. (1995) *Victims and Family Conferences: Juvenile Justice in South Australia* (Adelaide: Family Conferencing Team).
- Gottfredson, D. (1997) 'School-based Crime Prevention', in Sherman, L. et al. (eds) *Preventing Crime: What Works, What Doesn't, What's Promising. A Report to the United States Congress* (Washington, DC: National Institute of Justice).
- Gunningham, N. (1995) 'Environment, Self-regulation and the Chemical Industry: Assessing Responsible Care', *Law and Policy*, 17, pp. 57-109.
- Gunningham, N. and Grabosky, P. (1998) *Smart Regulation: Designing Environmental Policy* (Oxford: Clarendon Press).
- Haines, F. (1997) *Corporate Regulation: Beyond 'Punish or Persuade'* (Oxford: Clarendon Press).
- Haley, J. assisted by Neugebauer, A.M. (1992) 'Victim-Offender Mediations: Japanese and American Comparisons', in Messmer, H. and Otto, H.U. (eds) *Restorative Justice*

- on Trial: Pitfalls and Potentials of Victim-Offender Mediation – International Research Perspective* (Dordrecht and Boston, MA: Kluwer Academic).
- Hawkins, K. (1984) *Environment and Enforcement: Regulation and the Social Definition of Pollution* (Oxford: Clarendon Press).
- Hayes, H., Prenzler, T. with Wortley, R. (1998) *Making Amends: Final Evaluation of the Queensland Community Conferencing Pilot* (School of Criminology and Criminal Justice, Griffith University).
- Heimer, C.A. and Staffen, L.R. (1995) 'Interdependence and Reintegrative Social Control: Labelling and Reforming "Inappropriate" Parents in Neonatal Intensive Care Units', *American Sociological Review*, 60, pp. 635–54.
- Hsien, L.I. (1996) 'Family Conferencing Good for Young Delinquents: Report' *Straits Times*, 6 March.
- Iivari, J. (1987) 'Mediation as a Conflict Resolution: Some Topical Issues in Mediation Project in Vantaa.' Paper presented to the International Seminar on Mediation, Finland, September.
- Iivari, J. (1992) 'The Process of Mediation in Finland: A Special Reference to the Question "How to Get Cases for Mediation"', in Messmer, H. and Otto, H.U. (eds) *Restorative Justice on Trial: Pitfalls and Potentials of Victim-Offender Mediation – International Research Perspectives* (Dordrecht and Boston, MA: Kluwer Academic).
- Jackson, M. (1987) *The Maori and the Criminal Justice System: A New Perspective – He Whaipaanga Hou. Report for New Zealand Department of Justice* (Wellington: Policy and Research Division, Department of Justice).
- Kaldor, M. (1999) *New and Old Wars: Organised Violence in a Global Era* (Cambridge: Polity Press).
- Kelman, S. (1984) 'Enforcement of Occupational Safety and Health Regulations: A Comparison of Swedish and American Practices', in Hawkins, K. and Thomas, J.M. (eds) *Enforcing Regulations* (Boston, MA: Kluwer-Nijhoff).
- Kerner, H., Marks, E. and Schreckling, J. (1992) 'Implementation and Acceptance of Victim-Offender Mediation Programs in the Federal Republic of Germany: A Survey of Criminal Justice Institutions', in Messmer, H. and Otto, H.U. (eds) *Restorative Justice on Trial: Pitfalls and Potentials of Victim-Offender Mediation – International Research Perspectives* (Dordrecht and Boston, MA: Kluwer Academic).
- Kuhn, A. (1987) 'Koperverletzung als Konflikt, Zwischenbericht 1987 zum Project Handschlag.' Unpublished paper cited in T. Trenczak, 'A Review and Assessment of Victim-Offender Reconciliation Programming in West Germany', in Galaway, B. and Hudson, J. (eds) *Criminal Justice, Restitution and Reconciliation* (Monsey, NY: Willow Press).
- Lam, J.A. (1989) *The Impact of Conflict Resolution Programs on Schools: A Review and Synthesis of the Evidence* (Amherst, MA: National Association for Mediation in Education).
- Lam, J.A. (1995) 'Altering Course: New Directions in Criminal Justice and Corrections. Sentencing Circles and Family Group Conferences', *Australian and New Zealand Journal of Criminology*, December, pp. 78–99.
- La, Prairie, C. (1995) 'Altering Course: New Directions in Criminal Justice and Corrections, Sentencing-Circles and Family Group Conferences'. *Australian and New Zealand Journal of Criminology*, December: 78–99.
- Latimer, J., Dowden, C. and Muise, D. (2001) *The Effectiveness of Restorative Justice Practices: A Meta-analysis* (Ottawa: Department of Justice, Canada).
- Lewis-Beck, M.S. and Alford, J.R. (1980) 'Can Government Regulate Safety: The Coal Mine Example', *American Political Science Review*, 74, pp. 745–56.
- Little, M. (2001) 'ISSP: An Experience in Multi-Systemic Responses to Persistent Young Offenders Known to Children's Services.' Unpublished paper, University of Chicago.

- Marshall, T.F. (1992) 'Restorative Justice on Trial in Britain', in Messmer, H. and Otto, H.U. (eds) *Restorative Justice on Trial: Pitfalls and Potentials of Victim-Offender Mediation - International Research Perspectives* (Dordrecht and Boston, MA: Kluwer Academic).
- Marshall, T.F. and Merry, S. (1990) *Crime and Accountability: Victim Offender Mediation in Practice* (London: Home Office).
- Masters, G. (1997) 'Reintegrative Shaming in Theory and Practice.' PhD dissertation, Lancaster University.
- Maxwell, G.M. and Morris, A. (1993) *Family, Victims and Culture: Youth Justice in New Zealand* (Wellington: Special Policy Agency and Institute of Criminology, Victoria University of Wellington).
- Maxwell, G.M. and Morris, A. (1996) 'Research on Family Group Conferences with Young Offenders in New Zealand', in Hudson, J. et al. (eds) *Family Group Conferences: Perspectives on Policy and Practice* (Sydney: Federation Press and Criminal Justice Press).
- Maxwell, G.M., Morris, A. and Anderson, T. (1999) *Community Panel Adult Pretrial Diversion: Supplementary Evaluation. Research Report* (Wellington: Crime Prevention Unit, Department of Prime Minister and Cabinet and Institute of Criminology, Victoria University of Wellington).
- McCold, P. and Wachtel, B. (1998) 'Restorative Policing Experiment: The Bethlehem Pennsylvania Police Family Group Conferencing Project' (Pipersville, PA: Community Service Foundation).
- McCold, I. and Wachtel, T. (2000) 'Restorative Justice Theory Validation.' Paper presented to the Fourth International Conference on Restorative Justice for Juveniles, Tübingen, Germany (www.restorativepractices.org).
- McGarrell, E.F., Olivares, K., Crawford, K. and Kroovand, N. (2000) *Returning Justice to the Community: The Indianapolis Juvenile Restorative Justice Experiment* (Indianapolis, IN: Hudson Institute).
- Miller, S. and Blackler, J. (2000) 'Restorative Justice Retribution, Confession and Shame', in Strang, H. and Braithwaite, J. (eds) *Restorative Justice: Philosophy to Practice* (Aldershot: Ashgate Dartmouth).
- Mine Enforcement and Safety Administration (1977) *A Report on Civil Penalty Effectiveness* (Washington, DC: Mine Enforcement and Safety Administration).
- Ministry of Justice, Western Australia (1994) *Juvenile Justice Teams: A Six-Month Evaluation* (Perth: Ministry of Justice).
- Moore, D.B. with Forsythe, L. (1995) *A New Approach to Juvenile Justice: An Evaluation of Family Conferencing in Wagga Wagga* (Wagga Wagga: Charles Sturt University).
- Moore, D.B. and O'Connell, T. (1994) 'Family Conferencing in Wagga Wagga: A Communitarian Model of Justice', in Alder, C. and Wundersitz, J. (eds) *Family Conferencing and Juvenile Justice* (Canberra: Australian Studies in Law, Crime and Justice, Australian Institute of Criminology).
- Morris, A., Maxwell, G., Hudson, J. and Galaway, B. (1996) 'Concluding Thoughts', in Hudson, J. et al. (eds) *Family Group Conferences: Perspectives on Policy and Practice* (Sydney: Federation Press and Criminal Justice Press).
- Nugent, W.R. and Paddock, J.B. (1995) 'The Effect of Victim-Offender Mediation on Severity of Reoffense', *Mediation Quarterly*, 12, pp. 353-67.
- Nugent, W.R., Umbreit, M.S., Wiinamaki, L. and Paddock, G. (forthcoming) 'Participation in Victim-Offender Mediation and Re-offense: Successful Replication?', *Journal of Research on Social Work Practice*.
- Obonsawin-Irwin Consulting Inc. (1992a) *An Evaluation of the Attawapiskat First Nation Justice Project* (Ontario: Ministry of the Attorney General).
- Obonsawin-Irwin Consulting Inc. (1992b) *An Evaluation of the Sandy Lake First Nation Justice Project* (Ontario: Ministry of the Attorney General).

- O'Collins, M. (2000) 'Images of Violence in Papua New Guinea: Whose Images? Whose Reality?', in Dinnen, S. and Ley, A. (eds) *Reflection on Violence in Melanesia* (Annandale, NSW, and Canberra: Hawkins Press/Asia Pacific Press).
- Olweus, I. (1993) 'Annotation: Bullying at School – Basic Facts and Effects of a School-based Intervention Program', *Journal of Child Psychology and Psychiatry*, 35, pp. 1171–90.
- Palk, G., Hayes, H. and Prenzler, T. (1998) 'Restorative Justice and Community Conferencing: Summary of Findings from a Pilot Study', *Current Issues in Criminal Justice*, 10, pp. 138–55.
- Parker, C. (1998) 'Public Rights in Private Government: Corporate Compliance with Sexual Harassment Legislation', *Australian Journal of Human Rights*, 5, pp. 159–93.
- Pate, K. (1990) 'Victim–Offender Restitution Programs in Canada', in Galaway, B. and Hudson, J. (eds) *Criminal Justice, Restitution and Reconciliation* (New York, NY: Willow Tree Press).
- Pennell, J. and Burford, G. (1995) *Family Group Decision Making: New Rules for 'Old' Partners in Resolving Family Violence. Implementation Report. Vol. 1* (St John's: Family Group Decision Making Project, School of Social Work, University of Newfoundland).
- Pennell, J. and Burford, G. (1997) *Family Group Decision Making: After the Conference – Progress in Resolving Violence and Promoting Well-Being* (St John's: Family Group Decision Making Project, School of Social Work, University of Newfoundland).
- Pennell, J. and Burford, G. (2000) 'Family Group Decision Making: Protecting Children and Women', *Child Welfare*, 79, pp. 131–58.
- Pepler, D.J., Craig, W., Ziegler, S. and Charach, A. (1993) 'A School-based Antibullying Intervention', in Tatum, D. (ed.) *Understanding and Managing Bullying* (London: Heinemann).
- Perry, C.S. (1981a) 'Dying to Dig Coal: Fatalities in Deep and Surface Coal Mining in Appalachian States, 1930–1978.' Unpublished manuscript. Department of Sociology, University of Kentucky.
- Perry, C.S. (1981b) 'Safety Laws and Spending Saves Lives: An Analysis of Coal Mine Fatality Rates 1930–1979.' Unpublished manuscript, Department of Sociology, University of Kentucky.
- Pitts, J. and Smith, P. (1995) *Preventing School Bullying. Police Research Group Crime Detection and Prevention Series Paper 63* (London: Home Office).
- Power, P. (2000) 'Restorative Conferences in Australia and New Zealand.' PhD dissertation, Law School, University of Sydney.
- Reed, P. (1986) 'Developmental Resources and Depression in the Elderly', *Nursing Research*, 36, pp. 368–74.
- Reed, P. (1987) 'Spirituality and Well Being in Terminally Ill Hospitalized Adults', *Research in Nursing and Health*, 10, pp. 335–44.
- Reed, P. (1992) 'An Emerging Paradigm for the Study of Spirituality in Nursing', *Research in Nursing and Health* 15, pp. 349–57.
- Rees, J.V. (1988) *Reforming the Workplace* (Philadelphia, PA: University of Pennsylvania Press).
- Rees, J.V. (1994) *Hostages of Each Other: The Transformation of Nuclear Safety since Three Mile Island* (Chicago: University of Chicago Press).
- Retzinger, S. and Scheff, T.J. (1996) 'Strategy for Community Conferences: Emotions and Social Bonds', in Galaway, B. and Hudson, J. (eds) *Restorative Justice: International Perspectives* (Monsey, NY: Criminal Justice Press).
- Rigby, K. (1996) *Bullying in Schools and What to Do about It* (Melbourne: Australian Council for Educational Research).
- Ross, R. (1996) *Returning to the Teachings: Exploring Aboriginal Justice* (London: Penguin).

- Rumsey, A. (2000) 'Women as Peacemakers in the New Guinea Highlands: A Case from the Nebilyer Valley, Western Highlands Province', in Dinnen, S. and Ley, A. (eds) *Reflection on Violence in Melanesia* (Leichhardt, NSW: Hawkins Press).
- Sampson, R. and Laub, J.H. (1993) *Crime in the Making: Pathways and Turning Points through Life* (Cambridge, MA: Harvard University Press).
- Schiff, M.F. (1998) 'The Impact of Restorative Interventions on Juvenile Offenders', in Walgrave, L. and Brazemore, G. (eds) *Restoring Juvenile Justice* (Monsey, NY: Criminal Justice Press).
- Schneider, A. (1986) 'Restitution and Recidivism Rates of Juvenile Offenders: Results from Four Experimental Studies', *Criminology*, 24, pp. 533-52.
- Schneider, A. (1990) *Deterrence and Juvenile Crime: Results from a National Policy Experiment* (New York, NY: Springer-Verlag).
- Scholz, J.T. and Gray, W.B. (1990) 'OSHA Enforcement and Workplace Injuries: A Behavioral Approach to Risk Assessment', *Journal of Risk and Uncertainty*, 3, pp. 283-305.
- Sherman, L.W., Strang, H. and Woods, D. (2000) *Recidivism Patterns in the Canberra Reintegrative Shaming Experiments (RISE)* (Canberra: Centre for Restorative Justice, Australian National University).
- Smith, D., Blagg, H. and Derricourt, N. (1985) 'Victim-Offender Mediation Project. Report to the Chief Officers' Group, South Yorkshire Probation Service', cited in Marshall, T. and Merry, S. (eds) *Crime and Accountability: Victim-Offender Mediation in Practice* (London: Home Office, 1990).
- Stewart, T. (1993) 'The Youth Justice Co-ordinator's Role: A Personal Perspective of the New Legislation in Action', in Brown, B.J. and McElrea, F.W.M. (eds) *The Youth Court in New Zealand: A New Model of Justice* (Auckland: Legal Research Foundation).
- Strang, H. (2000) 'Victim Participation in a Restorative Justice Process: The Canberra Reintegrative Shaming Experiments.' PhD dissertation, Australian National University.
- Strang, H. (2001) *Victim Participation in a Restorative Justice Process* (Oxford: Oxford University Press).
- Strang, H. and Sherman, L.W. (1997) *The Victim's Perspective. RISE Working Paper* (Canberra: Law Program, RSSS, Australian National University).
- Tauri, J. (1998) 'Family Group Conferencing: A Case Study of the Indigenisation of New Zealand's Justice System', *Current Issues in Criminal Justice*, 10, pp. 168-82.
- Tauri, J. and Morris, A. (1997) 'Re-forming Justice: The Potential of Maori Processes', *Australian and New Zealand Journal of Criminology*, 30, pp. 149-67.
- Trenczek, T. (1990) 'A Review and Assessment of Victim-Offender Reconciliation Programming in West Germany', in Galaway, B. and Hudson, J. (eds) *Criminal Justice, Restitution and Reconciliation* (Monsey, NY: Willow Press).
- Trimboli, L. (2000) *An Evaluation of the NSW Youth Justice Conferencing Scheme* (Sydney: NSW Bureau of Crime Statistics and Research).
- Tyler, T. and Huo, Y.J. (2001) *Trust and the Rule of Law: A Law-abidingness Model of Social Control* (New York: Russel Sage).
- Umbreit, M. (1990) 'Mediation in the Nineties: Pushing Back the Boundaries', *Mediation*, 6, pp. 27-9.
- Umbreit, M. (1992) 'Mediating Victim-Offender Conflict: From Single-site to Multi-site Analysis in the US', in Messmer, H. and Otto, H.U. (eds) *Restorative Justice on Trial: Pitfalls and Potentials of Victim-Offender Mediation - International Research Perspectives* (Dordrecht and Boston, MA: Kluwer Academic).
- Umbreit, M. (1998) 'Restorative Justice through Juvenile Victim-Offender Mediation', in Walgrave, L. and Bazemore, G. (eds) *Restoring Juvenile Justice* (Monsey, NY: Criminal Justice Press).

- Umbreit, M. and Coates, R. (1992) *Victim-Offender Mediation: An Analysis of Programs in Four States of the US* (Minneapolis, MN: Citizens Council Mediation Services).
- Umbreit, M. with Coates, R. and Kalanj, B. (1994) *Victim Meets Offender: The Impact of Restorative Justice and Mediation* (Monsey, NY: Criminal Justice Press).
- Van Ness, D. (1986) *Crime and its Victims: What We Can Do?* (Downers Grove, IL: Intervarsity Press).
- Waters, A. (1993) 'The Wagga Wagga Effective Cautioning Program: Reintegrative or Degrading?' BA honors thesis, University of Melbourne.
- Wundersitz, J. and Hetzel, S. (1996) 'Family Conferencing for Young Offenders: The South Australian Experience', in Hudson, J. *et al.* (eds) *Family Group Conferences: Perspectives on Policy and Practice* (Sydney: Federation Press and Criminal Justice Press).
- Wynne, J. (1996) 'Leeds Mediation and Reparation Service: Ten Years Experience with Victim-Offender Mediation', in Galaway, B. and Hudson, J. (eds) *Restorative Justice: International Perspectives* (Monsey, NY: Criminal Justice Press).