



Giving Victims Choice in Restorative Justice: Is there a detrimental affect on offender outcomes?

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Background – (Practice)



- Following their involvement in the RCT of RJ reported by Shapland et al. (2008) which evaluated the effectiveness of face-to-face conferencing, Thames Valley Probation mainstreamed RJ in community sentencing from 2005 onwards.
- Principle of RJ – ‘victim-centred’ – necessitated offering victims choice of level of participation
- Thus three levels of victim engagement
 - Face-to-face conferencing
 - Receiving a letter of apology
 - No contact – offender to engage in victim-empathy training
- Recognised need for evaluation – ‘does mainstreaming RJ and offering victim choice impact on public safety?’ i.e. Do victim empathy work and sending letters of apology lead to increases in risk for reconviction?
- But – victim choice and implications for the evaluation design

Background – (empirical)



- Between 2001 and 2004 Shapland et al. (2008) conducted a multi-site, randomised-controlled trial (RCT) for the Ministry of Justice, in which Thames Valley Probation, as part of the Restorative Justice Consortium (RJC), participated by delivering RJ conferences involving adult offenders and victims.
- The RJC contributed 728 cases to the study with 50% were referred to conference.
- Thames Valley contributed two separate RCTs, one of violent offenders prior to release from a custodial sentence and the other of offenders who received community sentences.
- The findings indicated that face-to-face conferencing reduced the rate of reconviction in relation to the control groups.
- Importantly, the findings that none of the evaluated interventions were associated with an increase risk in offending.

Aim



- To establish whether offering victims choice in the level of engagement in restorative justice with their offender demonstrated a detrimental effect on offender outcomes.

Objectives



- To examine the ‘treatment effects’ of the RJ initiatives as opposed to the effect of RJ as sentencing decision.
- To determine whether each of three different restorative justice initiatives employed within a probation setting reduced the risk of recidivism in relation to that predicted by the offenders’ OGRS2 scores.
- To ascertain whether the alternative forms of restorative justice work (i.e. victim-empathy work and constructing a letter of apology) demonstrated an equivalent risk for reconviction as conferencing.
- To investigate the impact of the three initiatives on reconviction in relation to risk band category and offence type
- To determine whether reconvictions following an RJ sentence evidence a reduction in harm

Study design



- This study was an investigation of data derived from actual practice, rather than a data drawn from a ‘rigorously designed’ research study.
- It is an example of collaboration between academic researchers and practitioners, in which the ‘real world practice’ as opposed to the ‘idealised intervention’ is assessed.
- Thus, in the world of evaluation research this would be known as a pragmatic trial as opposed to an exploratory trial, which are typically conducted using RCTs.
 - According to Everitt and Wessely (2008), what the pragmatic trial loses in terms of reliability (due to various uncontrollable factors), it gains in ecological validity
 - Pragmatic trials are considered the most effective method when exploring the impact of participant preference (in this case victims’ preferences)

Method:



A risk-band analysis of a single-site, multi-pathway RJ intervention programme run by Thames Valley Probation.

Involves the comparison of the rate at which particular groups of offenders reoffended in relation to the average expected rate of reconviction for the group.

- 254 offenders case progression files (85% males) – aged 16-63
- This included all offenders who were given an RJ element in their sentence from Sept 2007-Sept 2011
- Analysis conducted Sept 2012 – at least one year follow-up

Expected risk for recidivism – Offender Group Risk Scale- 2 score (OGRS) – provides an actuarial indication of the likelihood of recidivism within a 2 year time frame - expressed as a percentage

Allocated interventions and nature of the offences



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- Letter of apology – n = 102
- Victim-empathy work – n = 64
- Conference – n = 51
- Index offences:
 - Irresponsible behaviour (harmful but lacked criminal intent)- 14
 - violent offences – 172
 - Property offences – 52
 - Violent + property - 16
- Non – completers – 36: 254 (transferred, revoked, breached, AWOL)

OGRS2 and the data-set



- OGRS2 – predicts likelihood of reconviction within a two year time frame from data of sentence.
- Analysis of the whole sample which included probationers with between a 12 month and four year follow-up.
 - Those under two years might underestimate reconviction rates
 - Those over two years might overestimate reconviction
- BUT – the average duration until reconviction was 5 months – (range between 2 weeks and 13 months) – all but one probationer offended within one year.

Data coding



- Data drawn from:
 - OAYSys (Offender assessment system)
 - PCN (Police National Computer)
 - ICMS (the Integrated Case Management System)
- Reconviction - any crime committed that lead to an official disposal – police caution, reprimand, conviction etc. – Only reconvictions that occurred after the RJ intervention were recorded in this analysis
- Reduction in harm – first two authors independently coded after comparing the details of the index and subsequent offences: equivalent, less harm or more harm
 - e.g. – less harm – racially aggravated assault – traffic offence

Risk Bands



- NOMS classification system using OGRS-2
 - 1-24 – low risk
 - 25-49 – medium risk
 - 50-74 – high risk
 - 75+ - very high risk
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- All offenders within each risk band had their OGRS summated and the average was computed for each risk band and this value was then compared with the actual proportion of offenders within that band who were reconvicted.

Comparison of actual vs expected rate of reconviction for RJ completers in each of the different risk categories



	Expected Rate of Reconviction (average of the OGRS2 scores)	Actual rate of reconviction	Percentage-point reduction in risk	Chi-Squared calculation to determine whether this is a significant reduction in risk
Low Risk (n = 40)	16.4% (n = 6.6) CI 8.8- 32.0	7.5% (n = 3) CI 2.6 – 19.9	8.9%	$\chi^2 = 2.35, df = 1, p = .12$ (ns)
Medium Risk (n = 74)	37.5% (n = 27.8) CI 27.7 – 49.2	13.5% (n = 10) CI 7.5 – 23.1	24.0%	$\chi^2 = 17.26, df = 1, p <.005$
High Risk (n = 69)	60.6% (n = 41.8) CI 49.1 - 71.5	18.8% (n = 13) CI 11.4 - 29.6	41.8%	$\chi^2 = 21.45, df = 1, p <.001$
Very High Risk (n =31)	83.9% (n = 26) CI 67.4 -92.9	41.9% (n = 13) CI 26.4 – 59.2	42.0%	$\chi^2 = 40.30, df = 1, p <.001$

Non-Completers



	Expected Rate of Recconviction	Actual rate of reconviction	%-point reduction in risk	Chi-Squared calculation to determine whether this is a significant reduction in risk
Low Risk (n = 3)	20.7% (n = 0.6) CI 6.1 – 79.2	0% (n = 0) CI 0 – 56.2	20.7%	$X^2 = 0.715, df = 1, p = ns$
Medium Risk (n = 6)	35.8% (n = 2.1) CI 9.0 - 70.0	16.7% (n = 1) CI 3.0 - 56.4	19.1%	$X^2 = 1.380, df = 1, p = ns$
High Risk (n = 12)	62.7% (n = 7.5) CI 35.0 – 83.0	33.3% (n = 4) CI 13.8 – 60.9	29.4%	$X^2 = 4.325, df = 1, p <.038$
Very High Risk (n = 16)	84.4% (n = 13.5) CI 60.5 – 94.7	50.0% (n = 8) CI 28.0- 72.0	34.4%	$X^2 = 14.33, df = 1, p <.0005$

Reduction in recidivism by RJ Type



	Expected Rate of Reconviction (average of the OGRS2 scores)	Actual rate of reconviction	Percentage-point reduction in risk	Chi-Squared calculation to determine whether this is a significant reduction in risk
Letter (n = 103)	46.3% (n = 47.7) CI 37.3 - 56.2	17.5% (n = 18) CI 11.4 – 25.9	28.8%	$X^2 = 27.07$, df = 1, p <.005
Victim Empathy (n = 63)	47.3% (n = 29.8) CI 35.8 – 59.7	14.3% (n = 9) CI 13.7 - 33.9	33.0%	$X^2 = 27.55$, df = 1, p <.005
Conference (n = 50)	50.5% (n = 25.3) CI 36.6 – 63.4	24.0% (n = 12) CI 14.2 - 37.0	26.5%	$X^2 = 14.15$, df = 1, p <.005

	Type of RJ Intervention					
	Letter of Apology		Victim-Empathy Work		Conference	
	Observed rate of reconviction	Predicted rate of reconviction	Observed rate of reconviction	Predicted rate of reconviction	Observed rate of reconviction	Predicted rate of reconviction
Low Risk (n = 40)	4.8% (1:21)	15.9% (n = 3.3)	8.3% (1:12)	16.9% (n = 2)	14.3% (1:7)	17.0% (n = 1.2)
% point reduct		11.1%		8.6%		2.7%
Medium Risk (n = 74)	12.8% (5:39)	37.3% (n = 14.5)	9.5% (2:21)	39.7% (n = 8.3)	21.4% (3:14)	35.1% (n = 4.9)
% point reduct		24.5%		30.2%		13.7%
High Risk (n = 69)	33.3% (9:27)	61.4% (n = 16.6)	9.1% (2:22)	59.6% (n = 13.1)	10.0% (2:20)	60.4% (n = 12.1)
% point reduct		28.1%		50.5%		50.4%
Very High Risk (n = 31)	20.0% (3:15)	84.9% (n = 12.7)	57.1% (4:7)	83.4%	66.7% (6:9)	82.4%
% point reduct		64.9%		26.3%		15.5%

Reduction in recidivism by offence type



Offence category	Expected Rate of Re-conviction (average of the OGRS scores)	Actual rate of re conviction	Percentage -point reduction in risk	Chi-Squared calculation to determine whether this is a significant reduction in risk
Irresponsible behaviour which could or did lead to harm (n =3)	35.0% (n= 1.05)	0	100%	$\chi^2 = 1.615$, df = 1, p = .21 (ns)
Violent offence (n = 48)	46.8% (n = 22.46)	20.8% (n = 10)	55.5%	$\chi^2 = 12.990$, df = 1, p <.001*
Property offence (n = 11)	55.1% (n = 6.06)	45.5% (n = 5)	17.4%	$\chi^2 = 0.425$, df = 1, p =.52 (ns)
Violence + property offence (n = 5)	41.6% (n = 2.08)	40.0% (n = 2)	3.9%	$\chi^2 = 0.005$, df = 1, p = .95 (ns)

Offence Type	Type of RJ Intervention					
	Letter of Apology		Victim-Empathy Work		Conference	
	Observed rate of reconviction	Predicted rate of reconviction	Observed rate of reconviction	Predicted rate of reconviction	Observed rate of reconviction	Predicted rate of reconviction
Irresponsible behaviour (n = 13)	0% (0:7)	30.9% (n = 2.2)	0% (0:3)	43.3% (n = 1.3)	0% (0:3)	42.3% (n = 1.3)
	CI 0 – 35	CI 8.2- 64.0	CI 0 – 56	CI 6.2 -79.2	CI 0 – 56.1	CI 6.0- 77.4
% point reduct		30.9%		43.3%		42.3%
Violent Offence (n = 149)	16.9% (12:70)	45.0% (n = 31.5)	11.5% (6:51)	46.8% (n = 23.9)	17.9% (5:28)	47.1% (n = 13.2)
	CI 10.6–27.6	CI 34.6-57.3	CI 5.0 - 23.4	CI 34.1–60.5	CI 7.9 -35.6	CI 30.1-64.9
% point reduct		28.1%		35.3%		29.2%
Property Offence (n = 39)	23.5% (4:17)	57.8% (n = 9.8)	60.0% (3:5)	68.6% (n = 3.4)	43.8% (7:17)	60.8% (n = 10.3)
	CI 9 – 47.3	CI 36.0-78.4	CI 23.1-88.4	CI 30.2- 96.4	CI 21.6- 64.0	CI 38.2- 80.4
% point reduct		34.3%		8.6%		17.0%
Property + Violent Offence (n = 14)	25.0% (2:8)	45.3% (n = 3.6)	0% (0:3)	24.0% (n = 1.6)	0% (0:3)	32.3% (n = 0.97)
	CI 7.2-59.1	CI 19.2 -73.3	CI 0 - 56	CI 13.3- 84.2	CI 0 - 56	CI 6.2-79.2
% point reduct		20.3%		24%		32.3%

Nature of the index offence and reduction in harm



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	Equivalent harm	Less harm	More harm	No reconviction
Irresponsible Behaviour	0	0	0	14
	0%	0%	0%	100.0%
Violent Offence	5 2.9%	17 9.9%	7 4.1%	143 83.1%
Property Offence	5 9.6%	10 19.2%	6 11.5%	31 59.6%
Property and Violent Offence	0 0%	3 18.8%	0 0%	13 81.3%

Designation of RJ Intervention by Offence Type



	The proportion of offenders in each offence group who participated in a particular RJ intervention			
	Irresponsible behaviour	Violent offence	Property offence	Mixed property and violent offence
Letter of apology	50.0% (n = 7)	41.3% (n = 71)	32.7% (n = 17)	50% (n = 8)
Victim empathy work	21.4% (n = 3)	30.2% (n = 52)	9.6% (n = 5)	18.8% (n = 3)
Conference	21.4% (n = 3)	16.3% (n = 28)	32.7% (n = 17)	5.9% (n = 3)
Non-completers	7.1% (n = 1)	12.2% (n = 21)	25.0% (n = 13)	12.5% (n = 2)

Key Findings



- Overall 23.3% of the probationers were reconvicted
- But just 18% of RJ completers were reconvicted in comparison to 35% of non-completers – both proportions are far less than predicted.
 - 37% of property offenders who completed RJ were reconvicted
 - 18% of violent offenders
- Low risk and property offenders demonstrate the greatest reduction in risk from writing a letter of apology
- Medium risk – benefit most from victim-empathy work
- High risk / violent offenders – benefit most from conferencing

- Of the reconvictions - 64% were for a less serious crime
 - 25% committed a more serious crime
- All three RJ interventions were associated with harm reduction
- Non-completers who reconvicted demonstrate equivalence in the level of harm
 - Their subsequent offences were more likely to be property-related

Limitations



- This study was an evaluation of practice as opposed to a purposely designed research study.
 - Thus:
 - lack of control group
 - Constrained by the analysis of data that had already been collected – but it had not been collected specifically for research purposes.
- The use of OGRs2:
 - it is apparent that the tool slightly over assesses risk
 - The tool is based on static as opposed to dynamic risk factors
 - Has poor inter-rater reliability - Stephens and Brown (2001)

Conclusion



- The results of the analysis suggest that:
 - The choice offered to victims which led to the preparation of letters of apology and the undertaking of victim empathy, work is 'safe', does no harm and leads to a reduction in the rate of reconviction.
- The future
 - We now need to explore the impact of victim choice on victim outcomes, e.g. sense of justice, satisfaction with the process, healing, reduction in anxiety/fear etc.
 - We may also what to ask what other options victims might want...
 - Responding to a letter of apology?
 - Having a say in the timing of their involvement?
 - An opportunity to help produce material for victim empathy work with offenders?