

Research Paper

2013/02



Restorative Justice: **Female Offenders in Restorative Justice Conferences**

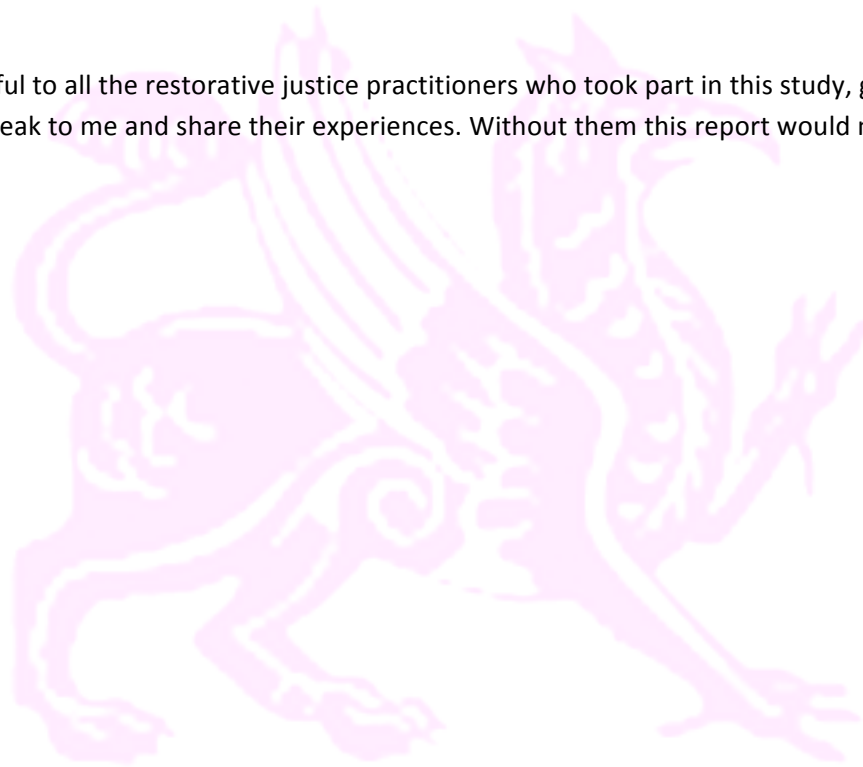
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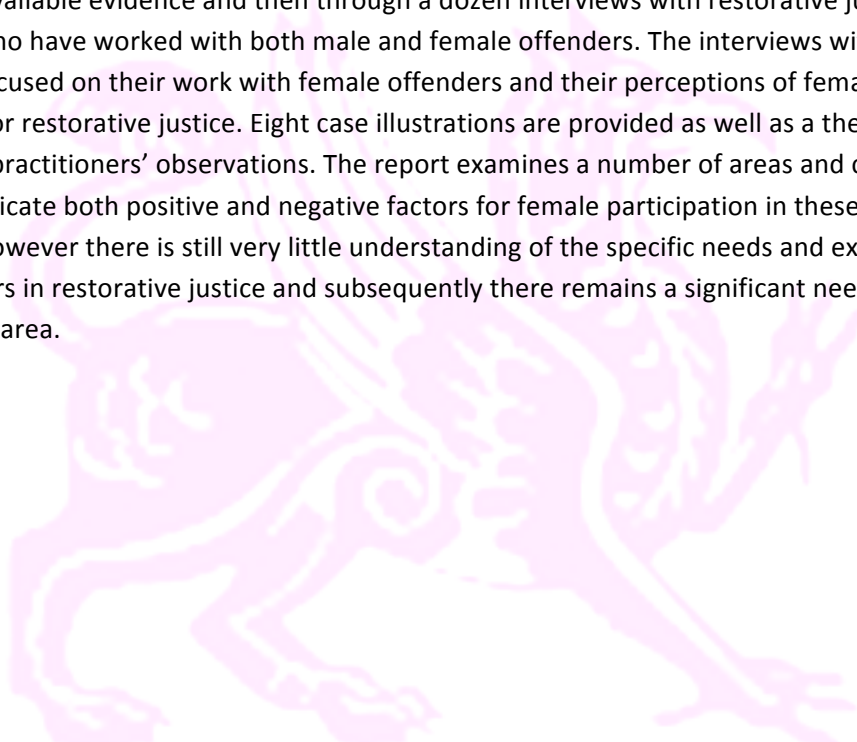
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Abstract

This report has been produced as part of the Griffins Society's work to research and promote effective practice with women in the criminal justice system. The report examines the experiences of female offenders (women and girls) in restorative justice conferences, first through a literature review of the available evidence and then through a dozen interviews with restorative justice practitioners who have worked with both male and female offenders. The interviews with practitioners focused on their work with female offenders and their perceptions of female offenders as candidates for restorative justice. Eight case illustrations are provided as well as a thematic analysis of the practitioners' observations. The report examines a number of areas and concepts, which could indicate both positive and negative factors for female participation in these conferences. However there is still very little understanding of the specific needs and experiences of female offenders in restorative justice and subsequently there remains a significant need for further research in this area.



Chapter 1: Introduction

'Restorative justice is a process whereby parties with a stake in a specific offence resolve collectively how to deal with the aftermath of the offence and its implications for the future' (Marshall, 1999:5)

This definition neatly summarises the main aims and objectives of restorative justice in a criminal justice setting. Restorative justice has existed within our criminal justice system since the 1980s and can be delivered in a number of ways (Criminal Justice Joint Inspection, 2012).

Firstly, and most traditionally, restorative justice can be delivered through a formal conference process. A restorative justice facilitator coordinates a meeting between the offender, the victim, and their supporters (usually family). Sometimes connected professionals, such as social workers, or police, prison, or probation staff may also attend. These conferences follow a clear structure; many practitioners follow a 'script' with set questions for discussion. The script may lead to an offender offering an apology or agreeing to specific reparative activity. It is important that conferences are only arranged when both the victim and the offender fully consent to participating and both are assessed as being suitable to take part. This is the most well-known form of restorative justice and will be the focus of this report.

Currently restorative justice can be used by police at the point of arrest as a means of diversion for low level offending, as part of a community sentence as a Specified Activity Requirement¹, or whilst an offender is being held in prison. The Crime and Courts Act has recently come into effect, and will allow judges to defer sentencing in order for restorative justice to take place pre-sentence. This means that legislation now allows for restorative justice to take place at every stage of the criminal justice process.

Restorative justice is most prevalent within the youth justice system, particularly since the introduction of the Youth Referral Order in 1999. Youth Referral Orders are used for young people who plead guilty to their first offence and include a process of establishing Youth Offender Panels, which consist of members of the public, practitioners and victims who agree a contract with the young offender. These contracts frequently involve some form of reparation and restorative justice (Ministry of Justice, 2012b).

¹ A Specified Activity Requirement can be imposed as part of a Community Order or Suspended Sentence Order and requires an offender to complete particular activities – such as restorative justice

The use of restorative justice looks set to increase significantly over the coming years (Ministry of Justice, 2012a). There is general academic consensus that restorative justice performs highly in terms of victim satisfaction and Randomised Control Trials (RCTs) have demonstrated that it can significantly reduce the reoffending of those offenders who take part (Shapland et al., 2008).

However, much of the evidence for restorative justice is based on research with male offenders. Women and girls have largely been overlooked, or assimilated within samples containing mainly males – obscuring any differences that may exist. There is some limited international evidence and some from the youth justice system, but this is far from conclusive and often generates more questions than answers. The evidence from the Ministry of Justice evaluations suggest that gender makes no difference to reoffending rates after conferences, but this was also based on a comparatively small number of female offenders and cannot be seen as sufficient to rule out the impact gender may have on these conferences.

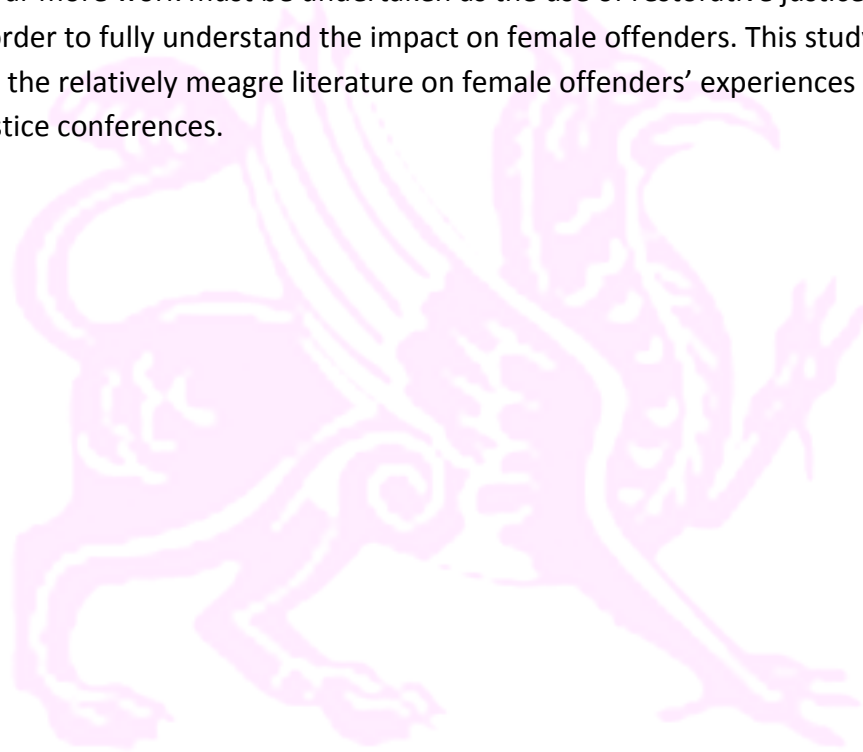
This study will argue that there is reason to believe that female offenders may experience restorative justice conferences differently to males. This can be attributed to existing evidence about their offending patterns, their wider experiences of the criminal justice system and the way in which they interpret their own actions. This report will shed light on these issues through a literature review of the existing evidence to look at why these might be important differences for female offenders. It also presents case illustrations of female offenders who have been involved in restorative justice conferences, as recalled by the practitioners who facilitated them, and collates further opinions and experiences of these practitioners having had experience delivering conferences with both male and female offenders.

The report concludes by suggesting that there are a number of reasons to think that restorative justice might have a particularly positive effect for women – when it is done well it can be empowering, can support desistance and in many ways can be beneficial for mental health.

However, if it is not carefully delivered, there are a number of risks – vulnerable women who might already feel a heightened sense of guilt and shame could find this magnified, to the detriment of their mental health. Moreover if female offending tends to be more interpersonal, and female offenders are more likely to have known their victim previously, then conferences could be entirely different experience and might be more challenging for female offenders. The conference might not just be about the offence but the wider impact on the relationship between the victim and the offender. Conferences are also open to power imbalances and can be vulnerable to patriarchal influences and stereotypes if not carefully managed by facilitators.

There are also issues with female access to restorative justice – women are a minority group within the criminal justice system and the types of crime they commit are not necessarily prioritised for restorative justice within the criminal justice setting. Within prisons, they are also likely to be much further away from home and victims than male prisoners are, so there are more logistical problems to contend with. But cases of female offending could be given greater priority for restorative justice – women’s centres, for example, could liaise better with restorative justice practitioners to offer conferencing to those women who feel they would like to make contact with a victim and offer an apology and/or some form of reparation.

What is clear is the woeful lack of evidence regarding female offenders in restorative justice conferences. Far more work must be undertaken as the use of restorative justice continues to expand in order to fully understand the impact on female offenders. This study contributes to the relatively meagre literature on female offenders’ experiences of restorative justice conferences.



Chapter 2: Literature Review

This literature review will look at the limited evidence on female offenders in restorative justice conferences and suggest that there are a number of reasons why female offenders might experience conferences, and be impacted by them, differently.

2.1: Overview of restorative justice

In 2012, a Criminal Justice Joint Inspection report examined the current use and standard of restorative justice provision within the Police Service, Youth Offending Teams, the Prison Service and Probation. The report outlined some of the current limitations including a lack of public awareness; a lack of clarity and misunderstanding of the purpose restorative justice, including amongst some criminal justice practitioners; patchy levels of provision across the criminal justice system; and widespread geographical variation. The report concluded that there was scope to radically improve access and identified a greater need for on-going monitoring and evaluation of restorative justice practices (Criminal Justice Joint Inspection, 2012).

Despite these concerns, restorative justice is rapidly gaining political momentum; it is currently “a priority in current plans to reform sentencing” and the government has stressed that it is “committed to increasing the use of restorative justice both as part of and an alternative to the tradition model of criminal justice” (Ministry of Justice, 2012c).

This political impetus has evolved largely from the positive findings of RCTs (Randomised Controlled Trials) commissioned by the Ministry of Justice. The research, the most comprehensive in the England and Wales to date, found that 85 per cent of victims thought restorative justice was helpful and for offenders who took part there was a 14 per cent reduction in reoffending (Shapland et al, 2008). Jeremy Wright MP, the (now former) Minister for Prisons and Rehabilitation, was clear that restorative justice should be victim driven and “if it doesn’t work for the victim, then it should not happen” (Ministry of Justice, 2012a:1), but he stressed that he was very keen to see the expansion of restorative justice within the criminal justice system over the coming years.

In order to realise this ambition, the Ministry of Justice published an action plan, created a steering group and intends to establish a Restorative Justice Implementation Board to oversee the delivery of the action plan and report to ministers on the progress being made.

The action plan makes clear the need to improve access to restorative justice, raise public and victim awareness of the process, develop the delivery capacity across the criminal justice system, and develop the evidence base in order to advance our understanding of restorative justice.

The action plan is a “joint commitment to develop a more strategic and coherent approach to the use of restorative justice in England and Wales” (Ministry of Justice, 2012a:3). It is designed to improve the quality and consistency of restorative justice services – by creating guidelines for practitioners, supporting the development of a quality mark, and increasing public confidence in what is being provided (Criminal Justice Joint Inspection, 2012).

2.2: What evidence is there on female offenders in restorative justice conferences?

This move to expand the use of restorative justice across the criminal justice system will undoubtedly mean that far more offenders will be taking part in conferences over the coming years. Whilst the academic literature is broadly supportive of restorative justice and the positive impact it can have, there is an apparent scarcity in knowledge and understanding regarding the participation of female offenders in these conferences.

Nearly all of the existing research on restorative justice relates to male offenders, both as young adults and adults. Heidensohn and Gelsthorpe (2007) make the general point that “where studies have included women offenders, sample sizes have been too small to allow us to draw reliable conclusions on the impact of the restorative justice approach specifically with women offenders”. Others have highlighted that “women are virtually invisible” and “the failure to consider gender implies an assumption that the outcomes and the processes will be the same for boys and girls” (Sherman et al 2008:48).

Where there is evidence, disagreement exists as to how reliable it is. Sherman et al have argued that the clearest evidence to date on gender and restorative justice comes from analysis of a youth-violence study in Northumbria, which found “large and significant” results that indicated young female offenders who had taken part in restorative justice were less likely to be rearrested in the following year compared to their male counterparts (Sherman et al., 2008). They suggest that these findings indicate “a greater return on investment in restorative justice for girls than for boys, at least in assault cases” (Sherman et al., 2008:48). The findings are cautioned with an explanation that they are based on only one study, and cannot be generalised i.e. that female are more responsive to restorative justice than males in cases of other offence type. The lack of female offenders in other cases prevented a greater degree of analysis.

These findings have been criticised by Shapland et al, who later undertook one of the Ministry of Justice funded evaluations of restorative justice. Shapland et al suggest that the Northumbria study is not as robust as the data from their evaluations “because people were not randomly allocated by gender, age, ethnicity etc. and if the experimental and control groups were to vary at all in gender or age, then this would have knock-on effects on the likelihood of reconviction” (Shapland et al 2008:20).

Conducting their own RCT, using loglinear analysis, Shapland et al (2008:36) found that “there was no significant difference between the effects of restorative justice whether offenders were male or female (though in general, as in the national study, male offenders were more likely to be reconvicted than female offenders)”. Shapland et al (2008:37) also noted that:

There was an almost significant difference in relation to gender, with restorative justice seeming to be more effective in reducing frequency of reconviction for male offenders, but this was, in fact, because of different numbers of male and female offenders and young and adult offenders in the restorative justice and control groups. Multinomial logistic regression confirmed the lack of effect.

Shapland et al warned that this demonstrated the potential difficulties when trying to make comparisons based on a single variable, when in fact multiple demographic variables may be having an effect.

Internationally, there has also been some, albeit, limited work to establish whether there are gender differences. In Hayes and Daly’s first study in Australia they found that whilst they “expected to find that female offenders were less likely to reoffend, there was no direct effect of gender on participant recidivism” (cited in Elis, 2005:380). However they did find that “the interaction of gender and race did exert a significant influence on recidivism with non-Aboriginal males significantly more likely than other groups to have formal action taken against them in the follow-up period” (Elis, 2005:380). Their later work in Queensland 2004, however found that “girls processed through the program were significantly less likely than boys to reoffend during the follow-up period” (Elis, 2005:380).

The issue with the existing research, aside from the Ministry of Justice evaluations, is that it is difficult to separate ‘gender’ as a variable from other demographic factors that may be influential such as age and ethnicity. Women and girls are less like to reoffend than their male counterparts, with or without restorative justice, so trying to extrapolate the additional impact that restorative justice may or may not have on the predicted rate of reoffending is more complicated, especially with small sample sizes. In other words

“differences in actual reoffending rates between those who have received a restorative justice conference and those who have not may be due, in part or completely, to differences in the characteristics of those offenders rather than the restorative justice process” (Ministry of Justice, 2011) – e.g. age, ethnicity, gender, offending profile, criminal history - and therefore researchers need to adjust actual reoffending rates based on the predicted reoffending rate.

Aside from focusing on whether or not restorative justice affects the reoffending rates of female offenders, there is little evidence on female offenders’ views and experiences of conferences. The Ministry of Justice evaluation that used interviews to focus on the views of victims and offenders stated that “given the low numbers of respondents, it was not possible to conduct analyses by demographic variables, such as age or gender” (Shapland et al., 2007:18).

2.3: Why might female offenders experience restorative justice differently to males?

There are a number of ways in which female offending tends to differ from that of males. It is therefore reasonable to expect that there might be some gender differences in experiences of restorative justice that should be accounted for. This is despite the Ministry of Justice evaluations stating that gender does not have an impact on reoffending rates after conferences as they are currently being delivered.

A key feature of modern feminist criminology is the notion of ‘the gender gap’ or ‘the sex crime ratio’ – that is, “women commit fewer and less serious offences, they desist from crime more readily, girls reach their peak age of offending sooner than boys do and are much less involved in professional crime” (Heidensohn and Gelsthorpe, 2007). These factors indicate that there are significant differences i.e. age of offending, seriousness of offence and likelihood of desistance that differ compared with that of male offending. As such, if female offenders are approaching restorative justice from such different starting points from their male counterparts, it might be expected that their experiences of restorative justice will also be different.

It has also been argued that women’s motivation for committing crime often differs from males. As the Ministry of Justice (2012d:35) highlight in their guide to working with women offenders:

There is often a complex set of underlying factors developing over time that have contributed to a woman’s offending.

Women offenders generally have fewer previous offences than male offenders and a less serious pattern of offending behaviour. The guidance highlights that women are less likely to offend as a means of gaining status or as part of a thrill-seeking lifestyle, and they are less likely to be influenced by peer pressure. However, they are more likely to have experienced coercion, manipulation or bullying by an abusive partner.

Further to this, there are other factors that are particularly prevalent among female offenders and could potentially affect their experiences of restorative justice.

- **Offenders or victims:** Female offenders are more likely than males to have previous experience of victimisation. Of women in prison, 53 per cent say that have previously experienced emotional, physical or sexual abuse, compared to 27 per cent of men (Prison Reform Trust, 2013). It is highlighted that “female pathways to offending frequently involve sexual and/or physical abuse, racism and poverty” which create “blurred boundaries” of victimisation and offending, which are largely ignored throughout the criminal justice system (Gaarder and Presser, 2006:483). Particularly in restorative justice conferences – where there is required to be a clear distinction between the offender and the victim – there is potential for conflict if female offenders identify more closely as being victims, and have greater experience of this rather than as a perpetrators of crime.
- **Mental Health:** Female offenders are more likely than male offenders to be experiencing mental health problems. More than 30 per cent of women prisoners said they needed ‘a lot of help’ with their mental health problems, compared to 10 per cent of men (Ministry of Justice, 2014). Nearly half of all of women prisoners (46 per cent) say they have attempted to commit suicide at some point in their life, compared to 21 per cent of male prisoners, and women prisoners were three times as likely as men to have attempted suicide in the year prior to custody (Ministry of Justice, 2014). Female prisoners are also more likely to have experienced symptoms indicative of psychosis, anxiety, and/or depression and are more likely to have committed self-harm (Ministry of Justice, 2014).

Women offenders can often be dealing with a range of complex problems including the loss of children into care, family breakdown or loss of a partner, and low-self esteem is common amongst this group. Maruna argues that it is vital to address these factors if women are to recognise that their lives are worth changing (Ministry of Justice, 2012d). The Ministry of Justice’s guide to working with women offenders recognises that “women who self-harm should not automatically be excluded from Offending

Behaviour or other programmes”, as these may assist with the development of coping strategies (Ministry of Justice, 2012d). Whilst restorative justice is not explicitly mentioned in this guidance, this does indicate that women who have self-harmed (and potentially extending to those who have displayed mental health problems) should not be automatically excluded from restorative justice; indeed taking part in a conference might to some extent help to alleviate problems.

- **Stigma and shame:** Many feminist commentators have highlighted a greater degree of societal stigma attached to female offending behaviour in comparison to male offending. It is argued that “young women who have committed a criminal offence find themselves particularly stigmatised in a culture in which being ‘bad’ is inconsistent with expectations of femininity in a way that is not necessarily inconsistent with understandings of masculinity for young male offenders” (McLaughlin et al., 2003:118). Others have highlighted that “historically, shame has been used to control women. It has kept them from speaking out about rape and other violence. Rather than shame-desistance connections, some stipulate a shame-self-harm connection for girls and women with histories of victimization. We should therefore approach the shame-reintegration relation very carefully” (Gaarder and Presser, 2006:483).

This stigmatisation and use of shame is important, as much of the restorative justice process and existing understanding of why it is successful in reducing reoffending is connected to Braithwaite’s work on ‘reintegrative shaming’² – this is “the clearest and the best known attempt to explicate the impact of restorative justice practices on recidivism” and the theory has heavily influenced the conferencing process (Robinson and Shapland, 2008:337). Hearing from victims how the offence affected them is thought to elicit the emotions of “remorse, shame and guilt” from most offenders (Robinson and Shapland, 2008:337). Other researchers have found indications that women often already associate their offending with a “profound sense of guilt of shame” (McIvor et al., 2004:181) and there is little understanding of the further impact restorative justice can have on this. It is also noted that the sometimes-informal nature of these programmes “may lead to the reinforcement of traditional gender roles” and practitioners should therefore be aware of reproducing patriarchal relationships within the restorative justice process (Elis, 2005:375).

². Reintegrative shaming is based on the notion that if offenders are made to feel guilt and shame about their offences this will deter further crime, so long as the shaming is ‘reintegrative’ and the offender is forgiven and accepted back into the community. More information available online at <http://www.sagepub.com/hanserintro/study/materials/reference/ref17.1.pdf>

- **Desistance trigger points:** Evidence from the desistance literature, which looks at the triggers and factors associated with moving away from crime, indicates that males and female offenders have different ‘trigger points’. Research has found that for young women, “desistance tends to occur abruptly and consciously as they leave home, leave school, form stable partnerships and have children” however for males, “desistance was found to be more gradual and intermittent, with attempts to stop often thwarted by events or changes in circumstances” (Graham and Bowling, 1995). These differences in patterns of desistance, and given the increasing level of understanding about the role desistance theory interacts with the role of restorative justice, there might be reason to believe that to maximise the effectiveness of restorative justice in reducing recidivism, the focus might need to be different to that of male offenders.
- **Interpersonal relationships:** Some commentators suggest that restorative justice can be particularly positive for female offenders. Though restorative justice programmes were not necessarily designed to meet the gender-specific needs of female offenders, “the focus on strengthening interpersonal relationships in an effort to reduce recidivism may be particularly relevant for girls” (Elis, 2005:375). If female offenders are more likely to be concerned about the impact of their behaviour on victims and their families, it may be that they get more out of participating in restorative justice programmes. The Ministry of Justice’s guide to working with women identifies that women’s “communication styles and learning patterns tend to be different as are their self-identified needs”, with women offenders rating emotional needs and relationship problems as areas they wish to address more often than men do (Ministry of Justice, 2012d).

Lori suggests that the restorative justice process, and the use of dialogue “offers opportunity for redemption and thus a way out of shame” and argues that it can “reconnect girls to their sense of compassion for others by putting them in direct contact with people they have harmed” (Lori, 2005). Others also argue that restorative justice can be a powerful tool of empowerment for women and encourages them to take control of a decision-making process. Restorative justice provides an opportunity for female offenders to “express their feelings, be treated with dignity, and to participate meaningfully in decision-making processes” (Gaarder and Presser, 2006:483).

In summary, there are a number of different factors that could interact with affect on gendered experiences of restorative justice. However with very little reliable evidence, much of this is theoretical, and without empirical verification is therefore speculative.

Chapter 3: Methodology

3.1: Recruitment of participants

When I started this research project, I had initially planned to interview women offenders who had participated in restorative justice conferences. Numerous efforts were made in an attempt to interview women themselves, however it became increasingly apparent that due to the very limited numbers of adult female offenders who had been through a conference, and difficulty in making contact with those who had, this would be unfeasible within the scope and time frame of this report. One of the more established probation trusts in the delivery of restorative justice identified appropriate women that they had worked with (12 women over the course of the last eight years) and permission was given to contact them directly, however none of the women responded to written communication inviting them to take part in the research. Other barriers included one probation trust refusing access because they were already undertaking an evaluation and were concerned about participants being 'over-researched', a number of individuals and organisations responding to say they had never worked with a female offender, or not responding at all.

Instead, I decided that the next best option would be to speak to restorative justice practitioners. Practitioners' direct contact with female offenders in conferences would give some insight into the women's experiences and practitioners were likely to have formed some of their own opinions about the suitability of female offenders as participants. I recruited a dozen restorative justice practitioners to take part in the research, based on their experience delivering conferences with both male and female offenders. This approach was not without its drawbacks, for example the practitioners were speaking on behalf of the female offenders, and there was a presumption that they had a full and honest understanding of the female participants' views and experiences. Each practitioner might also have interpreted the actions of the female offenders differently or used different approaches to delivering conferences, which affected the results they saw.

I had intended to focus on practitioners who had delivered conferences with adult women offenders, however it became necessary to broaden the scope to include girls due to the limited number of practitioners who had worked with adult female offenders and agreed to be interviewed. Whilst there are a number of difficulties in combining girls and women, not least the fact that age could have a significant impact on the experiences of participants, the practitioners who worked within the youth justice system did tend to have the advantage of having worked with a greater number of female cases and therefore had more to base their

opinions on. Those who had worked with adult female offenders tended only to have delivered a handful of conferences over a number of years (for some practitioners they had delivered just one) and it was more difficult firstly to recall the details of these cases and secondly to make any sort of summary of their experiences, as their opinions were likely to have been heavily influenced by the particular female with whom they had worked.

As highlighted in the literature review, many researchers have struggled to separate out gender as a variable when exploring restorative justice. Given this, and the difficulties in respondent recruitment, this research is limited to an initial scoping exercise, to uncover general trends and to discern particular observations that practitioners have made that might give rise to further research hypotheses.

Table 1: Details of research interview participants

Practitioner Number (P)	Role	Practitioner gender
1	Victim worker - Youth Offending Service	Female
2	Victim worker - Youth Offending Service	Female
3	Charity delivering RJ - Youth Offending Service	Male
4	Referral Order Coordinator - Youth Offending Service	Female
5	RJ practitioner - Probation Service	Male
6	RJ practitioner - Probation Service	Female
7	RJ practitioner	Female
8	Victim Liaison - Youth Offending Service	Male
9	Ex-Probation Service now CIC expansion of RJ	Female
10	Victim Liaison - Youth Offending Service	Male
11	RJ practitioner - Police Officer	Male
12	RJ practitioner - Probation Service	Female

3.2: Interviews

Practitioners who have their contact details listed on the Restorative Justice Council (RJC) website were contacted by email and a further notification was sent out in a e-newsletter on behalf of the RJC. In addition to the written briefing in the invitation to participate, I gave practitioners a further verbal briefing at the start of the interview about the purpose of the research. The interviews were semi-structured in order to give some standardised format to the interviews but also to allow respondents to expand and give more detail where appropriate and where they had particular experience. I invited practitioners to outline the details of cases they had previously delivered and then asked a series of questions based on these cases and more general questions about their thoughts and observations of female offenders.

Given the varied experiences of the practitioners interviewed, including whether they worked with adult or juvenile female offenders and the amount they could recall about conferences, the interview was guided to a certain extent by the practitioners and their experiences. I first asked practitioners to outline details of cases when they had previously work with female offenders. They were also asked to explain about the context of their work – what their job role was and which organisation they worked for. Additional questions included whether they believed it necessary to work differently with female offenders, what their experiences were of approaching female offenders to take part in conferences, and whether they had noticed specific differences in the ways female offenders responded during conferences. Some practitioners who worked mainly to deliver training preferred to talk more generally about female offenders rather than specific cases – this was particularly true for those practitioners who had not delivered cases with female offenders for some time. The interviews lasted between 20 minutes and one hour and focused on the following research questions:

- 1) Do restorative justice practitioners treat male and female offenders differently?
- 2) What types of cases involving female offenders go to conference?
- 3) Do practitioners notice any differences between male and female offenders in terms of how they react to the restorative justice process?
- 4) Are there risks with female offenders that practitioners think should be given particular consideration?

The case illustration outlined in the following chapter were the ones that could be recalled in most detail – there were a few further cases that some practitioners made reference to but have not been included due to the patchy recall of some key details. One practitioner had not delivered any conferences with female offenders but was included within the sample as he had particular experience trying to secure referrals from a women's prison.

These case illustrations have been included within this report to give readers an idea of the types of cases that resulted in a conference and the experiences that practitioners were largely drawing their their opinions from. These are described as ‘case illustrations’ because case files were not viewed and the details were provided entirely by the practitioners (not observed by an independent researcher) and there are subsequently a number of areas for potential bias. However, given the limited research in this area to date, there is still some merit in incorporating these cases.

The interview transcripts were analysed using thematic analysis. I grouped the comments made by practitioners into key themes, principally based on their responses to certain questions – for example whether they thought they needed to adopt a different approach or whether there were reasons they thought it would not be appropriate for female offenders to take part in conferences.



Chapter 4: Findings

4.1: The Case Illustrations

Summary table

Table 2: Summary of case details

Case illustration	Offence Type	Background	Conference	Comments
Claire	Assaulting police officers	Problems with alcohol	No – working towards	Trying to build confidence
Anna	Violence and assaulting a police officer	First time offence, under influence of alcohol	Yes	Conference was very successful
Jenny	Theft	First time offence	Yes	Successful conference – rebuilt relationships
Emma	Violence and assaulting a police officer	Mental health problems and substance misuse	Yes	Very successful conference
Katy	Repeated violence towards police officers	Previous abusive relationship	No	Conference would be inappropriate at this time
Sam	Assaulting a police officer	Sustained period in local authority care	No – police officer refused	Unfortunate a conference could not take place
Vicky	Violence and assault	First time offence, under influence of alcohol	Yes	Conference not very successful
Sarah	Theft	Prolific offender with history of substance misuse	Yes	Successful conference with significant impact on the offender

* All names have been changed

4.1.1: Case illustration 1 – Claire

Claire is 16 and has a history of assaulting police officers when she drinks alcohol. She is quite a small girl and is described by the practitioners that work with her as shy and timid.

When she has previously been approached by police officers whilst under the influence of alcohol, she has been violent and aggressive when they have either tried to take her to one side or ask her to get into a police car. This pattern of offending has continued for some time, and Claire regularly finds herself in trouble with the police.

The restorative justice practitioner explained that it is frustrating for those who work with her because when Claire is sober she is always very apologetic and remorseful. When the police officers see how she behaves in the morning, they have all been willing to engage in a conference process with her.

But, by that point, Claire is too ashamed about her previous actions. The practitioner feels that Claire would be too shy and embarrassed to take part in a conference at the moment, and she would likely giggle the whole way through, which would be difficult to manage. The practitioner is currently working on building Claire's confidence and hopes she will eventually take part in a conference.

Case illustration 2 – Anna

Anna was 15 years old when the offence took place. She was outside a cinema when she got into a physical fight with another girl. The police were called, and when they arrived they tried to split the girls up. Anna had had a significant amount to drink and was very agitated. Anna says that she had just been drinking, but others suspect that she might have taken drugs as well.

The incident required six police officers. One officer was holding Anna against a police van whilst other officers were trying to remove two other girls. In amongst all of this, Anna head-butted the officer who was restraining her with such force that she broke his nose. When the other police officers saw the blood they also tried to restrain Anna, at which point she started kicking out and assaulted a number of them, causing various injuries.

Anna was given a 12 month Referral Order, and as part of this the practitioner made contact with the police officer that Anna had head-butted. Anna had already mentioned of her own volition that she would like to apologise to that specific police officer – as she recognised that he was actually trying to help her.

A restorative justice conference was agreed and the practitioner began carrying out the preparatory work. The police officer worked locally to where Anna lived, so it was likely that sooner or later their paths would cross, and both wanted to have a conference to 'clear the air'. Anna decided to bring her mum with her to the conference.

The conference went well and all three were very willing to engage in conversation about what had happened that night. Anna explained about the run up to the fight, and why she had been so drunk, whilst the police officer explained that he was trying to help calm the situation and protect Anna.

They also discussed the impact it had had on Anna's mum, who had been called to the police station to watch the CCTV footage of her daughter attacking police officers, which she described as "absolutely horrendous". At that point the conference became quite emotional, as the participants reflected on what had happened and the way Anna had behaved.

The conference ended positively and everyone was happy with the way the meeting went. Anna had assured the police officer that she was no longer associating with that same group of friends and was focusing on her school work, and the police officer said he had forgiven Anna for the offence. Based on positive feedback, Anna's order was terminated early for good progress and she has not been in trouble since.

Case illustration 3 – Jenny

Jenny was 15 when she stole jewellery from the home of her friends' mum. The jewellery had been left to the victim by a relative who'd passed away; Jenny pawned what she had stolen and the victim was unable to recover the items.

Jenny was given a Referral Order, and as part of which the restorative justice practitioner contacted the victim to see whether she wanted to engage in a conference process. She subsequently agreed that she did really want to speak to Jenny, but in a formal environment.

Jenny also agreed to take part in a formal conference meeting because she felt there was a pre-existing relationship between them, and they lived in the same village and kept bumping into each other.

The victim had prepared a Victim Impact Statement – which was read out at the initial panel meeting prior to the face-to-face meeting, which was good practice for Jenny because she was finding the situation difficult to deal with. The practitioner remarked that they were not

sure how the face-to-face meeting would have gone if Jenny hadn't already heard the victim's feelings, as she was very emotional during the conference despite this.

Whilst the conference did prove to be visibly emotional, (both Jenny and the victim cried during the conference process), the practitioner and both parties felt that the conference was successful. Jenny had the opportunity to apologise and they started to rebuild their relationship. Following the conference, Jenny was allowed back into the victim's home and started to rebuild her friendship with the victim's daughter. The victim has since told the practitioner that she was really pleased she took part and valued having her voice heard.

Case illustration 4 – Emma

Emma, who is in her mid-20s, was at her partners' house when they began to argue. Things got very heated and she tried to break her boyfriend's laptop, so he asked her to leave the house. It was raining and dark outside and she did not want to leave, so she started to become aggressive. At which point her partner phoned the police.

When the police arrived, one of the officers tried to separate the couple. There was no intent to arrest anyone; he was trying to calm the situation. But Emma turned her aggression towards the officer and started to kick and punch him. Emma was then arrested and charged with assaulting a police officer.

As part of her sentence, Emma and police officer took part in a restorative justice conference. During the meeting, Emma explained that she recognised the police officer had no intention of harming her and that he was just trying to separate them, and she apologised for her actions. She also disclosed some underlying mental health problems she was now seeking help for, as well as some substance misuse issues for which she was also receiving support. She felt that both of these issues combined had led to her behaviour that night when she assaulted the police officer.

The conference was deemed by the practitioner to have been very successful. Emma had brought her new partner along and after the formal part of the conference process was over, the attendees all stayed for refreshments and continue to speak with one another. The police officer expressed his sympathies towards her previous situation and stated that he had forgiven Emma for the way she behaved.

Case illustration 5 – Katy

Katy is in her mid-30s and has a history of being violent towards police officers. She was previously in a relationship with a partner who was extremely aggressive towards her, and a consequence of that has been she is increasingly aggressive towards positions of authority.

On this particular occasion, she was in the pub with a new partner when she started to become aggressive. The police were called, and they found the man she was with had been injured and his shirt was torn. The police tried to speak to the pair separately to find out what had happened, and to investigate whether this had been an incident of domestic violence.

When they let go of the man, Katy became aggressive towards the police officer and she used racially abusive language. The police officers arrested Katy, but she had been drinking very heavily. She was sick on the way to the police station and the officers became increasingly concerned for her wellbeing so they took her to the hospital. Once at the hospital, Katy tried to leave before realising she was still under arrest and became physically violent towards the officers once more, trying to punch and kick them.

As part of her sentence Katy was given a Specified Activity Requirement of restorative justice. However this conference currently looks unlikely to take place. The practitioner expressed a number of concerns that Katy “was just trying to get it over and done with”, she was denying responsibility and in her mind she felt truly like a victim. Katy often tried to minimise the offence and the harm she had caused by arguing that the officers had been a lot bigger than she was and that they were wearing protective vests. She later offered to write a letter of apology to one of the police officers, but the practitioner felt it was inappropriate, as she seemed to be just trying to fulfil the requirement and felt no genuine remorse for her actions.

Case illustration 6 – Sam

Sam had been in local authority care since she was four-years-old. She had moved from one foster care placement to another, with very little stability throughout her childhood. She was known to the local Youth Offending Team and had continued to commit low-level offences into her early adulthood.

On this occasion she committed an offence against a female police officer. Sam had been making a lot of noise from her flat, playing very loud music in the early hours of the

morning, so the police were called. A female officer attended, with the intention of cautioning Sam for the incident.

However when the police officer arrived and spoke to Sam, during the communication she touched Sam's arm. Sam became extremely angry when the officer touched her. The situation quickly escalated and Sam verbally abused the police officer and tried to assault her.

When the restorative justice practitioner first met Sam, her behaviour was very challenging; she immediately put her feet up on the chair and she was extremely defensive. However she started to mellow after the first two sessions and the practitioner started to feel that he was making progress with Sam. Sam explained that she distrusts authority and reacts strongly to physical contact. She acted the way she did because she was very annoyed the officer had touched her, but did not really mean any of the things she had said to her and regretted her actions.

When the practitioner approached the police officer however, she was not willing to take part in the conference. She had been quite affected by the insults Sam had used against her, which had been racially motivated. It remains unlikely that a conference will occur in this instance.

Case illustration 7 – Vicky

Vicky was in her late 30s when she got into a fight with another woman in a pub and assaulted her. The practitioner working with Vicky describes how she was very closed, difficult to engage and had very little empathy for the victim.

The offence occurred after Vicky had consumed quite a significant amount of alcohol. The practitioner explains that "they were rolling on the floor, Vicky got her hair pulled – it was one of those messy situations" to which Vicky felt that she had been provoked.

They eventually went to conference because the victim really wanted to. Both the women lived in the same area and their children were friends. The conference was not one that the practitioner would say was "positive or productive" for a number of reasons. Primarily because the victim brought along her daughter to the conference – who had been very upset by what had happened to her mother. Despite the facilitator previously meeting with the daughter and explaining the purpose of the conference, the daughter became a "loose cannon" and acted in a way that was very aggressive towards Vicky, causing her to completely shut down and become very unresponsive.

Vicky later disclosed to the practitioner that had the daughter not been there she might have been prepared to open up a bit more about what had happened. To some extent the practitioner blamed herself for not managing the situation as well as she might have, and expressed disappointment that the result was not as positive as she might have hoped.

Case illustration 8 – Sarah

Sarah was in her mid-30s and was a prolific offender. She had a Class A substance misuse problem, which had driven her to previously offend on multiple occasions. On this particular occasion she was travelling on a train with her daughter when she stole a bag from a fellow passenger.

The bag she had stolen turned out to be that of an international university student. As well as a laptop, the bag contained his passport and visa documents, which meant the young man was unable to return home for the summer.

When Sarah was prosecuted for this offence, she was given Specified Activity Requirement of restorative justice as part of her sentence. She was lacking in confidence and had a number of other issues that she was trying to address, so the case took a while to come to a conference event.

On the day of the conference, Sarah was very nervous. At one point during the conference Sarah became very tense, under the impression that her daughter was going to be drawn into the conversation. During this point she got up and left the conference, but was eventually persuaded to re-join. The conference was largely successful from that point on – Sarah was clearly unaware of the impact stealing the bag had had on the victim and it was hard for her to hear – but she sincerely apologised.

Sarah's initial response when discussing the conference afterwards with the practitioner was that it was the hardest thing she had ever done in her life and she was quite affected by what she'd heard. One week on, however, the practitioner described Sarah as "transformed" and said how Sarah had explained she felt a weight had been lifted off of her and that she was immensely proud of herself for taking part in the conference.

4.1.2: Case illustration analysis

These case illustrations give us some idea of the scenarios that are leading to female offenders taking part in restorative justice conferences and create a fairly mixed picture of the outcomes achieved. Whilst the majority appear to have been successful, others are unlikely to result in a conference for a variety of reasons and there is one example of a conference that was not deemed successful by the practitioner.

In the majority of these cases studies, the offence is one of violence against another person (five cases against a police officer, one against another member of the public) and there are two additional cases of theft. These are quite typical offences for restorative justice conferences, where cases are often prioritised if there is a direct victim.

The case illustrations also highlight some of the key issues raised in the literature review that are frequently associated with female offending. There were references in the case illustrations made to mental health problems, domestic violence and experience of being in local authority care. In two of the three case illustrations that did not involve offences against a police officer, the women and girls knew the victims before the offence took place – which supports some of the evidence in the literature review about female inter-personal relationships. Whilst not covered in the literature review, in most of these cases, the women and girls were under the influence of drugs or alcohol.

In the final case illustration, this seems to be a strong example of a female being quite significantly affected by the conference at the time, but feeling very pleased she had taken place a couple of days later. This supports some of the existing evidence in the literature review that suggests restorative justice can have a really positive affect on women and girls who have offended, even if it is initially quite difficult for them to participate.

In the case illustrations that had not gone to conference, one had been because the victim had refused, one because the female was not deemed ready for a conference process yet, and the third because her motivations were not thought to be genuine.

These issues, and others, will be discussed further in the next chapter within the context of practitioners more general observations.

4.2: Key themes

This chapter will draw out some of the key themes that developed as a result of the interviews and case illustrations.

4.2.1: The number of female restorative justice cases

What became increasingly apparent whilst interviewing practitioners delivering restorative justice conferences was the sheer lack of cases involving women and girls as offenders. Currently there are more girls taking part than women, which is to be expected as a result of restorative justice being more established within the youth justice system and the Referral Order process.

Of the practitioners interviewed, who were selected on the basis that they had previously worked with female offenders, a number commented on the small number of female offenders they had worked with.

They explained:

*“I have been working in restorative justice for about five years now. **Not many women offender cases** have come to me – I’ve only had about four or five cases – so only one every year – and I do about 25 a year” P5*

*“Over the last 20 years, there have been **very few cases of females as offenders** – I can think of many more examples of women as victims” P8*

Whilst women are inevitably going to be underrepresented in comparison to males given they are a minority population within the criminal justice system, it would seem that there are even fewer cases than might be expected. This could be for a number of reasons, including: the under-referring of female offenders; female offenders being more likely to reject the opportunity to participate in restorative justice or their victims being less willing to participate; or very few women and girls being involved in the types of crime that are prioritised for restorative justice

As one practitioner highlighted, it is very difficult to pinpoint particular reasons why the number of women participants is so low.

“I wouldn’t be able to say that it was due to being female that they had declined restorative justice, but it’s down to individual cases - who didn’t want to get involved, or the victims didn’t want to, or it wasn’t felt to be appropriate, nothing that I could put my finger on- just aspects of different cases” P2

Until there is a more strategic and robust process for data collection, it is extremely difficult to form a clearer understanding of just how many female offenders are participating in restorative justice conferences, or how many women and girls that are offered restorative justice decide to take up the opportunity. Without this information it is difficult to draw conclusions about patterns or trends, which may differentiate male and female participation rates.

4.2.2: Practitioner approach to female offenders

Across the practitioners interviewed, there were three main attitudes to dealing with different genders in restorative justice:

1. Treat them the same:

For some practitioners, it was important that male and female offenders were treated with the same manner and with a similar approach

“I’d never considered doing anything different with women – not with the approach.” P12

*“I try not to **make any difference when working with a male or female offender**, I try to treat them the same.” P5*

2. Acknowledge the differences:

For others, dealing with female offenders very clearly required a different way of working:

*“You do need a **different kind of approach** when you work with girls, 100 per cent. Because the vast majority of offenders are male, it’s a very male orientated world down to the prisons and the office base... we’ve got quite a few people at the moment looking at how to acknowledge the increasing number of girls coming through the system and we **need to be a bit more diverse in how we’re dealing with them**” P1*

3. Case by case

The last group of practitioners had never really considered the impact of gender on how they dealt with the restorative justice conferences. For them, working with offenders was about taking things on a case-by-case basis and changing their approach accordingly.

“The preparation might be different, but then it would be different on a case by case basis anyway - everyone is different. They might need different learning styles and so on. Everyone

*is treated on a **case by case basis whether they're male or female... no two have the same needs in a conference situation**" P2*

*"Every case is unique – **you have to treat every offender as an individual** – this is a more personalised version of criminal justice... It's all about the uniqueness of the offender, assessing them properly and finding out what their needs are" P9*

This split in approach to working with female offenders could be a result of the very few numbers passing through the system. It does raise some questions about how effectively restorative justice is being delivered for female offenders if practitioners are each taking different approaches.

4.2.3: Emotions

Female displays of emotion, and perceived emotional sophistication were remarked on by a number of the practitioners. Some had found that the female offenders they had worked with did display certain emotions during conferences, but they could not say with any confidence whether this was likely to be gender based, again because of the very small numbers of female offenders. Some practitioners described what they understood to be a greater level of emotional intelligence and female offenders being more 'switched on' during the conference process, but it was difficult for them to be more specific about what this entailed.

*"Thinking about it the young **girl was a lot more emotional** than some of the young men I work with... but the girl might have been more emotional anyway, **not because of the fact she was female.**" P2*

*"Girls they **tend to operate on a deeper emotional level**, there tends to be more to the cases – when you go out to see a young female accused of an assault there tends to be a lot more **bubbling under the surface** than there had been for guys." P3*

*"When I say females **tend to be more emotional** – by that I don't mean that they burst into tears – but they certainly **present as a lot more nervous and anxious**. And when discussing the terms of the offence they tend to be tearful but not at the point of crying. Perhaps that's down to the bravado of certain males – I'm not quite sure. I don't think this is gender based, but I think that has an impact on the person they're meeting – **because if their emotions are more visible then the person harmed responds to that differently**" P3*

*"Girls **tend to be a lot more emotionally needy** – the ones that I see are – and that comes out...A lot of the differences are because they're male or female. Because young **females are***

emotionally more intelligent than your average male offender – there is such a difference – they’re a lot more acute, a lot more aware of things around them.” P8

This is important for restorative justice as different expressions of emotion could affect the way both practitioners and victims respond to female offenders in conferences. If it is the case that female offenders tend to have “more bubbling under the surface”, then restorative justice could be a useful release for this. It is also interesting to consider the point that more visible signs of emotion might have a different impact on victims – for example, they may feel that an apology is more genuine if the offender is seen to cry.

4.2.4: Getting female offenders to engage

Some of the practitioners also described having greater difficulty getting female offenders to engage with the restorative justice process and found their initial meetings challenging. However those that did raise these concerns found that most female offenders came around to the process and began to engage much better after a few meetings and a relationship was developed with the practitioner.

*“There have been times when I’ve **struggled to get female offenders on board**” P8*

*“The initial meetings were pretty tough for me – they **did not engage very well** – they were justifying what they had done.” P5*

*“There’s **not a huge issue with gender**, except that we’ve managed to get a **good outcome with two girls who were both initially very resistant**. But over time we could reason with them perhaps a bit more than young men who dig their heels in. Maybe we have more success with girls over the course of their order to make them think about the consequences of their actions.” P4*

4.2.5: Having a previous relationship with the victim

One of the reasons that practitioners identified for female offenders struggling to engage with restorative justice was often the prior relationship they had with the people they had offended against. The victims were often other women and girls that they had pre-existing contact with, prior to the offence, and in some cases the practitioners thought that this might make it harder for female offenders to participate in conferences. As the literature review highlighted, the narrative behind an offence can often be complex with some of the practitioners implying that this made some female offenders reluctant to see their victims as entirely blameless.

*“A lot of girls will know the person and they tend to be within a circle of friends and this probably **makes it a lot more difficult for them**. We’d never rule it out for girls, but I think it’s often a lot more complex with girls, generally speaking. There’s often a story that’s very interactive... **Because they are often more involved with their victims’ things take on a different dimension.**” P8*

*“In the majority of assault cases **females know the victim** – it’s very rare – I couldn’t think of a case where it was a total random incident” P10*

“I don’t want to overgeneralise but with females it does tend to have a ‘he said – she said’ kind of aspect to it. It starts from something kind of minimal – ‘he/she said this’ or ‘looked at me that way’ and it escalated into an assault.” P3

*“I would say that **females are 100 per cent less likely to engage because it’s more about anti-social behaviour and relationships breaking down**. If it’s someone you don’t know – if you’ve nicked someone’s mobile phone it’s a lot easier to see and deal with that, if you’ve gone into a home it becomes more personal, if you’ve assaulted someone who was once your friend – it’s much deeper.” P8*

4.2.6: ‘Openness’ and honesty of female offenders

An interesting contradiction appeared in practitioner beliefs about the honesty of female offenders, with a significant split between two ends of an ‘honesty spectrum’:

At one end, practitioners felt that female offenders were more honest during restorative justice conferences than male offenders. The reasons behind this belief included: female offenders being more likely to demonstrate genuine empathy for victims; the previous emotional bond that many female offenders have with victims; and the lack of ‘bravado’ that some male offenders exhibit.

*“Females can be **more genuine and open within conferences** – there is often an emotional bond – which can create more **genuine empathy** where females are concerned. They don’t need to have the bravado that some young men may have” P10*

*“Once the young people have started talking I would say the **females tend to be even more frank** about how it has made them feel.” P3*

At the other end of the spectrum, practitioners questioned the genuineness of the female offenders’ behaviour. Their main justifications for this included a sense that female

offenders were better able to conceal their true emotions and a belief that they could manipulate practitioners.

*“Girls are incredibly smart, boys just tend to tell you the truth... Trying to **find out whether they genuinely are sorry** and whether they want to apologise takes a lot more than it does with boys.” P1*

*“There have been times when I’ve felt it’s **absolutely surface level with some women** – there’s not a lot of honesty or depth to it so you’re really trying to kick start something... If females have a bend towards lying and being dishonest – I think that they can be **very manipulative as opposed to males**. I’m not saying males don’t lie – I just don’t think they’re as emotionally as switched on. I’m stereotyping but I’m trying to reflect what I see.” P8*

This is an interesting factor as it may affect the number of conferences that go ahead with female offenders; if it is felt they are being dishonest or false they may not be deemed suitable for restorative justice. Making these decisions is a subjective process, as it is down to practitioners to make judgements about whether or not offenders are showing genuine remorse. This may be an example of where gender biases and expectations can start to affect outcomes for female offenders. It is impossible to tell without speaking to the women and girls themselves whether there were truly manipulative intentions or whether this was how the practitioners had interpreted their behaviour.

4.2.7: Responsibility

The issue of responsibility is important for all restorative justice conferences, for both male and female offenders. The offender taking responsibility for their actions during the conference is a key step towards changing behaviour in the future and making amends for the harm they have caused. Based on their experience, some of the practitioners found female offenders slightly more ready to accept responsibility for the part they played in an offence. For others, it was also perceived that female offenders were more likely to feel remorse and empathise with the victim. It should of course be noted that there might be a bias as explained by the type of individuals who agree to take part in restorative justice conferences.

*“It’s quite mixed, but maybe **guys are slightly more inclined to blame someone else for a small part in it** – for instance boys in vandalism, spray painting or something, they’re more inclined to say ‘well if so and so hadn’t done it then I wouldn’t have’ whereas girls on the whole (and I’m making an awful lot of generalisations here) **are more readily acceptant (sic) of responsibility**, even if they have been acting as part of a group.” P3*

“Women offenders are quicker to feel remorse and quicker to see things from the side of the victim.” P9

However, there was also evidence among these practitioners that women were more likely to perceive themselves as victims and therefore try to justify their actions in that frame of reference, hence denying full culpability.

*“Most offenders tend to feel they **are victims themselves**, although it tends to be slightly more **prominent in the cases of women, of feeling like a victim**. In my interaction, the women tend to justify it – e.g. it was an over the top reaction by the arresting officers which lead them to behave aggressively towards them.”* P5

*“For girls...there’s always a reason why they did it, especially with violence. They’ll never be willing to completely take the blame, they’ll **fight to the death that the other person said something** or looked at them funny”* P1

4.2.8: Inappropriate cases

Practitioners were generally of the opinion that if there was still significant hostility between a victim and an offender then a conference might not be suitable. The importance of the power balance within conferences was also noted, and conferences were not recommended where the victim was likely to be subject to repeat victimisation by an offender. This could equally be true for offenders – if a victim still holds a lot of resentment towards an offender and just wants to use a restorative conference as a means of retribution, it is unlikely that the conference would be beneficial for either party.

*“The only time I would say that it wasn’t appropriate is if I’d been out to see the young person or the victim and there was **such animosity between them** - no desire to find out anything... **It’s not to do with the actual offence, it to do with the participants.**”* P3

*“I know for a fact I definitely have stopped conferences going ahead where we’ve deemed it’s not appropriate – at least a couple per year. **Power imbalance is important** – if the victim is likely to be over-burdened and damaged then it wouldn’t go ahead, if I thought it might not be safe or leave negative feelings.”* P8

It was also highlighted that there are a number of occasions when restorative justice conferences do not go ahead, when in fact some of the practitioners felt they should. For example, many felt that concerns over mental health and other vulnerabilities should not necessarily prevent offenders from taking part in conferences.

*“Mental health problems don’t prevent you from taking part in RJ – it depends on the nature of it and how well it’s managed... Generally I **think RJ has a positive impact on mental health**” P6*

*“What I would say is that the biggest issue with women is that **practitioners protect women from restorative justice when actually they would find it empowering**... Sometimes people who are assessed as being too vulnerable would actually get a huge amount out of it” P9*

4.2.9: Women’s prisons

One of the interviewees explained how he had tried to engage with the local prison to reach out to female offenders who might wish to participate in restorative justice. He explained that despite visiting the Head of Offender Management at the prison to try and “invigorate the process” – it just hasn’t happened. So the referral route is open, and the practitioner has delivered 37 restorative justice conferences with male offenders, but there remains a “complete lack of referrals” for female offenders” P11.

It appeared that the reasons behind the lack of female referrals were threefold. Firstly the practitioners primary remit was to deal with cases of serious acquisitive crime, for which female offenders are particularly under-represented. Secondly, the women held in this particular prison were from a very wide catchment area and the practitioner was only responsible for dealing with cases where the victim was resident in his specific geographical region. And thirdly, he described how the prison service seemed “a lot more stressed and stretched” and he feared restorative justice might be slipping down their agenda. The practitioner describe the challenges he faced overcoming “the initial inertia”, but explained he felt that it would be self-perpetuating once a few cases had come through. Once staff within the prison realised it was relatively little additional work for them and could see the benefit for victims and offenders, more cases would be likely to filter through.

4.2.10: Assaults on police officers

The number of case illustrations that involved offences against police officers was surprisingly high. One practitioner explained:

“Police are pushing restorative justice massively so it’s more on their agenda so they’re more willing to take part in it.” P1

Other practitioners also said they believed it was a fairly common for female offenders to commit these types of offence, and because there was no prior relationship with the police officers this might also mean that conferences are more likely to go ahead. This is an area for potential further research as it is difficult to draw any further conclusion based on the small-scale nature of this work.



Chapter 5: Discussion

There were a number of findings that emerged from the interviews with practitioners and the cases they cited that go some way to answering the initial research questions posed by this report. There were also a number of other interesting points that were uncovered that the existing literature has not yet made reference to. These included the *possibility* that female offenders were more reluctant to engage in restorative justice, more likely to physically display emotion during conferences, and potentially be more likely to manipulate practitioners or the process (or be viewed this way by practitioners).

1) Do restorative justice practitioners treat male and female offenders differently?

The interviews suggested that there was no consistent view on the approach to take with female offenders, with some practitioners stating that they treated males and female offenders exactly the same, some acknowledging differences, and some taking an individual approach. As a result, it does suggest that practitioners may be adopting different professional approaches to working with female offenders in general, and some say that they are actively doing things differently with males and female offenders.

It is difficult to infer from this whether or not the practitioners did actually do anything differently with female offenders – for example, practitioners who said they did not change their approach may not have been consciously aware of doing so, but nonetheless did change certain elements of their behaviour. It was also difficult for practitioners to articulate how and what they might change. Without sitting in on a number of preparation sessions and conferences and observing the behaviour of practitioners first hand, it is hard to build up a reliable picture of changes in practitioner approach.

These mixed opinions about approach are likely to be due in part to the infrequency in which practitioners are working with female offenders. This could be an area where more guidance could be given from the Ministry of Justice or the Restorative Justice Council about how practitioners should approach cases with female offenders. The findings in this report are not sufficient to make recommendations about the approach that should be taken, and it therefore requires further research and consideration before reliable advice could be given.

2) What types of cases involving female offenders go to conference?

When initially trying to track down female offenders to interview, the first thing that became apparent was the very low numbers, particularly of adult female offenders, who had completed conferences. There were some cases that had taken place, especially within probation trusts that had a longer history of delivering restorative justice and had larger case flows, but the total number of adult female offenders still seemed quite small.

A large part of the explanation for this is that female offenders are a minority population within the criminal justice system. Whilst it may be that their numbers are proportionate to their total population within the criminal justice system, it is impossible to tell without a clearer national picture of exactly who is participating in restorative justice conferences. It may be that women are under-represented because they are less likely than males to commit the types of crime that are often prioritised for restorative justice, or they may be less willing to participate. There may also be practical implementation barriers, such as greater difficulties establishing restorative justice in women's prisons due to geographical limitations. Women in prison are often held further from their homes than males (because there are fewer of them and they are therefore more geographically dispersed) and in many cases these women are also further from their victims, which makes organising a conference more difficult. It would likely be beneficial if a pilot project within a women's prison could be developed and evaluated with regard to some of the issues discussed in this report.

The case illustrations highlighted a seemingly high proportion of conferences with female offenders where the victim was a police officer – five out of the eight case illustrations. Whilst the findings in this report are not robust enough to suggest a trend, it is interesting nonetheless that there were some commonalities between the case illustrations. One practitioner suggested this might be because police officers were more likely than ordinary victims to agree to take part in restorative justice because it is a priority from them at the moment, and also there is generally not the prior-relationship with police officers that there might be in other cases of female offending. There may also be other explanations, such as that police officers are more likely to press charges in these sorts of circumstances, whereas family members, partners or those from the same friendship group may not; or that female violent offences are more likely to be directed at police officers than male violent offences.

- 3) Do practitioners notice any differences between male and female offenders in terms of how they react to the restorative justice process?

There were a number of interesting findings that practitioners raised in relation to the differences they had noted in the reactions of male and female offenders to conferences.

Firstly was the suggestion that female offenders might be more reluctant to engage in restorative justice, however it was difficult to say with any conviction how prevalent or why this might be. Are female offenders more likely to have prior relationships with their victims and does this make restorative justice more challenging for them? Are female offenders less likely to see themselves as totally responsible for their offences? It would be useful to know more about the numbers of female offenders compared to males that turn down the opportunity to participate in restorative justice to get a more accurate understanding of this is.

The importance of pre-existing interpersonal relationships was a factor that quite regularly came up in the interviews. Whilst the literature suggests that a focus on interpersonal relationships might be something that would benefit female offenders, the reality seemed to be something of a double edged-sword. The focus on interpersonal relationships may mean female offenders 'get more out of' restorative justice conferences, but it is also potentially more difficult when deciding whether to participate. To explore this, it would be necessary to hear from female participants themselves about their own interpretations of this situation – and perhaps to collect data about whether offenders knew their victim prior to participating in a conference.

With regard to visibly displaying emotion, some practitioners highlighted some potential differences between male and female offenders. As one practitioner pointed out, it might be that if an offender can display their emotions and articulate their thoughts and feelings in a way that is more meaningful to victims, this might make the conference more effective. Are female offenders better at this? This is extremely difficult to try to quantify, is open to a great deal of practitioner interpretation, and may have more to do with individual characteristics, but nonetheless could be a factor that means female offenders are likely to have different conference outcomes.

Finally, something not mentioned in previous restorative justice literature was the concern with female offenders being better able to manipulate conference process – to be less genuine – and sometimes to be taking part for the wrong reasons. Again, this research does not allow for any clear conclusions to be drawn about whether this really is the case as it relies heavily on the practitioners' interpretation of 'genuine' behaviour. To uncover more

about this would require further research, particularly involving the female offenders themselves.

- 4) Are there risks with female offenders that practitioners think should be given particular consideration?

The literature review uncovered a greater prevalence of mental health problems, higher levels of previous victimisation, and potentially greater feelings of stigma and shame amongst female offenders, which might affect female experiences of restorative justice. What emerged from the interviews was the difficulty practitioners are likely to face when treading the fine line between safeguarding against harm, without being overly zealous in 'protecting' female offenders from interventions that could ultimately be positive. A greater understanding of the long-term implication of conferences would help significantly improve knowledge in this area and increase confidence that this balance is right. It is still unclear how big a factor mental health is within the restorative justice process – and how far conferences can have a positive or negative impact on the mental health of offenders. If female offenders do feel greater levels of shame, and are more likely to have been victims themselves, does this complicate or alter the restorative justice process?

Chapter 6: Conclusions and Recommendations

There is still a long way to go before there is a true understanding of the implications gender has for restorative justice. As the literature review highlighted, the existing evidence is limited and based on small-scale samples. Whilst the Ministry of Justice evaluations suggest there is no difference in the predicted reoffending rates for male and female offenders after restorative justice conferences, this paper has argued that this should not be seen as the end of the line in terms of research and evaluation work into gender differences.

The literature review highlighted a number of factors, including: greater levels of prior victimisation; a higher prevalence of mental health problems; greater levels of stigmatisation and shame; different desistance trigger points; and complex patterns leading up to offending, often involving interpersonal relationships, all of which could impact significantly on female experiences of restorative justice.

The report acknowledges the existing difficulties in producing more substantial evidence given the few female offenders that are currently completing conferences. Given the Ministry of Justice's commitment to developing a more coherent strategy for the development of restorative justice across the criminal justice system, it is hoped that more information will become available in the near future.

This report was constrained by a number of practical limitations, and is again based on a small sample of practitioners so the findings must be taken in context. It is extremely difficult to isolate gender as a variable, as this study has similarly found. Practitioners understandably had difficulty in pinpointing whether particular factors associated with female cases were 'gender related' or the result of other influences. Practitioners were also required to describe their experiences working with female offenders when many had only worked with one or two, and sometimes not for a significant period of time. Moreover, due to the very limited number of practitioners who had worked with adult female offenders in conferences, the scope of this report was broadened to include practitioners from the youth justice system – inherent in this are whole range of factors which may vary between women and girls experiences of conferences that could not be accounted for.

Nonetheless, by interviewing practitioners there were a series of interesting points raised about practices with female offenders. On the basis of this information and the available research, this report recommends the following:

RECOMMENDATION 1

Community based Women's Centres should work closely with restorative justice practitioners to facilitate restorative justice conferences with women offenders accessing these services. The staff at the Women's Centres will have significant experience in addressing the particular needs of women and would be well placed to help develop our understanding of the suitability of restorative justice for this cohort.

RECOMMENDATION 2

Greater investment is required to establish restorative justice projects within the women's custodial estate, including provision to evaluate these projects to reveal more about best practice both in terms of delivery and achieving positive outcomes, and any practical implementation barriers that might be faced by other establishments.

RECOMMENDATION 3

Future publications from the Ministry of Justice on 'working with women offenders' should include some guidance in relation to restorative justice, as it is completely omitted from the current document.

RECOMMENDATION 4

Many of the points discussed in this report raise questions for further research and much more should be done in the near future to understand the impact of restorative justice on female offenders. In particular, areas for further research should focus on:

- Whether female offenders are under-represented in restorative justice;
- The approach restorative justice practitioners should take with female offenders;
- Whether female offenders are more likely to physically display emotion and whether this affects conferences;
- Whether female offenders are more reluctant to engage in restorative justice;
- Whether the risk assessment process is right for female offenders; and
- Whether restorative justice should be prioritised for women offenders.

Answering each of these questions will rely on the better collection of data, more research with all female participants and a greater focus on qualitative research to understand the psychological impact of restorative justice. By developing the research base in this way, practitioners can ensure that they are delivering restorative justice to its maximum effectiveness, both for female offenders and their victims.

In conclusion, this report has found some evidence to suggest that restorative justice can be effective with female offenders (perhaps even more so than with male offenders), but that there are certain precautions that practitioners should take. In particular they should be aware of issues and vulnerabilities that are more likely to be present with female offenders. In many cases there may be very positive benefits for female offenders who participate in conferences even when these vulnerabilities are present; as one case illustration highlighted, it can lead to female offenders being very glad they took part despite initially finding it difficult. However there are obviously cases in which restorative justice can go wrong, as another of the case illustrations highlighted and female offenders can potentially be adversely affected by a conference. By understanding more about female offenders in restorative justice conferences, practitioners can better protect against this eventuality whilst ensuring a greater number of successful conferences are delivered.

Bibliography

Criminal Justice Joint Inspection (2012) 'Facing up to offending: Use of restorative justice in the criminal justice system', available online at www.hmic.gov.uk/media/facing-up-to-offending-20120918.pdf [accessed 2/2/2014]

Elis, L. (2005) 'Restorative Justice Programs, Gender, and Recidivism', *Public Organization Review: A Global Journal* 5.4 375-389 (Dept Criminology and Criminal Justice, Florida Atlantic University)

Gardner, E. and Presser, L. (2006) 'A feminist vision of justice? The problems and possibilities of restorative justice for girls and women' in Handbook of restorative justice: a global perspective, (eds) Sullivan, D., and Tifft, L. p483-393

Graham, J. and Bowling, B. (1995) Young People and Crime. Home Office Research Study 145, London

Heidensohn, F and Gelsthorpe, L. (2007) 'Gender and Crime', in 'The Oxford Handbook of Criminology', Oxford University Press: Oxford p381-420

Marshall, T. (1999) Restorative Justice: An Overview. London: Home Office, Research, Development and Statistics Directorate.

McIvor, G., Murray, C., and Jemieson, J. (2004) *Desistance from Crime: Is it different for women and girls?* in S Maruna & R Immarigeon (eds), *After crime and punishment: pathways to offender reintegration*. Willan Publishing, Cullompton, pp. 181-200.

McLaughlin, E., Fergusson, R., Hughes, G., Westmarland, L. (2003) 'Restorative Justice: Critical Issues', The Open University: Milton Keynes

Ministry of Justice (2012a) 'Restorative Justice Action Plan for the criminal justice system', available online at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/217311/restorative-justice-action-plan.pdf [accessed 2/2/2014]

Ministry of Justice (2012b) 'Referral Order Guidance', available online at <http://www.justice.gov.uk/downloads/youth-justice/referral-orders/referral-order-guidance.pdf> [accessed 2/2/2014]

Ministry of Justice (2012c) 'Getting it right for victims and witnesses', The Stationery Office, London

Ministry of Justice (2012d) 'A Distinct Approach: A guide to working with women offenders NOMS Women and Equalities Group', available online www.justice.gov.uk/downloads/publications/noms/2012/guide-working-with-women-offenders.pdf [accessed 2/2/2014]

Ministry of Justice (2014) 'Gender differences in substance misuse and mental health amongst prisoners', available online www.gov.uk/government/publications/gender-differences-in-substance-misuse-and-mental-health-amongst-prisoners--2 [accessed 2/2/2014]

Prison Reform Trust (2013) 'Bromley Briefing Prison Factfile' available online www.prisonreformtrust.org.uk/Portals/0/Documents/Factfile%20autumn%202013.pdf [accessed 2/2/2014]

Restorative Justice Council (2013) 'What is Restorative Justice?' www.restorativejustice.org.uk/what_is_restorative_justice/ [accessed 2/2/2014]

Robinson, G., and Shapland, J., (2008) 'Reducing Recidivism: A task for restorative justice?', *British Journal of Criminology*, vol 48 (3): p337-358

Shapland, J., Atkinson, A., Atkinson, H., Dignan., Edwards, L., Hibbert, J., Howes, M., Johnstone, J., Robinson, G., and Sorsby, A. (2008) 'Does restorative justice affect reconviction? The fourth report from the evaluation of three schemes', available online via www.restorativejustice.org.uk/resource/ministry_of_justice_evaluation_does_restorative_justice_affect_reconviction_the_fourth_report_from_the_evaluation_of_three_schemes/ [accessed 2/2/2014]

Shapland, J., Atkinson, A., Atkinson, H., Chapman, B., Dignan., Howes, M., Johnstone, J., Robinson, G., Sorsby, A. (2007) 'Restorative Justice: the views of victims and offenders', Ministry of Justice, available online via www.restorativejustice.org.uk/resource/ministry_of_justice_evaluation_restorative_justice_the_views_of_victims_and_offenders/ [accessed 2/2/2014]

Sherman, L., Strang, H., Newbury-Birch, D. (2008) 'Restorative Justice' , Youth Justice Board, available online at www.justice.gov.uk/downloads/youth-justice/yjb-toolkits/victims/keep-rj-source-document.pdf [accessed 2/2/2014]

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