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**Restorative justice and the police:**  
**Exploring the institutionalisation of restorative**  
**justice in two English forces**

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A thesis submitted in accordance with the requirements for  
the degree of Doctor of Philosophy

**February 2018**

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## **Abstract**

Recent years have seen widespread efforts to develop restorative justice (RJ) in domestic criminal justice processes. Yet, as RJ has been implemented within existing systems, institutional priorities, goals and ways of working have shaped its interpretation and use – a phenomenon to which theoretical and empirical research has been insufficiently attentive.

This thesis explores the use of RJ by two English police forces, namely Durham and Gloucestershire Constabularies. Official documents, descriptive statistics and qualitative interviews conducted with policymakers, managers and frontline practitioners from each area were used to investigate these forces' RJ strategies, policies and practices. The findings indicate that, although RJ was understood and utilised somewhat differently between the forces, it was framed and enacted in both principally as a mechanism with which to satisfy victims and manage demand. At the same time, the flexibility of organisational policies and the low visibility of RJ delivery left frontline officers with considerable discretion to determine how to balance the needs and interests of all those with a stake in their work, and how to navigate the various restrictions, incentives and pressures which they faced when using RJ. The data suggest that this led to heterogeneous approaches to RJ delivery in practice, as police officers were largely enabled to determine, on a case-by-case basis, the extent to which they would use the RJ process to empower its participants.

This research seeks to advance the nascent field of restorative policing by exploring its relationship with the institutional context in which it takes place. It examines the practice of 'street RJ' which is widely used within English forces, but about which little has been written. Finally, it ascertains the implications of the institutionalisation of RJ for participants in police-led practices and foregrounds the (under-researched) experiences of those involved in its implementation.

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## Chapter 1 – Introduction

### 1.1 Introducing the thesis

Proponents of restorative justice (RJ) often claim that, by employing restorative principles and processes, we might remedy certain salient limitations of Anglo-American approaches to criminal justice. Some of its advocates present RJ as more empowering, inclusive and responsive than conventional justice mechanisms, enabling those who hold a stake in a crime or conflict to participate in the official response, and to address and ‘repair’ any harm done (Braithwaite, 2002). Some note that, under certain conditions, RJ processes can assist with victim recovery and reduce reoffending (Shapland, et al., 2011; Strang, et al., 2013; Sherman, et al., 2015), while others assert that a broad application of a normative restorative framework could transform societal approaches to crime, harm and justice altogether (Zehr, 1990; Gavrielides, 2007; Wright, 2008).

This thesis argues that RJ may be shaped and moulded by the institutional context within which it is implemented, in ways that affect the extent to which these ambitions for RJ can be realised. RJ neither exists in a vacuum, nor is it used by robots. Rather, mainstreaming RJ within criminal justice typically involves the state, *via* its representative agencies, making and implementing RJ policies, and funding and overseeing its use (O’Mahony and Doak, 2017). Moreover, in many jurisdictions, including England and Wales,<sup>1</sup> the responsibility to deliver RJ often falls upon criminal justice professionals, many of whom do so as an add-on to their existing roles (Dignan, 2007; Zinsstag, et al., 2011).

As a result, RJ tends to be interpreted and used in a manner which reflects entrenched rationales and ways of working, and which prioritises system-focused rather than restorative goals (Daly, 2003; Aertsen, et al., 2006; Crawford, 2006). As Blad (2006: 108) argued, RJ is ‘received and perceived by highly developed agencies with strongly institutionalised other rationalities’. The resulting practices and narratives often hybridise the values of criminal and restorative justice, and deviate from many of the restorative principles that have been found to act as

---

<sup>1</sup> Both research sites are located in England, and thus the term ‘England’ is used hereinafter to refer to the legal jurisdiction of England and Wales.

safeguards for participants or explain the effectiveness of RJ processes (Hoyle, et al., 2002; Newburn, et al., 2002; Daly, 2003; Crawford, 2010; Barnes, 2015; Cutress, 2015; Strang and Sherman, 2015). Far from empowering stakeholders to make decisions collectively and autonomously, RJ, when co-opted by existing rationales, may provide only a limited challenge to the state's authority and control (Crawford, 2006; Clamp and Paterson, 2017), or even allow justice agencies to consolidate their power or impose their will on citizens (Karstedt, 2011; Richards, 2011). This helps to explain why RJ tends to achieve more modest results than its advocates might hope (Hoyle, 2011) or than its 'nirvana story' (Daly, 2003: 234) might suggest.

Despite the state's central role in 'making it happen' (Wright, 2015: 119) and the disjuncture between the aims and values of restorative and criminal justice (Johnstone, 2008), researchers regularly hesitate to examine precisely the ways in which institutional contexts affect how RJ is understood and used. Indeed, some of the most rehearsed theoretical frameworks exclude public agencies and professionals altogether (e.g. Christie, 1977; Zehr, 1990), ignoring their role in RJ and their stake in the incidents to which they respond (Weitekamp, et al., 2003; Pavlich, 2005; Walters, 2014). As a result, the nature of any relationship between institutional goals and priorities, practitioner discretion and responsibilities, and the meaning and use of RJ in practice, is not always explicated (Daly, 2003). As Crawford (2006: 131) noted:

Restorative justice literature all too often evades a detailed exploration or analysis of the organisational, legal, political and cultural contexts in which different interventions are implanted and the social practices that influence the manner in which they are received and implemented.

This research seeks to address some of the gaps which Crawford identified in the literature, by investigating empirically the extent to which efforts to develop RJ in the police resulted in its shaping by the institutional context in which it was implemented. Specifically, the thesis examines the strategies, policies and practices of two English forces – Durham and Gloucestershire Constabularies – which have made notable attempts to implement RJ, in one form or another, within operational policing in recent years. The study's findings indicate that, in both forces, RJ had been institutionalised, in that it had been mainstreamed in

ways which reflected the institutional context in which operational policing took place. This had a variety of implications for those who participated in police-led RJ, and for the development of restorative policing more broadly.

This chapter introduces the current study. It starts by exploring the various meanings which RJ can have in criminal justice, before providing a brief history of RJ within the English police. Subsequently, the research aims, questions and approach are stated, as is the reasoning behind the researcher's selection of this topic. This chapter ends by outlining the structure of the thesis.

## 1.2 What is restorative justice?

RJ is commonly said to be a 'contested' concept (Johnstone and Van Ness, 2007; Clamp and Paterson, 2017) with 'no clear-cut definition' (Dünkel, et al., 2015: 4). Indeed, since the term was coined by Eglash (1977), there has been considerable debate within academia, policy and practice regarding the most useful and accurate way to define it (Johnstone, 2008).

Attempts to operationalise RJ for the purpose of research can be typified as either *practical* or *theoretical*. The practical tradition attempts to expound the 'restorative' way of responding to a specific harmful act and can be subdivided into two approaches. The first is a *dialogic* conceptualisation of RJ, in which it is a process which aims to achieve justice by enabling those with a stake in an offence to address the harm caused through communication and determine outcomes collectively (McCold, 2000; Hoyle, 2010; Restorative Justice Council, 2011). Daly, for example, argued that RJ is best defined as a 'justice mechanism' and characterised, like mediation, by 'a *meeting* (or several meetings) of affected individuals, facilitated by one or more impartial people' (2016: 14, emphasis in original). Similarly, Marshall defined RJ as 'a process whereby parties with a stake in a specific offence collectively resolve how to deal with the aftermath of the offence and its implications for the future' (1999: 5). This is also referred to as the 'purist' definition (McCold, 2000: 401) or the 'encounter conception' (Johnstone, 2007: 611) of RJ. In theory, dialogic processes empower participants by enabling them to express their needs and feelings, and play an active role in decision-making (Braithwaite, 2002; Richards, 2011).

This approach is prevalent within the policies and practices of many jurisdictions which use RJ. Dialogic practices were first utilised systematically within state-led criminal justice processes in Canada in the 1970s, under the title ‘victim-offender reconciliation programs’ (Daly and Immarigeon, 1998). Similar models have since been used in the justice processes of various common and civil law jurisdictions. For example, ‘victim-offender mediation’ is often used in European countries such as Belgium, Norway and Austria (Dünkel, et al., 2015), while ‘family group conferencing’ has become an integral part of New Zealand’s youth and adult justice processes (Murray, 2012).

In England, dialogic processes in which the parties meet face-to-face are typically referred to as ‘restorative conferences’ (Zinsstag, et al., 2011). This usually denotes a scripted process – the ‘Wagga Wagga’ model – which was designed by an Australian police officer and imported to the UK and elsewhere in the 1990s (O’Connell, et al., 1999; Hoyle, et al., 2002). Restorative conferences are administered by one or two facilitators who may be generalist criminal justice practitioners (such as police or prison officers), specialists or volunteer facilitators, usually based either in a criminal justice agency or an independent RJ service (ICPR, 2016). The facilitator guides a dialogue between the victim, offender<sup>2</sup> and, potentially, other indirectly affected or relevant parties, in which they discuss the nature and impact of the offence, before devising an outcome agreement (Walker, 2002). Some services also offer indirect dialogues, typically referred to as ‘shuttle mediation’, though this can also denote more limited dialogues in which the parties ask and respond to a small number of questions in writing or through the facilitator (Mullane, et al., 2014).

The second practical definition sees RJ as defined by its *intended outcome*: to ‘repair the individual, relational and social harm’ caused by crime (Walgrave, 2008: 21). This has been referred to as the ‘maximalist’ (Walgrave, 2000: 418) or ‘expansionist’ (Clamp and Paterson, 2017: 27) interpretation of RJ. It includes ‘every action that is primarily oriented towards doing justice by repairing the harm that has been caused by a crime’ (Bazemore and Walgrave, 1999: 48). Within the policies of Western countries, this definition of RJ seems to be less prevalent than the dialogic definition (Dünkel, et al., 2015), although it perhaps better

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<sup>2</sup> While the victim-offender dichotomy is insufficiently nuanced to describe the phenomenon of offending precisely (Cuneen and Goldson, 2015; Jones and Creaney, 2015), these terms are used herein to refer to participants in RJ for practical purposes.

reflects the array of practices which justice agencies deliver under the guise of RJ. Many agencies which deliver dialogic processes, also deliver a variety of other practices which do not satisfy the procedural criteria of dialogic processes, but which are labelled as 'restorative' on the basis that they attempt to repair harm in other ways (Wigzell and Hough, 2015). This can include compensation, direct and indirect reparation and the provision of victim support, as well as offender-focused work which aims to instil in offenders an awareness of the impact of their actions on others (McCold, 2000).

In contrast, the more theoretical school of thought comprises philosophical approaches to defining RJ as a 'type of justice' (Daly, 2016: 6) rather than as an identifiable group of practices. Commentators who take this position typically see RJ as referring to a normative framework which can transform the criminal justice system as a whole, or any of its composite features (Zehr, 1990; Zehr and Mika, 1998; Wright, 2007, 2008; Sawatsky, 2008; Pali, 2014). Under this approach, RJ comprises a series of 'principles' or 'values' which are said to constitute the restorative 'ethos' (Gavrielides, 2007). These principles refer either to the process through which justice is done or the outcomes which it should aim to achieve. While there is no fixed or comprehensive list of principles (Pavlich, 2007), many are commonly cited, including voluntariness, stakeholder empowerment, non-domination, and a focus on repairing harm, reintegration and reconciliation as outcomes (Braithwaite, 2002; Stahlkopf, 2009; Vanfraechem, 2009).

All three of these definitional approaches are relevant to this thesis because understandings and manifestations of RJ in the police context vary substantially (Clamp and Paterson, 2017). Purist and maximalist definitions reflect the police's involvement in enabling dialogic practices and non-dialogic practices aimed at repairing harm, respectively, while some commentators argue that restorative principles should be used to underpin a broader transformation of police organisations and policework (O'Connell, 2000; Lofty, 2002; McLeod, 2003). It is also difficult to separate the definitional approaches in practice, due to the degree of overlap between them. Hoyle (2010) explained that a normative framework is explicit or implicit in most discussions of dialogic practices, while others have attempted to reframe restorative principles as standards for those practices (see, for example, Braithwaite, 2002; Mackay, 2006). Similarly, authors who see RJ as transformative, often make reference to dialogic practices as a method of implementing its principles (Zehr, 1990; Wright, 2015). Ultimately, each approach

expects that restorative principles and processes can be used to drive change within policework in some way.

The third chapter examines the idea of 'restorative policing' in more detail. For now, it is important to add two further points about RJ as a concept. Firstly, its definitions tend to have in common two central themes: the empowerment of stakeholders and the repairing of harm (Stahlkopf, 2009). While the latter notion of 'repairing harm' is doubtlessly an important theoretical foundation of RJ (Zehr, 1990), this thesis and its author fall primarily within a tradition which is generally most concerned with the concept of empowerment (Christie, 1977; Barton, 2000, 2003; Aertsen, et al., 2011; Richards, 2011; O'Mahony and Doak, 2017).

The decision to focus on empowerment emerged partially from the inductive nature of this research, and partially from the author's preference for a procedural (i.e. dialogic) rather than outcome-focused approach to defining RJ. The dialogic definition represents the most concrete basis on which to operationalise and study RJ, delineating clear boundaries to the concept, which enable its comparison with other conventional and innovative justice mechanisms (Daly, 2016). It also encourages a more detached approach to empirical work, allowing RJ to be distinguished from other practices based on its observable characteristics, rather than its perceived desirability (Daly, 2016). This helps to prevent researchers from extending the term to any practice which they believe 'seek[s] to respond to crime in a more constructive way than conventional forms of punishment' (Dignan and Marsh, 2003: 85).

A focus on empowerment necessarily follows from a dialogic understanding of RJ, because of the close relationship between the two concepts. Within the theoretical and practical RJ literature, empowerment tends to be operationalised as stakeholder participation; 'to be "empowered"', as Richards (2011: 97) argued, 'is to *act*' (emphasis in original; see also Barton, 2000; Aertsen, et al., 2011). Likewise, the dialogic definition of RJ proposes a more active role for citizens in justice processes, requiring state agencies to enable stakeholder participation in deliberation and decision-making. This relates to what Zimmerman (1995: 590) referred to as the 'behavioural component' of empowerment, insofar as to be empowered means that 'actions [are] taken to directly influence outcomes'. This has led some to suggest that the core purpose of the dialogic RJ process is to empower its participants (Barton, 2003; Stahlkopf, 2009; Richards, 2011).

This relates to the second reason to focus on empowerment in the context of restorative policing, namely the tension between the need for the police to use RJ to empower stakeholders on one hand, and the tendency for the police to maintain control and use authority – often, with a view to achieving police-defined goals (McConville, et al., 1991; Choongh, 1998) – on the other. One issue is that the police may be resistant to relinquishing their own closely guarded decision-making power. This might create a tension when the police attempt to deliver RJ: whereas the police are used to being and staying in control, the facilitation role requires them to devolve control over processes and outcomes to citizens. As Clamp and Paterson (2013: 300) argued:

Restorative justice alters the roles and responsibilities of individuals within the process. [...] Officers [must] act as facilitators and silent stakeholders rather than as decision-makers, a process which requires police officers to interpret and undertake their role in innovative ways.

In Chapter 8, it is argued that this tension may exist, to different degrees, across all efforts by state agencies to deprofessionalise decision-making (Davey, 2015). However, as is shown in Chapter 2, it may be particularly acute in the operational policing role, which is unique in terms of the extent to which it concentrates and legitimises the power and authority of the state (Goldstein, 1977).

This is not to say that facilitator control and participant empowerment are necessarily inversely related within RJ processes. Facilitators may need to exert some level of control over RJ processes (by, for example, delineating rules and imposing structure on the process) in order to ensure that it is experienced as empowering by its participants. For this reason, Barton (2000: 2) has argued that empowerment in RJ is ‘directed’, as processes are administered in a way which is conducive to achieving the goals of the restorative philosophy.

However, this balance between control and empowerment may be upset when RJ is delivered by persons whose goals are not limited to achieving the aims of the restorative philosophy. Inherent in operational policing are a series of pre-existing goals, priorities and rationales (McConville, et al., 1991; Reiner, 2010). These are defined and shaped by the institutional context in which the police exist, and they act to structure police officers’ decision-making processes and behaviours. Some of these goals may be more or less enduring, dynamic or

malleable than others (Blad, 2006). Nonetheless, given the discretion which officers are afforded to determine what to prioritise (Wilson, 1968), they may exercise their control over RJ processes not to empower citizens, but to achieve other, police-defined goals, including to dominate certain groups (Choongh, 1998) or to maximise efficiency (Crawford, 2000; Vynckier, 2009). It is necessary, therefore, that empirical research on restorative policing assists in establishing whether, when and how the police might use RJ in an empowering, exploitative or repressive manner (Aertsen, et al., 2011; Richards, 2011).

The second point to make about RJ is that it is conceptually elastic, potentially meaning 'all things to all people' (McCold, 2000: 357). Its ambiguity permits justice agencies and professionals to prioritise or sacrifice restorative principles, depending on whether they perceive those principles to be in tension with the goals, priorities and ways of working which exist within their institution at that time. This means that the concept of RJ can be stretched in ways which result in its dilution (Gavrielides, 2016) and which fail to account for research evidence relating to the conditions under which RJ is most effective (Strang and Sherman, 2015). As Laxminarayan (2014: 43) has argued, 'the mainstreaming of restorative justice may lead to a clash between safeguarding the quality of restorative justice and institutionalising these programmes'.

To study this mainstreaming process effectively, one must be conscious of the institutional context in which RJ is implemented, because the way(s) in which it is interpreted and used, and the accompanying risks and implications, are likely to vary according to the qualities of different settings (Edwards, 2015). Observed variations in the meaning and use of RJ in different contexts, suggest that it is 'characterised by malleability by its environments' (Gavrielides, 2007: 238). The police exist within a unique operational environment, characterised by specific pressures and powers which distinguish it from other public services (Bittner, 1990), which are resistant to attempts at reform (Stout and Salm, 2011), and which influence the way that new ideas are interpreted and integrated into the police (Innes, 2006). Thus, police forces and officers may be incentivised or inclined to interpret and use RJ in ways that conflict with restorative principles and evidence-based processes (Moor, et al., 2009).

This concern has led some commentators to question whether it is appropriate for the police to deliver RJ (Vanfraechem, 2009; Walgrave, 2012), or whether certain restorative policing tactics may do more harm than good (Strang

and Sherman, 2015). Others have concluded that the police may be well placed to use RJ, if well-trained and supervised (Hipple and McGarrell, 2008, Shapland, et al., 2011; Larsen, 2014). Others still seem to believe that RJ could provide a coherent moral and methodological framework with which to realise community and problem-solving police goals (Weitekamp, et al., 2003) or establish a new, progressive police objective (Clamp and Paterson, 2017). That there is such disagreement over the meaning and merits of restorative policing, means that more clarity on its exact nature is required. Given the lack of research on 'street RJ' and other recent developments (Strang and Sherman, 2015), there is a need to obtain further empirical insight into the meaning and implications of restorative policing in the contemporary English criminal justice system. This requires, first of all, an understanding of the history of RJ within the English police.

### **1.3 Restorative justice and the English police: A brief history**

According to Marshall (1996), restorative justice was first used formally in England in 1979. In that year, the Exeter Youth Support Team began to offer victim-offender mediation, receiving referrals from, among others, the local police force. However, it was not until the mid-to-late 1990s that RJ was implemented systematically within an English force, when Sir Charles Pollard, Thames Valley Police's Chief Constable, imported the idea of scripted, police-led restorative conferencing from Australia. This coincided with a broader shift in English police forces towards using the cautioning process to deliver additional (usually rehabilitative) interventions, known as 'caution plus' (Young, 2000). Officers in Thames Valley were trained in 'restorative cautioning' and, from April 1998, 'all police cautions were meant to be restorative in nature' (Hoyle, et al., 2002: 6). Over the following three years, however, the evaluation found that only around 10% of cautions involved a restorative conference, with the remainder omitting the victim or reflecting the traditional cautioning approach (Hoyle, et al., 2002). It also raised concerns regarding the treatment of participants by some officers who failed to devolve decision-making power to the parties, treat them equally or focus on their needs. Nonetheless, the evaluation indicated that some changes in practice and culture were evident, and that the cautioning process was improving.

Despite the scheme's endorsement by the Home Office in 2000 (Dignan, 2007), restorative cautioning fell into decline in Thames Valley following a change in leadership shortly thereafter. Nor was it introduced nationally, as new police targets disincentivised frontline officers from engaging in more substantive work with offenders and victims (Hoyle, 2009). In Australia, officers were also stripped of their facilitation duties (Richards, 2010), despite relatively positive research findings (Sherman, et al., 1998; Strang, et al., 1999). Likewise, in Canada and the US, many police-led RJ schemes from that era are no longer operational or use volunteer facilitators instead (Clamp and Paterson, 2017).

It was not until later in the 2000s that RJ re-emerged as an explicit policy within English police forces<sup>3</sup> in the form of the Youth Restorative Disposal (YRD) and other, mostly informal, 'on-street' disposals (Baxter, et al., 2011). The YRD was piloted in eight forces and delivered 4,335 times between April 2008 and September 2009 (Rix, et al., 2011). These developments were in response to the marked growth of first-time entrants in the justice process in the 2000s, following the introduction of strict performance targets which reduced police discretion and disincentivised informal resolution (Bateman, 2008, 2012). Across England, the term 'restorative' became widely applied to informal police disposals (Shewan, 2010; Criminal Justice Joint Inspection, 2012). Yet, early studies found that few victims and offenders were enabled to engage in harm-focused dialogue or to make decisions collectively (Rix, et al., 2011; Criminal Justice Joint Inspection, 2011, 2012; Meadows, et al., 2012). These practices, according to Hoyle (2010: 28), were usually 'far removed from the theory and philosophy of restorative justice' (see also Cutress, 2015; Strang and Sherman, 2015).

Nonetheless, in the 2010s, the term 'restorative' became widely used to describe informal disposals across English police forces. This ensued from three important developments. Firstly, the Association of Chief Police Officers (ACPO) published national guidelines on the police's use of RJ. This document outlined the minimum requirements for a practice to be considered restorative and suggested limitations to its use (ACPO, 2011; see also ACPO, 2012). It distinguished between three different 'levels' of RJ, a typology which has since been widely adopted within the police (Clamp and Paterson, 2017). Broadly

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<sup>3</sup> Officers from a small number of English forces facilitated restorative conferences in the early and mid-2000s, but these activities were undertaken as part of external projects, rather than as part of broader efforts to implement RJ within these forces (Shapland, et al., 2011).

speaking, 'Level 2 RJ' referred to the use of dialogic practices with low-level crime, non-crime incidents and conflicts, while 'Level 3 RJ' described their use in serious cases, typically at the post-sentence stage.

The most important concept introduced in the ACPO document, however, was the notion of 'Level 1 RJ' (or 'street RJ'). This was defined as 'an instant or on-street disposal where police officers or Police Community Support Officers [PCSOs] use restorative skills to resolve conflict in the course of their duties' (ACPO, 2011: 7). As Chapter 3 further explains, street RJ, introduced alongside a broad, non-dialogic definition of RJ, provided the police with the discretion to resolve many types of cases instantly, informally and without enabling dialogue, and encouraged them to record, understand and describe these practices as restorative in nature. The latest indications are that street RJ is the most common process used by the English police under the guise of RJ, even though it enables the police to retain control and to prioritise speed over dialogue and relational outcomes (Walters, 2014; Cutress, 2015; Strang and Sherman, 2015; Shapland, et al., 2017; Westmarland, et al., 2017).

The second important development involved various changes to the police's recording and escalation frameworks. In 2013, an informal disposal known as the community resolution was introduced nationally as a non-statutory, out-of-court disposal (OOCd) (Home Office, 2013). Additionally, government targets which had incentivised the formal processing of low-level offenders were abolished, as was the mandatory escalation which had characterised youth justice for 15 years (Smith, 2014). These changes increased the police's discretion to resolve cases informally and to engage in more proactive work with offenders. They also required all English forces to formulate local policies on the use of informal disposals (Home Office, 2013). This further enabled forces which were attracted to the concept of RJ, to integrate it into their disposals frameworks.

The third development related to the introduction of a broader governmental strategy around RJ. Relative to previous years, the period since 2012 has seen significant resources invested in expanding RJ in England, in what has (perhaps hyperbolically) been referred to as the 'RJ revolution' (Pollard, 2014: 7). Following the European Union's (EU) Victims' Directive (European Parliament, 2012), the Ministry of Justice (MoJ) released several Action Plans (2012, 2013, 2014, 2017) stating its intent to make RJ a generally available service. These documents, alongside the Victims' Code (Ministry of Justice, 2015), and the inclusion of RJ

service provision within the remit of Police and Crime Commissioners (PCCs) as part of their responsibility for the procurement of victims' services, positioned RJ as a service for victims (Gavrielides, 2017). English forces are now required to share victims' information with local RJ services (hereinafter: RJ Hubs) (Ministry of Justice, 2015) which are funded mostly by PCCs (ICPR, 2016). Meanwhile, the Crime and Courts Act 2012 and the Offender Rehabilitation Act 2014 authorised the use of RJ at the pre-sentence stage and by probation, respectively. Finally, the MoJ financed RJ training for Youth Offending Teams (YOTs), prisons and probation services, and funded the Restorative Justice Council to develop service-level accreditation for RJ delivery (Meadows, et al., 2014; Wigzell and Hough, 2015). These developments helped to normalise the concept of RJ among English justice agencies (Wright, 2015), albeit while enabling them to interpret it according to their own institutional needs and existing practices.

While RJ appears in the policies of a growing number of forces (Clamp and Paterson, 2017), recent studies indicate that police practices continue to deviate from the processes and principles which differentiate RJ from other interventions and help explain its effectiveness (Meadows, et al., 2012; Walters, 2014; Cutress, 2015; Strang and Sherman, 2015; Shapland, et al., 2017; Westmarland, et al., 2017). They suggest that restorative conferences are rare, while street RJ is common and often involves coercive exercises in quick, police-dominated, informal dispute resolution with little, if any, contact between the parties. These findings raise concerns regarding, *inter alia*, practice variability, effectiveness, safeguards, low visibility and, perhaps most importantly, the police's involvement in determining or imposing outcomes.

What is more, there has been a dearth of independent analyses to accompany street RJ's extraordinary growth. At the time of writing, external research has not been published on most forces which have instituted street RJ. Even in areas where the police's use of RJ has been studied, forces have subsequently modified their policies and practices in response to budgetary pressures, national policy changes, internal assessments, external criticism and/or the introduction of RJ Hubs (Shapland, et al., 2017). Thus, the current study, described in the next section, complements and builds on previous and ongoing efforts to investigate the vast experimentation which is taking place within police forces across England.

## 1.4 Research aim, questions and approach

The aim of this research is to investigate the use of RJ by two English police forces. This is achieved through the collection and analysis of primary and secondary data, which are employed to address the following research questions:

- How do the police explain their use of RJ?
- To what extent do the forces' RJ strategies, policies and practices reflect the goals, rationales and priorities of the police institution?
- What are the implications of these findings for those with a stake in the police's use of RJ, and for restorative policing in general?

The study mostly took place within Durham and Gloucestershire Constabularies. These police forces were selected as case studies for this research because of their relatively well-developed RJ programs: both had recently attempted to mainstream RJ within operational policing by training officers in its principles and use, and by requiring all informal disposals to be delivered as RJ (although this was interpreted somewhat differently in the two areas). This meant that these forces were critical cases for the purpose of this study (Flyvbjerg, 2006). Their selection was also pragmatic, in the sense that scoping exercises with several forces indicated that Durham and Gloucestershire Constabularies were among the most likely to provide high-quality access.

Written policies, statistics and other relevant documents were collected from the forces, as well as from the RJ Hubs and PCC offices in Durham and Gloucestershire. Seventy-one semi-structured interviews were conducted with individuals who had personal experience of RJ policymaking, implementation or delivery within those organisations. Most of the data, including all the interview data, were collected in May and June 2015. Where appropriate, the thesis draws comparisons between the meaning and use of RJ at each research site, although differences between the interview samples mean that these data do not allow for a systematically comparative analysis.

## 1.5 Personal rationale for the research

My interest in restorative policing began as a criminology undergraduate, when I thought to study the tensions between police culture and RJ facilitation for my dissertation (although I ultimately focused on the broader conflict between populist punitiveness and RJ). I then worked as a researcher for Restorative Solutions, for whom I studied victims' experiences of police-led, post-sentence RJ in burglary cases, and as a project manager for the Restorative Justice Council, during which time I trained as an RJ facilitator and studied practitioners' experiences of using RJ with young adults. These experiences led me to believe that my Ph.D. should focus on practitioners. Although some recent studies in restorative policing have taken this approach (e.g. Cutress, 2015; Stockdale, 2015; Shapland, et al., 2017), RJ research as a whole tends to concentrate mostly on theoretical debates or on the impact of RJ on its participants. The current study therefore helps to narrow a gap in the literature by exploring the experiences of those who make policies and deliver practices in this area.

Initially, my Ph.D. proposal was to study court actors' attitudes towards nascent legislation on deferring sentencing for RJ. Several months into my first year, however, research teams from other universities were awarded contracts to conduct similar projects, as the policy was piloted in the Crown Court and in magistrates' courts. Conversations with those involved and with other court researchers led me to conclude that my (already low) probability of being granted access to judges and court staff was drastically reduced. Attempts to broaden the scope of the research to include judicial attitudes towards the use of RJ in sentencing proved fruitless, as the scope for judicial input in post-sentence RJ was largely removed by the Offender Rehabilitation Act 2014. In March 2014, six months into my Ph.D., I was required to rethink my research subject entirely.

Following an investigation of gaps in the literature and conversations on access with others in academia and practice, I decided to move into the police realm (with which my supervisors were also familiar). My reading suggested that the gap between theory and practice in RJ was likely to be especially wide in the police context. Thus, the decision to study this area was made partially on the basis of my belief that researchers should study the nature and implications of any gaps between policy, theory and rhetoric on one hand, and practice on the other. Through this, we can identify which aspects of policy and practice most

require attention and reform, and consider for whom and in what situations practices may or may not ‘work’ (Abel, 1980; Nelken, 1981; Gavrielides, 2007). As Rosenblatt (2014, 2015) noted in relation to community involvement in RJ, I felt that many assumptions were being made about restorative policing – by both academics and the police themselves – which had not been empirically verified. Moreover, RJ was, at that time, being implemented by police forces countrywide, although most of their operations were not being studied. I felt that further empirical work might be useful in mitigating the possible risks and maximising the potential benefits of restorative policing.

## **1.6 Structure of the thesis**

In addition to its introductory (Chapter 1) and concluding (Chapter 9) chapters, this thesis is divided into seven chapters. Chapters 2 and 3 review different aspects of the relevant literature, contextualising the empirical work. The former explores salient features of the police institution, focusing primarily on the discretion afforded police officers at the operational and strategic levels, and the factors which inform and structure how they exercise their discretion. The latter discusses the theoretical and empirical sources which indicate how the concept of ‘restorative policing’ has been interpreted and applied in theory, policy and practice in recent years. Chapter 4 then delineates, explains and reflects on the methodological choices made during this study.

Chapters 5 through 8 seek to address the research questions by presenting, interpreting and discussing the study’s empirical findings. Chapter 5 compares and analyses the strategies and usage of RJ in Durham and Gloucestershire Constabularies. It draws parallels and distinctions between each force’s goals for RJ, as expressed in policy documents and by policymakers and managers. Chapter 6 then analyses each force’s policies in relation to RJ delivery, considering both their flexibility and the difficulty in structuring officers’ discretion given the low visibility of RJ delivery. Chapter 7 utilises interview data from police officers to explore their explanations of how and why they used RJ in practice. Chapter 8 then expands on three central themes which were identified within the model of restorative policing implied by the data, namely: that restorative policing

was framed and seen as ‘victim-focused’; that it was used to manage the demand on the police’s time; and that officers managed participants’ empowerment when delivering RJ, in an effort to balance the competing goals, needs and interests of those with a stake in their use of RJ – including themselves and their organisation. Throughout, the relationship between the meaning and use of RJ on one hand, and the institutional context on the other, is discussed. Finally, the concluding chapter summarises and reflects on the key findings, reflects further on the research process, and considers the implications of the study for policy, practice and the future direction of theoretical and empirical research in this field.

## **Chapter 2 – The police institution in contemporary England**

### **2.1 Introduction**

The police are distinct from other public servants. The role played by frontline officers is characterised by several unique features, including the ability to determine how and when to utilise coercive force in response to the wide array of situations in which they are expected to intervene (Bittner, 1990). Moreover, several factors – such as the flexibility of the legal framework and the low visibility of policework – mean that strategic and, in particular, operational police decisions tend to be highly discretionary (Wilson, 1968). These and other features of the police's role combine to shape new ideas and practices as they are implemented within police organisations (Oliver, 2000; Clamp and Paterson, 2017).

This chapter situates the current study within the broader policing literature, primarily by investigating the police's discretion and the factors which inform and structure its use. It examines the nature of the operational police role, before assessing the significance of police culture, organisational culture, and strategic discretion and decision-making, in shaping frontline police behaviour. It then considers whether officers may exercise their discretion in accordance with their personal values, attitudes and skills. Finally, it explores attempts to shape the police's use of discretion through the imposition of legal and non-legal rules, performance management and policing philosophies. Each topic is studied in relation to the patterns and variations it may generate in police practice, and its potential role in shaping RJ as it is implemented in the police.

### **2.2 The operational police role**

Frontline police officers occupy a unique role in society. Lipsky (2010) argued that, like many other public servants, they exert power and allocate benefits and sanctions on behalf of the state, and have considerable discretion when doing so. However, three factors combine to differentiate the police from

other public servants: the *breadth* of the tasks they are expected to undertake; the *urgency* with which they are required to act; and the *coercive force* which they are legally entitled (or, in some cases, required) to use (Bittner, 1990). The police's ability to arrest, search and detain, *inter alia*, means that their function is 'an anomaly in a free society' (Goldstein, 1977: 1). However, the sociological literature also illustrates how the uniqueness of the role lies partially in the pressures placed upon it and the array of services which the police are called upon to provide (Banton, 1964; Bittner, 1967; Wilson, 1968, 1968b). In England and Wales, recent estimates indicate that crime accounts for only 22% of the emergency and priority incidents to which the police respond (National Audit Office, 2015). This is indicative of the high expectations which society places on the police to guarantee public safety and security, including, but not limited to, law enforcement (Reiner, 2010).

With reference to these elements of operational policing, Bittner (1990: 131) defined the role as 'a mechanism for the distribution of non-negotiably coercive force employed in accordance with the dictates of an intuitive grasp of situational exigencies'. Later, he also described police officers as responsible for intervening in many situations 'that-ought-not-to-be-happening-and-about-which-someone-had-better-do-something-now' (Bittner, 1990: 249). Bittner's insights, and those of other police sociologists, serve to highlight the scale of the authority and responsibility invested in operational policing. To an extent, these features of the role flow from the police's legal duties and prerogatives, and the legitimacy of their endeavours in the eyes of (at least, parts of) the public (Reiner, 2010). However, they also emerge from the nature of the task itself.

Empirical police researchers have long noted that frontline officers have two distinct responsibilities. Wilson (1968b: 407) distinguished between their roles in 'law enforcement', which involves invoking the criminal law and applying legal sanctions, and 'order maintenance' which involves intervening in an assortment of problems and disputes among citizens. To achieve these objectives, the police have a wide spectrum of coercive and legal tools at their disposal. Yet, research has consistently found policework not to be characterised primarily by the use of force or the invocation of criminal law. Rather, as Banton (1964: 127) explained, police officers are mostly 'peace officers', insofar as much of their time is spent maintaining order (or 'keeping the peace'), without recourse to their legal powers. In other words, the police typically respond to disorder more often than to crime

and are more likely to use persuasion than force when doing so (see also Wilson, 1968; Bittner, 1967, 1990; Muir, 1977; Kemp, et al., 1992).

Ultimately, the police resolve most issues informally through negotiation and implicit or explicit threats of coercion, allowing them to ration their use of force and employ it only as a last resort. 'The craft of effective policing', Reiner (2010: 144) argued, 'is to use the background possibility of legitimate coercion so skilfully that it never needs to be foregrounded'. Sykes and Brent (1983: 29) similarly found that 'mediation and arbitration [are] less dramatic but more important aspects of police activity'. Still, various 'myths' mean that the reality of the police's role is largely absent from media, political and societal representations and understandings of their work (Reiner, 2010). This is even a problem within police forces: a recent study found that 33 out of 43 English and Welsh forces lacked a sophisticated understanding of the broad demand for their service (National Audit Office, 2015), while police officers themselves have often resisted efforts to focus on these 'softer' policing activities (McCarthy, 2014).

Nonetheless, it is important to grasp the true nature of the frontline police role because of the way that it shapes and informs the discretion it affords its holders. 'Discretion', as the Scarman Report explained, 'lies at the heart of the police function. [...] It is the policeman's [sic] daily task' (Scarman, 1981, in Richards, 2003: 73). Operational discretion is important because it allows frontline police officers to decide when and how to enforce the law and maintain order (Reiner, 2010). Moreover, as Lipsky (2010) argued, their ability to make decisions on a case-by-case basis means that frontline officers are 'street-level bureaucrats', insofar as the choices they make when exercising their discretion ultimately determine how citizens experience government policy.

In England, operational police discretion arises from law: the doctrine of 'constabulary independence' means that each officer has 'a legal right and duty to enforce the law as she sees fit' (McConville, et al., 1991: 2). Yet, this discretion also results from the setting in which the police's work takes place, that is, from the responsibilities, pressures, tensions and conflicting goals of policework (Wilson, 1968). Officers must use professional judgement when navigating their workloads and interpreting the complex human situations to which they respond (Lipsky, 2010). Their autonomy in this regard is augmented by the flexibility and ambiguity of the laws and rules which regulate their legal powers (Reiner, 2010), by the breadth of the laws which they are required to enforce (Klockars, 1985),

by the limited direction they receive in relation to their peacekeeping activities (Bittner, 1967), and by the low-visibility and low-scrutiny environment in which the police operate, especially in relation to police-citizen interactions ‘on the street’ (Goldstein, 1960; McConville, et al., 1991).

All of this is relevant to restorative policing because, as argued in Chapter 1, the way that RJ is interpreted and used may depend on the setting in which it is implemented. The discretion afforded police officers requires them to decide, on a case-by-case basis, which goals and whose needs and interests to prioritise. As the following sections explain, this enables the police to act according to police-defined goals and entrenched ways of working (McConville, et al., 1991; Choongh, 1998). Yet, delivering RJ – a process known as ‘facilitation’ (Chapman, 2012) – requires practitioners to be responsive to the needs and interests of victim(s), offender(s) and other affected parties (Braithwaite, 2002, 2002b), and to prioritise certain restorative values when doing so (Barton, 2000). Given the discretionary nature of both facilitation and frontline policing, it is necessary to consider the factors which inform and structure police discretion generally, as they may also help shape the police’s involvement in delivering RJ.

### **2.3 Operational police culture(s)**

Frontline policework is characterised by risk and uncertainty, by concentrated, legal and legitimate authority and power, and by political, organisational and public pressure to be efficient in maintaining order and responding to crime (Skolnick, 1966). These and other attributes of ‘street’ policework transcend jurisdictions and organisational boundaries (Worden, 1989) and have been found to (re)produce certain practices, unwritten rules and principles of conduct within the profession, known collectively as ‘police culture’ (Chan, 1996). It has long been argued that the norms and ways of working which constitute police cultures, lead to observable patterns in police behaviour and may help explain much of that behaviour more cogently than the restrictions and rules contained within law, policy and management (McConville, et al., 1991). It is necessary, therefore, to explicate the central tenets of police culture(s) and to

consider the extent to which their features may be consistent or in tension with restorative principles and processes.

Reiner (2010) outlined several of the traits which the empirical research suggests are most prevalent among the police. He explained that, first and foremost, the police tend to see a moral imperative in their work. To the police, he suggested, their role is a 'vocation' and a 'mission' in which they are the 'good guys', the indispensable 'thin blue line' which performs 'an essential role in safeguarding social order' (Reiner, 2010: 120). He also noted that the perceived legitimacy of this mission among officers helps explain some of the most common breaches of law and policy, as the constraints therein – including, for example, suspects' due process rights – are sometimes perceived to be incompatible with the execution of their 'mission'. Policework can also breed cynicism, pessimism, suspiciousness and a tendency to stereotype, in addition to an 'anti-theoretical [...] conceptual conservatism' (Reiner, 2010: 131). These qualities, he asserts, tend to incentivise pragmatic approaches and short-term ways of thinking which, in turn, propagate a hostility to innovation, evidence, experimentation, long-term planning and philosophically-informed change (Reiner, 2010).

McConville, et al. (1991) argued that these dynamics interact with organisational conditions and situational factors to create cultural traits which can be observed in patterns of police behaviour. That is, police cultures consist of 'working rules' which are applied widely (though not always) across situations that are believed to be similar (McConville, et al., 1991: 22). Shearing and Ericson (1991) noted that these working rules are consolidated and reproduced through 'stories' and 'scripts' which contain embedded assumptions about how to interpret and respond to certain commonly reoccurring situations, and which are passed down to new recruits through training and socialisation, as well as being developed naturally during one's working life.

These working rules often manifest in officers submitting members of the public to differential treatment on the basis of prejudicial assumptions. For example, persons who are already known to the police as offenders or are perceived to characterise certain stereotypes (including young, working class males and ethnic minorities), are more likely to be seen and treated with suspicion (Smith and Alpert, 2007; Reiner, 2010). The police may also see members of some groups as more or less deserving of assistance or compassion than others (Klinger, 1997). Victims may be perceived as 'rubbish' if they or their complaint

fall under certain categories (Reiner, 2010: 124); the police's application of the 'victim' label may depend on the extent to which complainants are deemed to be 'influential' (McConville, et al., 1991: 32-5) or 'ideal' (Christie, 1986) with respect to their social group and the nature of their complaint. This also has repercussions for the police's application of the 'offender' label, exemplified by the tendency to interpret domestic abuse as disorder rather than crime, resulting, over several decades, in low levels of arrests and charges (Reiner, 2010; Westmarland, et al., 2017). Meanwhile, police powers may be used as much to impose authority, as they are to enforce the criminal law: arrests may be used to achieve distinctly *police* (rather than *legal*) goals of 'reproducing social control, maintaining authority by extracting deference and inflicting summary punishment' (Choongh, 1998: 625-6, see also McConville, et al., 1991), while stop and search may be used to deter, control, humiliate or impose the police's authority on individuals from certain groups (Bowling and Phillips, 2007; Murray, 2014).

These cultural traits may be in tension with the facilitation role. For example, whereas RJ facilitators are expected to act impartially (Mackay, 2006), victims and offenders who are perceived to be 'low status' are at times treated unfairly by the police (McConville, et al., 1991). In addition, the tendency for police officers to act in accordance with police-defined goals, may not always align with the requirement that RJ facilitators focus on empowering and satisfying the needs and interests of victims, offenders and relevant communities (Schiff, 2007). For example, the police's propensity for pragmatism and the concordant desire to process cases quickly, might discourage officers from delivering sensitive, dialogic and inclusive RJ processes, if they believe there to be an 'easier' way to dispose of the case. As in most professions, the police are generally concerned with managing their workloads (Collins and Gibbs, 2003) and avoiding the paperwork and other activities which act as barriers to 'real' policework (Singer, 2001). Reiner expressed this sentiment by stating that many officers are primarily concerned with 'getting from here to tomorrow (or the next hour) safely and with the least fuss and paperwork' (2010: 132).

This links to a tension which Garland (1997) has identified across criminal justice work, between moral and normative considerations on one hand, and instrumental and managerial imperatives on the other. In the police context, this tension means that rules and principles of due process are not always followed, when these are perceived to be in tension with conflicting pressures to 'get the

job done'. As Skolnick's work showed, there is an exacting 'pressure put on the police to "produce" – to be efficient rather than legal when the two norms are in conflict' (1966: 231). In recent years, the advent of managerialism and the rhetoric and impact of austerity may have contributed to the rising prominence afforded instrumental imperatives, potentially circumscribing efforts to structure police discretion according to normative philosophies (Crawford, 2006; Jones and Creaney, 2015; Clamp and Paterson, 2017). Studies often find that, as RJ is mainstreamed, its ideals come to be constrained by organisational routines and managerial pressures, with efficiency and task completion prioritised over the restorativeness of practices delivered by justice agencies (Newburn, et al., 2002; Daly, 2003; Barnes, 2015; Rosenblatt, 2014, 2015; Wigzell and Hough, 2015). Preparing and delivering dialogic practices and achieving relational outcomes, can be time- and resource-intensive, and thus may be in tension with pressures to process cases quickly. The point is that there are aspects of police culture – some of which may be present across criminal justice – which can discourage the realisation of restorative principles and processes when they conflict with existing goals, such as efficiency and repression.

That being said, the literature increasingly recognises the complexity of police culture. Indeed, researchers have found multiple, fluid cultures within the police, aspects of which may be more enduring than others (Loftus, 2009; Cockcroft, 2014). Chan (1996) explained this divergence, noting that officers make discretionary decisions at the confluence of the different types of 'knowledge' they hold in relation to the police's role, objective(s) and aim(s) (the 'habitus' of policing), and the social and political context in which policework takes place (the 'field' of policing). Citing Wacquant (1992), Chan (1996: 114) argued that this interaction produces multiple police cultures which are liable to change, are accommodated or resisted to different degrees by individual officers, and produce behaviour that is often situationally determined.

The prevalence and prominence of certain cultural traits may also differ across police roles. In England, the powers, functions and training of PCSOs may mean that they are more inclined than police officers towards community engagement and other proactive and 'soft' policing activities (O'Neill, 2014; Cutress, 2015). Similarly, cultures may differ between response officers and community officers, with the latter typically more inclined towards consensus-based and 'softer' policing activities than the former (Chan, 1997). Consequently,

frontline officers might interpret and use RJ differently, depending on the characteristics of their role, the extent to which its ways of working are in tension with restorative principles and processes, and the extent to which they identify with the more stereotypical features of police culture.

It may be significant, therefore, that the advent of austerity has led to a decline in community policing across much of England. Clamp and Paterson (2017) highlighted PCSOs and community officers as possible drivers of restorative policing, as they may be the most likely officers to have the time, contacts, local knowledge and legitimacy required to involve citizens successfully in addressing and repairing harm. After 2010, however, forces 'put in place a number of short-term savings measures focused on reducing workforce numbers' (HMIC, 2014: 3), and the ring-fencing of funding for neighbourhood policing was lifted in 2012 (Longstaff, et al., 2015). A survey of police officers and PCSOs by UNISON (2016) subsequently found that 86% of Neighbourhood Policing Teams (NPTs) had fewer PCSOs in 2015 than in 2010, with the most dramatic force-wide decrease – 62% – coming in the Metropolitan Police.

Meanwhile, many forces closed stations and 'reorganised neighbourhood policing teams to consolidate officer resources' (National Audit Office, 2015: 22). Community officers were increasingly delegated investigation and response work, and required to neglect their 'regular community duties' (HMIC, 2012: 7), including citizen engagement and problem-solving. Recent research by Shapland, et al. (2017) similarly found that, while neighbourhood and schools' officers were less concerned with processing speed and more inclined towards consensual problem-solving than response officers, their community activities had been reduced because of budgetary constraints. This may be relevant to RJ if the decline of community policing is accompanied by a decrease in the inclination or capacity among officers to engage in substantive, 'soft' or proactive work with victims and offenders (Bazemore and Griffiths, 2003).

Police officers are not inherently or universally averse to restorative principles and processes. Not only is police culture heterogeneous between functions, but police officers have agency and discretion which they may exercise in accordance with their personal attributes (Reiner, 2010). Before exploring the literature on police officers as individuals, however, it is important to consider how different cultures may exist and be perpetuated at the organisational level, and the role which senior leaders can play in shaping their forces.

## 2.4 Organisational cultures

Whereas the operational police culture reflects the setting and features of policework which exist more or less across the police institution, organisational cultures represent the unique environment and ethos which exists in each force (Reiner, 2010). Accordingly, studies have identified notable variations in cultures between forces. These differences can inform the use of discretion at the operational level, manifesting in certain norms and ways of working which may be more or less in tension with restorative principles and processes.

Wilson (1968) identified three predominant force cultures. The 'watchman' culture refers to a force in which police officers are afforded a high level of discretion, and in which the police 'use the law more as a means of maintaining order than of regulating conduct' (Wilson, 1968: 140). Officers are expected to deal informally with some low-level and juvenile offending, if it ceases upon their arrival and does not reoccur. By contrast, forces with a 'legalistic' culture are heavily bureaucratised. They structure their officers' discretion to standardise behaviour and maximise law enforcement activities, resulting in high rates of arrests and formal processing. The final culture is that of the 'service' in which the police take a more consensual approach and 'intervene frequently but not formally' (Wilson, 1968: 200). This is more common in middle-class communities in which social divides and serious crime are both relatively low.

Each culture might differently favour (or reject) the various forms of RJ which have been used by the English police in recent years. For example, the 'legalistic' culture may be the most state- or police-centric, and thus the least inclined towards responsive outcomes and empowering processes. It seems broadly analogous to the more recent idea of a 'performance culture' in which forces encourage officers to achieve measured outcomes, potentially overlooking the fairness of the processes they utilise and any alternative outcomes which may have been more useful to citizens (Loveday, 2006; Cockcroft and Beattie, 2009). In contrast, forces with a 'service' culture may be most likely to use conferencing, given their closer relationship with the local community and the additional time which they are able to invest in proactive activities.

Each force type may be attracted to street RJ, albeit for different reasons. 'Service' and 'watchman' forces might be enticed by its discretionary and informal nature, enabling the consensual diversion of low-level cases without recourse to

legal powers. In contrast, 'legalistic' forces may have been deterred from using street RJ before it was integrated into the national recording framework. Indeed, a Criminal Justice Joint Inspection (2011) report found that forces which had developed a performance culture were less likely to have introduced informal disposals before this happened (see Section 3.3 for more on this change). Even after informal disposals were recognised nationally by the Home Office, forces with entrenched performance cultures created local detection targets which discouraged their use (Kemp, 2014). As informal disposals are gradually more accepted within English police forces (Neyroud and Slothower, 2015), 'legalistic' forces may be more inclined to use street RJ, given the speed with which it can be used to process cases. This highlights the role that recording requirements might play in determining if and how the police use RJ.

Research also suggests that leadership styles and local contexts can affect organisational cultures. Jones and Levi (1983) observed that organisational cultures largely mirrored the rhetoric and preferences of senior leaders. As Section 2.5 later illustrates, senior leaders retain considerable influence over the narratives which inform policework in a given area. Jones and Levi (1983) also found that, both within and between forces, it was easier to implement community policing in rural areas than in urban areas, further indicating a relationship between force cultures and approaches on one hand, and the setting in which policework takes place on the other (see also Falcone, et al., 2002). Reiner agreed with this latter point, stating that:

The political economy, social structures and political cultures of different areas seem to be the driving forces behind variations in police practices, rather than freely chosen organisational policies. (2010: 135)

This is consistent with Chan's (1996) application of the concepts of 'field' and 'habitus' to policework, insofar as it suggests that discretion is exercised as police cultures interact with social settings. Different types of crime and conflict, and different norms and forms of 'community', tend to be more or less prevalent in rural and urban areas (Crawford, 1997), potentially affecting the 'field' in which policework takes place. For example, Carrington and Schulenberg (2003) found that higher rates of police diversion in rural areas, as compared to urban areas, stemmed primarily from differences in the types of crime and incidents and police-

community relationships. By implication, the different settings in which policework takes place – both between and within forces – may be more or less favourable to different forms of RJ (Cutress, 2015). This also accords with the suggestion that police behaviour is heavily influenced by situational factors (e.g. Bittner, 1990; Hoggett and Stott, 2010), although Worden (1989) found this to be more relevant in arrest decisions than in informal actions.

Organisational culture may also shape the police's use of RJ, if it acts to ingrain certain skills and attitudes in officers who are socialised under different modes of policing. Van Maanen (1975) noted that the culture within a police organisation at the beginning of one's career may be particularly influential in this regard. For example, while police training and policework in general may tend to develop in officers a disposition towards coercion and risk-aversion, officers may be more likely to adopt or resist these traits, depending on the prominence afforded zero-tolerance policing within the force in which they are socialised (Burke, 1998; Mallon, 2002; Innes, 2005). Officers may also be socialised differently according to their forces' orientations towards evidence-based policing (Sherman, 2013), partnership working (Crawford and Cunningham, 2015), victim engagement (Clamp and Paterson, 2017), and community and problem-solving policing (Weitekamp, et al., 2003). In addition, Wigzell and Hough found that, in prisons and probation organisations, 'a culture in favour of RJ principles' was one of the main conditions for 'effective RJ implementation' (2015: xii). Again, the point is that RJ may be interpreted and used differently by different organisations, depending on their unique internal cultures.

Aside from the aforementioned national guidelines (ACPO, 2011, 2012) and the Victims' Code (Ministry of Justice, 2015), there have been few visible attempts to standardise the police's use of RJ between forces (Neyroud and Slothower, 2015). In fact, forces were explicitly required to develop their own policies on the use of informal disposals alongside which RJ could be used (Home Office, 2013). In 2013, the MoJ appointed a National RJ Manager for Policing, whose role it was to work 'with both the police and PCCs to ensure effective delivery of RJ services' (Ministry of Justice, 2014: 3). However, it has not been possible to identify the precise impact of this role. Thus, in recent years, differences between force strategies and policies on RJ have emerged, as senior leaders have exercised their own discretion to determine whether and how their force would adopt RJ.

## 2.5 Senior leaders and strategic discretion

Police forces are hierarchical organisations (Mead, 2002). In England, Chief Constables and other senior leaders have control (or, at least, influence) over many aspects of strategy setting and policymaking (Reiner, 1991). The doctrine of constabulary independence also exists at the strategic level, although Chief Constables' discretion to set local strategies has been eroded in recent years by the Home Office, Her Majesty's Inspectorate of Constabulary (HMIC) and PCCs (Reiner, 2010, 2013; Lister, 2013). Nonetheless, they can still propose, resist, champion or authorise reforms to strategies and policies within their forces. They can also decide how to frame and communicate the fundamental purpose or rationale of their organisation: in Chan's words (1996: 113), they develop and reinforce their force's '*axiomatic knowledge*, which represents the fundamental assumptions about "why things are done the way they are"' (emphasis in original). Consequently, the ways in which senior leaders elect to exercise their discretion can inform the use of operational discretion by the frontline.

National policy frameworks often afford police forces the autonomy to set local strategies when responding to national pressures. This enables senior leaders to approach reforms differently. For example, HMIC found that some responded to austerity primarily with short-term cost reductions, while others redesigned their workforces or implemented 'transformational change' (HMIC, 2014: 5). Similarly, prior to the national introduction of neighbourhood policing under New Labour, several Chief Constables had already instituted some form of community policing in their forces (Jones and Levi, 1983; see also Bayley, 1994, on the role of senior leaders' attitudes in determining whether community and zero-tolerance policing are adopted in a force). This illustrates how senior leaders may differ with respect to their politics, their resistance to change and their willingness to countenance new ideas and approaches.

National guidelines on the police's use of RJ provide forces with the discretion to determine whether and how to adopt it (ACPO, 2011). Consequently, these decisions may be informed by senior leaders' values and attitudes (Clamp and Paterson, 2013). They may be more or less likely to prioritise, support and invest in the development and use of different forms of RJ, depending on their understanding of, and level of attraction to, the concept. Indeed, one recent report found that differences in the use of RJ across England largely mirrored local

policymakers' attitudes towards it (Justice Committee, 2016). Investments and other strategic decisions may depend on the extent to which senior leaders value the potential benefits of conferencing or street RJ. In fact, senior leaders' attitudes and values might be more likely to affect decisions at the strategic level than those of frontline officers are to affect operational decisions: strategic decisions are slower and more deliberative, while operational decisions are quicker, and thus may be more likely to be informed by intuition and situational factors (Kahneman, 2011; Willis and Mastrofski, 2016).

Senior police leaders may therefore be crucial in instigating or driving RJ locally. Often, a single individual with a normative attraction to RJ is responsible for initiating RJ projects within forces (Moore and Forsythe, 1995; Hoyle, 2009; Baxter, et al., 2011). These 'moral entrepreneurs' may be more or less successful in developing and sustaining the project, depending on the power and social capital they hold within their organisation (Becker, 1995; Clairmont, 2011; Coyle, 2013). Research on the implementation of community policing has found that the extent to which the hierarchy was committed to the project, was the main determinant of its success or failure (Skolnick and Bayley, 1986; Foster, 1989). Additionally, literature from the field of organisational development argues that resistance to reform within an organisation correlates negatively with visible support for change among senior leaders (Bass, 1990; Watkins, 2001; Kotter, 2012). This suggests that the *degree* of senior leader buy-in is important, as is whether their support is active or passive. As Wilkinson and Rosenbaum put it: 'The chief of police and the leadership he or she demonstrates play a critical role in changing both the culture and the organisation' (1994: 125). Thus, as is true of police reform more broadly (Skogan, 2008), efforts to implement RJ may stand the best chance of success if moral entrepreneurs occupy a leadership position, allowing them to legitimise, drive and divert funds towards change.

This is exemplified by Sir Charles Pollard who, as Chief Constable, implemented restorative cautioning in Thames Valley Police in the late 1990s. According to one of the scheme's evaluators, there was a strong normative reasoning behind his transformative aims which were 'audacious to the point of utopianism' (Hoyle, 2011: 798). Pollard's actions seem to qualify him as one of what Reiner calls the 'growing number of exceptions' to the 'conceptual conservatism' (2010: 131) which often characterises his rank. Hoyle (2009: 197) argued that Pollard's role in the project was so instrumental that:

Once [Pollard] left the police service Thames Valley struggled to nurture [RJ]. [...] It fell into 'benign neglect'. [Interviewees] felt that without a strong drive from the senior command team, and the Chief Constable in particular [...] it is unlikely to be revived to full health.

Restorative policing commentators have since placed considerable emphasis on the importance of leaders who are willing to champion the use of RJ across their forces (McLeod, 2003; Alarid and Montemayor, 2012). This is consistent with Skogan's (2008) assessment of his own findings over years of police research. Senior leaders, he believes, are so central to reform that, upon moving away, their projects often fail to withstand the uncertainty of transition and the desire of new chiefs to 'make their own mark' (Skogan, 2008: 32).

That being said, there is often a gap between strategies and their enactment through policy. This is partially because Chief Constables' jurisdiction over the setting of strategies tends to exceed that of their role in making and executing the policies which are required for strategy implementation (Reiner, 1991). To a greater degree than high-level strategy setting, policymaking is a contested and ongoing process (Colebatch, 2009). Specific policies are designed at 'the intersection of a wide range of participants with differing agendas' (Colebatch, 2006: 312), while individual decisions, such as that to train a certain number of officers in RJ, are likely to represent 'markers in a continuing process, rather than the end of an exercise in decision-making' (Colebatch, 2006: 311). Ultimately, the policymaking process can involve a variety of different people at different times, inherently resulting in some level of negotiation and strategy dilution as policies are written, communicated and implemented (Tenbensel, 2006).

The negotiated quality of policymaking is exemplified by a previous study of restorative policing in Durham, which highlighted the role of an internal steering group in this process. It observed that, while the overall strategy came from the Chief Constable, many policies were designed and championed by the steering group, on which the chief did not sit. The group was 'comprised of officers representing all commands and including specialist units [...] across all ranks from Sergeant to Superintendent' (Stockdale, 2015b: 180). As hypothesised elsewhere (McLeod, 2003; Toch, 2008; Clamp and Paterson, 2013), Stockdale found that the diversity and breadth of the group helped to enhance the project's

legitimacy within the force. However, it also meant that the Chief Constable, who instigated the project, had to delegate control over policymaking to other persons. This resulted in disparities between the Chief's strategic intentions, and the content and execution of RJ policies (Stockdale, 2015b).

The ongoing character of policy implementation, meanwhile, means that police reform efforts can be frustrated by pockets of resistance, by internal politics and power dynamics, and by actors with a predilection for traditional ways of working. Skogan (2008) contended that specialist units, middle managers and line managers can all disrupt implementation efforts. Sergeants, for example, can resist or enable RJ implementation by virtue of their (relatively low visibility) roles in managing frontline performance, authorising certain activities and setting local priorities (Butterfield, et al., 2004; Clamp and Paterson, 2013). Their approaches to management and reform may be more or less *laissez-faire* (Loo, 2004). Furthermore, their own values and attitudes may make them more or less accepting of different forms and framings of RJ. This, in turn, may influence the behaviour of frontline officers under their management: Engel and Worden (2003) suggested that the amount of time spent by officers on problem-solving and community policing, is more closely related to their supervisors' attitudes towards these activities, than it is to their own. The point is that the outcomes of reform efforts are dependent on an ongoing negotiation among various parties with different priorities, preferences and levels of authority.

In recent years, Chief Constables' discretion has also been constrained by PCCs. Though the police remain operationally independent, PCCs now play a central role in setting local budgets and strategies, not least by writing 'Police and Crime Plans' against which they are entitled to assess police performance (Lister, 2013; Strickland, 2013). As with senior police leaders and middle managers, the values and attitudes of each PCC (and, perhaps, of their staff and advisors) might guide their general approach, as might any assumptions they make about the priorities and preferences of their electorate (Wood, 2016). This could affect the police's use of RJ if, for example, the presence or absence of RJ and related or conflicting themes (such as community and zero-tolerance policing) within PCCs' manifestos or Police and Crime Plans, swayed Chief Constables' decision-making with respect to their force's RJ investments and approaches.

The structure and responsibilities of the PCC role – which combined the risk of politicising policework with the power to appoint or remove Chief Constables –

may enable, or even incentivise, their intervention in operational policing matters (Lister, 2013). Researchers have identified evidence of attempts by PCCs to use their power and influence to intervene in operational decisions (Caless and Owens, 2016), with Wells (2015) arguing that this is most likely to happen when members of the public complain to the PCC about operational matters. In addition, the quality of relationships between PCCs and senior police leaders can vary and may affect the extent and nature of the formers' interventions (Caless and Owens, 2016). In turn, Chief Constables will likely respond differently to attempts at external interventions (Reiner, 1991). These factors will create unique balances of power between PCCs and force leaders in each area, with myriad potential implications for restorative policing.

In recent years, as most police-led RJ has taken place alongside informal disposals (Shapland, et al., 2017; Westmarland, et al., 2017), the police have come under scrutiny for using informal disposals to divert more serious and repeat offenders (Full Fact, 2013; Westmarland, et al., 2017). In this context, some PCCs have publicly criticised their force's use of RJ and informal disposals. For example, the PCC for Suffolk stated that, while he was 'not opposed to restorative justice', he wanted the police to scrutinise its use to ensure that they 'provide the appropriate retribution that the public and the victims expect' (Hirst, 2014). Meanwhile, the PCC for Staffordshire set up a panel of local residents, councillors and magistrates to 'examine the impact of community resolutions and restorative justice', and to influence strategic decisions on when they should be used (Staffordshire Newsletter, 2014). Thus, a given PCC's approach to RJ may depend on, *inter alia*, the value which they place (or which they believe their electorate places) on retribution, whether they understand RJ as synonymous with informal disposals, and how susceptible they are to being influenced by media reports and public complaints. This, in turn, may inform force strategies.

Each force's RJ strategies might also be informed by PCC decisions in relation to commissioning RJ services. Between 2013-16, the MoJ provided PCCs with £23m earmarked for RJ as part of their budget for procuring victims' services (Ministry of Justice, 2014). In some areas, PCCs provided direct grants to the police in order to build their own RJ delivery capacity. For example, Devon and Cornwall Police were reportedly given £300,000 (North Devon Journal, 2013) and West Midlands Police were given £500,000 (BBC News, 2013) for this purpose. Elsewhere, PCCs created or funded specialist services – RJ Hubs –

which varied in their relationship with local forces. For example, in some areas, (e.g. Lancashire, Gloucestershire), RJ Hubs were based within the police (ICPR, 2016). Others (e.g. Humberside, West Yorkshire) were independent of local forces and diverged in terms of the proportion of their referrals which were provided by the police (ICPR, 2016; Shapland, et al., 2017). In some areas (e.g. South Yorkshire), officers who were previously trained in conferencing had moved away from this task with the advent of RJ Hubs, without making an equivalent number of referrals (Shapland, et al. 2017). Ultimately, PCCs only spent £10.5m on RJ between 2013-16 (Collins, 2016), with a recent report by the Victims' Commissioner (2016) finding that their variable commitment to RJ helped explain a lack of provision in some areas. Again, the decisions made by the PCC in this regard may influence their local force's use of RJ.

So far, this chapter has considered features of the police institution which operate either across operational policing or at the organisational level. As noted in Sections 2.2 and 2.3, however, individual officers retain considerable discretion to determine how to execute their role. This means that it is necessary also to consider whether variations in frontline officers' personal characteristics might inform their exercising of discretion in practice.

## **2.6 Police officers as individuals**

The idea of a generic 'police culture' masks substantial variations between officers' personal approaches to their work. 'While the [police] culture may be powerful', Chan explained, 'it is up to individuals to accommodate or resist its influence' (1996: 111). Viewed in this light, police culture 'disappears into a near-infinity of multiple sub-cultures' (Waddington, 1999: 290). This section considers how certain characteristics of individual officers – specifically, their values, attitudes and skills – might inform their exercising of discretion.

Rutherford (1994) outlined how criminal justice practitioners can use their discretion to act in accordance with their personal values, or 'working credos'. He found that professionals' approaches to their work were characterised primarily by their moral condemnation of offenders (the punishment credo), their desire to dispose of tasks efficiently (the efficiency credo), or their empathy with victims

and offenders and optimism relating to the prospects of constructive work (the care/humanity credo) (see also Liebling, 2004; Hucklesby, 2011). In the police context, this means that individual officers may be more or less compassionate or retributive, more or less likely to assume that constructive work with offenders is possible and desirable, and more or less inclined towards managerial or formulaic approaches. Similarly, Reiner (2010: Chapter 4), citing Muir (1977), argued that officers vary with respect to their outlook on society and their feelings towards the use of coercion to achieve justice. This may inform their policing 'orientation' or 'style' (Reiner, 2010: 132), that is, their ideological understanding of their role, their personal priorities for their work, and their beliefs regarding the methods which can legitimately be used to achieve certain objectives.

These values and orientations may affect the extent to which each officer identifies with the police's 'working rules', as outlined in Section 2.3. For example, officers may be more or less inclined to empathise with marginalised groups, and thus more or less likely to subject citizens to differential treatment on the basis of their ethnicity or social background (Wasserman, 1996; Cikara, et al., 2011). Officers who prioritise efficiency or retribution, might be less inclined to deliver RJ than those who believe that offender rehabilitation and victim recovery are within their remit. Additionally, an officer's feelings towards the use of coercion might affect the importance they place on voluntariness within the RJ process, or their inclination to engage with RJ in the first place. One study found that 'officers who subscribe to traditional notions of culture relied on coercion more readily than those who do not [...] irrespective of the style of policing promoted by the top leadership' (Terrill, et al., 2003: 1029). This illustrates how officers retain the discretion to resist strategies set by senior leaders.

While Rutherford noted that 'the relationship between ideology and practice is both complex and unpredictable' (1994: 6), evidence from social psychology suggests that values influence actions (Feather, 1992). Sykes and Brent (1983) argued that police behaviour is inherently related to their values, as they are required to interpret situations before and while responding to them. Therefore, it may be that police officers differ in the extent to which they have a 'restorative justice ideology' (Roland, et al., 2012: 436), and that their orientation in this regard might affect their attraction to, or involvement in, RJ.

The same may be true of certain attitudes. For example, one's attitudes towards partnership working or volunteers, might affect the likelihood that one

refers cases to RJ Hubs. Similarly, attitudes towards innovation and change may vary among officers, inspiring different levels of resistance to RJ and other ideas which are portrayed as 'new' or 'evidence-based'. Skogan (2008: 23) argued that 'street officers do not want to be plagued by out-of-touch programs that add to their workload and give them tasks that lie outside their comfort zone'. In a study of police attitudes towards community policing, however, Mastrofski, et al. (2002), found that around one-fifth of officers were strongly inclined to implement it. These 'professionals' felt that they were 'a concerned, specially empowered partner' of the community, and believed themselves to have 'a personal stake in [its] welfare' (Mastrofski, et al., 2002: 89). In contrast, 'tough cops', who made up 27% of the sample, felt alienated from the communities they policed, were 'quick to impose their authority', and were resistant to partnership working (Mastrofski, et al., 2002: 99). Officers have also been found to vary in their feelings towards problem-solving approaches (Sykes and Brent, 1983). The implication is that an officer's attitudes towards the principles underpinning a given reform might affect their inclination to use it, while their discretion allows them to determine whether and how to implement force strategies and policies (Wilson, 1968).

There is disagreement about whether (expressed) attitudes are necessarily a causal factor in determining practitioner behaviour (Reiner, 2010). Callens (2014), for example, stated that it is difficult to tell when practitioners act pragmatically and then apply their attitudes to their actions retrospectively, giving the illusion of causation. Worden (1989) found that attitudinal differences were unlikely to play a substantial role in explaining variations in police behaviour, while Bittner (1967) argued that the purpose of police 'craft' is to disregard one's own attitudes and respond only according to the needs of different situations. Still, several police researchers claim to have observed that police behaviour at least partly mirrors attitudes (e.g. Fielding and Fielding, 1991; Bailey, et al., 2001), while some RJ researchers also contend that there is likely to be a relationship between facilitators' attitudes and their practices (Murray, 2012; Paul and Borton, 2013; Paul and Dunlop, 2014). Overall, it seems plausible that the police's use of RJ could be affected by various police attitudes, including those towards diversion (Carrington and Schulenberg, 2003; Wortley, 2003), compensation (Shapland, et al., 2017), victim assistance (Vukadin and Matić, 2011), 'softer' policing practices (Shaw, 2004), conflict resolution (Cooper, 1997), and the legitimacy of using violence or threats to obtain compliance (Willis and Mastrofski, 2016).

Finally, variations in officers' skills may also shape the way in which they exercise their discretion. RJ facilitation is said to require a series of 'core skills' (Restorative Justice Council, 2011: 9) which some officers might not possess. For example, the police have been found to differ in their ability to empathise with victims (Westmarland, 2011) and undertake community engagement (Lister, 2015). Similarly, listening skills, patience and empathy might vary across a force, affecting how officers treat victims and offenders (Turley, et al., 2014).

Communication and reflection skills might also determine a facilitator's ability to demonstrate impartiality and to refrain from being overtly judgemental (Restorative Justice Council, 2011). Yet, as Section 2.3 described, policework and police culture may make officers prone to suspicion and stereotyping, resulting in their differential treatment of ethnic and social groups. Moreover, as the next chapter discusses, citizens with preconceptions about the police may perceive officers to be partial, irrespective of their actual behaviour; officers, in turn, may be more or less able to recognise this and to modify their behaviour accordingly, depending on their emotional literacy and communication skills. Whereas training and experience of RJ delivery may help build officers' skills and moderate their attitudes (Hoyle, et al., 2002; Shapland, et al., 2011), most receive little training before being expected to facilitate (Gavrielides, 2013). In fact, Sherman, et al. (2015) controlled for training and found that innate skills were linked to differences in participants' perceptions of fair treatment (see also Turley, et al., 2014). Thus, it also seems plausible that, as with values and attitudes, variations in officers' skills might inform how they interpret and use RJ.

## **2.7 Structuring operational police discretion**

The question remains as to the extent to which operational police discretion may be moderated by internal and external attempts to structure it. Indeed, most police reforms ultimately aim to negate or change one or more features of police behaviour mentioned in this chapter, albeit with varying success in doing so. This final section explores some of the foremost attempts to structure police discretion, namely through the use of legal and non-legal rules, targets and performance management regimes, and new policing philosophies.

Empirical research and national inquiries into the English police in the 1960s, 70s and 80s revealed the dangers of unfettered police discretion. These decades were characterised by ‘a babble of scandalous revelation [and] controversy’ (Reiner, 2010: 78), emanating from a litany of police abuses, including violence, corruption and racism. By the 1980s, public trust in the police was at historic lows, and it was widely believed – at least, outside of the police profession – that the police’s culture and discretion were insufficiently restricted (Reiner, 2010). This ushered in a new era of calls and attempts to constrain, codify and clarify the limits of police discretion.

By the early 1980s, there was substantial pressure on the government to introduce new legal rules to prevent police abuses. McBarnet (1981) noted that many procedural rights which were widely assumed to exist, were not actually codified in law. Rather, they existed within non-statutory guidance (known as the Judges’ Rules), helping to explain the failure to realise them in practice. ‘Police and court officials’, she argued, ‘need not abuse the law to subvert the principles of justice; they need only use it’ (McBarnet, 1981: 156). Following a series of proposals for statutory reform, the government eventually passed the Police and Criminal Evidence Act 1984 (PACE), Code C of which directly replaced the Judges’ Rules. PACE both regulated and legitimised police powers in relation to the investigation of offences and suspects’ detention, *inter alia*, in an attempt to balance and unify communal and individual rights (Reiner, 2010).

Since PACE, the efficacy of legal rules in structuring police behaviour has been widely debated. Dixon (1997) argued that law is neither a panacea, nor is it irrelevant. Rather, he believed that legal rules act to structure policework to different extents, depending on the nature of the rule, its implementation, and the type of behaviour which it seeks to change. This view seems to reflect the research evidence on PACE’s implementation, which Reiner (2010) summarised as having had an uneven impact on the police’s treatment of suspects. In reference to booking-in procedures, for example, Reiner (2010: 218) argued that, following PACE, ‘suspects are almost invariably informed of their rights on reception at the police station’, but only because those procedures are ‘precise[ly] codified], relatively visible to supervisors and clearly enjoined in training’. Moreover, Reiner (2010) noted that, in some cases, this process was ritualised to the point of futility, while other studies have suggested that the police may use ‘ploys’ to coerce or convince suspects not to exercise their rights (McConville, et

al., 1991), or even withhold this information altogether (Sanders and Young, 2012). These findings illustrate the potentially limited impact of legal rules, leading Reiner (2010: 210) to presume a 'law of inevitable increment: whatever powers the police have they will exceed by a given margin'.

Overall, the research suggests that, following PACE, the police reserved a level of discretion which provided 'extensive scope for their actions to deviate from the law or organisational policy' (Reiner, 2010: 115). McConville, et al. (1991) argued that the low visibility of policework and the flexibility of certain laws (such as public order offences), still enabled the police to make arrests and charging decisions in accordance with their own principles and preferred ways of working, before fitting retrospectively their legal powers around these decisions when writing case records. A review of the stop and search literature similarly found that the low visibility of the process and the absence of legal remedies and penalties for misconduct, allowed the police systematically to deviate from legal rules, resulting in the discriminatory use of that power against ethnic minorities (Bowling and Phillips, 2007). PACE and other laws seem to have only partially dampened the police's ability to prioritise 'crime control' values – and, indeed, their own extra-legal goals (Choong, 1998; Bowling and Phillips, 2007) – over citizens' rights to due process and non-discrimination. Ultimately, the police's adherence to legal rules remains contingent on low visibility decisions made by officers with entrenched priorities, goals and ways of working.

Similar points may be made in relation to the many non-legal rules which encourage or discourage certain police behaviours. For example, the cautioning process is governed by non-statutory guidelines from which police practices have often been found to deviate. In their review of the literature in this area, Sanders, et al. (2010) explained that cautions are frequently used as inducements to confess or are offered in cases without enough evidence to charge, despite these practices being banned in policy. 'The preconditions to cautioning, reprimanding and warning', argued Sanders, et al. (2010: 398-9), 'are largely presentational rules, giving the appearance of due process, but having little effect on the police'. In Scotland, meanwhile, stop and search is regulated by statute, and can only take place if officers have reasonable suspicion. However, Police Scotland policy allows for a 'non-statutory' stop and search in cases where there is insufficient suspicion to justify a legislative search, but where the person being searched provides consent (Murray, 2014). Despite this policy stating that refusal to

consent to a non-statutory stop cannot be used to justify a statutory stop, research has found that this regularly takes place (Murray, 2014). Factors including the low visibility of these activities, the public's lack of knowledge pertaining to police rules and legal rights, and the absence of simple mechanisms to obtain remedies for malpractice, combine to enable the police to deviate from both legal and non-legal rules (Sanders, et al., 2010).

Efforts to structure police discretion also took the form of performance management regimes, most notably through centrally-imposed restrictions and targets, and local supervision by police managers. With respect to the former, the decades following PACE saw drastic growth in efforts to regulate the police and other public services through centralised targets. This reflected a shift towards New Public Management (or 'managerialism') which sought to increase the police's efficiency and effectiveness by measuring their activities (Butterfield, et al., 2004; Loveday, 2006; Cockcroft and Beattie, 2009). Importantly, these changes took place alongside a drift towards the politicisation and increasing retributiveness of criminal justice policies – what Bottoms (1995) called 'populist punitiveness'. This led to the police's discretion being restricted in various ways which enhanced the punitiveness of the system. For example, the Crime and Disorder Act 1998 introduced compulsory escalation for young offenders who, from that point, could no longer receive multiple cautions. Instead, the police could give a young offender a single 'reprimand' and, in virtually all cases, a single 'final warning', before being compelled to lay charges (Tonry, 2004).

Similarly, centralised forms of management were used to structure police discretion in ways which encouraged officers to utilise their formal powers in enforcing the criminal law. For example, the Police Reform Act 2002 enhanced the Home Secretary's ability to introduce national priorities for policing. These tended to focus on law enforcement, reducing the strategic discretion of Chief Constables to encourage informal resolution locally (Loveday, 2006). The police's operational discretion became further restricted when, in 2002, the Home Office introduced the National Crime Recording Standard (NCRS). This included a target whereby the police were required to increase the number of 'offences brought to justice' (OBTJ) from 1.025m to 1.25m over five years (Bateman, 2008). For an offence to qualify as having been 'brought to justice', it had to attract a 'sanction detection'. In other words, the offender had to be formally processed and either receive an OOC, or be charged or summonsed.

That the OBJ framework did not allow informally resolved cases to be included as measured outcomes (Smith, 2014), created a perverse incentive to arrest and process 'easy hits' (Kemp, 2014: 279). Low-level offences which previously would not have attracted police attention or would have been resolved informally, were now being formally processed – what Cohen (1979) called net-widening and mesh-thinning, respectively. Ultimately, the police increased their 'detections' to over 1.4m offences in the year to June 2007 (Bateman, 2008) primarily by targeting young offenders, which resulted in a dramatic increase in the number of people who received a criminal record for the first time (Hart, 2012). In other words, the introduction of targets had led to their 'gaming': officers acted to meet targets in the easiest way possible, rather than in ways which produced socially useful outcomes (Bevan and Hood, 2006; Loveday, 2006). OBJ targets and other such performance indicators were credited with the failure of restorative cautioning to take hold, as they incentivised the police to process offenders quickly. More time consuming 'quality work' was duly 'diluted or eliminated' (Hoyle, 2011: 813) in favour of increasing the number of directly measured activities (see also Fielding and Innes, 2006; Hoyle, 2009).

With respect to police supervision locally, emphasis is often placed on the role of line managers (such as Sergeants and Inspectors) in overseeing the activities of frontline officers (Criminal Justice Joint Inspection, 2011). Police managers are required, argued Shearing and Powditch (1992: 5), 'to create a particular organizational order; in other words, to guarantee a particular way of doing things'. In practice, however, their ability to restrict operational discretion is limited by the distance at which any supervision takes place (Brown, 1988). The low visibility of operational policing extends to the ability of frontline officers to make most of their day-to-day decisions without informing their superiors in advance. Any supervision tends to be retrospective and is therefore reliant on the claims and written records of frontline officers, who can argue that departures from policy were unavoidable, or (deceptively) frame their actions as being consistent with police policies (McConville, et al., 1991). Indeed, some managers may themselves believe that such deviations are an inevitable and necessary feature of policing, and show reluctance to overrule or reprimand their officers accordingly (Reiner, 2010). While the influence of managers may be somewhat limited in relation to individual decisions, however, they can still determine local priorities and influence the general approach to policing which takes place in their

areas (Engel and Worden, 2003). Thus, as with law and policy, the extent to which police managers act to shape the discretion of frontline officers, is perhaps best examined on a case-by-case basis.

Finally, there have been attempts to use policing philosophies to structure operational discretion in ways which encourage the realisation of certain goals (Bayley, 1994). Most prominently, efforts have been made to integrate notions of community policing, problem-solving policing and evidence-based policing into police strategies, policies and practices. Each of these frameworks has pervaded academic and policy discourses on policing in recent years (Sherman, 2013). However, they represent vague, abstract concepts with little consensus on their meaning, and have proven susceptible to being co-opted by existing rationales as they are implemented within the police.

This can be exemplified by tracing the development of community policing. Community policing has been operationalised as a decentralised style of policing which encourages officers to engage local citizens on their priorities, promote police-community cooperation, and make use of mechanisms of informal social control (Tilley, 2003; Skogan, 2006). Often, it is ambiguously and imprecisely formulated and understood, enabling the police to interpret it in ways which do not reflect the most nuanced or evidence-based frameworks (Kennedy, 2006; Hughes and Rowe, 2007). Furthermore, the 'softer' role it envisages for the police, clashes with aspects of police training and culture (Innes, 2005), while many of its central tenets – such as promoting co-operation and building social capital – are not conducive to being measured by (traditionally quantitative) performance management frameworks (Fielding and Innes, 2006).

As a result, community policing tends to be implemented in accordance with existing institutional preferences, goals and approaches. In the US, for example, early moves towards community policing often resulted in more visible, but still coercive and reactive, policing practices (Skolnick and Bayley, 1988). This reflected the 'tough on crime' approach of the era, the funding available to forces for implementation, and the police's desire to be seen to provide a more visible service (Oliver, 2000; McLeod, 2003). In England, 'neighbourhood policing' policy focused more on the symbolic importance of signal crimes, the reassurance of key citizen groups and improving confidence in the police, than on building social capital, citizen mobilisation and other more relational activities (McLeod, 2003; Fielding and Innes, 2006; Innes, 2006; Crawford, 2007); the indicators on which

performance was measured were set accordingly (HMIC, 2008). In the 2000s, PCSOs and NPTs were introduced across England to foreground community policing approaches (Home Office, 2004, 2010). By 2008, there were over 3600 NPTs, numbering 13,000 police officers and 16,000 PCSOs (HMIC, 2008). Yet, reducing fear of crime was widely perceived to be easier to measure and achieve, and politically more valuable, than (longer-term) efforts to increase collective efficacy among citizens (Longstaff, et al., 2015). In both the US and the UK, politicians and the police seemed to believe that the limited potential for resident mobilisation (particularly among the socially excluded), justified the prioritisation of other tenets of community policing (Bullock and Leeney, 2013). As a result, enhanced police accountability and police-citizen partnerships have been largely neglected in favour of visible patrols.

New policing philosophies may have only a limited impact on changing police behaviour, as their application comes to reflect existing police priorities. Features of community policing which were perceived to be more difficult to achieve or were otherwise seen as less desirable, were mostly disregarded. Still, it represented an important attempt to structure strategic and operational police discretion so that police resources were redirected towards achieving different outcomes (Clamp and Paterson, 2017). Problem-solving policing approaches similarly encouraged the police to undertake more proactive and constructive work (Tilley, 2003). In practice, however, its implementation had been strongly informed by the existing goal of closing cases efficiently, resulting primarily in enhanced reactive approaches (Ikerd, 2007; Boba and Crank, 2008). More recently, evidence-based policing has benefited from the advent of austerity, which has encouraged some senior leaders to turn to empirical research to underpin reforms (Sherman, 2013). Yet, this, too, has been shaped by existing police goals, as research pertaining to 'value for money' and the development of technology have been promoted at the expense of more normative, theoretical or rights-based approaches (Greene, 2014). As the next chapter illustrates, the ways in which community, problem-solving and evidence-based approaches have been integrated into policework are significant, as RJ, a similarly elusive concept, has often been promoted in this context through appeals to all three (Weitekamp, et al., 2003; Bazemore and Boba, 2010; Shewan, 2010).

## 2.8 Concluding comments

This chapter analysed several key features of the police institution. It delineated the unique and enduring characteristics of the operational policing function, and explored the pre-eminence of discretion at both the strategic and operational levels. Theoretical and empirical literature was used to illustrate how frontline police discretion can be shaped by, *inter alia*, the demands of the role, the institutional and organisational cultures which emerge from that role, the preferences and personal approaches of senior leaders and individual officers, and the various pressures, rules, philosophies, management structures and instrumental concerns which contextualise English policing. It was shown that these factors can create resistance to change within the police, which presents difficulties when attempting to structure or constrain police discretion in order to achieve normative goals. Despite the hierarchical and legally-bounded character of the police, the low visibility, high pressure environment in which policework takes place, means that frontline officers largely retain the ability to respond to situations and to implement (or not) policies and rules as they see fit.

As each of the variables described in this chapter can act to influence the police in general, so might they shape how RJ is interpreted and used as it is implemented in policework. The police are used to reproducing situations which allow them to maintain control and act according to personal, professional and organisational rationales and priorities (McConville, et al., 1991; Choongh, 1998). In this sense, restorative policing, like community policing before it, represents a somewhat nebulous policing philosophy which may be susceptible to being reinterpreted according to existing rationales. The next chapter explores the theory, policy and practice of restorative policing with this possibility in mind.



## **Chapter 3 – Restorative policing in theory, policy and practice**

### **3.1 Introduction**

A growing body of theoretical work delineates various interpretations of restorative policing, considering its qualities and, sometimes, the mechanisms which may enable its realisation. In contrast, the empirical research usually illustrates the divergence between theoretical approaches on one hand, and the use of RJ by the police in practice on the other. This chapter explores some of the salient themes therein, drawing together these literatures to operationalise restorative policing and examine some of the gaps between its theory, policy and practice. It also begins to consider whether and how the meaning and use of RJ in the police context might be shaped by features of that institution.

This chapter begins by arguing that restorative policing either represents an overarching philosophy for systemic police reform, or refers to the police's involvement in delivering specific processes. Each approach attempts to direct the police's use of discretion towards empowering citizens and repairing harm, albeit to different extents. Next, the chapter analyses how restorative policing is presented in national policies, noting that it is portrayed flexibly and practically, having been shaped by political and institutional priorities, goals and rationales. Finally, it reviews the empirical literature on the appearance of restorative policing in practice, considering the extent to which restorative principles are realised when the police are called upon to facilitate RJ processes.

### **3.2 Restorative policing in theory**

Like community policing, restorative policing is an abstract philosophy which is said to encompass various ideas, depending on the speaker's beliefs regarding the most appropriate or useful way to apply the concept of RJ to policing. That being said, competing definitions of restorative policing largely mirror those of RJ itself: restorative policing has been conceptualised both as a fundamental shift in

the police's mission (the 'systemic reform' approach), and as a discrete group of practices (whether process- or outcome-focused) which the police can use when responding to specific incidents (the 'programmatic reform' approach) (Bazemore and Griffiths, 2003: 340). Whereas the former necessitates a fundamental shift in the way the police understand their purpose, the latter requires only that they use certain RJ processes within their day-to-day work (Clamp and Paterson, 2017). These approaches are not mutually exclusive. Indeed, formulations of both typically allude to each other and represent attempts to structure police discretion so that it is exercised to empower citizens and repair harm (Bazemore and Griffiths, 2003). Still, they reflect important differences in how academics and reformers believe RJ can be applied within the police institution.

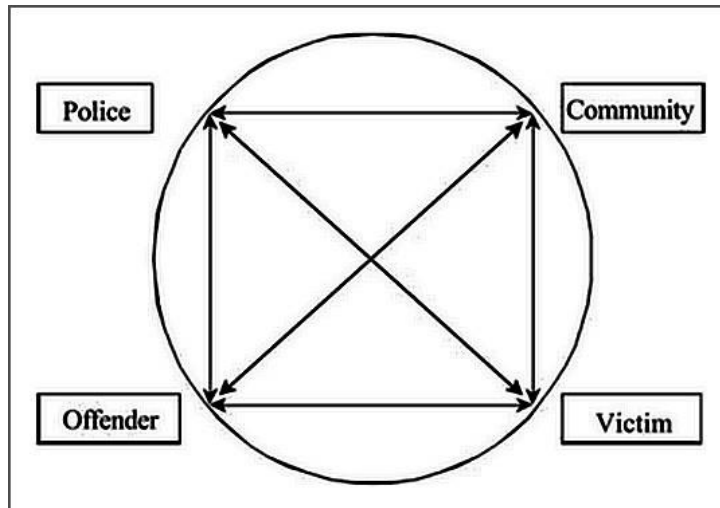
The 'systemic reform' approach is said to 'conceptualise a response to all incidents of crime based on restorative principles', and is intended to 'change the way [the police] think about and perform *all* police functions' (Bazemore and Griffiths, 2003: 340, emphasis in original). Rather than being 'based on one particular practice or method', Lofty (2002: 1), invoking Zehr (1990), suggested that restorative policing is about 'looking at crime through a different lens'. This vision of restorative policing is broadly akin to the notion that RJ is an 'ethos' (Gavrielides, 2007), a 'type of justice' (Daly, 2016: 6) or a 'normative discourse on how justice should be done in the context of a democratic state' (Pali, 2014). In a 'restorative force' (Stockdale, 2015b: 102), all activities, goals and structures would be underpinned by restorative principles.

Many theoreticians have attempted to delineate these principles, that is, the 'core normative values' (Gavrielides, 2007: 139) which represent the 'ethical basis of the restorative approach' (Reggio, 2013: 317). None, however, have succeeded in creating a universally agreed list (Pavlich, 2007), leaving empirical researchers to identify, *ad hoc*, the principles which are most relevant to their work (Vanfraechem, 2009). While some writers identify concepts as abstract as 'generosity', 'understanding' and 'moral and spiritual guidance' as restorative principles (Van Ness and Strong, 2014: Chapters 6 and 7), others adopt principles based on their utility as standards for dialogic practices (Braithwaite, 2002; Vanfraechem, 2009). The latter approach is also used within various international policies and practice guidelines (e.g. Council of Europe, 2000; United Nations Economic and Social Council, 2002; United Nations Office on

Drugs and Crime, 2006; New Zealand Ministry of Justice, 2011; Restorative Justice Council, 2011; European Parliament, 2012).

In a framework which is adopted herein, Stahlkopf (2009) distinguished between procedural principles relating to *stakeholder empowerment*, and outcome principles relating to the *repairing of harm*. This dichotomy usefully differentiates between the process through which (restorative) justice should be done, and the goals which it should aim to achieve. It can also be subdivided into more specific principles. As stated in Chapter 1, some of the most regularly cited procedural principles include voluntariness, stakeholder participation in dialogue and decision-making, non-domination and an equal focus on all parties' needs (Braithwaite, 2002; Gavrielides, 2007; Vanfraechem, 2009). These correspond closely to the idea of 'procedural fairness', in which participation and the perception of fair treatment are seen as key determinants of how a decision is received by those it concerns (Tyler, 2006, 2006b). With regard to restorative outcomes, reparation, reconciliation and reintegration are usually identified as the ways to 'repair the individual, relational and social harm' caused by crime (Walgrave, 2008: 21; see also Johnstone, 2008).

The notion of stakeholder empowerment tends to figure centrally in systemic reform models of restorative policing. For example, according to the 'restorative problem-solving police prevention programme' developed by Weitekamp, et al. (2003: 314-21), the police, victims, offenders and communities are all recognised as stakeholders to crime prevention, with the right to play an active role in maintaining peace and community safety. They argue that the police's role in this is to facilitate the participation of the other stakeholder groups in deliberation and decision-making (see Figure 3.1):



*Figure 3.1: Restorative problem-solving police prevention programme  
(Weitekamp, et al., 2003: 319)*

This model of policing is restorative, argued Weitekamp, et al. (2003), because it proposes a move away from the imposition of crime prevention strategies by the state, in favour of enabling everyone with a stake in crime prevention to participate in decision-making. Weitekamp, et al. (2003) also suggested that the police should adopt RJ principles as a policing framework, and RJ processes as a tactic, as this would enable officers to be proactive and dynamic in identifying local objectives, evaluating needs and responses, solving problems and, most importantly, decentralising decision-making. These aims, they argued, are mostly central tenets of community policing and/or problem-solving policing which can be realised by applying restorative principles.

More recently, Clamp and Paterson formulated a similarly transformative approach to restorative policing, stating that it represents a single, new policing objective: to 'promote beneficial forms of *social capital*' (2017: 119, emphasis in original). Restorative policing, they stipulated, involves moving away from the 'traditional police use of force paradigm' (2017: 119) and towards a participatory approach to policework, particularly that located at the 'shallow-end' of criminal justice. Like Weitekamp, et al. (2003), they believed that RJ processes and principles can be used to achieve the aims of both community policing and problem-solving policing, and that 'a true integration of restorative justice requires a fundamental evolution in agency missions' (Clamp and Paterson, 2017: 139). They emphasised the *relational* dimension of RJ, remarking that the police can reduce the need to use coercion by helping citizens to (re)organise and (re)build

strong ties within local communities. This new model of policing, Clamp and Paterson (2017) wrote, would allow the police to delegate decision-making to citizens, take advantage of the informal control capabilities residing in social networks, and develop the latent capacity among populations to manage, resolve and prevent crime and conflict with lower levels of state intervention.

Given the research outlined in Chapter 2, it seems unlikely that either model could be fully realised in English policing. Both represent reasonably coherent narratives about what the police might strive to achieve. However, neither Weitekamp, et al. (2003) nor Clamp and Paterson (2017) indicate how they might alleviate the pressures or change the expectations and rationales which result in the police playing a largely reactive function. Nor do they reflect on the level or distribution of resources which would enable additional tasks to be undertaken alongside existing policework. Furthermore, neither resolves the fundamental tension underpinning RJ in criminal justice in general, and restorative policing in particular: when there is a disagreement, who is ultimately in control?

As Chapter 2 explained, the barriers to inclusive, proactive and procedurally fair policing approaches have not dissipated. Though somewhat malleable, they are mostly reproduced, as an entrenched body of knowledge about what policing should achieve and look like, interacts with the social and political conditions in which it takes place (Chan, 1996). This renders systemic reform models difficult to achieve, as aspects of RJ which do not fit neatly within the parameters of the current system, are likely to be rejected in favour of those which preserve or are compatible with existing rationales (Blad, 2006). As O'Mahony and Doak (2017: 39) said: 'The restorative capacity of state-led programmes is inherently limited by the overarching role that continues to be exercised by the state.'

It should come as no surprise, therefore, that the empirical literature tends to adopt a programmatic approach to defining restorative policing. In practice, researchers have had few opportunities to measure change efforts against a systemic reform approach to restorative policing, because forces almost always implement RJ on the understanding that it represents one or more practices which their officers can opt to utilise in response to specific cases. As Chapter 1 explained, the history of restorative policing in England involves the police using restorative conferencing (and other, usually less-dialogic, approaches) under the guise of RJ. Unlike the holistic approaches outlined by Weitekamp, et al. (2003) and Clamp and Paterson (2017), restorative conferencing is designed to accord

with deep-rooted police rationales. For example, it individualises crime by imposing a victim-offender dichotomy and ‘prioritis[ing] the rectification of past wrongs by one party’ (O’Malley, 2006: 229). This contrasts with systemic approaches to restorative policing, which assume that RJ should also address societal-level harms and harms done to those who most recently occupied the role of ‘offender’ (Zellerer, 2016). Conferencing enables the police to control outcome decisions, neglect the social context in which crime occurs, inhibit broader community involvement and direct processes to achieve police-defined goals (Karstedt, 2011; Richards, 2011).

The scripted model of restorative conferencing – and, to an even greater degree, street RJ (Stockdale, 2015b) – represents a pragmatic effort to integrate some restorative values and processes into police practices. It illustrates how the adoption of restorative principles is dependent on the extent to which they accord with existing priorities and ways of working (Aertsen, et al., 2006; Mackay, 2006). This level of pragmatism has been encouraged in England, as national policies and police forces have interpreted the concept of RJ in an increasingly flexible manner (Clamp and Paterson, 2013, 2017).

### **3.3 Restorative policing in policy**

RJ in general, and restorative policing in particular, tend to be articulated programmatically within national and organisational policies (Clamp and Paterson, 2017). In its recent RJ Action Plans, for example, the MoJ (2017: 3; see also, Ministry of Justice, 2012, 2013, 2014) defined RJ as:

The process that brings those harmed by crime or conflict, and those responsible for the harm, into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward.

This definition was adopted from the Restorative Justice Council (2011), and has been embraced by other governmental bodies (Criminal Justice Joint Inspection, 2012; Justice Committee, 2016; Victims’ Commissioner 2016). As an essentially

programmatic definition, it does not frame RJ as a fundamental challenge to the structures of the justice system. However, it does provide clear boundaries to the concept (Daly, 2016), integrates both process and outcome principles, and encourages a dialogic (and therefore evidence-based) approach to delivery (Strang, et al., 2013; Sherman, et al., 2015).

In any case, a much broader understanding of RJ has developed in the English police of late. Towards the end of the 2000s, several forces introduced new police disposals, framed or labelled as restorative in nature, which allowed officers to resolve cases instantly and informally (Wachtel, 2009; Shewan, 2010). This was largely in response to the strict OBTJ targets which had discouraged the police from resolving cases informally, resulting in a drastic increase in the formal processing of young, first-time offenders (Rix, et al., 2011).

Around the same time, OBTJ targets were criticised in an independent review of the police (Flanagan, 2008). This stated that targets should be removed, and that other aspects of the performance management regime should be rolled back. It was claimed that this could both reduce police bureaucracy and enable officers to respond more proportionately to low-level offending. The report recognised that targets had ‘encouraged [officers] to criminalise people for behaviour which may have caused offence, but the underlying behaviour would be better dealt with in a different way’ (Flanagan, 2008: 57), and argued that performance frameworks should be more flexible, enabling officers to make use of ‘citizen-focused resolutions’ (Flanagan, 2008: 56).

This report informed a series of national policy changes which enhanced, constrained or directed police discretion in ways which discouraged the formal processing of low-level offenders. In 2008, the Home Office released a Youth Justice Action Plan which explicitly aimed to reduce the number of young people given criminal records (Hart, 2012). In the same year, the OBTJ target was revised to focus only on more serious offences, before being withdrawn entirely in 2010 (Kemp, 2014). In 2012, reprimands and final warnings were replaced with youth cautions, formally returning to officers the discretion to de-escalate young offenders who already had criminal records (Smith, 2014). Code G of PACE was also revised, increasing the threshold needed to justify arrests (ACPO, 2012b). Some of these later policies were also informed by austerity. As Creaney and Smith noted, this reversion to minimal intervention was ‘consistent with a spirit of pragmatic retrenchment associated with pressures for cost saving’ (2014: 85).

ACPO (2012b) also cited austerity as a significant factor in the consolidation of the trend away from formal processing, noting that arrests and detention centres were especially resource intensive.

In the years following the Flanagan Report, the use of informal disposals by the police grew rapidly. Nationally, their usage with violent offences rose from 2,204 in 2008, to 33,673 in 2012 (Full Fact, 2013), while their usage in six forces grew from 0.5% of all resolved cases in 2008, to 12% in 2012 (Criminal Justice Joint Inspection, 2012). These disposals were often labelled as 'restorative', and their use was examined in a landmark report which looked at RJ throughout the justice process (Criminal Justice Joint Inspection, 2012). However, this report, like other studies which took place around the same time, showed that these disposals mostly deviated from restorative principles and research evidence on the effectiveness of RJ (Criminal Justice Joint Inspection, 2011, 2012; Rix, et al., 2011; Meadows, et al., 2012). Disposals were typically characterised by quick exercises in indirect negotiation, in which officers retained control over processes and outcomes and seldom invited victims, offenders or other stakeholders to participate in dialogue or decision-making. Nonetheless, these disposals were increasingly recorded and understood within the police as restorative in nature (Shewan, 2010; Criminal Justice Joint Inspection, 2012).

That some forces did not introduce these disposals, led to concerns of a 'postcode lottery' (Criminal Justice Joint Inspection, 2011: 19) with respect to their availability. Around the same time, austerity measures incentivised a greater focus on demand management among the police (HMIC, 2011, 2012), and another national report recommended the nationwide adoption of informal disposals in order to reduce police bureaucracy (Berry, 2010).

In 2010, the MoJ presented plans to encourage the use of 'restorative' OOCs. They stated that they would reform police disposals in order to:

Promote diversionary restorative justice approaches [which will] return discretion to police officers and encourage offenders to make swift reparation to victims and the wider community. (2010: 64)

Three years later, the government added a 'community resolution' category into its recording framework (Home Office, 2013). This formally introduced, into national policy, victim participation in decisions relating to informal disposals. In

2015 – the first year for which national statistics were published – around 119,300 community resolutions were delivered by the police, making up around 7% of total criminal outcomes imposed by the police or courts that year (Ministry of Justice, 2017b). These figures did not include the use of community resolutions with non-crime incidents, which was explicitly enabled, but for which national figures do not seem to be published. They also did not state the proportion of community resolutions which were nominally ‘restorative’ in nature: the Home Office (2013), while recognising that community resolutions could be delivered restoratively or not, did not require forces to record this distinction.

In its explanation of the updated disposals framework, the Home Office defined the community resolution as:

The resolution of a less serious offence or anti-social behaviour incident where an offender has been identified, through informal agreement between the parties involved as opposed to progression through the traditional criminal justice system. (2013: 6).

This document also stated that the purpose of the disposal was to allow the police to resolve cases quickly, cheaply and proportionately, while enhancing victims’ involvement in the process. It seemingly represented an attempt to balance these competing aims and to integrate (at least, quasi-) restorative ideas into police disposals, by enabling victim participation and negotiated agreement. The document also stated that the Home Office did not intend to produce specific rules on community resolutions, and that guidance on their use should be developed locally by forces. At the time of writing, the most detailed national guidance on community resolutions remains that which had already been released by ACPO (2012), some provisions of which were mirrored in updated MoJ guidance on OOCs (2013b).

Importantly, none of these documents specified the relative importance of the disposal’s competing aims. Instead, they provided flexible suggestions on how it could be used. For example, ACPO’s guidelines stated that community resolutions should only be used when ‘the victim has been consulted and [their] consent sought’, but that ‘in certain cases, [they] *may* be appropriate without victim consent’ (ACPO, 2012: 5, emphasis in original). These situations were not specified, though the same page ‘recommended’ that officers should consult their

supervisors and record their reasoning if using community resolutions without the victim's consent. Similarly, while the guidance stated that 'outcomes should always be focused on the offender making good the harm done', outcomes did not have to be determined by the parties, and the only restriction was that they must be 'appropriate' (ACPO, 2012: 6). Thus, while the disposal theoretically increased the scope for victim involvement in OOCs, it also enabled the police to overrule or neglect victims and control decision-making.

Notwithstanding stricter regulation by forces, officers were left to exercise their professional judgement to impose disposals and select their conditions. This contradicts the suggestion by some advocates that community resolutions were 'instinctively restorative' and that they would necessarily 'achieve the benefits associated with the use of restorative justice' (Shewan, 2010: 4). Rather, they were *potentially* restorative, depending on how officers used them in practice (Westmarland, et al., 2017). As Sanders, et al. (2010) explained, guidelines which list competing priorities without specifying their relative importance are mostly presentational, affording officers the discretion to determine what to prioritise in a given case. Thus, it should be expected that police rationales and working rules are reflected in how this disposal is used, especially given that it is delivered in the low-visibility environment of the street (Cutress, 2015).

Around the same time, ACPO released additional guidance on the police's use of RJ. This defined RJ as:

A victim-focused resolution to a crime or a non-crime incident. RJ holds offenders, either young people or adults, directly accountable to their victims and can bring them together in a facilitated meeting. (2011: 4)

This definition is considerably vaguer than that posited by the MoJ. It essentially suggests that RJ can be anything which is 'victim-focused' – a concept which it does not define, but which clearly does not require practices to involve dialogue between stakeholders, to be considered restorative.

The guidance then lists a series of 'minimum standards', stating: 'It is essential that for a disposal to be considered restorative it must have the following key elements' (see Figure 3.2).

- 1) The offender must take responsibility
- 2) Involvement of the victim, community or other affected party
- 3) A structured process that establishes what has occurred and what the impact has been
- 4) An outcome that seeks to put right the harm that has been caused or an outcome that makes other reparation that may not be directly related to the original case.

*Figure 3.2: RJ minimum standards (ACPO, 2011: 4)*

In a sense, these standards reflect a procedural and harm-focused understanding of RJ, mentioning the need for ‘a structured process’ and the aim of ‘putting right the harm’. However, they still neglect to oblige the police to utilise participatory approaches. Although they state that at least one ‘affected party’ should have ‘involvement’ in the process, this does not have to be the direct victim, nor does their involvement necessarily include communicating with the offender or giving input into outcome decisions. Similarly, these standards do not entitle offenders to provide input in decision-making processes. This framing of RJ is consistent with the ambiguity which typically characterises police guidance (McBarnet, 1980, 1981; McConville, et al., 1991; Sanders, et al., 2010). Despite the UK government adopting a dialogic definition of RJ, ACPO has promulgated a more flexible approach which ultimately enables the police to define as ‘restorative’ a variety of processes over which they retain control (Cutress, 2015).

This interpretation is further enabled by the distinction drawn between ‘Level 1’, ‘Level 2’ and ‘Level 3’ RJ. Levels 2 and 3, as explained in Chapter 1, refer to the use of dialogic approaches pre- and post-court, respectively. Level 1 (or ‘street RJ’), in contrast, is defined as an ‘instant or on-street disposal where police officers or PCSOs use restorative skills to resolve conflict in the course of their duties’ (ACPO, 2011: 7). By failing to define ‘restorative skills’, the guidance enables a further departure from the idea that RJ requires dialogue and collective decision-making among victims and offenders. Like the idea of practices being ‘victim-focused’, the concept of street RJ is ambiguous and empowers the police to determine whether or how to apply restorative principles on a case-by-case basis (Gavrielides, 2016). As with cautioning, street RJ is governed in a way which is susceptible to its practices being shaped by the police’s working rules. This led Stockdale (2015b: 194) to characterise street RJ as a model which ‘has been packaged to fit within the criminal justice system, to fit with police force policies and to be understood by frontline officers’.

The concept of street RJ – further criticised by Strang and Sherman as an ‘evidence-free innovation’ (2015: 19) – seems to have consolidated the conflation of RJ and informal resolutions within the English police. Many forces already equated the two by 2010, when at least 33 forces claimed to use RJ in some form, having reportedly trained almost 18,000 officers and PCSOs to deliver RJ (Shewan, 2010). As noted previously, however, most of the RJ processes which the police delivered at that time, involved little in the way of dialogue and stakeholder involvement in decision-making (Shewan, 2010; Rix, et al., 2011; Criminal Justice Joint Inspection, 2012).

More recent studies have found that street RJ has continued to omit the features of restorative conferencing which are most closely associated with its observed effectiveness. In the overwhelming majority of street practices, parties are mostly precluded from engaging in dialogue or from providing input into decision-making processes (Meadows, et al., 2012; Walters, 2014; Cutress, 2015; Strang and Sherman, 2015; Shapland, et al., 2017; Westmarland, et al., 2017). Instead, Cutress (2015: 178) observed, many officers ‘us[e] a RJ disposal for the reasons of speed and ease instead of any restorative factor’. This suggests that informal resolutions might have been labelled as RJ, without necessarily being strongly informed by RJ principles and processes. That more comprehensively restorative approaches might be sacrificed in favour of speed, is consistent with the research outlined in Section 2.3 on the propensity to prioritise efficiency across modern criminal justice work.

ACPO’s guidelines exemplified how the conceptual flexibility of RJ affords policymakers the discretion to interpret it in accordance with the perceived needs of their institution. For one, advocates of RJ often frame it in ways which they believe will minimise resistance to its use among the target population (Aertsen, et al., 2006; Mackay, 2006). In this case, RJ has been portrayed and defined as quick, practical and discretionary, and as a way for the police to retain or relinquish control to the extent that they see fit. This may appeal to frontline officers who seek quick and easy mechanisms with which to respond to low-level cases, while circumventing any aversion to innovation, theory and ‘softer’ approaches which may be labelled ‘pink and fluffy’ (McCarthy, 2013: 271). However, it risks the dilution of the concept, as street RJ enables officers (and, indeed, politicians and the public) to define, record and understand these informal practices as reflecting the concept of RJ (Gavrielides, 2016).

ACPO's guidance also showed how RJ can be co-opted by the wider rationales of the system within which it is implemented. For example, it emphasised individual responsibility and offender accountability, which are among the neoliberal ideals that have permeated the implementation of RJ within Western justice processes in recent decades (Karstedt, 2011). The guidelines also suggested that criminal (and, indeed, non-criminal) acts necessarily involve a clear 'victim' and 'offender', a dichotomy which, while often false (Drake and Henley, 2014), is a central assumption of the criminal law. By stating that RJ can only take place if an 'offender' takes responsibility, ACPO's framework implicitly assumed that these labels can and should be imposed on situations to which the police are required to respond. This may preclude restorative approaches to cases where they may be useful, but where responsibility for harm is shared or unclear (Young, 2000; Stuart and Pranis, 2006).

Moreover, the document's emphasis on victims represented a politicised interpretation of RJ to suit the modern police institution. Recent years have seen a growth in the police's responsibilities towards victims (Hoyle, 2011), alongside the proliferation of a 'service culture' (Reiner, 2010: 248) and a 'victim-focused' agenda (Duggan and Heap, 2014) within the police and other justice agencies. Victims are now among the system's 'customers' (O'Malley, 2004), though their needs are often neglected in practice as resources are invested in more closely measured priorities (Payne, 2009). The marketing of RJ as a service for victims may have made it more politically palatable to policymakers in the context of populist punitiveness (Acton, 2015). Yet, this also illustrates how, as an abstract concept is mainstreamed, some of its features can be stressed or downplayed in accordance with institutional preferences and priorities (Oliver, 2000). In this case, efficiency, flexibility and victims were emphasised over dialogue, equality and inclusivity, with possible implications for the position of offenders within RJ, and for how it might be understood and implemented at the force- and officer-level more broadly (Gavrielides, 2016).

The police's use of RJ in England is non-statutory, and ACPO's guidelines state that their purpose is merely to 'assist police forces in the introduction and management of RJ processes', with forces expected to 'develop their own specific local procedures' (2011: 4). Consequently, the flexibility afforded force-level policymakers to (re)interpret RJ and set their own policies locally, has allowed for heterogeneous approaches to be taken at the organisational level.

The most recent research suggests that forces differ greatly with respect to the training they provide, the nature of any quality assurance processes, the way that they frame the meaning, role and purpose of RJ, the amount of discretion their officers have to make decisions on its use, and the emphasis that they place on dialogue and repairing harm (Acton, 2015; Cutress, 2015; Stockdale, 2015b; Clamp and Paterson, 2017; Shapland, et al., 2017; Westmarland, et al., 2017). Many forces, argued Westmarland, et al. (2017: 11) interpret RJ in a way which is 'so porous as to be unhelpful [and] as an umbrella term for a multitude of street-level practices'. While some have been found to use conferencing and/or to participate in multi-agency RJ partnerships, others mostly or exclusively use street RJ, while some seldom, if ever, apply the term 'restorative' to their practices (Cutress, 2015; Strang and Sherman, 2015; ICPR, 2016; Shapland, et al., 2017; Westmarland, et al., 2017). The following section considers what the police's use of RJ looks like in practice, in cases where their practices are labelled as such.

### **3.4 Restorative policing in practice**

As Section 3.2 explained, restorative policing typically involves police officers facilitating practices which they understand to qualify as 'restorative'. This requires officers to determine when and how to offer RJ, the extent and nature of any preparative or follow-up work, whether to enable the parties to communicate or determine outcomes, and how to behave and treat participants during these processes (Chapman, 2012; Laxminarayan, 2014). Research suggests that RJ is most likely to be effective if it involves dialogue and collective decision-making among victims and offenders, and if it is offered and delivered in a sensitive and procedurally fair manner (Crawford, 2010; Strang, et al., 2013; Sherman, et al., 2015). In other words, the impact of an RJ process may depend on its facilitator's ability and inclination to engage in 'principled facilitation' (Chapman, 2012: 80). Facilitators can be seen as 'the custodian[s] of procedural and restorative justice values' (Dignan, et al., 2007: 14): they are expected to exercise their discretion in empowering, creative and supportive ways to maximise the chances of participants' needs being met (Schiff, 2007).

Given the discretionary environment in which restorative policing takes place, there is a risk of police-led RJ being shaped by the police's working rules, or being used to achieve police-defined goals. As Chapter 2 explained, many of these rules and goals may conflict with, or may even be antithetical to, restorative principles and processes. Research on the police and police culture suggests that it is characterised by 'habitual action' (Chan, 1996: 113; see also Sackmann, 1991), raising the prospect that coercion, prejudice and other police tendencies might shape police-led RJ processes.

This section assesses the evidence as to whether 'police facilitators' adhere to restorative principles in practice. Four key principles are considered, namely voluntariness, stakeholder participation in dialogue, stakeholder participation in outcome determination, and repairing harm.

### **3.4.1 Voluntariness**

That stakeholders must not be forced or pressured to participate in RJ or to accept any specific outcomes, is widely seen as a key safeguard for those who engage in an RJ process (Braithwaite, 2002). In theory, the principle of voluntariness ensures that victims, some of whom may be traumatised or vulnerable, must not be required to face their offenders (and *vice versa*) (Marshall, 1999). It also allows offenders to opt for a formal justice process, the protections of which may be important if the offender is vulnerable or denies guilt, or if disproportionate outcomes are proposed in RJ (Delgado, 2000; Daly, 2005). Voluntary participation can also enhance the legitimacy of the process, making compliance with outcomes more likely (Sherman, 1993; Tyler, 2006).

In practice, however, voluntariness may be difficult – or even impossible – to achieve. This is for three main reasons: firstly, it can be difficult to articulate the appearance and boundaries of voluntariness in practice; secondly, much of the pressure under which the parties might find themselves may be unintentional or implicit; and thirdly, police officers might have a cultural disposition towards (and a vested interest in) applying pressure on one or both parties to participate or to accept certain outcomes.

RJ policies typically include provisions relating to voluntariness, although they may set qualitatively different standards. For example, the EU's Victims' Directive, to which England is (perhaps temporarily) bound, requires parties to provide 'free and informed consent' (European Parliament, 2012: 13) in order for RJ to take place. This is a higher standard than exists in domestic policies: the Victims' Code says that 'Restorative justice is voluntary – you [the victim] do not have to take part, and both you and the offender must agree to it before it can happen' (Ministry of Justice, 2015: 35). Equating voluntariness with 'agreement' does not, to the same extent as the concept of 'free and informed consent', rule out the use of pressure, coercion, suggestion and misinformation to obtain consent. Similarly, ACPO's guidelines do not require the parties to provide free and informed consent, stating instead that offenders 'must be willing to undertake the RJ process', while victims 'must not be coerced into face-to-face or shuttle RJ' (2011: 8). This suggests a higher standard for victims than for offenders, consistent with the framing of RJ as 'victim-focused'.

Still, each approach seems to imply that the facilitator must take some steps to obtain participants' consent (and, perhaps, to minimise coercion when doing so) before delivering RJ. Typically, this role is operationalised as explaining the process fully, clearly and impartially, and taking care not to put pressure on any party to participate (Chapman, 2012; Van Ness and Strong, 2013). The object of the exercise is to communicate clearly that participation in the process and agreement on outcomes are free choices for all concerned. This means that the facilitator must have the skills and the inclination to inform the parties about the process in a way that is accessible and accurate, without implying to any party that they are required to engage. Facilitators should also allow for dissent and participant withdrawal throughout the process, including the point at which outcomes are discussed or agreed (Zinsstag, et al., 2011).

In the police context, however, it may be unavoidable that prospective participants feel under some form of implicit pressure to engage in RJ processes or to accept certain outcomes. Generally speaking, victims and offenders may feel a moral obligation to participate, if they believe that they may help the other party by doing so (Zernova, 2007), or if a family member puts pressure on them to do so (McCold and Wachtel, 1998). In policing in particular, there may be forms of pressure which may be impossible to alleviate, as they derive not from a facilitator's actions, but from the use of RJ (at least, in theory) as a diversion from

a higher criminal sanction or civil injunction (Clamp and Paterson, 2017). For example, when RJ is used as a diversion from arrest, the offender's decision to participate is made under threat of formal processing if they object (Walgrave, 2015). In such cases, offenders must choose whether or not to engage, without necessarily knowing which course of action would be worse for them (Braithwaite, 1999; Mackay, 2006; Sherman and Strang, 2007). On the other side, victims may feel under pressure to participate, as to refuse might be to condemn the offender, whom they may know personally, to a harsher outcome.

One or both parties could also feel under pressure to participate due to the authoritative nature of the officer's position. Police officers carry a symbolic and legal authority which underpins all police-citizen interactions (Reiner, 2010). This may mean that citizens interpret police requests as orders, or agree to ostensibly voluntary invitations out of fear that there may be negative consequences if they decline (Delsol and Shiner, 2006; Vanfraechem, 2009; Nadler and Trout, 2012; Murray, 2014). 'People consent to police officers', argued Delsol (2006: 116), 'not because they make a free choice to grant consent but because that is how people respond to the authority of the police'.

Tensions may also arise between the principle of voluntariness and the police's capacity for coercion. Even when the police achieve compliance through negotiation, their persuasion tactics can be aggressive and reinforced by more or less explicit threats of force (Dick, 2005; Walgrave, 2015). Thus, police officers may (intentionally or unintentionally) put pressure on one or both parties as a result of engaging in 'habitual actions' (Chan, 1996). Officers may even be incentivised to coerce participation, if they perceive that RJ can be used to achieve a personal or institutional goal (such as obtaining compensation for victims, or closing cases quickly). This incentive may be especially prominent in the small number of forces where all informal resolutions must be conducted restoratively (Stockdale, 2015b). As noted in Chapter 2, the low visibility in which policework (including RJ) takes place, means that there is little to prevent police officers from manipulating or pressuring any party to admit responsibility or guilt, to agree to a disposal, to participate in RJ, or to accept certain outcomes (Reiner, 2010; Padfield, et al., 2012; Laxminarayan, 2014).

Whether or not the police apply pressure, and whether or not the parties feel pressure, are ultimately empirical questions, and studies on police-led RJ have varied in their findings on these subjects. In Northern Ireland, for example,

a significant minority of victims and offenders reportedly felt coerced into participating in police-led RJ (O'Mahony and Doak, 2004). In North America, figures for perceptions of voluntariness among offenders stood at around 67% and 71% in two of eight pilot areas, although they were higher than 85% in four others, and close to 100% in one (McCold, 1998). Victim-perceived voluntariness was measured at 96% in the Bethlehem police experiment (McCold, 1998) and at 90% in Thames Valley, although only 24% of offenders in the latter felt that they had been given an entirely free choice to participate (Hoyle, et al., 2002).

More recently, English studies by Meadows, et al. (2012), Walters (2014) and Cutress (2015) found either that many victims (around half in Walters' research) felt pressured into participating, or that some officers decided to use RJ before or without consulting the victim. The Association of Convenience Stores similarly reported that their members 'often report that police attempt to use RJ without consent of the retailer' (2016: 2). Another study found that, in eight out of 66 cases, the police used RJ even though 'the victim had not consented or had refused to co-operate' (Criminal Justice Joint Inspection, 2012: 28).

That these studies mostly examined street RJ is significant, as many cases did not involve dialogue between the parties, reducing the risk that the victim might be confronted with an offender who was not participating voluntarily. Nonetheless, victims may still have been pressured into accepting outcomes which they did not want, while suspects may have been coerced into accepting responsibility for offences which they did not commit or for which they had a legal defence. Therefore, the issues relating to coercion in street RJ are at least as significant as for other OOCs (Bui, 2015). That these issues are especially prominent with respect to Penalty Notices for Disorder, which take place on the street, may not bode well for adherence to the principle of voluntariness within street RJ (Krains and Carroll, 2006; Morgan, 2009; Gilling, 2010).

Even in cases where consent is obtained without overt or unintentional pressure, participants may not be well informed of their rights or of the nature of the process. Hoyle, et al. (2002) and Parker (2013) found that some offenders believed their participation to be mandatory because the police had failed to emphasise the voluntary nature of the process. This is consistent with observations that the police often explain suspects' rights quickly or in an incomplete way, without checking for understanding (Bucke and Brown, 1997); McConville, et al. (1991) noted that this is a technique which the police use to

expedite case processing. Similarly, the police might be incentivised not to explain the voluntary nature of the RJ process, if they wish to encourage the parties to agree quickly to an informal resolution.

The quality of the information provided by officers may vary in other ways. Some officers neglect to describe all of the available types of RJ and other disposal options to prospective participants, meaning that the parties do not have all the necessary information when they make their decisions (Meadows, et al., 2012; Cutress, 2015; Justice Committee, 2016). Equally, some officers may elect to undertake little or no preparation before dialogic practices (Hoyle, et al., 2002; Meadows, et al., 2012; Gavrielides, 2013; Strang, et al., 2013). This may reduce the likelihood that the parties are fully aware of what the process entails and what is expected of them (Daly, 2003), and may potentially increase the chances of one party being psychologically unprepared to engage (Schmid, 2001). It also means that officers have fewer opportunities to manage participants' expectations, to identify potential risks, and to assess the likely dynamics of any meeting (Van Ness and Schiff, 2001; Miers, 2004; Van Camp, 2015).

Some authors have questioned whether voluntariness is always strictly necessary in RJ. Newburn, et al. (2002) found that, despite offenders being required to participate in Youth Offender Panels, successful conferencing could still take place. Gavrielides (2007) observed a tendency to overestimate the likelihood that victims might be revictimised by reluctant offenders. Others have argued that offenders have a moral obligation to repair the harm they caused, and thus 'may be required to accept their obligations if they do not do so voluntarily' (Zehr and Mika, 1998: 51). The latter attitude in particular may proliferate as RJ is increasingly framed as a service for victims.

The principle of voluntariness is ridden with complications which, like the related notion of free will, means that it cannot be measured in binary terms (Zernova, 2007). The officer's position of authority and the design of the legal system may create an unavoidable, underlying threat of coercion, irrespective of the facilitator's behaviour. Still, it seems reasonable to conclude that facilitators have a role to play in ensuring that participation and outcomes are agreed to as freely as possible, and that participants are fully informed before they decide to engage – especially if they are to meet as part of the process.

### 3.4.2 Stakeholder participation in dialogue

In theory, RJ is supposed to enable participants to engage in 'harm-focused' discussions pertaining to the nature, causes and impact of the offence (Zinsstag, et al., 2011). This gives participants the opportunity to 'tell their side of the story' and to express how the incident has impacted them (Chapman, 2012). Moreover, this dialogue should be delivered in a way which is procedurally fair: the facilitator must be seen to be impartial, ensuring that participants are treated equally and respectfully (Braithwaite, 2002; Crawford, 2010).

This form of active participation is central to the concept of stakeholder empowerment in RJ theory and practice, as described in Section 1.2. Dialogue enables the parties 'to speak in their own voice, rather than through legal mouthpieces' and to 'reveal whatever sense of injustice they wish to see repaired' (Braithwaite, 2002: 566-9). This may increase the likelihood that the parties experience the process as procedurally fair and legitimate (Tyler, 2006, 2006b). For victims, the ability to express their feelings is linked to high levels of satisfaction and perceptions of fair treatment (McCold and Wachtel, 2002; Shapland, et al., 2011); for offenders, the sense of being listened to and treated fairly can enhance the legitimacy of the system and the process in their eyes, and thus encourage self-regulation and compliance with outcomes and with the law (Crawford and Newburn, 2003; Tyler, 2006, 2006b; Crawford, 2010).

Research tends to support the use of dialogic (particularly face-to-face) models of RJ (Shapland, et al., 2011; Strang, et al., 2013; Sherman, et al., 2015; Bouffard, et al., 2017). Some have found that victim satisfaction with RJ is linked to the desire to be active in responding to one's own victimisation (Van Camp and Wemmers, 2013; Hagemann, 2015). Beven et al. (2005) reported that dialogue is more important to victims than tangible outcomes. Even when the exchanges themselves are not positive, both parties can be satisfied with their participation (Daly, 2001). Other studies also indicated a relationship between participation in dialogue, levels of victim and offender satisfaction, and perceptions of fair treatment (McCold and Wachtel, 2002; Strang, 2002; Poulson, 2003; Daly, 2006; Shapland, et al., 2011). Furthermore, emotional expression may be cathartic for victims, while the ability to 'get answers' and to speak directly to the offender may enable them to 'move on' from the incident (Daly, 2006; Strang, et al., 2006) and reduce post-traumatic stress symptoms (Angel, et al., 2006, 2014). For offenders,

hearing the impact of their actions may motivate them to apologise and even to desist from offending (Robinson and Shapland, 2008; Crawford, 2010; Lauwaert and Aertsen, 2015).

It is significant, therefore, that victims are often precluded from participating in police-led RJ. When facilitating RJ, the police must decide whom to invite to participate, and what role each person should play. However, the pressure to be efficient and to operate according to the parameters of the criminal law, may disincentivise officers from inviting a wide range of stakeholders, enabling dialogue between the parties, or deviating from the presumption of a victim-offender dichotomy (O'Mahony and Doak, 2017).

There is evidence to suggest that police-led RJ seldom enables victims and offenders to communicate. For example, restorative cautioning programmes usually do not require officers to invite the victim to participate at all (Moore and O'Connell, 1994; Hoyle, et al., 2002; O'Mahony and Doak, 2013). Consequently, victims were not involved in most restorative cautions during pilots in Northern Ireland, although surrogate victims were used in shoplifting cases at one site (O'Mahony, et al., 2002). Similarly, victims participated in one seventh of the cautions which were recorded as 'restorative' in Thames Valley (Hoyle, et al., 2002). In both areas, it was assumed that practices could still be 'carried out using the restorative philosophy' (O'Mahony and Doak, 2013: 139) without victim involvement, if the police used reintegrative shaming techniques to encourage the offender to understand their impact on the victim.

A different logic has precluded dialogue in England in recent years, as street RJ has replaced restorative cautioning as the most common form of restorative policing. In theory, virtually all victims are now supposed to be at least offered information about RJ. This right is contained within the Victims' Code (Ministry of Justice, 2015) which was updated in 2015 to reflect the EU's Victims' Directive (Hoyle and Rosenblatt, 2016). While stopping short of codifying a right to access RJ, it creates a specific, 'unequivocal' (Shapland, et al., 2017: 69) obligation on the police either to inform victims about RJ, or to provide another service provider with the victim's details. It states that:

The police must pass the victim's contact details to the organisation that is to deliver Restorative Justice services for victims to enable the victim to

participate in Restorative Justice, unless asked not to do so by the victim.  
(Ministry of Justice, 2015: 54)

However, recent reports indicate that the police's obligations under the Victims' Code are rarely adhered to in practice (Justice Committee, 2016; Shapland, et al., 2017). Like other obligations which the police have towards victims, it conflicts with incentives and pressures to process cases quickly. Consequently, the Crime Survey for England and Wales reported that, in the twelve months to March 2016, only 4.2% of victims with known offenders recalled being offered the chance to meet them – down from 7.2% a year earlier (ONS, 2016).

Research suggests that the police remain much more likely to use quick, informal and non-dialogic resolutions under the guise of RJ. In one study, only one of 14 cases involved direct dialogue (Walters, 2014). Other studies have also found that street RJ made up the overwhelming majority of police-led RJ, and that the parties were usually not enabled to speak (Meadows, et al., 2012; Cutress, 2015; Shapland, et al., 2017). From a sample of almost 1200 records of community resolution-level RJ from 12 forces, Westmarland, et al. (2017) found that around 76% were at Level 1, and that even some cases which were recorded as Level 2 did not involve dialogue.

Furthermore, in most practices observed by Cutress (2015: 143), 'there would be no direct contact or discussion between victim and offender [...] the officer would act as a go-between or shuttle', primarily for the purpose of agreeing a settlement. She also found that if 'the victim did not wish to participate, officers believed that this was a minor detail, and they could further proceed in the delivery of RJ without the victim's presence' (Cutress, 2015: 172-3). In her study, the police often coerced participants in street RJ to accept (usually symbolic) reparation as 'a "quick fix" solution' (2015: 175). Officers' belief that this negated the need for dialogic approaches or relational outcomes, reflects the police's cultural biases towards quick, pragmatic approaches. Overall, if 'restorativeness [is] a function of victim participation' (Bazemore and Elis, 2007: 400), then restorative cautions and street RJ may seldom qualify as such.

In many cases, indirect stakeholders – collectively termed 'the community' – are also excluded from police-led processes. In this context, 'the community' can be defined in various ways. Van Ness takes a broad approach, including any 'non-governmental actors who respond to crime, to victims and to offenders.'

(2002: 138). Others define it geographically (as a place) or socially (as a network), or refer to the 'community of care', meaning 'anyone who feels connected, either directly or indirectly, to the persons involved in the crime or the event itself' (Schiff, 2007: 235). In practice, 'the community' can include neighbours, family members or other persons local to the offence or known to the offender or victim. It can also include relevant professionals (such as teachers, social workers, police officers or drug workers) or volunteers who represent the 'wider' community (Rosenblatt, 2015; Rossner and Bruce, 2016).

Some theorists argue that 'community' inclusion in RJ is critical. For example, Dzur and Olson (2004) stated that these persons can help reintegrate offenders (see also McKeown, 2000; Van Pagée, 2014), sympathise with victims, and communicate disapproval more effectively than professionals. Rossner and Bruce (2016) suggested that there is a symbolic significance to their participation, in that it legitimises the process and reduces the state's control. However, Rosenblatt (2014, 2015) argued that many of these assertions have not been empirically verified, and that they 'largely overlook the limitations upon realising community involvement on the ground' (Rosenblatt, 2014: 285). Similarly, Crawford (1997, 2002) argued that 'the community' is not necessarily benevolent (either in terms of its intent, or how it may be experienced), and that theoreticians tend to overemphasise its coherence and reintegrative capacities.

Still, there is some evidence to support the involvement of certain indirect stakeholders. McCold and Wachtel (2002) found that the presence of families and friends was associated with an increase in victims and offenders rating RJ as satisfying and fair. Crawford and Newburn (2003) found that the involvement of community volunteers could increase the emotion involved in the process, while reducing the influence of managerialist pressures (see also Crawford, 2006). Finally, Rossner and Bruce (2016) observed that community members can contribute ideas, elicit information from the parties, and build social capital with the offender, though they can also threaten the process by being aggressive or making the conversation about themselves.

Some models of RJ are designed to involve members of the community, either as core participants (e.g. family group conferencing in New Zealand), as community representatives (e.g. Youth Offender Panels in England), or as facilitators (e.g. some English RJ Hubs and Norwegian practices) (Weitekamp, 2010; Dünkel, et al., 2015; Rosenblatt, 2015; ICPR, 2016). Most restorative

cautions and street RJ processes, however, tend to involve only one or both the victim and offender (Young, 2000; Meadows, et al., 2012; O'Mahony and Doak, 2013; Cutress, 2015), although some studies of these practices found that supporters of victims or offenders participated relatively frequently (Hoyle, et al., 2002). In one restorative cautioning project, police facilitators were encouraged to discuss indirect harms which the offence might have caused to persons who were not present (Young, 2000). Indeed, it seems that police facilitators usually act, whether intentionally or not, to represent both the community (in all its forms) and the public interest (Vynckier, 2009). Even in Durham (which, as later chapters show, took an unusually holistic approach to implementing RJ), Stockdale noticed a general 'lack of importance placed on the role of community' (2015b: 98). Overall, the evidence suggests that contemporary police-led practices neglect to involve this stakeholder group.

Even in cases which do involve dialogue between various stakeholders, there is evidence that police facilitators may disempower participants by dominating, acting in a partial manner or otherwise failing to treat the parties equally and with respect. Braithwaite (2002) argues that domination by the facilitator or by another party can be damaging to the RJ process. Yet, the many cases which do not involve dialogue between the parties are inherently police dominated. Many restorative cautions (Hoyle, et al., 2002) and street RJ processes (Cutress, 2015) were found to involve the officer speaking independently to the offender (and, in some cases, to the victim) without necessarily giving either party a chance to express themselves or provide input into outcome decisions. It follows that these practices are less likely to be experienced as empowering than practices in which victims and offenders could speak directly and resolve cases collectively.

Police officers have also been found to dominate the dialogic practices which they deliver. Some officers exercised their discretion to determine the extent and nature of their interventions, to treat restorative cautions as an opportunity to 'pursue their own deterrent agenda or sideline the interests of the victim' (Hoyle, et al., 2002: 17). Similarly, Kenney and Clairmont found that police facilitators may dominate discussions in cases where they feel the need to 'draw out uncooperative offenders' (2009: 299). This may be problematic, as Shapland, et al. found that practices 'which emphasise non-verbal encouragement by the facilitator [and] discourage over-dominance or talkativeness by facilitators' (2011:

122) are most likely to be effective. Other studies found that participant satisfaction levels were negatively correlated with facilitator domination (Hoyle, et al., 2002; Daly, 2003). While facilitators may need to intervene in conversations 'if the process becomes physically or emotionally dangerous for anyone' (Van Ness and Strong, 2013: 90), the evidence suggests that some of the police's interventions may exceed this limited requirement.

The final issue with stakeholder participation in dialogue relates to the way each party is treated. Authors have differently operationalised the need for facilitators to avoid demonstrating bias and treat participants equally and fairly. Vanfraechem (2009), for one, argued that facilitators should be 'neutral', but that this may be impossible for police officers. Mackay, in contrast, said that facilitators need only be 'impartial', defining this as 'not taking sides on the basis of irrelevant criteria' (2006: 207). Braithwaite (2002) stated that facilitators must show equal concern for each party's needs, while Karp argued that facilitators' interest in achieving just outcomes makes them 'multipartial': they should 'actively support all participants without preference or taking sides' (2015: 54).

That facilitators are perceived to be unbiased is important for participants' perceptions of procedural fairness, which may relate as much to perceptions of respect and bias as it does to their opportunity to express themselves (Van Camp, 2015). Some suggest that there is a relationship between compliance with the law and the perception that legal authorities act fairly and respectfully (Tyler, 2006, 2006b; Bottoms and Tankebe, 2012). Additionally, Rossner found that 'situational dynamics' (2013: 7-8) are the best predictors of the perceived success of a restorative encounter, underlying the importance of participant treatment by facilitators (see also Presser and Van Voorhis, 2002).

Yet, the low visibility of RJ means that facilitators have considerable discretion regarding their language and behaviour. For example, they can participate in or allow degrading treatment, which may affect whether processes and outcomes are experienced as fair (Sherman, et al., 1998; Hoyle, et al., 2002; Tyler, et al., 2007). Although conference scripts are typically designed to include non-judgemental language, police facilitators may deviate from the script and use investigative questioning, or pejorative, disparaging or otherwise disrespectful language against one or both parties (Young, 2001; Hoyle, et al., 2002; Walters, 2014). Gray (2005) found that some officers use their facilitation role to focus on

blaming or shaming offenders in ways which might be experienced as degrading (see also Braithwaite and Mugford, 1994).

Many factors can affect an officer's ability to be (and to be seen as) impartial. For one, the ability to demonstrate impartiality is a skill which may not be shared by all officers. Given that restorative policing often involves virtually all officers within a force facilitating RJ in some form (e.g. Hoyle, et al., 2002; Meadows, et al., 2012; Cutress, 2015; Stockdale, 2015b), the police's cultural and attitudinal traits described in Chapter 2 may be reflected in their practices. For example, some officers may be perceptibly prejudiced against persons of certain races or belonging to certain social groups, victims with certain types of complaints, or offenders in general. Again, the positioning of RJ as a victims' service may mean that offenders are not seen as unworthy of having their needs met, or used instrumentally to achieve victim satisfaction. Some officers may also develop and demonstrate biases against participants – whether victim or offenders – with whom they have interacted previously as suspects or complainants. Equally, officers may be differently able to empathise with victims. Myers (2011: 411) argued that 'most officers are simply not trained to understand the views of the victim on a moral plane, on an emotional level or in terms of [an offence's] ongoing consequences'. (see also Hill, 2002; Hall, 2009).

In addition, some offenders may enter into police-led RJ assuming that they will be treated unfairly, based on either their previous experiences of interacting with the police, their attitudes towards the police, or their presumptions relating to how the police will see and treat them (Bowling and Phillips, 2002; Reiner, 2010). This might make it difficult for the police to facilitate without their behaviour being perceived to reflect a bias. In contrast, some victims have expressed feeling secure because of the police's presence in RJ (Armstrong, 2014), illustrating one possible tension between participants' needs and experiences.

Finally, the police's (im)partiality extends also to their own interest in the cases they deliver. Van Pagée argued that facilitators 'should not have any interest in the result [of the practice]. [...] This possibility undermines the family's faith in reaching an honest and adequate decision' (2014: 3). In practice, however, officers deliver RJ in cases which they investigate and with participants whom they already know through their work; their facilitation decisions may also be informed by organisational pressures (Crawford, 2006; Vanfraechem, 2009). In turn, participants may discern the prioritisation of the police's needs and

agendas above their own. For Parker (2013: 142), the question is whether officers can “switch hats” from law enforcer to neutral mediator’. This, she argued, might be particularly difficult in street RJ, in which there may be little time between the officer arriving at the scene and delivering RJ in some form.

Empirical findings on this question are mixed. One study ascertained that perceptions of legitimacy among participants in volunteer-led RJ practices, were strongly linked to the independence of the process from the police (Turley, et al., 2014). Others, meanwhile, have found that the majority of participants in police-led RJ believed that their facilitators were impartial and that the process was conducted fairly (McCold and Wachtel, 1998; Sherman, et al., 1998; Hoyle, et al., 2002; Larsen, 2014). Studies by Shapland, et al. (2011) and Hipple and McGarrell (2008) found no significant differences between victims’ and offenders’ views of police and non-police facilitators. What these data represent is not entirely clear. It may be that some stakeholders appreciated the chance to participate and gave positive reports of practices which were not objectively procedurally fair, or that police facilitators used the guise of a fair process to manipulate participants into agreeing with officers’ preferred outcomes (Richards, 2011). Alternatively, it may be that many officers were able to deliver the process fairly. Thus, questions remain regarding the circumstances under which police officers can be – and can be perceived to be – fair and impartial when delivering RJ processes.

### **3.4.3 Stakeholder participation in outcome determination**

RJ is also intended to empower stakeholders by enabling their participation in outcome decisions (Barton, 2000, 2003; Aertsen, et al., 2011; Richards, 2011). It contrasts with court and other state-led processes by changing the ‘role of the citizen, from service recipient to decision-maker’ (Bazemore, 1998: 334). ‘Facilitators’, noted Van Ness and Strong, ‘do not decide what will happen. [They] create a safe environment in which the parties can make their own decisions.’ (2013: 90). Similarly, restorative policing is said to ‘provide at the case level a decision-making role for citizens in informal sanctioning’ (Bazemore and Griffiths, 2003: 337). That facilitation requires the police to devolve control to participants over decision-making, is one of the central tensions in restorative policing. While

it exists in almost any situation where RJ is delivered by state agencies (Wachtel, 2014), it may be particularly acute in this context as the police often prefer to exercise their authority and powers to achieve police-defined objectives, rather than to relinquish their control (Choongh, 1998; Bowling and Phillips, 2007). As D'Enbeau and Kunkel (2013) argued, organisational efforts to empower citizens may be resisted by practitioners, as this tends to undermine their own agency to use professional judgement and achieve other measured goals.

Stakeholder involvement in decision-making is rationalised on the grounds of procedural fairness and responsiveness. Regarding the former, some say that participants may be more likely to comply and to be satisfied with outcomes, and to see them as legitimate, if they feel that they are enabled to participate in the process through which they are determined (Sherman, 1993; Bottoms, 2003; Tyler, 2006; Crawford, 2010). As previously, this requires the process to be seen by each party as fair and respectful. Regarding responsiveness, outcomes which are determined by professionals might reflect their own rationales and priorities, or those of the organisation for which they work (Crawford, 2006). Outcomes may be more likely to reflect the parties' needs, if they are afforded input into the process by which outcomes are determined (Braithwaite, 2002b; Schiff, 2007).

Research suggests, however, that outcome determination processes in police-led RJ may often be dominated by officers. Studies have found that the police often dominate or intervene in decision-making processes in order to pursue their own agendas. This may result in reparative or punitive outcomes being imposed on participants, as officers aim to deter or punish the offender, or to resolve cases quickly (Hoyle, et al., 2002; Matthews, 2006; Cutress, 2015). As Section 3.3 explained, ACPO's guidelines (2011) implicitly enable the police to exclude the offender and victim from the decision-making process. They state that outcomes 'might' include provisions which are 'requested by the victim' before being 'agreed by the offender', and that outcomes must be 'considered appropriate by the facilitator' (2011: 7). This authorises officers to select or reject outcomes without consulting the parties, or otherwise to dominate, influence, or exclude victims or offenders from the decision-making process.

Recent studies suggest that, when delivering street RJ, police facilitators often exercise their discretion to impose outcomes (Walters, 2014; Cutress, 2015). This can have repercussions for both parties. Firstly, outcomes may be imposed which the parties do not necessarily need or want, as they accept

suggestions or fail to challenge impositions because of the police's authoritative position (Zinsstag, et al., 2011). Some argue that facilitators should avoid making suggestions altogether to avoid this possibility (e.g. Zellerer, 2016). Secondly, officers might prioritise generic, punitive or reparative outcomes over relational, creative or personalised approaches (Jones and Creaney, 2015; Hoyle and Rosenblatt, 2016). Thirdly, domination by the officer could result in up-tariffing or disproportionate or punitive agreements, particularly if they elected to side with punitively-minded victims against the offender (O'Mahony and Doak, 2004). Although legal safeguards could limit the severity of outcomes (von Hirsch, et al., 2003), low visibility might mean that limits are difficult to enforce, as with other legal requirements in relation to OOCs (Padfield, et al., 2012).

Ultimately, the facilitation role provides the police with significant powers to 'judge and punish without legal safeguards' (Hoyle, et al., 2002: 63). At least in theory, court sentencing is transparent and impartial, preventing excessive, inconsistent or prejudicial outcomes (Ashworth, 2002; Daly, 2005; Pina-Sanchez and Linacre, 2016). In contrast, officers' ability to influence or direct outcome decisions through RJ, places a substantial amount of control in their hands, with almost no transparency and few safeguards and remedies (Young, 2001). It enables officers to select, block, enforce or neglect to enforce outcomes, if they elect to exercise their discretion in these ways (Cutress, 2015).

In theory, offenders who participate in RJ should be protected from excessive sanctioning in three ways. Firstly, their participation is supposed to be voluntary, meaning that they can withdraw from the process at any time or veto outcomes (Zinsstag, et al., 2011). Secondly, their dialogue with the victim may invoke empathy and compassion within the latter, reducing victims' retributive desires (Strang, et al., 2006). Thirdly, the facilitator can play a limited role – both in preparation and during the event – in ensuring that outcomes are proportionate and realistic (Restorative Justice Council, 2011).

As previous sections illustrated, however, offenders are often put under pressure or forced to participate or accept certain outcomes, while many practices which are ostensibly restorative do not involve direct or harm-focused dialogue between the parties. Offenders may have little scope to challenge or decline outcomes suggested by facilitators or victims, particularly if the offender is young or vulnerable (Newburn, et al., 2002; Rosenblatt, 2015). Moreover, facilitators may have different views regarding what constitutes an appropriate

outcome in each situation, resulting in some offenders being given more onerous obligations than others (Murray, 2012; Paul and Borton, 2013; Paul and Dunlop, 2014). Thus, restorative policing could have the opposite effect intended by its theorists, putting offenders' rights at risk without the harm to the victim necessarily being 'repaired' (Ashworth, 2002, 2004; Smith, 2007). As in many other areas of policing, the risk in restorative policing is that officers may exercise their discretion to pursue their own agendas and ignore safeguards.

#### **3.4.4 Focus on repairing harm**

Aside from stakeholder empowerment, RJ is characterised by its emphasis on repairing harm. Crime causes material, physical and psychological harm to individuals, damages relationships and causes fear, indignation and uncertainty in society (Walgrave, 2003, 2008). Yet, Anglo-American justice processes are said to prioritise deterrence, retribution, incapacitation and, at least in youth justice, rehabilitation, at the expense of helping harmed parties to recover (Zehr, 1990; Schiff, 2007). The harm done to victims by crime may even be exacerbated by conventional justice processes (Christie, 1977).

In contrast, RJ aims to determine what harm has been done and to whom, how that harm might be 'repaired', and who is morally obligated to undertake activities to that end (Strang, 2002; Wright, 2007, 2008). The restorative 'lens' (Zehr, 1990) requires the offender to play an active role in providing the victim with 'a sense of security, dignity and control' (Stahlkopf, 2009: 235) – that is, in repairing the harm caused by their actions. Consequently, advocates of RJ tend to suggest that its focus can either complement or provide a more constructive alternative to existing processes.

By implication, the facilitator is responsible for administering the process in a manner which is conducive to achieving this outcome. This is difficult, suggested von Hirsch, et al. (2003), as 'repairing harm' is a vaguely formulated aim which specifies neither priorities, nor measures of success. They proposed a 'making amends' model of RJ which, recognising that RJ cannot 'literally heal or "take back" the wrong' (von Hirsch, et al., 2003: 26), requires offenders to acknowledge fault and to undertake reparation to demonstrate remorse. ACPO's

guidance largely mirrors this model, stating that offenders must take responsibility for the offence as a condition of participation, and that the 'RJ "outcome" should allow offenders to make amends for the harm caused' (ACPO, 2011: 7) through assurances of future behaviour, apologies and/or other forms of reparation.

Implicit in this approach is the idea that reparation is the best and/or most realistic mechanism through which harm can be repaired. Reparation can be direct (to the victim) or indirect (to the community), and can involve material (e.g. financial or physical) and symbolic (e.g. apologies) actions (Stahlkopf, 2009). Research suggests that police-led practices tend to result in reparative outcomes, with several studies finding that (usually symbolic) reparation constituted the primary outcome (Hoyle, et al., 2002; O'Mahony, et al., 2002; Wundersitz and Hunter, 2005; Cutress, 2015). In one, 62 out of 66 cases involved either symbolic or material reparation (Criminal Justice Joint Inspection, 2012). Meadows, et al. (2012) similarly found that symbolic reparation and financial reparation were the main outcomes in around 85% and 12% of police-led cases, respectively. This might reflect police pragmatism, insofar as (particularly symbolic) reparation can be quick and straightforward to achieve. Material reparation, meanwhile, might be attractive to some officers because it is a tangible way for victim to benefit at the direct expense of offenders. That a possible bias towards material reparation may exist among some officers, is supported by Shapland, et al. (2017: 72), who reported that many interviewees expressed an 'undue focus on compensation or restitution', especially in relation to adult offenders.

Plausibly, less tangible outcomes (such as reconciliation) may take place in police-led RJ without being formally recorded, while the prevalence of symbolic and material reparation within RJ outcomes may be indicative of these outcomes' ability to satisfy many victims' needs (Liebmann, 2007; Gavrielides, 2017). The risk in the police context, however, is that street RJ may enable and encourage the police to understand and use reparation as a substitute for dialogue, which itself can play a significant role in repairing harm (Walgrave, 2015). For victims, the ability to express oneself, to confront and humanise the offender and to discover why the offence happened, can contribute to satisfaction and catharsis, while reducing post-traumatic stress symptoms (Angel, et al., 2006, 2014; Strang, et al., 2013). Van Camp (2015) found that victims may get more from the therapeutic effects of dialogue than from reparation, while Shapland, et al. (2007) suggested that the ability to ask questions during conferences was, in victims'

views, one of the most important factors in 'repairing harm'. Dialogue, argued Doak, provides victims with 'emotional redress' (2011: 439) and allows them to obtain symbolic reparation directly. This is important because indirect or written apologies may less likely be interpreted as genuine by victims, compared with direct, verbal apologies (Walters, 2014). Additionally, relational outcomes (such as reintegration and reconciliation) can contribute to repairing harm and building social capital, but may not be achievable without the emotional expression and connection which dialogue enables (Braithwaite and Mugford, 1994; Braithwaite and Braithwaite, 2001; Rossner, 2013). Finally, the relationship between offender desistance and RJ may relate partially to the encounter with the victim, which can provide offenders with the motivation to desist or break down their 'techniques of neutralisation' (Sykes and Matza, 1957), that is, their internal justifications for committing harmful or criminal acts (Robinson and Shapland, 2008; Crawford, 2010; Lauwaert and Aertsen, 2015).

As noted, however, street RJ typically involves the officer negotiating some form of reparation indirectly between the parties, in the belief that this negates the need for dialogue (Meadows, et al., 2012; Walters, 2014; Cutress, 2015; Shapland, et al., 2017). In this sense, there may be parallels with their use of negotiation and persuasion to 'keep the peace' (Banton, 1964), which are discussed further later. Still, the use of reparation as a 'quick fix' may mean that relational outcomes are correspondingly neglected (Cutress, 2015; Clamp and Paterson, 2017). This would mirror other state-led processes (such as Youth Offender Panels) which are ostensibly restorative, but which rarely involve dialogue and relational outcomes between direct stakeholders (Crawford, 2006; Rosenblatt, 2015).

This is not to suggest that conferencing is universally applicable – indeed, it may have no effect, or even a negative effect, in certain cases (Strang and Sherman, 2015). Many of the police's activities involve responding to very low-level incidents and offences committed by young people, and youth justice research typically supports reducing, rather than increasing, police intervention (Pitts, 2003; Smith, 2005; McAra and McVie, 2007). Yet, the research provides little indication that the police take a strategic or evidence-based approach to the (non-)utilisation of dialogic practices, suggesting that they may fail to maximise the effectiveness of their use of RJ (Strang and Sherman, 2015). In fact, the evidence presented in this chapter brings into question whether many police activities should be labelled 'restorative' at all. If the police are simply resolving low-level cases informally and

indirectly through negotiated agreement, then it may be that many of their existing activities have been relabelled as RJ, rather than that their practices closely or increasingly reflect restorative principles and processes. Whether the police's activities are appropriate, proportionate, fair or useful is one question; whether they are necessarily restorative is another question altogether.

### **3.5 Concluding comments**

This chapter analysed various interpretations of RJ in the police context. It established that modern theorists have attempted to delineate new 'restorative' policing philosophies, but that governments and police forces have tended to be much less ambitious by comparison. It investigated English restorative policing policies and the empirical research on the police's use of RJ, all of which indicated that RJ is often interpreted and delivered much more flexibly, and in ways which more closely reflect the rationales and priorities of the existing system, than its advocates would perhaps hope. Accordingly, the literature suggests that the police's RJ policies and practices often deviate notably from justice ideals, with potentially deleterious implications for participants.

Ultimately, one of the core aims of RJ – to empower citizens by enabling them to participate and to shape the response to offending behaviour in which they hold a stake – is in tension with the police institution, which concentrates power, control and authority in the hands of state representatives. This is why it is necessary to study directly the relationship between the police institution and how RJ is interpreted and used in that context in practice. The next chapter explains how the empirical research which was conducted for this thesis, sought to undertake this task.



## **Chapter 4 – Research design and methodology**

### **4.1 Introduction**

The purpose of this chapter is twofold: firstly, to explain, justify and reflect critically on the study's underpinning assumptions and design; secondly, to situate, in the wider methodological literature, each of the decisions made in the process of planning and conducting the research. These are important tasks because of the need for researchers to be reflexive and to identify accurately and precisely the purpose, strengths and limitations of the methods they select.

The chapter starts by restating the study's aim and the research questions it seeks to address. It then summarises the ontological and epistemological positions on which the study is based, explaining the consequent adoption of a primarily qualitative strategy. Next, it outlines the reasoning behind the use of multiple case studies and describes the selected police forces. The following sections discuss access negotiation, documentary and statistical evidence collection, respondent sampling and interview schedule design. The chapter then explains why certain sources of data were omitted, rationalises the process through which the data were analysed, and details the management of ethical considerations. Finally, it offers a reflection on key aspects of the research process, and discusses the dissemination of the findings.

### **4.2 Aim, research questions and summary of data collected**

As set out in Chapter 1, the aim of this research is to investigate the use of RJ by two English police forces. This is achieved through the collection and analysis of primary and secondary data, which are employed to address the following research questions:

- How do the police explain their use of RJ?

- To what extent do the forces' RJ strategies, policies and practices reflect the goals, rationales and priorities of the police institution?
- What are the implications of these findings for those with a stake in the police's use of RJ, and for restorative policing in general?

The study took place at Durham and Gloucestershire Constabularies, two of the 43 geographical police forces in England and Wales. It also involved the local RJ Hubs which could receive referrals from the police, and the local PCCs which funded the RJ Hubs and engaged with the police on the use of RJ in their areas. At the time of the research, Durham's RJ Hub served only the Darlington area, and was called Darlington Neighbourhood Resolution (DNR). Its counterpart, Restorative Gloucestershire, served the entire force area.

The researcher conducted 71 interviews (36 in Durham, 35 in Gloucestershire), including: 32 with police officers who reported facilitating RJ at least once in the previous twelve months; twelve with senior police leaders and managers with some form of direct involvement in RJ (hereinafter: police policymakers/managers); 20 with RJ Hub staff, volunteer facilitators and partners from other agencies; and seven with PCC staff with some involvement in RJ. The researcher also collected 94 policy documents, forms, leaflets and other relevant texts (42 from Durham; 52 from Gloucestershire), and descriptive statistics on the training and usage of RJ by the forces and RJ Hubs. The interviews were conducted, and most of the other data were collected, in May and June 2015 (hereinafter: the period of data collection), although some documentary and statistical data were collected shortly before or after these dates.

The decision to undertake the research in this manner was underpinned by a variety of assumptions, which are now explained.

### **4.3 Ontology, epistemology and methodological strategy**

Social phenomena are produced by the interaction between structures and agents. These cannot easily be disentangled: existing structures combine with agents' collective decisions to change or create new structures which, in turn, shape and constrain the decisions of agents in the future (Berger and Luckmann,

1991). This fusion generates, reproduces and modifies the systems and organisations which exist within a society, providing the framework within which agents exercise their discretion (Giddens, 1984).

Henry (1983) and McConville, et al. (1991) contended that researchers who study the operations of justice agencies can best explore the interaction between structures and agents by drawing on varied epistemologies. In their view, researchers must combine the analysis of written rules (structuralism) with that of practitioners' ability and inclination to meet formal and informal standards (positivism), and agents' interpretations of policies and personal experiences of work (interactionism). This integrated approach enables researchers to develop a holistic appreciation of how practitioners experience and understand structures, construct meaning and make decisions in practice (McConville, et al., 1991).

All of these approaches are relevant, as this study aims to connect the organisational structures within which policework takes place, to the experiences and actions of those who engage in it (Mills, 2000). McBarnet (1981) and Dixon (1997) argued that formal rules likely play a role in structuring police behaviour. For example, their actions can be shaped by changes to recording requirements (Collier, 2001) or to other forms of monitoring (Westling and Waye, 1998; Oliver, 2005). Additionally, the police often act according to working rules and situational incentives, before retrospectively reframing their actions to correspond with law, policy and bureaucratic requirements (McConville, et al., 1991). This means that it is necessary to consider both formal policies and informal norms in order fully to understand police behaviour (Sanders, 1977). This combined approach is regularly absent from RJ research which, by focusing on either policies and standards or practices, often neglects 'to examine the dissonance between the two' (Crawford and Newburn, 2003: 234).

At the same time, the fact that RJ can mean 'all things to all people' (McCold, 2000: 357) requires an interpretivist approach to its study. In organisational research, interpretivism assumes that individuals' actions are best understood by studying their subjective experiences of work (DiChristina, 1995; Ferrell, 1997; Smith, 2000). This is apposite in police research which must consider 'the perspective of those studied before stepping back to make a more detached assessment' (Fielding, 2006: 277) of their actions. In the study of RJ specifically, Shapland, et al. (2007: 7) contended that the methods used 'are necessarily interpretative: looking at what is happening, what people feel'. Other empirical

researchers also assert that the complexity of the interactional dynamics involved in restorative encounters, necessitates a focus on how they were experienced (Kenney and Clairmont, 2009; Rossner, 2011).

Accordingly, this study explores both the detail of force policies *and* the experiences of various actors who were involved in restorative policing in different capacities. The conceptual ambiguity of RJ requires those who make, implement or apply policies to devise their own understanding of the subject as they put it into practice. As Garland (2001) noted, RJ sits among the many recent justice developments which do not clearly fall within a discrete ideological category. This can be confusing for policymakers and practitioners who attempt to interpret and locate RJ within their existing traditions and understandings (Boutellier, 2006). When a force implements RJ, senior leaders, managers and officers are required to engage in a hermeneutical process, in which they determine, for themselves, what RJ *means*, who it is *for* and what they consider to be its *purpose*. Their answers to these questions will necessarily reflect, to varying degrees, the organisational structures in which they work, the situational factors which contextualise their work and their individual values and attitudes (Murray, 2012). Thus, a methodological strategy which focuses on these actors' 'perceptions, feelings, and lived experiences' (Guest, et al., 2012: 13) is appropriate for understanding how and why decisions pertaining to RJ are made, and assessing how these decisions may be affected by the institutional context.

This study combines structuralist, positivist and interpretivist rationales into a methodological strategy which is primarily qualitative in nature. Qualitative research methods, and semi-structured interviews in particular, can be used to explore actors' subjective experiences (Schutz, 1970). In practical terms, their flexibility and directness result in semi-structured interviews being widely used in organisational studies (Lawrence, 1988; Turner, 1988; Marshall and Rossman, 1999) and in the study of criminal justice agencies and practitioners (Hogarth, 1971; Rutherford, 1994; Innes, 2003; Crewe, et al., 2011; Hucklesby, 2011; Mawby and Worrall, 2011). Semi-structured interviews allow researchers to capture, explore and clarify ambivalence and uncertainty (Bryman, 2012), which is useful given the broad way that RJ is typically understood by the police and formulated in their policies (Stockdale, 2015, 2015b). They enable the researcher to study, alongside respondents, the relationship between contexts, construals and judgements (Fereday and Muir-Cochrane, 2006; Guest, et al., 2012). In this

study, semi-structured interviews are used to explore how and why strategies and policies were created, interpreted and applied in practice. From this, it is possible to infer the ways in which the institutional context structured and informed the exercising of strategic and operational discretion with respect to RJ.

Put simply, interviews with policymakers, managers and practitioners are useful because these individuals have first-hand knowledge of their own work. Police actors who make, implement and apply RJ policies can offer a unique and valid insight regarding the factors which shape restorative policing. These 'expert interviews' (Froschauer and Lueger, 2009; Beyers, et al., 2014) allow researchers to examine the knowledge held by actors when seeking to explain a phenomenon with which they are intimately familiar. In addition, RJ research more often focuses on victims and offenders than on policymakers and practitioners (Souza and Dhami, 2008). Although some recent studies have consisted of interviews with police facilitators, policymakers, or both (Meadows, et al., 2012; Cutress, 2015; Stockdale, 2015b; Shapland, et al., 2017), their first-hand experiences are still under-researched. This is a burgeoning field to which additional contributions are needed, as the concept of RJ becomes increasingly popular within the police and other justice agencies.

This is not to say that interviews can necessarily discover 'the truth'. They require inferences to be made from patterns which may be coincidental, or from justifications and intentions which may in fact have been retrospectively imposed on behaviours. There may be a gap between how decisions and actions are described, and what actually happened and why. Respondents may provide different answers depending on their moods and recent experiences (Berg, 2009), or had they been asked the questions differently (Cresswell, 2007) or through different methods (Presser and Blair, 1994). They may unintentionally make inaccurate remarks if they cannot remember exact details, confuse different cases, or report their own assumptions regarding the motivations of others. Equally, respondents may be motivated to distort the truth, neglecting to describe accurately situations which reflect a mistake or skills deficit on their part, in which they deviate from organisational policies or norms, or which they fear the researcher might see as socially unacceptable (Sapsford, 2007). For example, some respondent may omit cases where they diverted repeat offenders, which they may perceive to be a politically sensitive decision.

Some researchers (e.g. Bayley and Bittner, 1984) are dismissive of police anecdotes on the basis that they reflect mythology, rather than reality. Yet, while expressed beliefs and reported actions may not always be entirely accurate, self-narratives can be useful predictors of behaviour (Maruna, 2001). Furthermore, Shearing and Ericson (1991) exhorted researchers to take the police's accounts seriously, as they can be used to understand the principles which underpin their decisions. As Lipsky (2010) noted, the police are among the frontline practitioners whose behaviour is self-reinforcing, as their cognitive processes are moulded by their previous experiences into new heuristics. Thus, the reasoning implicit in police 'stories' may reflect both their views on what is important and legitimate, and provide some indication as to their past and future actions (Shearing and Ericson, 1991; Reiner, 2010). In the context of this debate, the following sections describe the processes by which the data were collected.

#### **4.4 Research design and data generation**

This section explains and justifies the empirical research design. It begins by considering the benefits and limitations of using multiple case studies in organisational research and describing the selected cases. It then discusses the processes by which access was requested and secondary data were collected, before outlining the samples of respondents and their characteristics, explaining the interview schedule design and addressing the omission of other data sources.

##### **4.4.1 Using and selecting multiple case studies**

The case study approach is commonly adopted in organisational research (Crompton and Jones, 1988; Leonard-Barton, 1990). This is for two main reasons: firstly, it is conducive to the collection of rich and detailed data regarding an organisation's operations (Berg, 2009); secondly, it enables the researcher to identify activities or perceptions which are especially prevalent within a given organisation, and which may pertain to the specific object of the study (Thomas, 2011; Yin, 2014). The use of multiple case studies, moreover, allows the

researcher to assess the significance of any likenesses and differences between similar organisations, and to consider the influence of local contexts (Dion, 1998). For example, the study of multiple courts by Ostrom, et al. (2007) allowed them to observe an association between court efficiency and staff relationships. In the current study, the investigation of two forces allowed the researcher to connect different strategies to leadership priorities.

Multiple case study methods are commonly used to research localised justice agencies, whose policies, cultures and operations often differ across a jurisdiction (Barton, 2003b; Maxfield and Babbie, 2014). They are appropriate in restorative policing because force leaders have discretion to set local strategies and policies on the subject (Home Office, 2013). The use of multiple case studies enables researchers to ‘zoom in’ on specific areas to see how national frameworks are interpreted and applied locally, and to identify the possible causes and consequences of similarities and differences between areas. For example, the motivations to enact RJ may differ between forces (Clamp and Paterson, 2017), while, as Chapter 2 explained, different force cultures may be more or less favourable to its different forms.

The primary limitation of this approach relates to the generalisability of its findings (Thomas, 2011; Yin, 2014). First of all, the English police differ from their equivalents in other countries. In England, police officers tend to have much more discretion to divert cases and to use RJ without prosecutorial approval, than in civil law jurisdictions (Moor, et al., 2009). Secondly, Durham and Gloucestershire Constabularies are not necessarily representative of all English forces. They are geographically large and rural with low population densities. Consequently, compared to larger, metropolitan forces, they likely have different organisational cultures and crime problems, maintain different relationships with the communities they serve, and use informal resolutions and diversion in different ways and for different purposes (Jones and Levi, 1983; Carrington and Schulenberg, 2003). Forces also differ with respect to their inclination towards innovation, and in relation to the impact of austerity in recent years (HMIC, 2011, 2012; National Audit Office, 2015). These factors might influence the likelihood that RJ is adopted, or the motivations behind certain approaches to its use.

Yet, there are also important similarities in the cultures, pressures and crime problems in different areas. Police forces across England have the same fundamental role, and are subject to the same national policies and legal

constraints (Reiner, 2010). Questions relating to when to divert young or low-level offenders and how to deal effectively with neighbourhood conflicts and other non-crime, high-volume issues, are applicable throughout England and in similar jurisdictions (Shapland, 2009). More specifically, English forces are all equally in need of an evidence-based approach to the development and use of community resolutions and RJ (Neyroud and Slothower, 2015; Strang and Sherman, 2015). Thus, these findings will be at least partially transferrable (Lincoln and Guba, 1985) and can help develop theories that apply across functionally equivalent organisations (Flyvbjerg, 2006). Policy transfer requires research findings to be examined, from which the extent of their applicability under different conditions and in different contexts might be discerned (Jones and Newburn, 2007). Much as research from other forces and countries informed this study, it undoubtedly has implications for almost any force or jurisdiction which wishes to implement or improve their use of RJ. Additionally, the accumulation of case studies contributes to the increased accuracy of future generalisation and theoretical developments (Bulmer, 1988). That this study includes two cases improves its robustness and generalisability, and enables a comparative element to the analysis.

Durham and Gloucestershire Constabularies were selected purposively because their RJ programmes were relatively advanced and embedded, but differently organised. Preliminary conversations with managers from both areas suggested that all frontline officers had been trained in some form of RJ, that street RJ and conferencing were often used, that both forces required all community resolutions to be delivered 'restoratively', that both had a relationship with the local RJ Hub, and that both were engaging in experimental uses of RJ. While several studies have explored the period during which a police force implements RJ (e.g. Strang, et al., 1999; Hoyle, et al., 2002; O'Mahony, et al., 2002; Rix, et al., 2011; Meadows, et al., 2012; Stockdale, 2015, 2015b), fewer have examined forces where RJ is more entrenched (Cutress, 2015). Stockdale (2015b) showed that Durham's RJ project was remarkable, with hundreds of officers trained in conferencing, and all other staff trained in RJ principles. Conversations with managers in Gloucestershire suggested that it was a suitable comparator because it had invested substantially in RJ, but approached it differently than Durham. As a result, both forces were 'critical cases', in the sense that they had 'strategic importance in relation to the general problem' (Flyvbjerg, 2006: 229) which was being examined by this study.

Durham and Gloucestershire were also suitable cases because, at the time that the research began, the most recent studies on restorative policing in England were from larger, urban areas (Meadows, et al., 2012; Parker, 2013). Other studies in smaller, rural forces were ongoing, including one in Devon and Cornwall (Walters, 2014) and the aforementioned study of the implementation process in Durham (Stockdale, 2015b). The restorative field should be especially interested in the development of RJ in rural forces, which may be more amenable to innovation and likely to utilise community policing and diversion, compared with urban forces (Wilson, 1968; Carrington and Schulenberg, 2003).

Finally, these forces were also selected for pragmatic reasons. Preliminary conversations suggested that, in both areas, there was a willingness to engage with researchers, that high-quality access was achievable, and that any learning which emerged from the research might be heeded. A third site was also formally contacted and expressed an interest in participating. However, an ongoing restructuring of that force created delays which precluded its participation.

Table 4.1 illustrates the forces' comparability in terms of size. According to HMIC (2016), in 2014/15, Durham was the 14<sup>th</sup> largest out of 43 forces in terms of police officers per 1000 population, while Gloucestershire ranked 18<sup>th</sup>. In terms of PCSOs per 1000 population, Durham and Gloucestershire ranked 12<sup>th</sup> and 27<sup>th</sup>, respectively, suggesting a higher reliance on PCSOs in the former.

	<b>Durham</b>			<b>Gloucestershire</b>		
<b><i>Population served (2011 Census)</i></b>	513,242			596,984		
	March 2015	March 2010	% reduction	March 2015	March 2010	% reduction
<b># Police officers</b>	1131	1486	23.9	1123	1291	13.0
<b># PCSOs</b>	157	175	10.3	128	148	13.5
<b># Police staff</b>	731	881	17.0	582	729	20.2
<b># Special Constables</b>	110	n/a	n/a	115	n/a	n/a

*Table 4.1: Comparison of the forces' personnel (Home Office, 2017)*

These figures show that the forces served broadly comparable populations, had similar numbers of officers (although Durham faced a greater reduction in officer numbers than Gloucestershire during the period of austerity) and relatively similar PCSO and police staff numbers, following comparable reductions. Regarding their budgets, the National Audit Office (2015) found that, between the 2010-11 and 2015-16 financial years, Durham and Gloucestershire faced real-terms reductions of 20% and 15%, respectively, which may explain why officer numbers fell more in the former than in the latter. These cuts might also have informed both forces' emphasis on demand management (HMIC, 2011, 2012).

Table 4.2 shows the rates of recorded crime and ASB in the twelve months to December 2014 in the two areas:

	<b>Durham</b>	<b>Gloucestershire</b>
<b>Crime Rates (v. 2012)</b>	53.70 (57.40)	48.67 (58.52)
<b>Ranking</b>	21 <sup>st</sup>	35 <sup>th</sup>
<b>ASB Rates (v. 2012)</b>	47.38 (67.57)	42.35 (47.25)
<b>Ranking</b>	8 <sup>th</sup>	12 <sup>th</sup>

*Table 4.2: Comparison of crime and ASB rates (per 1000 population) and overall rankings, year to December 2014 (HMIC, 2016)*

These data show that recorded crime and ASB rates were higher (around five incidents each, per 1000 population) in Durham than in Gloucestershire. They also suggest that the two forces ranked among the highest in the country for recorded ASB per 1000 population. Both forces recorded lower rates of crime and ASB in 2014 than in 2012, although Gloucestershire's reduction in crime rate was about twice that of Durham's, and Durham's ASB rate declined about four times more than Gloucestershire's. Notwithstanding the possibility that the forces used different recording practices (Harries, 2003), they can be said to have had relatively similar rates of crime and ASB around the period of data collection.

The senior leaders and PCCs in each area are discussed in Chapter 5. The final point to be made here relates to national assessments of each force, which are displayed in Table 4.3. In 2015, Durham was assessed as the best force in the country, being the only one to receive two out of three 'outstanding' marks in relation to its efficiency and effectiveness (only one force, Kent, received a mark

of ‘outstanding’ for its legitimacy). That Durham was held in such high regard by HMIC during the period of data collection, further justifies its selection as a case study for this research. Gloucestershire, in contrast, was marked as ‘good’ for its legitimacy and efficiency, and as ‘requiring improvement’ for its effectiveness. Slightly different metrics were used in the previous year’s assessment, although they point to a relatively similar difference between the forces.

	<b>Durham</b>	<b>Gloucestershire</b>
<b>2015 (HMIC, 2016b)</b>		
<b>Efficiency</b>	Outstanding	Requiring improvement
<b>Effectiveness</b>	Outstanding	Good
<b>Legitimacy</b>	Good	Good
<b>2013/14 (HMIC, 2014b)</b>		
<b>Crime investigation</b>	Outstanding	Requiring improvement
<b>Responding to ASB</b>	Outstanding	Good
<b>Reducing crime and preventing reoffending</b>	Outstanding	Good
<b>Efficiency</b>	Good	Good
<b>Fairness and legitimacy</b>	‘Most of the practices’	‘Some of the practices’

*Table 4.3: HMIC annual force assessments*

While the 2015 assessment did not mention RJ or community resolution with respect to either force (or, indeed, any force), Durham’s 2013/14 assessment stated that HMIC were:

Particularly impressed with the force’s victim-centred approach and how it makes extensive use of outcomes other than prosecution to deliver what the victim wants. The use of restorative justice and community resolution is both widespread and innovative. [...] Durham’s innovative approaches to

problem-solving, including the use of restorative justice, are a recurring theme. (HMIC, 2014b: 142)

That Durham was congratulated for its use of problem-solving approaches is significant, as this was also among the characteristics of the police in Wagga Wagga which were perceived to be conducive to the implementation of RJ in that force (Clamp and Paterson, 2017). In Gloucestershire, however, while HMIC found that ‘time and resource have been invested to improve the response to victims and their families’, it also stated that:

Victim satisfaction levels are among the lowest of all forces and there was limited recorded evidence of victims being informed or updated of the no-crime disposal. (HMIC, 2014b: 148)

Whether HMIC’s findings influenced the ways in which either force used RJ is not clear. However, as Chapter 5 illustrates, victim satisfaction was among the most cited motivations for using RJ by policymakers/managers in both areas.

#### **4.4.2 Obtaining access**

Contact was made with Gloucestershire Constabulary *via* a former colleague from Restorative Solutions which was consulting for Restorative Gloucestershire at that time. Following conversations with the force’s RJ Manager and the manager of Restorative Gloucestershire, an official request for collaboration was sent (see Appendix A). In Durham, access was requested through a Chief Superintendent whom the researcher met at a conference and who forwarded the same request for collaboration to other senior leaders.

At no point in the process of gaining access did the researcher feel that he was met with suspicion, in contrast with experiences reported by some police researchers (Weatheritt, 1986; Fielding, 2006; Lynn and Lea, 2012). Moreover, the researcher was consistently honest with all parties and made a conscious effort to build social capital, and to create and maintain a rapport with as many contacts as possible in both areas. Successful rapport building and trust enabled

the researcher to negotiate enhanced access (i.e. to certain persons and documents) on an *ad hoc* basis during the research. However, distributed gatekeeping also meant that the researcher failed to access certain sources of data relating primarily to performance management. This experience was akin to that described by Fielding (2006: 281), who stated that ‘the organisational complexity [of modern police forces] amplifies a characteristic of fieldwork, that access is not negotiated once-and-for-all but continually.’

#### **4.4.3 Collecting documentary and statistical evidence**

This research involved the collection and analysis of secondary data in the form of policy documents and other documents and statistics relating to the use of RJ locally. Forty-two documents were collected from Durham and 52 from Gloucestershire (see Appendix B for a full list of collected documents). These data provided an understanding of the policy framework within which the police used RJ, and illustrated how RJ was interpreted and framed by policymakers. Descriptive statistics were also collected from the police forces and RJ Hubs, to evidence the number of facilitators trained and the extent to which RJ was used (or, at least, recorded) at each site.

As a result of the manner of their collection, the nature of the documents varies considerably within and between the areas. Among the most important documents collected were the forces’ internal guidance on their officers’ use of RJ (docs. D8, 9; G28, 29), which outline some of the ways in which the forces attempted to structure police facilitators’ discretion. These and other documents were collected by making direct requests to managers and other persons from both forces, RJ Hubs and PCC offices to supply the researcher with any documents they held which related to RJ. This request was intentionally broad to incentivise the release of as much material as possible. Other documents, such as the recording form for street RJ in Gloucestershire (docs. G10, 11) and the facilitation scripts (docs. D32, 33, 34, 35; G49, 50) were collected during interviews with police officers. Others, still, were picked up within buildings (e.g. doc. D28, a leaflet for victims of youth crime) or downloaded from the internet (e.g. doc. D29, a transcript of a promotional video for RJ). Each document was

either used to evidence the policies of the studied organisations, or helped the researcher to contextualise the police's involvement in RJ. The only document to which the researcher was formally denied access was an internal report on the use of RJ in Durham Constabulary, which was completed shortly following the period of data collection. However, both forces provided the researcher with similar internal reports from 2014 (docs. D11; G24).

#### **4.4.4 Conducting interviews: Sampling**

The study is primarily concerned with investigating the experiences of those who were personally involved in setting RJ strategies and policies and delivering RJ in practice. Consequently, the researcher requested to interview at least 15 police facilitators from each site. This number was selected because 20 to 30 respondents is often cited as a suitable sample for studies of this kind (Baker and Edwards, 2012). Guest, et al. (2006) contended that at least twelve individuals are required when one is studying the perceptions and experiences of relatively homogeneous groups. The researcher also asked to interview three persons from each force with experience of developing RJ strategies or policies. In addition, the researcher requested to interview RJ Hub staff and around five volunteer facilitators; at the time of the study's design, the intention was to include a greater focus on the role of the RJ Hubs than has ultimately occurred.

The only requirement for facilitator participation was to have delivered RJ at least once in the previous twelve months. This criterion aimed to ensure that participants had recent experience of delivery, and to minimise the risk that they would be unable to remember details of their cases (Brewer, 2000; Foddy, 2001). The terms 'facilitation' and 'restorative justice' were left undefined to avoid imposing an external definition on the sampling process, which might have disguised the breadth of understanding of RJ among the police.

With respect to the qualifying populations, Restorative Gloucestershire reported that 13 of their volunteer facilitators had delivered one or more RJ processes in the previous year (email communication, RJ Hub administrator). Neither force, nor DNR, could provide equivalent data, meaning that the qualifying facilitator populations in those three organisations is unknown.

However, doc. G24 (dated February 2015) stated that, in Gloucestershire Constabulary, 227 (or 38%) of those trained to Level 1 had used it at least once, 86 of whom had used it more than once. Similarly, doc. G26 stated that, of those trained to Level 2, around half had used it at least once (23/43), while 13 officers had used it at least five times.

For police respondents, participant selection and interview timetabling were mostly administered by the police forces. In Durham, the RJ Manager sent an email to all frontline officers, while in Gloucestershire, the RJ Administrator sent one to all officers who had used RJ at least once. Both emails included the participation criterion and asked suitable persons to volunteer. A small number of participants reported having been asked directly to participate; it is not known how many participants volunteered and how many were asked personally. Both RJ Hubs emailed a request to all their facilitators to ask for interviewees. The researcher undertook no further sampling at this stage – all police and volunteer facilitators who presented themselves to the researcher having agreed to participate, were interviewed.

The samples of police facilitators in both areas were likely biased by self-selection, or selection by others. Consequently, they may not have reflected the makeup of the forces by role, location, length of service, gender or facilitation experience, *inter alia*. Sampling processes were not all communicated precisely to the researcher, and some respondents may have been selected on the basis that they would show the force in a positive light. In retrospect, the researcher should have asserted more control over sampling, or at least provided additional requirements relating to respondents' roles and locations.

Table 4.4 provides a breakdown of respondents by role and organisation:

	<b>Durham</b>	<b>Gloucestershire</b>	<b>Totals</b>
<b>Police facilitators</b>	16 → - 9 PCSOs - 4 NPT PCs - 3 Others	16 → - 2 PCSOs - 8 NPT PCs - 6 Others	32
<b>Lay volunteer facilitators</b>	7	4	11
<b>Police policymakers and managers</b>	6 → - 3 senior leaders - 2 middle managers - 1 police staff	6 → - 4 senior leaders - 1 middle manager - 1 police staff	12
<b>RJ Hub staff</b>	3	2	5
<b>PCC staff</b>	4	3	7
<b>Others</b>	0	4 → - 3 Restorative Gloucestershire steering group members - 1 associated facilitator	4
<b>Totals</b>	36	35	71

*Table 4.4: Breakdown of respondents by organisation and role*

This table shows that 16 police facilitators from each force were interviewed. PCSOs were overrepresented in Durham, while Police Constables (PCs) from NPTs were overrepresented in Gloucestershire. This means that the two samples were neither representative of their organisations, nor directly comparable. These differences may have contributed to some of the differences in practices identified between the forces (see Chapters 5 and 7). That said, the proportion of males and females within the police facilitator samples were similar: eleven males and five females in Durham, and nine males and seven females in Gloucestershire. One police policymaker/manager from Durham, and two from Gloucestershire,

were female; the rest were male. Finally, two police respondents from Durham identified as mixed race; the other 42 police respondents all identified as white. More police policymakers/managers were interviewed than was planned because some such respondents provided the researcher with the contact details of other relevant persons, enabling snowball sampling to take place. That so many senior leaders – defined as Superintendent or higher – were interviewed (n=7) is perhaps one of the study's key strengths, as it revealed a wealth of information about force strategies and policy decisions.

Key staff from both RJ Hubs were interviewed and put the researcher in touch with their local PCC offices, enabling persons from those organisations who had some involvement in RJ also to be interviewed. Several lay volunteer facilitators from each RJ Hub were interviewed (numbering seven in Durham and four in Gloucestershire). Finally, three members of Restorative Gloucestershire's steering group, all of whom were employed by local public services, were also interviewed, as was a facilitator from one of those organisations. All respondents described in this paragraph were white, apart from one volunteer facilitator who was mixed race. Among the volunteer facilitators, six were male and five were female. Among the remaining interviewees (those labelled 'RJ Hub staff', 'PCC staff' and 'Others'), eleven were male and five were female. Such a wide-ranging dataset was collected because the focus of the thesis was initially broader. Still, even though few quotations from some of these individuals are presented in the analysis chapters, the data they provided were used to contextualise the analysis and to understand the history and operation of restorative policing in each area. The necessity to maintain respondents' anonymity precludes some participants' characteristics from being detailed further, and requires some interviewees to be grouped (e.g. the Police policymakers/managers, and 'Other' police officers who were neither PCSOs nor NPT PCs). Anonymity and other ethical issues relating to sampling are discussed later in the chapter.

Finally, it is important to describe the sample in terms of interviewees' self-reported involvement in delivering RJ in the previous twelve months. Almost all interviewed facilitators reported delivering practices which they considered to qualify as RJ within this time period. The only exception was one officer from Gloucestershire who expressed uncertainty regarding whether their last case was within twelve months. However, many could not provide exact figures for their use of RJ. Some used ranges (e.g. 'between five and ten'), approximations (e.g.

‘about six’), or expressed their involvement non-numerically (e.g. ‘all the time’).

Table 4.5 attempts to collate the figures reported:

	Police		RJ Hubs	
	Durham	Gloucs.	DNR	Restorative Gloucs.
<b>Number of Level 1 cases</b>	163-184 + ‘all the time’ + ‘regularly, but it depends on what counts’	74-76	n/a	n/a
<b>Number of Level 2 cases</b>	43, inc. one ongoing	40-42, inc. 2 ongoing and 6 ‘mediations’ with RJ script	30-32 (18-20 conferences)	18-20 (16-18 conferences)

*Table 4.5: RJ delivered by interviewees, previous twelve months (self-reported)*

These figures suggest that respondents from Durham used Level 1 RJ more often than those in Gloucestershire. However, one officer from Durham reported delivering 90 Level 1 processes in the previous year as part of a secondment. Excluding this respondent, officers from the two areas reported much closer levels of Level 1 RJ usage, although it was still higher in Durham. Respondents from the two areas also reported delivering similar numbers of Level 2 processes, although eleven out of 16 from Gloucestershire were conferencing specialists, relative to less than 5% in the general population in that force. This suggests that these data were unlikely to reflect the overall use of Level 2 RJ in Gloucestershire. These figures also suggest that around 20% of cases which respondents from Durham reported delivering in the previous year, were at Level 2; this rose to around 35% in Gloucestershire. No officers from either force explicitly reported delivering Level 3 (i.e. post-sentence) RJ.

Difficulties in distinguishing between the ‘levels’ of RJ further complicate the figures: the anomalous officer from Durham stated that many of their Level 1 cases amounted to shuttle mediation (which may qualify as Level 2), while one officer from Gloucestershire described six cases as mediation but using the

restorative script. Several officers, mostly from Durham, also reported using quasi-dialogic processes at Level 1 (see Chapter 7).

Finally, with respect to range, excluding the anomalous officer in Durham, reported cases of Level 1 RJ delivered by each respondent in the previous year ranged from zero to 20 in both areas. Reported conferences, meanwhile, ranged from zero to ten in Durham, and zero to twelve in Gloucestershire. Thus, while the precise distribution of facilitation work within the forces cannot be discerned from these data, it seems that this work was not distributed evenly.

#### **4.4.5 Conducting interviews: Designing the interview schedules**

Four similar, qualitative, semi-structured interview schedules were designed (police facilitators; volunteer facilitators; police policymakers/managers; and RJ Hub staff) on the basis that respondents in different roles and organisations would be able to provide information on different aspects of the development and use of RJ (see Appendix C). For example, police policymakers/managers could discuss their experiences of setting strategies and making policies, while police officers could describe their experiences of delivering RJ in practice. These schedules were adapted on an *ad hoc* basis for unplanned interviews (e.g. PCC staff and Restorative Gloucestershire steering group members).

The interview schedules were divided into sections, as shown in Table 4.6:

	<b>Police officers</b>	<b>Lay volunteer facilitators</b>	<b>Police policymakers, managers</b>	<b>RJ Hub staff</b>
<b>Section 1</b>	Personal information and cases	Personal information and cases	Personal information and role	Personal information and role
<b>Section 2</b>	Meaning and purpose of RJ	Meaning and purpose of RJ	Meaning and purpose of RJ	Meaning and purpose of RJ
<b>Section 3</b>	Involvement in facilitation	Involvement in facilitation	RJ policy and strategy	RJ policy and strategy
<b>Section 4</b>	RJ and the force	Models of delivery	Force policies	RJ Hub policies
<b>Section 5</b>	Models of delivery	n/a	Models of delivery	Models of delivery

*Table 4.6: Interview schedule design*

All interviews began with a short questionnaire in which participants were asked to provide personal information about themselves and their roles, including either the number of RJ processes they had delivered in the last year, or their role in RJ policymaking and implementation. All interviewees were then asked to describe their understanding of the meaning and purpose of RJ, before a third section asked them to discuss their experiences of facilitating RJ, or of setting strategies and making policies. Next, police facilitators were asked about their experiences of RJ implementation within their force (including their colleagues' attitudes towards it), while policymakers/managers and Hub staff were asked to describe the rationales behind various strategies and policies, and their experience of making and implementing them. All interviews finished by asking respondents about their attitudes towards different models of delivery (i.e. the relative merits of police-led and volunteer-led RJ). RJ Hub staff and volunteers were also asked about their experience of working with the police at this point.

The interview schedule for police facilitators, on which the other three schedules were based, was piloted with a police officer from another force who

met the participation criterion. The pilot used cognitive interviewing techniques (Belson, 1981; Tourangeau, 1984; Willis, 1999; 2004), whereby the questions were discussed at the same time as they were asked and answered. This helped to ensure that the questions were clear, not repetitive and likely to be interpreted as intended (D'Ardenne, 2015).

The researcher sought to phrase questions in such a way as to minimise the likelihood of acquiescence bias (Watson, 1992). For example, police facilitators were asked: 'Do you find it easy or difficult to communicate the voluntary nature of the process of participants?', rather than a potentially more leading question about the importance they placed on voluntariness. This and other questions on restorative principles were intentionally framed to invoke a discussion of respondents' practices, during which it was (correctly) assumed that respondents would discuss their general attitudes towards each restorative principle. Most other questions were designed to be more open in nature.

Interviews ranged from around 30 minutes in length to over two hours. The majority lasted between 50 minutes and one hour and ten minutes. Most were conducted in the offices and stations used by the police forces, PCCs or RJ Hubs; a small number of volunteers were interviewed in their homes.

Finally, 65 of the 71 participants were interviewed individually, while six were interviewed as pairs. In two cases – one from each site – volunteer facilitators were interviewed at the same time. In one, an interviewee ran into another volunteer on the way to the interview, and brought them along. In the other case, the researcher attended a meeting of volunteer facilitators, two of whom offered to undertake a joint interview as neither were able to wait. The third case involved a Restorative Gloucestershire steering group member and a facilitator from their organisation, who asked to be interviewed simultaneously.

#### **4.4.6 Omitted sources of data**

Various potential sources of data were omitted. Firstly, police actors who were not directly involved in RJ policymaking or implementation, or who had not facilitated a case in the previous twelve months, were excluded. Some of these persons might have been able to provide useful or different information. For

example, frontline officers who had not used RJ may have been able to explain why not, while policymakers and managers without direct involvement may have been able to provide more detached assessments of policies. Nonetheless, the decision to exclude these persons was taken because it was necessary to keep the study manageable in scope and scale, and to avoid diluting the insight of those with direct personal experience of RJ.

Secondly, participants in police-led RJ (such as victims and offenders) were excluded. Clearly, the way that these policies and practices were received by citizens is important. Yet, given that participant research still significantly outweighs research with practitioners and policymakers/managers in this field, it was decided to focus the study on the latter groups.

Thirdly, observations of practice were not conducted. Researchers often use observations to explore the dramaturgical, experiential, emotional, and relational aspects of RJ (Rossner, 2011, 2013), or to study the gap between what practitioners say and what they do (Lynn and Lea, 2012). Consequently, some restorative policing researchers have observed police-led RJ processes (e.g. Hoyle, et al., 2002; Walters, 2014; Cutress, 2015). In this case, it was decided not to conduct observations for a combination of practical and ethical reasons. Preliminary conversations indicated that such a request might not be granted, as it may have been more difficult to arrange. Potential barriers to observation related to the researcher's safety, the obtention of informed consent, and the risk that the researcher's presence might affect the dynamics of the observed practices. Another issue was that the time required to undertake and analyse observations in both areas, in addition to the other methods used, might have been prohibitive. Finally, while observational data could have been used to triangulate descriptions of practice, facilitators may have acted differently under observation than they would have done normally. Thus, it was decided that, on balance, the focus on police actors' experiences of policymaking, implementation and delivery was sufficient for this study. For similar reasons, records of practice were omitted, though they may have been useful for the quantitative study of police-led RJ. Retrospectively, however, the researcher should have included some of these data sources in the study, instead of conducting some of the other, ultimately less relevant, interviews.

## 4.5 Data analysis

This section explains the approach taken towards organising, coding and analysing the collected data. Before their analysis, all the collected documents were organised into an electronic database. Documents for which only paper copies were obtained, were scanned. Then, all the interviews were transcribed *verbatim* from digital recordings; no participants declined to be recorded.

Notes were taken throughout the data collection and organising process, that is, during interviews, after interviews and during transcription, all of which informed the analysis (Liamputtong, 2009). Prior to coding, all of the interview recordings were listened to twice in order to ensure the accuracy of the transcripts and enable the researcher to familiarise himself with the data (Ritchie and Spencer, 2002). NVivo was then used to code the data, after which thematic content analysis was used to identify patterns and relationships within the data, to determine which parts of the data were most important, and to plan the findings chapters (Thorne, 2000; Cresswell, 2007).

The researcher utilised a combination of what Hsieh and Shannon (2005) referred to as 'conventional' and 'directed' content analysis. Conventional content analysis refers to an inductive process whereby the researcher creates codes and identifies themes based on the data collected, rather than on hypotheses. One such code, entitled 'Something we've always done', related to the fact that some officers compared street RJ to longstanding approaches to informal case resolution. In contrast, directed content analysis refers to a deductive process whereby the researcher creates codes and identifies themes based on existing theory. For example, some of the questions asked in this research related to the realisation of voluntariness and other restorative principles. Thus, some theoretically-driven codes and themes were selected to identify data which related to these principles. This combination of approaches enabled a flexible data analysis process which suited this research. It reflected the fact that virtually all social research both builds and tests theory (Thomas, 2011), and combines inductive and deductive reasoning (Berg, 2009).

Specific care was taken when investigating differences between the forces. As mentioned, discrepancies between the samples of police facilitators means that those data are not conducive to a fully comparative analysis. However, the documents and statistics collected, and the policymakers/managers interviewed

at each force, allowed for a comparative analysis of reported strategies, priorities and policies. Moreover, the differences between samples of police facilitators were not so substantial as to preclude their comparison altogether. Thus, some (tentative) comparative analysis also took place with these data.

Throughout, the researcher was cognisant of the need to be reflexive and to avoid imposing preconceived ideas on the analytical process. This was especially necessary having previously worked in the field of RJ, and because of the absence of opportunities for analytical triangulation. There was a risk of presuming that the findings from previous studies or the researcher's initial observations would be reflected throughout the data, thereby masking other, potentially more important, points of analysis. These risks were mitigated primarily by maintaining a constant awareness of their potential occurrence, and by discussing the findings with other social researchers and criminal justice practitioners in what Lincoln and Guba refer to as 'peer debriefing' (1985: 308).

## **4.6 Ethical considerations**

Though none were prohibitive to this study, various ethical issues within its methods warranted attention and mitigation. This was necessary to protect the rights, ensure the welfare and respect the dignity of participants. This section delineates the researcher's approach towards confidentiality, anonymity and data handling, and obtaining free, informed and ongoing consent

### **4.6.1 Confidentiality, anonymity and data handling**

This study involved the collection, transport and storage of data from human subjects. This creates legal and ethical obligations to ensure that these data are treated according to the wishes and best interests of their providers.

All the statistical data obtained were already aggregated and anonymised, and no previously unpublished documentary evidence which referred to an individual by name, has been reproduced. The risk of a specific quotation being tied to a person has been mitigated in several ways to protect participants'

anonymity. Most importantly, respondents are only described in this thesis using codes. These relate to the respondents' organisation and, where possible, to their role within that organisation. Examples of these codes are shown in Table 4.7.

	<b>Durham</b>	<b>Gloucestershire</b>
<b>Police facilitator, PCSO</b>	PCSOD1	PCSOG1
<b>Police facilitator, NPT</b>	PCNPTD1	PCNPTG1
<b>Police facilitator, other</b>	POD1	POG1
<b>Police policymakers and managers</b>	PPMMD1	PPMMG1
<b>RJ Hub staff</b>	RJHSD1	RJHSG1
<b>RJ Hub facilitators</b>	RJHFD1	RJHFG1
<b>PCC staff</b>	PCCD1	PCCG1
<b>Restorative Gloucs. steering group</b>	n/a	SG1

*Table 4.7: Examples of anonymity codes for respondents by force and position*

As the table shows, some respondents – including police facilitators who were neither PCSOs nor NPT officers and police policymakers/managers – have been grouped to prevent their identification. The numbers affixed to the codes do not reflect the order in which interviews took place. While it was useful to have been given explicit permission to name both forces, this presented challenges in reporting the data in a way which ensured participant anonymity. Consequently, personal pronouns in some quotations have been altered, and some quotations which might have been informative, have been withheld on the basis that they related to a specific event which might identify a respondent.

While confidentiality has been ensured – aside from in the three, two-person focus groups – anonymity was compromised by the sampling process. The use of snowball sampling meant that some respondents knew who else had been interviewed. Moreover, the process by which facilitators were selected meant that their managers knew who had been interviewed. Finally, some interviews were scheduled directly before and after each other, meaning that some respondents knew which of their colleagues had participated, as they saw each other entering

or exiting the room. These issues illustrate the difficulty with ensuring anonymity in organisational research, especially as sampling was reliant on gatekeepers.

All data were transported and held securely. Digital recordings, transcripts and other files containing personal data were moved onto the university server at the earliest possible opportunity, and held there exclusively thereafter. The device used to record the interviews encrypted the files at the point of recording, and required a code to be played. Files were also only compatible with a single, password protected software package. The only paper documentation which could be used to identify participants – the consent forms – were kept in a secured area of the School of Law, accessible only by the researcher. All data will be destroyed two years following the completion of the thesis in order ensure that enough time is allowed to publish the research thoroughly.

#### **4.6.2 Free, informed and ongoing consent**

The researcher sought to enable respondents to withhold or withdraw their consent, and to ensure that any consent given was fully informed. There was no deception at any point in the research: the aims were explained in full on the information sheets and consent forms (see Appendices D and E), and verbally at the start of the interview. The information sheet also explained that interviewees were under no obligation to be recorded. Each participant was given the researcher's contact details, and told that they could withdraw their data at a later stage if they so desired; none opted to do so.

The issue of consent was again complicated by the sampling process. Specifically, the hierarchical and disciplined nature of police forces meant that a request (particularly if directed at a specific individual) from a ranking officer to participate in this study, may have been a command or interpreted as such (Miller and Boulton, 2007). Indeed, one participant stated: 'Once that I saw that the request came from [a superior], I was hardly going to refuse' (POG4). Prior to all interviews, the researcher stressed that the prospective respondent was under no obligation to participate, and that their superiors would not be informed if they opted not to do so. In practice, all respondents communicated to the researcher a willingness to participate, irrespective of whether they were asked to do so

directly by their managers. Nonetheless, the consent which was obtained, while informed, might not have been entirely free for all participants.

#### **4.7 Personal reflections on the research process**

This section reflects on three key challenges which were faced during the research. Specifically, it discusses the risks of relinquishing control over the sampling process, the role of social capital in facilitating the research and the benefits and challenges involved in collecting, managing and analysing large datasets as part of an inductive research strategy.

Firstly, as described previously, the researcher largely relinquished control over the sampling processes for frontline police officers. The only criterion which gatekeepers were given was that officers must have delivered at least one RJ process in the previous twelve months. As a result of this lack of direction, the samples of police officers were not directly comparable with respect to their roles and other characteristics. Moreover, it is not known whether some officers were intentionally selected or rejected in order to portray the force's RJ practices in a certain light. This issue stemmed largely from the researcher's own anxieties in relation to the amount of work he was willing to ask his gatekeepers to undertake. Retrospectively, it would probably have been possible to request, say, a certain proportion of PCSOs, female officers or new recruits. At the time, however, the researcher felt wary of giving lengthy instructions to those who held power over the research. Researchers must strike a balance between maintaining favour and social capital, and ensuring that their study is structured and conducted according to strict methodological standards (Bulmer, 1988; Bartlett, et al., 2001). It is not to question the validity of this study to observe that it reflects perhaps too much emphasis on the former consideration, and that this resulted in limitations in the reliability and comparability of certain parts of the collected data.

Relatedly, this illustrates how the research process can be complicated by the need (and, indeed, the desire) to build and maintain social capital with key decision-makers and gatekeepers. In each location, the researcher was keen to develop positive, trusting relationships with decision-makers and gatekeepers (so as to have the highest probability of both completing the research successfully

and being listened to in the dissemination process) and with interviewees (so as to build a rapport which maximised the chances of truthful responses). These aims were largely achieved, as evidenced by ongoing dissemination and by the seemingly frank answers provided by many interviewees. At the same time, the relationships developed with persons from each area played on the mind of the researcher when analysing the data and writing up the thesis. Consideration was given both to the desire to be sufficiently critical, and the desire not to be overly critical to compensate for the risk of not being critical enough. Ultimately, nothing has been consciously excluded or exaggerated at any point in the thesis on these grounds. Nonetheless, the point is that there are risks (as well as benefits) of developing friendships as part of the qualitative research process (see Bryman, 2012, on the broader concept of ‘going native’ in research).

Finally, this study presented challenges in relation to the volume of data accumulated. Initially, the researcher cast a wide net in the two case study areas, collecting documents and conducting interviews with a variety of persons from potentially relevant organisations. The purpose of this was to enable an inductive analytical approach: to generate descriptive theories based on the most important learnings within the data. Accordingly, the scope of the research later narrowed to focus on the work of the police, from which descriptive theories were proposed (see Chapter 8). Still, this process was challenging for two reasons: firstly, the sheer volume of data collected meant that transcription and coding were lengthy processes; secondly, this meant that it was difficult to identify an overall thread running through the data, and to retrieve specific data points during the writing process. On reflection, it seems that there was a tension between, on one hand, the need in inductive research to gather as much data as possible and, on the other hand, the need to begin with a clearer research focus so as to avoid over-exerting oneself when collecting and analysing data.

## **4.8 Dissemination**

This research has been disseminated in many ways. Firstly, the researcher has informally provided information on the research findings to several persons from both sites and from other force areas, on multiple occasions. In late 2015,

the researcher gave formal presentations, at each site, to senior leaders from the police forces and staff from PCC offices and RJ Hubs, in which preliminary findings were discussed and observations for each site's future development of RJ were offered. Discussions with senior leaders continued throughout 2016 and 2017. The findings were also presented at a number of international conferences (including in Leeds, Tel Aviv, Leiden, Porto and Leuven), and the researcher organised several meetings and conversations with national stakeholders and policymakers in order to discuss the implications of his findings for their work.

#### **4.9 Concluding comments**

This chapter outlined the underpinning assumptions of the research, and explained and justified the decisions made while designing and conducting the study. Many important lessons were learned regarding the role of social capital, the difficulties of managing and analysing large datasets, and the need to be more assertive with respect to control over sampling processes. Nonetheless, as the following chapters demonstrate, a considerable volume of high-quality data was collected, enabling inferences to be made with respect to the strategies, policies and practices which represented restorative policing in practice.



## **Chapter 5 – Assessing organisational strategies and goals**

### **5.1 Introduction**

The remaining chapters seek to address the study's research questions by presenting and discussing its empirical findings. They explore and problematise the models of restorative policing which emerged from the data, identifying connections between the institutional context in which restorative policing took place, and the forces' strategies, policies and reported practices. These chapters consider the ways in which RJ was interpreted and used, the reasons why it may have been framed, understood and delivered in certain ways, and the potential consequences for those who participated in police-led RJ processes. It is argued that RJ was understood and delivered in ways which reflected police-defined goals, although the discretion afforded frontline police officers when facilitating RJ enabled them to determine, on a case-by-case basis, the extent to which they would use the process to empower citizens.

Chapter 5 starts by exploring the RJ implementation strategies in Durham and Gloucestershire Constabularies. It contends that the concept and practice of RJ, in various forms, had largely been mainstreamed in both forces. Moreover, it suggests that the forces' RJ strategies reflected both national pressures and local goals, understandings and priorities, as expressed by policymakers/managers. These findings indicate a role for each of these factors in shaping restorative policing within forces, and contextualise the remainder of the analysis.

This chapter begins by outlining and comparing each force's implementation strategies. Next, it considers the statistics pertaining to the recorded use of RJ, and the qualitative data relating to its unrecorded use. The final sections examine the relationship between force strategies and the goals which were expressed by policymaker/manager respondents. They present documentary and interview data, illustrating how both forces seemingly aimed to use RJ to manage demand and improve the service which they provided for victims, although cultural change was also an explicit goal of RJ implementation in Durham.

## 5.2 Restorative policing in Durham

Durham Constabulary's involvement in RJ began in 2007. As part of the drive among many forces to reduce first-time entrants around that time, it partnered with the local Youth Offending Service (YOS) to introduce a 'pre-reprimand disposal' for young offenders (Creaney and Smith, 2014). According to Stockdale, 'a few officers' (2015b: 102) who worked with the YOS received some form of RJ training. Shortly thereafter, several nearby schools (Kokotsaki, 2013) and children's care homes (C4EO, 2009) introduced RJ internally.

RJ was first implemented as an explicit strategy within the force on the arrival of a new Assistant Chief Constable (ACC), Mike Barton, in 2008. Having led on RJ in his previous role in Lancashire Constabulary (Greaves, 2008), Barton came to Durham with a vision to create a 'restorative county' (Stockdale, 2015b: 103). In 2009/10, 128 officers received RJ training, around 100 of whom attended a one-day, street RJ course with Restorative Solutions. Nineteen attended a five-day course in 'restorative approach mediation' with trainers from Durham County Council, and eleven attended a two-day restorative conferencing training with an unstated provider (Stockdale, 2015b: 106-7). In 2010, Restorative Solutions (2017) also trained an unknown number of officers from Integrated Offender Management (IOM) to deliver post-sentence RJ as part of a project called Restorative Approaches for Persistent and Prolific Offenders. In 2011, a half-day course on RJ was developed internally, with the intention that it would be delivered to all frontline officers (Stockdale, 2015b).

This latter training programme was discontinued before completion when, in 2012, Barton was promoted to Chief Constable. At this point, he instigated a new RJ strategy under the revised nomenclature of 'Restorative Approaches' (RA). According to an internal review from 2014, this strategy aimed to 'embed an RA culture within the organisation' (doc. D11: 2). It also corresponded with a drive to become more 'victim-focused'. According to one policymaker/manager, this included 'mapping out the victim's journey' and introducing 'processes where Sergeants ring victims after seven days to find out what their service was like' (PPMMD2). The development of RJ, as this chapter later shows, was seen as part of the enhanced service provided for victims.

The new RJ strategy involved an internally-delivered training programme and the formulation of new policies and guidance. A one-day, Level 1 training

course was compulsory for all employees (n=2079). To the researcher's knowledge, Durham remains, at the time of writing, the only criminal justice agency in the UK to have trained every member of its staff in RJ. In addition, 428 officers – including '256 individuals from Neighbourhood and Partnerships, 84 from Response and 66 from Crime and Justice' (doc. D11: 3) – were given an additional day of training on restorative conferencing. All 16 officer respondents from Durham were trained in conferencing at that time. Subsequently, all officers received a letter from the Chief stating that everyone who was trained in conferencing was 'expected to undertake, or observe, a restorative conference within a few months' (Stockdale, 2015b: 121).

The scale of the force's investment and commitment to RJ was further underscored by two aspects of the strategy: the breadth of the situations in which RJ could be used, and the level of staffing which was put in place to support it. With respect to its application, RJ was fully integrated into the community resolution disposal, which was subsequently denoted 'RA Only'. This meant that all community resolutions had to be delivered according to the standards of either street RJ or conferencing; in all cases, victims were supposed to be offered the opportunity to communicate with the offender (doc. D8). The requirement that all informal disposals had to be delivered restoratively, alongside the fact that all members of staff were trained in RJ, seemed to be among the primary mechanisms through which the force aimed to mainstream RJ.

Officers could also offer and deliver RJ at any stage of the justice process, that is, alongside any OOC or charge. In fact, Durham's internal guidance stated that RJ was 'to be considered for every incident, provided it is in the interests of the victim and the broader community' (doc. D8: 1). To incentivise this, officers were required to record their reasons for *not using* RJ in every situation where it was not used. In cases 'where an offender has been sentenced and is either in prison or being monitored by Probation Services', internal guidance suggested – but did not seem to require – that officers contact IOM so that an officer with advanced training could 'assist in these more complex cases' (doc. D8: 4). In addition, authorisation by a specific senior or thematic manager was needed prior to the use of RJ with domestic abuse, hate crime, or if the offence 'relates to a vulnerable adult or child abuse enquiry' (doc. D9). Otherwise, there were no restrictions on when officers could choose to deliver RJ. This is indicative of a desire to encourage officers to consider, offer and use RJ as often as possible.

Indeed, the force's approach exceeded national policies which discouraged the police from using RJ with domestic abuse (Westmarland, et al., 2017).

Further efforts were made to normalise RJ and to integrate it into the force's activities. Level 2 training was provided to all new frontline recruits, and restorative conferencing was introduced for staff-on-staff conflicts and public complaints against officers. There were also attempts to change the language used within the force. Officers were encouraged to utilise the terms 'harmer' and 'harmed' in place of 'offender' and 'victim', and supervisory 'accountability meetings' became 'performance conversations' to frame them as more supportive encounters (doc. D11: 5). In mid-2015, the staff officer to the Chief Constable contacted the researcher to discuss how the force might use RJ in response to organised crime, which led to their secondment to the University of Sheffield to undertake exploratory research in this area. This further illustrates the importance placed on developing RJ within the force.

This willingness to experiment, innovate and engage with evidence was mirrored in other force policies. For example, Durham was the first English force to utilise 'shooting galleries' for heroin addicts (Siddique, 2017) and to announce that it would not actively target small-scale cannabis growers (Gayle, 2015). The force also designed, with support from researchers, a desistance-focused intervention called Checkpoint, offering intensive alternatives to prosecution for adult offenders with a moderate risk of reoffending (Routledge, 2015). The inclination to innovate was also identified by several respondents, one of whom stated: 'We realise that we've gotta be different, we've gotta be creative, we've gotta be innovative and think differently' (PPMMD4).

The level of staffing which was in place to support the use of RJ in Durham Constabulary, serves further to underscore the force's commitment to its implementation. An unknown number of police facilitators – including one of the 16 interviewed – were designated 'RA Champions', whom other officers could contact for advice or assistance with delivering RJ (doc. D8). A steering group 'comprised of officers representing all commands and including specialist units' (Stockdale, 2015b: 179) was brought together to formulate specific policies on IT, communications, accountability and leadership, and to drive implementation. This was chaired by a Superintendent who was also designated RJ Strategic Lead. He was responsible for engaging other local agencies on the use of RJ and for

performance managing the police's RJ delivery, analysing a stratified sample of practice records on a monthly basis and providing feedback to officers.

In addition, an RJ Hub was launched in 2013 in Darlington, one of Durham's four police areas. This was funded by a government performance grant for Darlington YOS to reward their own successes in using RJ: they had, for many years, assessed all cases for RJ suitability. This new organisation, Darlington Neighbourhood Resolution (DNR), was run by a manager and RJ facilitator who was seconded from Darlington YOS. In its second year (2014/15), the scheme received additional funding from both Darlington Borough Council and the PCC for Durham, which DNR used to hire a case supervisor and an administrator on part-time contracts.

DNR recruited and trained volunteer facilitators to deliver conferences and shuttle mediation in response to low-level crimes and neighbourhood conflicts referred by the police and other agencies (doc. D39). By the period of data collection, DNR had trained 120 volunteers, approximately 70 of which were reportedly still active (email communication, DNR manager). All cases were jointly delivered by two volunteers, although DNR staff occasionally co-facilitated with volunteers in particularly complex or sensitive cases. Its staff were co-located with the YOS and with various council services, and had access to police databases and other systems for the purpose of risk assessment.

Two months prior to the period of data collection, the PCC agreed to fund DNR entirely for the 2015/16 financial year. Its manager became RJ Coordinator for Darlington, and another YOS manager from Durham was seconded to the position of RJ Coordinator for Durham, covering the remaining three police areas. They were tasked with determining how to create a consistent approach to RJ across the area. Ultimately, the PCC funded the expansion of DNR to the rest of Durham, and the scheme was relaunched in May 2016 as the Restorative Hub (Copeland, 2016). The two coordinators were given responsibility for recruiting 120 further volunteers, and the other staff were given full-time contracts. This reflects the PCC's personal support for RJ: the number one intended outcome in his Police and Crime Plan for 2013-17 was 'Making local communities and the victims of crime feel empowered' (OPCC Durham, 2013: 4). His Police and Crime Plan also endorsed and reproduced the Constabulary's 'Plan on a Page' strategy document, which included the aim to 'maximise opportunities for restorative approaches' (OPCC Durham, 2013: 25). Finally, the PCC listed, as one of his

three priorities, an 'increase in levels of victim satisfaction' with the police (OPCC Durham, 2013: 22). Upon being reelected in 2016, he changed his title to 'PCVC', with the 'V' standing for 'Victims'. The relaunch of DNR as the Restorative Hub followed the period of data collection, and is not covered by this thesis.

DNR followed two previous attempts to develop similar schemes elsewhere in the force area. In 2013, Restorative Solutions was awarded £1.3m from the Underwood Trust to develop around 100 Neighbourhood Justice Panels (NJPs) across England and Wales. Forty of these were reported as operational in their 2013/14 Social Audit, including two in Durham (Restorative Solutions, 2014). However, these two schemes were not sustained, according to one respondent from the PCC's office, because they lacked the requisite staffing:

There wasn't a dedicated coordinator to push [Scheme A]. [...] You lost the volunteers, and then when the numbers started to come through, there were no volunteers to deliver, and it just waned and fell by the wayside. [...] The coordinator [for Scheme B] was tasked with a different piece of work. [...] So, it kind of fritted. (PCCD2)

This accorded with the experience of another respondent to this study who had previously coordinated one of Restorative Solutions' NJPs in another force area. Their identifier is being withheld in order to ensure their anonymity:

I had the experience of recruiting volunteers, setting up a scheme. That didn't take off, partly because I think subsequent research has shown that those schemes are not successful unless you have at least one member of staff, and this was an add-on to quite a full role that I already had. [...] It was just a strand that I didn't have the energy to put into. (Respondent X)

These data illustrate the importance of dedicated staff in building and sustaining RJ Hubs. They are consistent with the MoJ's process evaluation of NJPs, which found that 'having a dedicated Coordinator was critical to optimal NJP delivery' (Turley, et al., 2014: 37). Similarly, reports by the Restorative Justice Council (2016) and *Why Me?* (2015) on multi-agency RJ partnerships found that the best developed examples had dedicated staffing. That Durham's PCC and Chief

Constable were willing to invest in staffing is indicative of their dedication to RJ, and may prove crucial to the sustainability of these projects.

### **5.3 Restorative policing in Gloucestershire**

RJ was also a mainstream disposal in Gloucestershire Constabulary by the period of data collection, although its strategies were less ambitious than those of its Northern counterpart. Like Durham, the force launched RJ twice. The first time, in 2009/10, involved some NPT officers – 24, according to one of three respondents trained at that time – being trained in conferencing by Restorative Solutions. Unlike in Durham, however, street RJ was not introduced. Instead, the force implemented a more flexible informal disposal called Community Oriented Policing Solutions (COPS). This allowed officers to impose conditional, informal resolutions without victims' consent. As one policymaker/manager stated: '[COPS] wasn't victim-focused, so the police could go along and impose a solution, and the victim didn't have to agree to it' (PPMMG1). This disposal typified the highly discretionary informal disposals which were being introduced by many forces around this time (Criminal Justice Joint Inspection, 2011, 2012; Rix, et al., 2011), as described in Section 3.3.

An internal review of COPS in 2013 recommended its abolition in favour of street RJ. This was deemed to be more victim-focused and less likely to be used inappropriately, which the review of the transition to street RJ (doc. G24) implicitly defined as its use with repeat offenders. The proposed reform was approved by senior leaders and, starting in October 2013, the force trained to Level 1 'all public facing uniformed officers who were likely to use RJ' (doc. G24: 2). This included 515 PCs (mostly from NPTs and response) and 110 PCSOs, as well as 77 Sergeants and 23 Inspectors; dog handling and traffic units were among those who were not trained. In late 2014, the COPS disposal was abolished and, like in Durham, all community resolutions had to be delivered as street RJ or as restorative conferences. Again, it was this requirement which, alongside officer training, meant that RJ was mainstreamed within the force. Unlike in Durham, however, police staff and senior officers did not receive any formal input on RJ, and Level 1 training (rather than Level 2) was introduced for new frontline recruits.

Concurrently, the force increased the number of officers trained in conferencing to 46 (doc. G25), thereby maintaining the strategy of having specialist conference facilitators to whom other officers could refer cases. These officers attended a three-day training programme which was delivered by the force's RJ Manager. Eleven of the 16 police facilitators interviewed were among those trained to Level 2, meaning that these specialist officers were substantially over-represented in the sample of officers from Gloucestershire.

The specialists included 37 frontline officers spread across the six police areas, as well as the force's RJ Manager and officers stationed within the YOS, IOM and elsewhere. According to the force's training database (doc. G25), however, by June 2015, one specialist had retired and six others had moved to roles where they could not facilitate RJ. Several policymakers/managers reported that, following an ongoing restructuring of the force, its conferencing capacity would be mapped and additional persons would be trained, if necessary:

We'll do a scoping exercise. We already have lists of the officers trained to Level 1 and 2 [and] where they are. [...] We'll just repeat that afterwards to see where people are moved, and then if they need training. (PPMMG1)

This restructuring, through which the force's six police areas were being merged into one, was not completed by the end of the data collection, and so no data were collected on any subsequent training activity. However, Wigzell and Hough (2015) found that organisational restructuring often led to practitioners and managers who were trained or supportive of RJ, being lost or moved to positions which precluded their involvement. That the restructuring in Gloucestershire removed geographical divisions may also be significant, as their introduction was found to be an enabler of community policing elsewhere (Chan, 1996).

The differences in training between Durham and Gloucestershire suggest that the latter placed less importance, firstly, on the use of RJ for cultural change and, secondly, on the use of dialogic approaches. This illustrates the discretion of senior leaders to determine the scope of their officers' involvement in delivering RJ. Most officers in Gloucestershire were not trained in conferencing, preventing them from employing these skills in their day-to-day activities, or when delivering street RJ. Moreover, conferencing could only take place if officers referred cases to specialists, or if specialists detected suitable cases themselves. Internal

guidance stated that referrals could be made in cases where the 'issue cannot be resolved immediately' through street RJ, or where there were 'persistent problems', a need to 'seek long term solutions' or a need to 'address reoffending habits' (doc. G28: 1). However, there was no requirement or administrative incentive to make referrals, meaning that the use of conferencing relied on officers proactively identifying and referring suitable cases.

This approach might be expected to lead to less conferencing taking place than in Durham, as the police have been found to be easily deterred from making discretionary referrals by the bureaucracy involved (Dorn, 1994). On the other hand, the use of specialist facilitators has been advocated by some researchers on the basis that training and experience are more concentrated, resulting in a higher quality of service (Hoyle, 2009; Shapland, 2009). In Durham, officers who were expected to deliver conferences only had one additional day of training, which some have suggested is insufficient to ensure quality (Gavrielides, 2013; Strang, et al., 2013). Furthermore, the scale of the training programme in Durham meant that, in order to conserve resources, it was delivered by the internal training department, rather than by specialist RJ trainers. This illustrates the possible tension between the goal of changing organisational cultures, and the cost implications of reform (Skogan, 2008). In Durham, the desire to mainstream conferencing conflicted with the force's ability to resource in-depth training for officers who were expected to deliver it (Laxminarayan, 2014).

Another difference between the forces related to their officers' discretion to decide when to use RJ, which was lower in Gloucestershire than in Durham. First of all, police officers in Gloucestershire could only deliver RJ with community resolutions, and not with charges or higher OOCs. Secondly, the authorisation of an Inspector was required for its use with offences with an 'ACPO gravity matrix score' higher than 2 (doc. G28: 1). Force guidance stated that this included sexual offences, domestic violence not involving partners or ex-partners, racially aggravated offences, violence against the person at the level of Actual Bodily Harm (ABH) or above, burglary, offences involving a weapon, and drugs offences (doc. G29). By implication, other types of offences – such as domestic violence involving partners or ex-partners – were not eligible. The guidance also stated that cases should not 'normally be dealt with by RJ' (doc. G29: 5) where the offender had unspent convictions or cautions, or where they had received an RJ disposal in the previous twelve months. An RJ disposal older than twelve months

did not make an offender ineligible, but required the permission of a line manager. These policies represented additional hurdles to the use of RJ which did not exist in Durham. In Gloucestershire, the need to obtain authorisation might have deterred officers from using RJ, potentially precluding its use with, for example, relatively low-level violent offences (e.g. ABH), for which research suggests that it may be especially suitable (Strang and Sherman, 2015).

In theory, officers could refer virtually any case to the RJ Hub, Restorative Gloucestershire, 'if a victim is still interested in RJ but the offender does not meet the criteria, is being dealt with another way and has admitted the offence' (doc. G29: 4). However, the data indicate that referrals were rare (see Section 5.5). Nine officer respondents were not aware of the RJ Hub, while five knew it existed, but were specialists who either preferred to deliver their own conferences or did not realise they could make referrals. Only two respondents reported ever having referred a case to the Hub, neither of which were in the last year. In contrast, six of the seven officers interviewed in Darlington reported having referred one or more cases to DNR in the previous year, usually neighbourhood disputes which were perceived to be resource-intensive to resolve.

With respect to staffing, the roles of strategic oversight and implementation were divided between an ACC and an Inspector. The ACC reportedly played a role in lobbying for the transition from COPS to RJ, and oversaw this reform. She was due to retire shortly following the data collection, at which point her post was to be discontinued as part of a drive to reduce management salaries. Her RJ responsibilities were to be divided among the remaining ACC who would become Senior Responsible Officer for RJ, and the Superintendent for Community Harm Reduction who would become Strategic Lead. In addition, Gloucestershire Constabulary did not have an internal RJ steering group. Instead, the RJ Manager, an Inspector, undertook almost all aspects of implementation, writing policy documents, developing internal processes, acting as a single-point-of-contact for officers with questions about RJ, scrutinising all RJ records and providing feedback to officers. He, too, was due to retire shortly following the data collection, at which point a Sergeant was to be designated RJ Manager.

The collected data say little about the impact of these managerial changes, as they had not yet taken place. As explained in Chapter 2, however, studies have shown the challenges inherent in mitigating their impact (Skogan, 2008; Hoyle, 2009). Reallocating management positions to lower ranking officers is a

common streamlining approach in times of austerity (Rogers and Gravelle, 2012; Huey et al., 2016). Yet, this also seems to reflect the lower priority afforded RJ relative to Durham, where responsibility for RJ was kept at the Superintendent level. One respondent in Gloucestershire justified giving the management role to a Sergeant on the basis that RJ had become ‘mainstream business as usual [...] I think we’ve reached that tipping point now, so it just needs sustaining’ (PPMMG3). This illustrates another difference with Durham Constabulary, where there was an explicit aspiration to become a ‘restorative force’, and where RJ implementation was typically described as an ongoing rather than completed process (see Section 5.8).

Gloucestershire’s PCC was perhaps more publicly explicit in his support for RJ than his counterpart in Durham, stating in the very first paragraph of his 68-page Police and Crime Plan for 2013-17 that:

In Gloucestershire, we already work on the principle of ‘Restorative Justice’ where the needs of victims are taken into account and offenders must take responsibility for their actions. I support Restorative Justice and its aims to stop people re-offending.” (doc. G47: 4)

While this suggests that the PCC was supportive of RJ, it is indicative of how support for RJ from within the system can be contingent on the concept being interpreted in a way which reflects existing assumptions and approaches. In this statement, as in the ACPO guidelines on RJ (see Chapter 3), the focus is on offender accountability and on the state retaining ultimate control; victims’ needs must only be ‘taken into account’. The suggestion that no transformation would be needed in order to work restoratively – the PCC argued that Gloucestershire ‘already work[ed]’ according to these principles – further suggests that the term was being interpreted quite loosely.

The Plan later describes some of the evidence on the effectiveness of RJ with reference to a report by Sherman and Strang (2007), before noting:

The existing evidence shows that RJ practices are effective in crime reduction and also help to provide the opportunity for healing for the victim, hold the offender accountable and increase the offender’s awareness of the

harm done. Therefore, the Police and PCC have made the use of RJ by the police an organisational priority. (doc. G47: 12)

This also seems to reflect support for RJ and an awareness of the evidence-base surrounding its use. However, it is actually appealing to research on the efficacy of conferencing to support Gloucestershire Constabulary's use of RJ which, as the next section shows, mostly involved street RJ. As the authors of the report which was cited within the Plan recently argued, to use evidence on conferencing to support street RJ is to overestimate grossly the applicability of that evidence (Strang and Sherman, 2015),

With respect to the local RJ Hub, there were several parallels with DNR. Restorative Gloucestershire also recruited and trained volunteer facilitators to deliver RJ in cases referred by local agencies, and existed prior to PCC funding for RJ. Like DNR, it transitioned into an RJ Hub using PCC funding, its manager became the county's RJ Coordinator, and it employed a part-time administrator.<sup>4</sup> However, there were several differences between the two Hubs, many of which related to their relationship with the forces. Firstly, Restorative Gloucestershire's employees were police staff. They were co-located with the police (with IOM and Harm Reduction) and worked closely with Gloucestershire Constabulary's RJ Manager who wrote and delivered most of the training which the Hub provided its volunteers and partner organisations. This included an RJ awareness course, delivered to over 100 staff in partner agencies in 2015 (doc. G6).

Secondly, while most referrals to DNR were low-level offences and neighbourhood conflicts, referrals to Restorative Gloucestershire were mostly serious, post-sentence cases. It originated as a project within HMP Gloucester in which serious cases were co-facilitated between one volunteer and one staff member (Jewkes, 2013). This focus and approach had continued following its transition to a PCC-funded RJ Hub: most of its cases were post-sentence, and were co-delivered by one volunteer and one of ten trained probation officers from the local Community Rehabilitation Company (CRC).<sup>5</sup>

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<sup>4</sup> Shortly following the period of data collection, the PCC provided funding for Restorative Gloucestershire to employ a Volunteer Coordinator, who took on case supervision responsibilities from its manager.

<sup>5</sup> Following the period of data collection, the PCC funded one of the CRC's facilitators to act as a specialist, part-time co-facilitator with Restorative Gloucestershire volunteers.

Another key difference between the two Hubs was that Restorative Gloucestershire was also a county-wide, multi-agency partnership which sought to coordinate and develop RJ across sectors. Its steering group met quarterly, and included staff from various justice, public and third sector agencies (docs. G35, G38, G41). The partnership was open to any local organisation, if it signed an information sharing agreement and submitted data on its use of RJ. In exchange, partners could attend the steering group, refer cases and access free conferencing or RJ awareness training. They could also apply for funding from the PCC's RJ fund. For example, 2015 saw two approved applications from partners: one from a local charity to deliver a project on RJ and one from the University of Gloucestershire to evaluate this project (docs. G35, G38).

Finally, whereas the 'restorative county' vision in Durham emanated from the force, the RJ Hub provided this vision in Gloucestershire. Restorative Gloucestershire, like Durham Constabulary, actively engaged local agencies to normalise and develop RJ in the area, and drove innovations in its use. For example, like in Durham, RJ was introduced in Gloucestershire for public complaints against the police. Unlike in Durham, however, this only materialised due to lobbying from the Hub which also delivered these cases. Moreover, the aforementioned PCC-funded project was initiated *via* the Hub, even though it involved the police: it used circle processes to build relationships between police officers and young people (Payne, et al., 2016). That Durham Constabulary had a somewhat broader vision and greater ambition for RJ than Gloucestershire Constabulary, is reflected within the collected statistics on the use of RJ.

## **5.4 Recorded use of restorative justice**

This section outlines the collected data pertaining to the recorded use of RJ by each force and Hub. These data show that, in both areas, the overwhelming majority of activities which were recorded as restorative were delivered by the police alongside community resolutions. There are many barriers, however, to the reliable comparison and interpretation of these statistics.

Both forces provided data covering different time periods, overlapping only for an eleven-month period: September 2014-July 2015, inclusive. Figures for

these months are presented to maximise their comparability. In this period, Durham recorded using RJ 4.16 times more often than Gloucestershire: 2796 cases in the former (doc. D10) and 672 cases in the latter (doc. G40). Table 5.1 presents the additional information provided by Durham on offender ages and the recording outcomes alongside which RJ was used. It shows that around 90% of recorded RJ took place with OOCs, and that almost 80% was with community resolutions. It also shows that almost two-thirds of recorded RJ was with adult offenders, contrasting with the tendency among other forces to use RJ mostly with young offenders (Clamp and Paterson, 2017).

<b>Outcome</b>	<b>Cases involving RJ</b>	<b>% overall RJ</b>
<b>RA only (community resolution)</b>	2208 (982 youth, 1226 adult)	78.96%
<b>Charge, summons or taken into consideration</b>	264	9.44%
<b>Penalty notice for disorder</b>	49	1.75%
<b>Adult caution</b>	191	6.83%
<b>Adult conditional caution</b>	22	0.79%
<b>Youth caution</b>	16	0.57%
<b>Youth conditional caution</b>	11	0.39%
<b>Youth pre-caution</b>	35	1.25%
<b><i>Total recorded RJ use</i></b>	2796	100%
<b><i>Total youth RJ</i></b>	1044	37.34%
<b><i>Total adult RJ</i></b>	1752	62.66%

*Table 5.1: Durham Constabulary's recorded use of RJ, Sept. 2014-Jul. 2015*

Unfortunately, the statistics collected from Durham Constabulary do not state, nor is there a reliable way to estimate, the relative proportion of cases at Level 1 and Level 2. Police facilitator respondents from Durham reported that about 20% of the RJ they had delivered in the previous year involved conferences

(see Section 4.4.4), but there is no way of knowing whether this reflected the distribution of conferencing activity across the force. It is also noteworthy that, in their study on the use of community resolution-level RJ with domestic abuse, Westmarland, et al. (2017) found that many cases which were recorded as Level 2 more closely resembled Level 1 RJ. In contrast, Meadows, et al. (2012) found that street RJ sometimes involved some form of dialogue between the parties. As Chapter 7 later shows, the line between Level 1 and Level 2 RJ was blurred.

Still, statistical data which conflate dialogic and non-dialogic approaches are problematic, as they are difficult to interpret by researchers and lend themselves to simplistic interpretations by central government and the media. As Shapland, et al. noted (2017: 70), this kind of conflation may create, exacerbate or reinforce confusion or misunderstandings among justice professionals and the public. This may decrease social support for RJ (Pali and Pelikan, 2010); indeed, RJ is already widely equated with diversion by media organisations which are hostile to such approaches (Restorative Justice Council, 2014), potentially reducing the legitimacy of RJ and police diversion within the public sphere.

The statistics obtained from Gloucestershire show that all recorded cases took place alongside community resolutions, but did not distinguish between the use of RJ with young or adult offenders. Unlike Durham's figures, however, they did distinguish between Levels 1 and 2: 614 (91.5%) cases in the eleven-month period were recorded as Level 1, while 58 (8.5%) were recorded as Level 2 (doc. G40). This is comparable with earlier British studies of restorative cautioning, which found that 14% (Hoyle, et al., 2002) and 7% (O'Mahony and Doak, 2004) of cases involved conferences. More recent studies mostly do not report the proportion of conferences, although Meadows, et al. stated that 'there have been relatively few restorative conferences undertaken' (2012: 22), and Cutress (2015) similarly found that conferencing was rare. In another study, 13 of 14 cases were street RJ, with only one involving a conference (Walters, 2014).

Questions also remain as to the number of cases in which RJ was used with non-crime incidents. In Durham, the recorded figures from Table 5.1 seemingly refer only to cases which were 'crimed'. As Stockdale explained of their system:

Restorative justice has also been used for large numbers of [non-crime] incidents but it is not possible to systematically retrieve the data. [...] [There are] two separate databases – one for incidents, one for crimes. The yes/no

restorative approach tick box is only available on the crime system, not the incident system. (2015b: 106)

This system reportedly still existed when these data were collected, meaning that it was not possible to collect statistics from Durham on the use of RJ with incidents which were not recorded as crime. Of course, not all incidents which were 'crimed' necessarily constituted an offence under the criminal law, and *vice versa*. The police notoriously have discretion with respect to their recording of crime and non-crime incidents in this regard (McConville, et al., 1991). One previous analysis of street RJ found that almost 5% of cases recorded as offences were not actually crimes (Criminal Justice Joint Inspection, 2012).

A further breakdown of Gloucestershire Constabulary's RJ use in this period was later provided by their RJ Administrator (email communication). This showed that, of the 672 cases, 16 Level 1 and seven Level 2 cases were recorded as 'Non-Crime Cases'. This likely reflected the fact that officers were not required to report their use of RJ with non-crime incidents to the RJ Administrator, but some chose to do so voluntarily (email communication, RJ Coordinator). Overall, it seems likely that the statistics collected from both areas do not fully reflect the use of RJ in cases which were not recorded as offences.

Excluding the 23 cases from Gloucestershire which were recorded as not being criminal offences, the data suggest that RJ was actually recorded as being used with crime in Durham at a rate 4.31 times higher than in Gloucestershire. These figures may mask differences in how often RJ was offered between the forces, or differences in its use within the forces. Yet, given that there were only 9.8% more offences recorded in Durham (32,617) than in Gloucestershire (29,700) in the twelve months to June 2015 (ONS, 2017), the figures may indicate a higher propensity to use RJ (or, at least, to record RJ as being used) with crime in the former than in the latter.

The RJ Hubs also supplied statistical data on their RJ practices (email communications, RJ Administrators). DNR provided figures for the 2014 calendar year, showing that they delivered 26 conferences involving 72 participants. Restorative Gloucestershire reported being referred 33 cases in the eleven months to July 2015: ten resulted in conferences, 19 were discontinued, and four were expected to go to conference imminently. This suggests that DNR delivered over twice as many conferences as Restorative Gloucestershire in an average

month, even though it served a population of around 1/6<sup>th</sup> the size.<sup>6</sup> This could reflect differences in the quantity of referrals, the delivery capacity within each Hub, and/or the complexity of the cases. These data also suggest that the number of cases delivered by each Hub were relatively small, compared to the police's own recorded use of RJ.

Both Hubs also provided data on their referrals. DNR were referred 81 cases in the eleven months to July 2015, 38 of which were from the police. The remaining cases were referred by the council, Darlington College, councillors, charities, or by a prospective participant (i.e. self-referrals) (doc. D39). Of the 33 cases referred to Restorative Gloucestershire in this time, 19 were referred by the CRC, three were from police officers (although none of these resulted in conferences) and two were from the police's Professional Standards Department, one of which led to a conference. The remaining cases were self-referred or referred by local prisons, housing associations, councils, the YOS or the PCC's office (email communication, RJ Administrator).

DNR also provided data about the types of incidents which were referred to them in this period (see Table 5.2). These data confirm that their cases were mostly low-level offences and neighbourhood disputes:

Incident type	Number of cases
<b>Crime</b>	19 → - common assault (8) - criminal damage (4) - theft (4) - hate crime (2) - intimidating behaviour (1)
<b>Neighbourly disputes</b>	41
<b>Conflict resolution</b>	6
<b>Unspecified</b>	15
<b><i>Total referred cases</i></b>	81

*Table 5.2: Referrals to DNR by incident type, Sept. 2014-Jul. 2015*

<sup>6</sup> The census from 2011 shows that Darlington Borough Council encompassed 106,000 residents, compared to almost 600,000 in Gloucestershire.

Again, the imprecise nature of these data is a barrier to their analysis. Although only 19 of DNR's referrals were recorded as offences, neighbourhood conflicts often involve unrecorded offences (Bursik and Grasmick, 2001), while it is not clear what was meant by the crime of 'intimidating behaviour'. What is clear, however, is that DNR received many more police referrals than Restorative Gloucestershire.

## **5.5 Unrecorded use of restorative justice**

In both forces, many police respondents reported delivering RJ without recording it in a way that would have been reflected in the collected statistics. These data point to the existence of a 'dark figure' of police-led RJ.

First of all, street RJ was often described as being used in response to incidents which did not seem to be 'crimed'. This means that these practices might not have been encompassed within the data presented in the previous section. One respondent from Durham, for example, recounted a case in which young children had thrown objects at an elderly person's house:

I took them to one side, took all the details down, gave them a real good talking to. [...] I said: 'How would you feel if someone was doing that to your nana?' [...] Because they were actually so apologetic I said: 'Right, come on, let's go and say sorry to the lady'. [...] Apologies were given and accepted, and the matter was resolved, no further action needed. (PCSOD6)

The officer cited this case when asked about their use of street RJ, although their description of its recording seems to suggest that the incident was not 'crimed'. Many such practices, usually in response to similarly low-level incidents, anti-social behaviour or neighbourhood conflicts, were described by officers from both areas, although they were more commonly reported in Durham. This could reflect one or more of three factors: a higher propensity in Durham to engage in these practices; a greater tendency among officers in Durham to understand, and therefore report, these practices as RJ; and/or the higher representation of

PCSOs, whose work disproportionately involves low-level conflict and youth deviance (O'Neill, 2014), in the sample of officers from Durham.

While the quoted officer reported recording the offenders' details, many police respondents did not always state how or if they recorded similar incidents with which they used comparable processes. Thus, it is possible that some such practices also took place without being recorded at all. As Padfield, et al. noted, the police often deliver 'informal, "off the record" cautions' (2012: 959) without recording the incident. Similarly, the police's 'peacekeeping' activities – whereby they maintain order 'by means of small and frequent interventions' (Moor, et al., 2009: 8) without invoking their legal powers – often go unrecorded (Banton, 1964; Wilson, 1968; Muir, 1977; Skolnick and Bayley, 1988; Bittner, 1990; Skogan, 2006; Meyer, et al., 2009). Given the speed and informality with which many street RJ processes were described by respondents (see Section 7.3), it is possible that some would have taken place entirely 'off-the-record'.

This also raises questions regarding what kind of police actions should constitute RJ. In the case of the elderly person's house, as in many other cases of street RJ found by this and previous studies (see Chapters 3 and 7), the officer did not report facilitating a dialogic process. In fact, this respondent had earlier conflated RJ with informal resolutions, defining RJ as 'putting the situation right without involving anybody in the criminal justice system' (PCSOD6). Several other respondents seemed to understand RJ in a similar way, as encompassing almost any informal, diversionary practice. As was implicit in the recent studies described in Chapter 3, it seems that the concept of street RJ had blurred the boundary between RJ and informal police actions, and that many officers now understood certain peacekeeping activities as having been subsumed within a broad restorative framework (see Chapter 7 for more on this finding).

Second of all, a smaller number of respondents also described organising and delivering conference-like practices without necessarily recording them. One example from Gloucestershire related to the loan and sale of a possession (which will not be disclosed to ensure the respondent's anonymity):

PCNPTG8: I did do one RJ which is completely off the criminal scale. [...] I was contacted by somebody who had [x] on loan, who was having trouble getting it back or communicating with the person she'd lent it to. So, although it isn't part of my role, I agreed for both of them to come in. They

both wanted to talk about the incident. [...] When the lady had initially lent [x], she'd given the other person the indication that she could buy it off her. [Eventually] she did sell it to her. Last week they came in and signed an agreement. So, I did get that one sorted out.

IDM: Did that get recorded as a Level 2?

PCNPTG8: Not really, no. I didn't create an incident. It wasn't a crime. To be honest, it's civil, but I wanted to help them out.

Another officer reported using, but not recording, both street RJ and conferences:

PCNPTG2: I use Level 2 and Level 1, and also informally with younger people at schools.

IDM: The informal ones, are those recorded as community resolutions?

PCNPTG2: No. [...] For example, if there is an issue with the students that hasn't been reported as a crime or an incident, but the teachers want me to speak to them, I basically use the restorative justice script to speak to the students. [...] The ones that happen in schools are more like pupil disagreements in the playground, or students that start to get on each other's nerves and they just wanna chat. That's it, it does work. [...] The only Level 2 that I've done recently was a student-staff issue. It was just so they could facilitate having the two of them together to express their views and how it affected them in different ways. [...] Basically, it could go down as an RJ 2, but not as a crime or incident.

These data suggest either that some of these officers' informal, day-to-day activities were shaped by the principles and processes of RJ, or, at the very least, that these activities were now understood as restorative. Without baseline data, we cannot know the extent to which the introduction of RJ had changed the way that the police negotiated order and resolved disputes and low-level cases. It may only be that these data indicate a shift in what Chan (1996: 113) referred to as '*dictionary knowledge*, which provides definitions and labels of things and events in an organisation' (emphasis in original). However, the above officers were not the only ones to suggest that they actively used their RJ training or the script to structure their response to these kinds of incidents. These data do seem to suggest that the introduction of RJ had both permeated the consciousnesses and

structured the informal activities of some officers in both areas. In this sense, these findings may also indicate a shift in '*recipe knowledge*, which prescribes what should or should not be done in specific situations' (Chan, 1996: 113).

Finally, one policymaker/manager from each force reported facilitating conference-style practices in response to conflicts among their colleagues. The details of these cases are mostly being withheld to ensure the respondents' anonymity. It can be said, however, that the parties in one case were a senior officer and a member of police staff, and in the other case were a police officer and their line manager at an agency to which they were seconded. In both cases, the respondent described instigating and facilitating a dialogic process in accordance with their knowledge of RJ, with the aim of repairing strained relationships between the participants. As with the frontline officers quoted above, both these respondents expressed the view that their knowledge of RJ, gained primarily as a result of its implementation in their forces, shaped the way in which they had responded to these conflicts.

## **5.6 The strategic goals of restorative policing**

All police policymakers/managers were asked about their organisations' strategic goals with respect to implementing RJ. Overwhelmingly, their responses stressed two aims: to manage demand and to improve the service provided for victims. These correspond closely with national pressures, identified in Chapters 2 and 3, relating to the police's declining budgets and the growing expectations on the police to focus on victims' needs. Moreover, these goals were expressed differently between the forces in ways which mirrored their implementation strategies. This section explores how these goals were understood and framed, and considers the possible tensions between them.

In both forces, all policymakers/managers expressed a need to manage the demand on their services because of staff cuts. One from Durham stated:

We've reduced our staff by a third, but the demand is still there. We've reduced our demand a little bit – crime has gone down year on year – but other things have changed, so we deal with a lot more concern for safety now

and other things. As other agencies are cut, [the public] call upon us more.  
(PPMMD2)

Similarly, one respondent from Gloucestershire said: 'We'll probably be one-fifth lighter in resources in the next few years. We'll have to look at all opportunities to reduce our demand' (PPMMG3). Policymaker/manager respondents generally saw the implementation of RJ as an investment which would help their force respond to this pressure. They reported two main ways in which they believed that RJ could assist with demand management. Firstly, it could be used to resolve low-level cases quickly and to avoid more resource-intensive processes (such as arrest). This reasoning more prominently featured within responses from Gloucestershire, where one policymaker/manager said:

The big win from the police view is that a lot less police time is used. [...] We've seen some quite significant drops in our custody usage [which] is quite expensive and labour intensive. (PPMMG3)

Secondly, policymakers/managers argued that the effectiveness of RJ in reducing reoffending and resolving ongoing conflicts would reduce demand. This was more commonly argued in Durham, where one respondent asserted:

If we target people who have had long running disputes and who repeatedly call on us, then that can be stemmed in maybe one or two meetings. Perhaps a lot of preparatory work before that and some work after the intervention, too, but I see a real role in terms of demand management. (PPMMD5)

Another police policymaker/manager from Durham suggested that the savings which would flow from RJ implementation, lay partially in reducing reoffending:

There's strong evidence to say this works. It's very difficult, with reducing budgets, for chiefs to say: 'This is a thing I'm gonna push'. But if you implement it right and you use it to chip away and change the organisational culture, you can reduce some of your demand because you'll have less victims. That means your cops are less busy, so there's financial implications at the other end. (PPMMD1)

Both arguments in relation to the nature of demand management were made by policymakers/managers in both forces: in Durham, some lauded the speed of street RJ, while some in Gloucestershire hoped that RJ would diminish future demand by reducing reoffending or resolving conflicts. However, those in Durham tended to concentrate more on its effectiveness than those in Gloucestershire, where processing speed was more often highlighted. This finding reflected a stronger focus on conferencing in Durham's implementation strategy, relative to that in Gloucestershire, where the greater emphasis on street RJ within the force's strategy indicated the prioritisation of quick processing. It also supports an argument made in Chapter 3, namely that austerity may have helped to consolidate a trend towards the police's use of informal disposals which were (or, at least, which were seen to be) restorative in nature.

Policymakers/managers from both forces also stressed that the purpose of implementing RJ was to help victims. Again, this mirrored a general pressure on the police which existed across the jurisdiction, to be seen to improve the service which they provided for victims. Several respondents from Durham described this goal at length, framing it primarily in terms of the better outcomes which can be achieved for victims if they are enabled to participate:

It's to give the victim the opportunity to have their say, that's at the heart of everything we do. [...] [RJ] provides a much better process for the victim rather than going through the courts, the courts can be quite antiquated, quite strict. It's an unfamiliar place. Whereas you can do RJ anywhere, we can do it in a fairly neutral venue, wherever they feel comfortable. I think that provides a much better outcome. (PPMMD2)

Another policymaker/manager respondent from Durham reflected on RJ in terms of victim empowerment:

It gives victims the voice that they've always deserved, to have an element of control when some feel that they haven't had that voice in the criminal justice system. So, it's empowered them to have a greater say. They are paramount in my opinion, and also in our vision for policing locally. (PPMMD4)

The desire to use RJ to improve the service for victims was also stated by respondents in Gloucestershire, albeit in terms which less explicitly indicated that this was tied to victim empowerment *via* their participation. One said:

[RJ] is the right thing to do. The whole business about it being victim-centred has got to be the right thing to do. That to me has always been the driver, that we don't impose things on people. (PPMMG1)

Another described the notion of 'victim focus' in quite general terms, stating:

The important thing is about working with victims and putting the focus on the victims of crime. For me, that's where RJ should be, it should be focused on victims. [...] It sounds a bit trite sometimes, but I think the main goal is about putting the victims at the heart of what we do. It's as simple and as complicated as that. (PPMMG6)

These findings build on research by Stockdale (2015: 222) who, having studied Durham Constabulary herself, hypothesised that police leaders may hold 'nuanced understandings of the concept and philosophy of restorative justice'. Yet, the current study suggests that the extent to which this is true may differ between forces. While policymakers/managers in both forces expressed a normative attraction to RJ, those in Gloucestershire were less likely than those in Durham to contrast RJ, at a conceptual level, with traditional justice mechanisms. In Durham, these respondents discussed the victim's 'voice' and 'empowerment' and the limitations of criminal justice; in Gloucestershire, they were more likely to talk in general and practical terms about the need for their existing work to be more 'victim-focused'. This means that senior leaders in Durham may have been anomalous in terms of their degree of understanding of the victim's relative place in restorative and criminal justice. This finding also correlates with HMIC findings (2016) on victim satisfaction in each area. In the twelve months to December 2014, Durham was found to be the third best performing force in the country on this metric; Gloucestershire placed 37<sup>th</sup> out of 43.

Furthermore, that managing demand and providing an improved service for victims were described as the two main strategic goals in both area is significant, as there may be something of a tension between them. Providing a responsive

service for victims by enabling their participation in discussions and decision-making, may require an investment in time and resources which reduces the potential for short-term efficiency gains. Correspondingly, efforts to manage the demand on police time – especially through rapid case processing – may inhibit the police from meeting the needs of many victims.

With this in mind, both forces' strategies could be interpreted as an effort to balance (or, perhaps, to be seen to balance) these goals. Given the shrinking budgets in both areas and the role which community resolutions could play in demand management, the forces might have maximised their flexibility, as Gloucestershire did at first through the COPS disposal. Eventually, however, both forces required all community resolutions to be delivered 'restoratively'. This may indicate a normative willingness to sacrifice some of the short-term efficiency gains of informal disposals in favour of enhancing victim participation. Alternatively, it may suggest that victims were being used to legitimise informal disposals, some of which, as Chapter 7 shows, may have deviated substantially from restorative principles and evidence-based processes.

This latter interpretation would be consistent with the historic manipulation of victims by the police and other justice agencies, who sometimes use the veneer of helping victims to legitimise efforts to achieve other goals (Ashworth, 2000; Vynckier, 2009). Victims might be used 'in the service of system efficiency' (Crawford, 2000: 292), with the rhetoric of RJ intended to give the impression that 'something is being done for victims' (Warner and Gawlik, 2003: 73) while, in practice, street RJ provides officers the discretion to shape processes, impose outcomes, and restrict victims' participation to the extent which the officer sees fit (Cutress, 2015). Indeed, as noted in Chapter 3, the presence of conflicting goals which are not explicitly ranked, inherently affords frontline officers the discretion to determine what to prioritise in practice (Sanders, et al., 2010). At least in Durham, however, the strong promotion of dialogic approaches also seemed to be part of a broader drive to create a 'restorative organisation' which aimed to prioritise victims' needs on largely normative grounds.

## 5.7 Using restorative justice to change force culture

The data suggest that, at the instigation of its Chief Constable, restorative policing was implemented in Durham with the intention of changing the force's culture. This contrasted with Gloucestershire, the data from which indicate that the desired cultural change was limited to providing victims with some input in informal disposals. This research lacks directly comparable baseline data, and thus cannot attest to whether either force's culture had changed. However, by analysing the way(s) in which the prospects for cultural change were framed, it is possible further to gauge the differences between these forces' strategies.

The data indicate that, in Durham, the goal of using RJ to underpin cultural change was explicit, driven personally by the Chief Constable, and linked to the force's expansive strategy. For example, a training syllabus stated that Barton personally determined the scale of the training programme in order 'to promote Durham Constabulary becoming a Restorative Force' (doc. D5: 11). He also reportedly decided that officers would be able to use RJ at all stages of the justice process as part of a broader push for cultural change throughout the area:

The Chief had his vision to make County Durham and Darlington a totally restorative county. Throughout the victim's journey, they would have access to an RJ intervention if they wished. (PPMMD1)

Barton's actions serve to highlight, as explained in Chapter 2, that a moral entrepreneur who occupies a senior leadership position within a police force can have significant influence over its strategies and policies. In this case, there seemed to be a direct relationship between the scope of the RJ project and Barton's personal attraction and commitment to the concept.

In fact, most respondents from Durham Constabulary, when asked for the main drivers of RJ in their force, mentioned Barton first. One officer, whose views were typical of their colleagues, stated: 'It's the Chief, he's totally committed to [RJ], and I think that is a driving force for us. [...] It's part of us now' (PCSOD2). Likewise, another officer declared:

If you've been here more than a minute, you'll know that we've got a very, very visible, vocal Chief Constable who, anything like this, he's all over. He's all about different thinking and challenging the way things are done. (POD3)

This view was also held by policymakers/managers, one of whom responded to that question by stating: 'Our Chief Constable would be the easy answer to that [laughter]. His passion is restorative approaches' (PPMMD3). Similarly, another policymaker/manager said of Barton:

He's a very strong advocate of RA and, since coming to the county, I think he's been a big voice internally and with our partners. I'd say he was the biggest driver behind it. (PPMMD5)

Barton's support for RJ was both strong and public. In a newspaper interview, for example, he claimed that, prior to the development of RJ, he would have been reluctant to advise a family member to contact the police if they were victimised (Morris, 2013; Northern Echo, 2014). In her study of Durham Constabulary, Stockdale acquired a copy of a letter from the Chief Constable to all members of staff which stated: 'The reason we are taking so much care over restorative approaches is because it is so important to our vision' (2015b: 120). Several frontline respondents to this study also reported personally observing his championing of RJ, including one who stated:

There was a presentation given by the Chief Constable [about RJ], like a workshop. I think there were a few over a couple of years. It was good, he came about it in a good manner. [...] I remember it was fun, because he made it, not fun, but easy to understand and remember. (PCSOD8)

Barton's actions in this regard accord with the evidence on how to achieve organisational change. This literature often suggests that visible support among senior leaders can help to minimise resistance to change (Bass, 1990; Watkins, 2001), and that, in order to make change happen, leaders must communicate their vision to their organisation (Kotter, 2012). Kotter (2012) also notes that organisational change requires staff to be enabled to act upon the leadership's vision – in this case, all officers in Durham were trained in RJ and barriers to its

use were minimised. The police literature also suggests that cultural change can emerge *via* the organisational priorities signified by senior leaders (Jones and Levi, 1983). As argued in Section 2.5, leadership priorities can represent the force's 'axiomatic knowledge' (Chan, 1996: 113), providing a framework within which reform efforts can be interpreted, understood and acted upon. Similarly, a review of the empirical literature on Chief Constables found 'creating a shared vision' to be one of their key roles (Pearson-Goff and Herrington, 2014). In Gloucestershire, by comparison, the Chief Constable was only mentioned by two respondents who, in passing, stated that she was supportive of RJ.

In Durham, the new axiomatic knowledge seemed to state, broadly speaking, that officers should prioritise victims' needs and empower stakeholders to participate in problem-solving approaches. This is illustrated by Figure 5.1, taken from a slideshow which was used for Level 1 RJ training (doc. D2). The lesson plan for that session also referred to this diagram, stating:

Trainer to explain that in essence Durham Constabulary is moving towards a restorative organisation and refer back to the circular diagram to reinforce the learning. Effectively this means that the principles of restorative approaches should be considered in everything we now do. (doc. D5: 13)

The diagram explains the four main principles which the concept of a 'restorative organisation' was considered to encompass:



Figure 5.1 'A restorative organisation' (doc. D2)

Two aspects of this model require further analysis. Firstly, it includes problem-solving – defined as ‘working with those involved to find solutions and reduce demand’ – as one of the four core features of a restorative organisation. This corresponds with the model of restorative policing developed by Weitekamp, et al. (2003) who framed stakeholder involvement in problem-solving as its central tenet (see also Bazemore and Boba, 2010). However, Weitekamp et al. (2003) also emphasised the *proactive* co-development of strategies for crime prevention. By stating that one should work with ‘those involved’ to ‘find solutions’, Durham’s model seems to imply that problem-solving would remain primarily *reactive*. This reflects how attempts to introduce problem-oriented policing more broadly tend to neglect the proactive elements of its original formulation (Boba and Crank, 2008). As noted, the situational and cultural pressures on operational policing to focus on reactive activities, shapes the way that concepts like problem-solving and restorative policing are interpreted and applied in practice.

Secondly, the model cites ‘victim focus’ as another core feature of a restorative organisation, defining this as ‘based on the victim’s need for answers/closure’. This suggests that dialogue with the offender may be the best way to meet victims’ needs, and frames those needs (i.e. for ‘answers/closure’) in a manner which broadly accords with the evidence on victim satisfaction with

RJ, as outlined in Chapter 3. However, this emphasis also reflects the politicised notion of RJ as a service for victims, as was also described in Chapter 3. Later chapters show that this idea pervaded both areas, and that this emphasis may have contributed to attitudes and practices which led to offenders' needs and rights being neglected (see Chapters 7 and 8).

In contrast to Durham, no documents from Gloucestershire Constabulary spoke of creating a 'restorative organisation', nor did any respondents make comments along those lines. This reflected Gloucestershire's less ambitious strategy, in the sense that officers could only deliver RJ alongside community resolutions, non-operational staff were not trained in RJ, and much fewer officers were trained in conferencing than in Durham. At the strategic level, RJ seemed to be framed within Gloucestershire Constabulary exclusively as a policing 'tool', rather than as a normative framework with which to underpin cultural change. For example, in the foreword to their internal RJ guidelines, written by the Chief Constable, the first line states: 'We have a duty to keep people safe from harm and to prevent and detect crime. Restorative Justice enables us to realise those aims' (doc. G29: 2). This foreword – which was the only written indication of the Chief's vision for RJ seen by the researcher – contrasted markedly with the rhetoric in Durham. It framed RJ as a mechanism through which their existing objectives could be fulfilled, rather than as a philosophy which could help to reframe the force's understanding of its objectives.

In fact, culture change was only discussed by policymakers/managers in Gloucestershire Constabulary with reference to the existing culture being a barrier to a more victim-focused approach. As one stated:

The police are very good at knowing, in inverted commas, what's right for the victim and then imposing that knowledge on the victim. It's what we've always done. I think it's a huge change of culture to actually ask victims what they want. (PPMMG6)

Similarly, when asked about the challenges to RJ implementation, another respondent stated:

I think there are some cultural issues because we, as a service, can be considered part of this big criminal justice machine. So, you become

institutionalised, process driven, and not looking at the humanity involved and the experience of the victim or perpetrator. (PPMMG5)

In contrast, policymakers/managers in Durham spoke of an active effort to integrate RJ into the organisational culture. One stated: 'To really, really bed it in, it's a bit like lifting a carpet, you've got to have it as a foundation, which I think the Chief is aspiring to do' (PPMMD5). Another stated of RJ:

We try and get it engrained in the culture. [...] It's not a case of just implementing, it's a constant implementation which goes on and on and on. So, you've gotta be tenacious, it never goes away. You just have to keep plugging away at it. (PPMMD1)

The different priorities signified by these data further reflect the much higher aspiration for RJ in Durham, relative to the more modest approach found in Gloucestershire. In Gloucestershire, RJ was essentially framed as a marginal improvement on existing methods; in Durham, it was hoped that RJ could underpin a much broader organisational change.

Questions remain, however, as to how likely Durham's approach was to result in cultural change. Mastrofski (2004) believed that police cultures and working practices can change if a leader motivates their officers to act in accordance with a set of organisational values, rather than according to the self-interest which motivates employees under performance cultures. However, the 'top-down' imposition of RJ may inspire resistance or disengagement among officers who are disinclined towards the concept, who did not feel included in the change process, or who otherwise consider the leadership or strategy to be illegitimate (Braithwaite, 2009; Clamp and Paterson, 2013). Moreover, a force's leadership can only have so much impact on practices, as its strategies do not affect the setting in which policework takes place (Cockcroft, 2014). To the extent that the police's ways of working emerge from the social context in which operational policing takes place (i.e. its 'field'), changes to strategies may have a limited impact on practices (Chan, 1996). Indeed, the 'field' of policing may create and inform cultures and agendas among frontline officers, which are not shared by senior leaders (Paoline, 2003; Marks, 2007). These factors may result in a 'loose coupling' of strategies, policies

and practices (Maguire and Katz, 2002: 504) – the relationship between which can only be determined through the empirical analysis of all three.

## 5.8 Concluding comments

This chapter explored the contours and detail of each force's RJ strategies. In both areas, the statistics on the police's training and use of RJ, the prominence afforded RJ strategies, and the way in which RJ had been integrated into police disposals (and, seemingly, frontline officers' peacekeeping activities), all suggest that RJ had been largely mainstreamed. This is not to say that strategies, policies and practices necessarily adhered to RJ principles and processes, as defined by researchers. Rather, it is to assert that, in one form or another, the concept and practice of RJ was well-established and embedded in each force.

This is significant if, as Oliver argued in relation to community policing, 'when the policy becomes normed, it is considered to be an institutionalised policy' (2000: 374). The data presented so far suggest that, as RJ was integrated into force strategies, it was interpreted and framed in ways which accorded with existing personal and organisational priorities. In both areas, strategies reflected national pressures pertaining to managing demand and improving the service provided for victims. In Durham, a more holistic understanding of RJ and a willingness to innovate among policymakers and managers, seemed to be linked to the greater emphasis on dialogic approaches and to the interpretation of RJ as a normative framework with which to underpin cultural change. Yet, even this strategic model largely emphasised demand management, victim satisfaction and reactive policing strategies. These findings build on arguments made in the first three chapters, insofar as each force's RJ strategies reflected some of the goals, priorities and rationales which characterised the institutional context in which they were set and implemented. The extent of any relationship between the institutional context and the interpretation and use of RJ in practice, can be further examined by analysing force policies and their possible implications for police-led RJ practices.

## **Chapter 6 – Structuring operational discretion**

### **6.1 Introduction**

Both forces implemented a series of policies and other mechanisms to enact their RJ strategies and structure their officers' discretion with respect to offering and delivering RJ. This included rules on when and how RJ could be offered, authorisation and monitoring processes, and scripts and other guidance and support which aimed to encourage or prevent certain behaviours and approaches to facilitation. These policies seemed to be mostly enabling, flexible and limited in their enforceability, especially given the discretion afforded police officers by the low visibility of RJ delivery. Still, the data suggest that some of their features may have shaped how the police interpreted, framed and used RJ. This chapter discusses the ways and the extent to which operational police discretion was structured by organisational policies, establishing in particular the implications of integrating RJ primarily into the community resolution disposal.

The first section analyses how RJ was defined in each force's guidelines. Subsequently, the chapter considers force policies in relation to the process by which RJ was offered and delivered. The second section examines how the decision to offer RJ was regulated. The third and fourth sections ask how the forces attempted to structure the processes by which RJ was offered and delivered, before the final section considers the guidance in relation to outcome agreements. Throughout, the chapter seeks to identify the likely implications of these policies for participants, with reference to the empirical police literature.

### **6.2 Defining restorative justice in policy**

Both forces' RJ guidelines began by defining the term (docs. D8; G29). Differences therein were largely consistent with each force's strategies. For example, Durham's guidance portrayed RJ as involving either dialogue between the victim and the offender or, at least, their active involvement in the process:

An RA intervention is any process in which the victim and the offender actively participate together in the resolution of matters arising from harm. (doc. D8: 1)

This definition is perhaps not explicitly dialogic, insofar as the term ‘actively participate’ does not expressly require the parties to communicate (although it is immediately followed by the word ‘together’). Directly underneath this definition, however, the guidance provided the explicitly dialogic definition of RJ used by the MoJ (see Section 3.3). Below this, it also stated:

The purpose of the RA is not to discuss ‘WHAT’ happened. The purpose and focus of the RA is to discuss HOW IT MAKES PEOPLE FEEL – the effect on them, their families and the broader community. (doc. D8: 1, emphasis in original)

These data suggest that Durham adopted an approach which largely resembled what Chapter 1 described as ‘purist’, insofar as RJ was characterised primarily by stakeholder dialogue. In contrast, practitioner guidance in Gloucestershire portrayed RJ in a much broader way, stating:

Restorative Justice (RJ) provides for a victim focused resolution to a crime or non-crime incident, holding offenders directly accountable to their victims. (doc. G29: 2)

This, like ACPO’s definition (2011), incorporates notions of ‘direct accountability’ and ‘victim-focus’ in lieu of detailing the precise nature of the RJ process. As described in Chapter 3, the significance of this approach lies in its political implications and in its breadth. With respect to the former, this definition cultivates the narrative that RJ is for victims; Durham’s is more balanced in its approach towards the participants. With respect to the latter, Gloucestershire’s approach is more flexible and could encompass a wider variety of practices which do not require the parties to communicate, or otherwise to participate actively. Relative to the definition used in Durham, Gloucestershire’s emphasis on RJ being ‘victim focused’ is somewhat closer to the ‘maximalist’ characterisation of RJ as the repairing of harm, although it does not state this explicitly.

These differences are consistent with what Chapter 5 showed to be the differing emphasis which each force's strategy and training placed on dialogic approaches. Although Gloucestershire's guidance later described RJ as 'face to face justice' (doc. G29: 2), this was not explained in a manner which clearly indicated that RJ required stakeholder dialogue. As with ACPO's guidelines, their definition exemplified the flexibility with which the police's policies are often worded (McBarnet, 1981; McConville, et al., 1991) and the tendency for justice agencies to define RJ non-dialogically to encompass other practices which they wish to frame as 'restorative' for other reasons (Warner and Gawlik, 2003; Doolin, 2007). As Daly (2016) noted, however, the risk is that this dilutes and muddies the concept, making it harder to operationalise for empirical study, and enabling practitioners to interpret it more or less however they want.

These definitions also conformed with the understandings of RJ expressed by policymakers/managers, all of whom were asked what RJ meant to them. The following quotation epitomised responses to this question from Durham:

My understanding of RJ is that it gives empowerment to the victim to outline how the particular incident has impacted on their lives, and to share that experience with the person who is the harmer, who committed the incident or offence. Also, for them to get an understanding of how it has impacted on the victim and how they can share the emotions and the actual impact in terms of the life changing experience that some people have. Then, for the perpetrator or harmer to have an opportunity to make amends in relation to the behaviour and to address and learn from it. (PPMMD4)

This emphasis on communication between victims and offenders contrasted with equivalent respondents from Gloucestershire, who tended to describe RJ in more pragmatic, flexible terms:

I think there's a couple of ways of looking at it. I suppose the more purist view, if you like, is bringing two people or groups of people together to have a conversation about repairing harm and some sort of reparation. That works really well. But I think we also have to take a pragmatic and realistic view that sometimes it isn't possible to bring people together. We have to look at how we can achieve the repairing of the harm in a victim-focused, victim-centred

way, but in a more pragmatic, realistic way that can be used by operational police. (PPMMG6)

Again, respondents from both forces expressed both views. Some in Durham alluded to the need for pragmatic approaches, and some in Gloucestershire, like the respondent above, also made reference to dialogic approaches. However, policymakers/managers in Durham typically emphasised dialogue to a much greater extent than their counterparts in Gloucestershire, mirroring the forces' strategies and written definitions of RJ.

This congruence between definitions, strategies and the expressed understandings and priorities of policymakers/managers, seems to provide a relatively clear indication as to what it was hoped that RJ might look like in practice in each force. In Durham, it was anticipated that RJ would involve either stakeholder dialogue or some other form of active participation in the process. Policymakers/managers in Gloucestershire, meanwhile, took a looser view of RJ, in which its purpose was largely to obtain something for the victim. However, written framings of this kind often represent ideals, rather than necessarily what is genuinely expected to take place in practice (Bridgman and Davis, 2004). Whether either force's policies structured police decision-making sufficiently to enact these visions, remains to be seen.

### **6.3 Structuring the decision to offer restorative justice**

Each force sought to structure their officers' decision-making with respect to when to offer RJ. This section outlines officers' discretion to determine which cases were eligible and suitable. It also considers the implications of these policies and their enforceability, given the low visibility of the offering process.

Firstly, neither force allowed its officers to use RJ unless the suspect admitted responsibility. Durham's guidance stated:

In the case of a crime there must be a clear and reliable admission of guilt. [...] In the case of a non-crime incident the offender fully accepts responsibility for the offending behaviour. (doc. D8: 2)

Gloucestershire's guidance similarly stated that 'the offender must fully admit the offence' (doc. G29: 5) for RJ to be used, though it did not specify whether this also applied to non-crime incidents. These provisions reflect the fact that police disposals cannot legally be imposed on suspects who deny guilt (Padfield, et al., 2012). This is also a common form of risk management within RJ, based on the assumption that secondary victimisation is less likely if the accused party admits responsibility (Restorative Justice Council, 2011).

Yet, the existing research suggests that these rules would not necessarily have prevented confessions from being extracted, nor disposals from being imposed on those who did not confess. The low visibility of the offering process meant that abuses would be both difficult to prevent or to identify retrospectively. Frontline respondents from both forces reported that they usually offered RJ to suspects on the street, in shops or in their homes – often without anybody else present. Consequently, suspects would not have had access to a lawyer, and the visibility of the process may have been as low or lower than with other OOCs. Studies have found that the police sometimes coerce false confessions for cautions (Sanders, et al., 2010), make illegal threats about the withdrawal of diversionary options (McConville and Hodgson, 1993) and caution juvenile suspects based on confessions which did not occur (Evans, 1993). Officers' incentives and ability to engage in these kinds of abuses might have been particularly acute in the many cases where RJ was being offered as a diversion from a lengthier or more resource-intensive process.

Secondly, the forces provided slightly different evidential tests for the use of RJ (which, it must be remembered, was the only community resolution disposal in either area). Durham's guidance stated that an admission of guilt to an offence had to be 'supported by corroborative evidence, secured under the protection of PACE' (doc. D8: 2). This actually exceeds the evidential requirements for a charge which, for adult suspects without mental vulnerabilities, can occur based on a confession alone (Sanders, et al, 2010). Gloucestershire's guidance stated that the officer 'must ensure that the points to prove for the offence are covered and that the Full Code Test is met' (doc. G29: 5-6). This cites the legal criteria for a charge (i.e. the Full Code Test) directly, in that there must be a 'realistic prospect of conviction' and prosecution must be 'in the public interest' (Crown

Prosecution Service, 2013: 6-7). It was not clear if Durham intentionally did not require prosecution to be in the public interest in order for their officers to use RJ.

Again, the low visibility of the decision-making process may have enabled deviations from these rules. Although Durham's guidance required suspects to be afforded the protections of PACE, the police can extract information from suspects before or without clarifying these rights (Sanders, et al., 2010). McConville (1993) found that the police often cease gathering evidence upon a suspect's confession and proceed on that basis alone, while Hoyle, et al. (2002) observed that restorative cautions were often delivered in cases where there probably was not enough evidence to prosecute. With respect to Penalty Notices for Disorder (which, like street RJ, are usually delivered on the street), a review discovered 'a lack of consistency in respect of evidential requirements' (Krainin and Carroll, 2006: 8). Moreover, while Gloucestershire's Level 1 RJ recording form (docs. G10, 11) required officers to provide a written summary of evidence, the police can construct records so that practices which did not observe policy requirements, appeared to do so (McConville, et al., 1991). All of this suggests that adherence to rules of this kind may vary as officers decide how to exercise their low visibility discretion. This permits officers to discriminate and to breach or withhold suspects' rights to achieve police-defined goals (McConville, et al., 1991; Choong, 1998; Bowling and Phillips, 2007).

The remaining eligibility criteria at both forces were outlined in Chapter 5. In Durham, the police were encouraged to consider offering RJ in response to all offence types – irrespective of whether or not charges were brought – although they had to request permission from thematic managers to utilise it with certain serious offences. Some policymakers/managers in Durham justified this level of operational discretion on the basis that they wanted to enable their officers to take risks and respond to victims' needs. One stated:

This has to be centred around the victim, nothing else really matters. It doesn't matter what the situation is. [...] I think our policies are loose quite rightly, so that it gives our officers that confidence to really go out on a limb in the interests of the victim. (PPMMD2)

In Gloucestershire, officers' discretion to offer RJ was theoretically unrestricted, as any case could be referred to Restorative Gloucestershire. As noted, however,

few officers were aware of this possibility and referrals were almost non-existent. This illustrates how the discretion to offer RJ was structured as much by officers' knowledge of policy, as by its detail. For example, one frontline officer described a case in which they thought RJ would be useful, but which was too serious to receive a community resolution, the only disposal alongside which the police in Gloucestershire could deliver RJ themselves. When asked if they would offer RJ in addition to a charge, they stated:

There's no facility at all for me to do that. Who would I suggest that to, the magistrates? The Crown Court? The Chief Constable? The head of the CPS [Crown Prosecution Service]? It ain't gonna happen. (POG4)

Officers in Gloucestershire could only facilitate RJ if the offence was below a particular level of seriousness and if the offender satisfied criteria with respect to their offending history. Under certain circumstances (already outlined in Section 5.3), officers could seek authorisation from a Sergeant or Inspector to use RJ in cases which did not satisfy these criteria. These restrictions were linked to the fact that RJ could only be used with community resolutions – the lowest outcome within the police disposals framework. Previously, officers had been perceived to misuse community resolutions by using them with repeat offenders:

What happened was that [officers] think 'it's easy, have another one'. It may be what that victim wants, they've nicked a bottle of vodka or whatever and that's the easy option for everyone at that time. But what about the next victim, or the one after that? You have to give some consideration to that I think, because we are being victim-focused with the victim at the time, but we also have to have an eye on what's coming down the line. So there has to be a framework for officers to apply it, otherwise everyone would just get an RJ [i.e. a community resolution]. (PPMMG6)

This illustrates one of the tensions created by the integration of RJ into community resolutions. All OOCs already require police officers to balance the participants' private interests in avoiding court and the broader public interest in prosecuting repeat offenders (Bui, 2015). In Durham and Gloucestershire, however, this was further complicated because community resolutions technically could not be used

without the victim's consent. In both forces, this meant that an offender whose actions warranted an informal disposal was reliant on their victim to consent to this outcome. In Gloucestershire, meanwhile, potentially suitable victims might not have been able to access RJ if their offender did not qualify for an informal disposal. In this sense, the operation of restorative policing was shaped by the manner of its integration into the disposals framework.

The data also suggest that there was some confusion in relation to eligibility frameworks, and that this may have acted as a further barrier to the use of RJ. In Durham, all interviewees seemingly understood that they could consider using RJ in response to any situation. One typical respondent stated:

Obviously, every officer is trained in it now in Durham, so they can utilise that as a disposal for adults and juveniles. It doesn't matter how many convictions they've got, if it's appropriate, we can use it. (POD2)

Though no respondents from Durham reported being uncertain in relation to force policy, an internal report from October 2014 stated that mixed messages during training resulted in 'much confusion as to when it is appropriate to use RA' (doc. D11: 4). The role of police trainers in potentially reinterpreting or misinterpreting force policies within training is well documented (Conti, 2011; Constable and Smith, 2015). In Durham, this could have resulted, firstly, in some officers not realising the extent of their discretion in relation to instigating RJ and, secondly, in victims and offenders being afforded unequal access to the service.

In Gloucestershire, where the eligibility framework was substantially more complicated than in Durham, several police respondents spoke of uncertainty with respect to this policy, including one who asked:

At what point can we go down this route of restorative justice because of the pre-convictions our harmer has? That's still quite blurred and was blurred at the time [of the training]. You know, at what point is he completely excluded from an RJ which is related to the area of acquisitive crime? (PCNPTG6)

It may be that the training this officer received had not been especially clear, or that the ambiguity within Gloucestershire's framework had created confusion for those who expected there to be clearer rules. Indeed, one policymaker/manager

reported that a colleague had observed a discrepancy between what a trainer was telling officers and the force's policies:

The training department, or the particular trainer [was] saying somebody would be eligible for RJ if they had previous offending, when it was clearly stated that they shouldn't be in the document. (PPMMG4)

In fact, Gloucestershire's guidance actually stated that offenders with convictions 'should not normally' be offered RJ, but that 'in exceptional cases' this could be authorised by an Inspector (doc. G29: 5). This suggests that neither quoted respondent had fully grasped the nuances of force policy on this issue. Again, this could have had consequences for access to RJ.

Similarly, managers' involvement in authorising the use of RJ may have had implications for the consistency with which it was made available. For example, the need to obtain managerial approval might have deterred officers from using RJ by adding an additional stage to the process (Shapland, et al., 2017). That being said, these rules might have been largely 'presentational' and provided little more than the illusion of monitoring (Smith and Gray, 1985: 441-2). Consistent with the police management literature discussed in Chapter 2 (Brown, 1988; Shearing and Powditch, 1992), little evidence was found to suggest that the decision to offer RJ was closely supervised by line managers. Indeed, only one officer from Gloucestershire (and none from Durham) reported ever having been denied authorisation to use RJ, while some from Gloucestershire suggested that cases were not always reviewed closely before being authorised:

It's a little bit embarrassing sometimes, you have to ring up the Sarge and say: 'Hello Sarge, it's [name], I've got a scenario'. 'It's alright, just get on with it, mate.' 'Yeah, but I've gotta ask.' (POG4)

This authorisation process might also have resulted in the inconsistent use of RJ if managers differed in their views as to when RJ was and was not appropriate. One policymaker/manager stated: 'You can have five shift Sergeants who all have a different opinion on where RJ is appropriate' (PPMMG4). Similarly, one officer stated with respect to the authorisation process:

It depends on the supervisor. Some are open to change, others might be a year off retirement and can't get their head around [RJ], they think it's a soft option. [...] Sometimes, you'll go to a Sergeant or an Inspector, and they'll say: 'Yeah, RJ is proportionate. Though they've had punishments in the past, I'm not gonna prosecute for a 50p Mars bar because it isn't proportionate, it's not in the public interest, it costs the taxpayer to take him to court. I'll support you.' But you go through another one, they're old school, and they might say: 'No, throw the book at them. Although it's a 50p Mars bar, theft is theft. They've had opportunities in the past, they've gone to court before, so we're not going backwards, we'll take him to court.' That's life, that's just the type of job it is. There's a hierarchical system. (POG2)

This illustrates how, under Gloucestershire's policies, restorative policing could also be shaped by managerial discretion. Different Sergeants' decisions might have depended on their working credos, attitudes and other factors, possibly affecting citizens' access to RJ and to informal disposals.

Of course, the potential for inconsistent decision-making also existed in the many cases for which authorisation was not required, and in which officers were empowered to determine whether to offer RJ alongside a community resolution (or, in Durham, another outcome). In these cases, officers were free to make these decisions in accordance with the police's cultural traits and working rules, and their own personal attitudes and values. This may have contributed to inconsistencies regarding when RJ was offered. One officer described how victims might be seen and treated differently by different officers:

Discretion comes into it, because I get some people ring me up and say: 'I'm a victim of crime, every time I go on Facebook, someone insults me.' I say: 'Well, don't go on Facebook then!' [...] So, some victims are not really victims [laughter] and the organisation would kill me for saying that, but all the time we're sorting the chaff from the wheat. That's open to all sorts of interpretations because what one officer considers to be a substantive crime, another might not. [...] You can't legislate for that. It comes down to us being human beings. (PCNPTG6)

As Chapters 2 and 3 suggested, the discretion to treat victims and offenders differently and in accordance with the police's working rules and subjective judgements, may have had implications for fairness with respect to access to RJ and informal disposals. Victims may have been more or less likely to be offered RJ depending on the nature of their complaint, or the social group to which the officer perceived them to belong (McConville, et al., 1991). As the next chapter suggests, suspects might have been subjected to the 'attitude test' (Warburton, et al., 2005: 122), under which perceived disrespect towards the police might mean that officers are more likely to escalate cases (see also Worden, et al., 1996; Carrington and Schulenberg, 2003). Officers' discretion may also have permitted them to use informal disposals or non-dialogic processes in cases where a more intensive or formal intervention might have been more suitable. Indeed, both forces were castigated in the media for using community resolutions in serious cases: an attack on an elderly man in Gloucestershire, which left him with broken bones (Dean, 2015), and an incident of domestic violence in Durham, in which the offender later murdered the victim (Beckford and Taylor, 2014). Nonetheless, low visibility discretion meant that officers could, for the most part, determine how and when to use different forms of RJ.

Finally, both forces attempted to structure the decision to offer RJ through record monitoring and feedback. In Durham, the precise nature of any role played by the force's performance management team was not stated within the data. However, officers were required to justify, on every crime record, the decision to offer RJ or not. One policymaker/manager explained that this was introduced in relation to the aim of cultural change:

You have to provide a rationale as to the 'why not?' as well as the 'why?', which is really important, because you're trying to land a whole philosophy about where we're going as an organisation. (PPMMD2)

This reasoning is supported by evidence that recording processes can encourage practitioners to reflect on why they make certain decisions (Rosen, et al., 1995; McIntosh, et al., 2004). Davis (1996) similarly argued that police discretion could be steered by encouraging additional reflection on why certain decisions are or should be made. To encourage this kind of reflection, DNR's volunteer facilitators were required to complete personal development portfolios (doc. D16).

In Durham, officers' written rationales were monitored by the RJ Manager who, quarterly, reviewed a random sample of 150 records, including some from each police area. According to one policymaker/manager, the purpose of this exercise was partially to assess officers' reasoning behind the use of RJ:

Officers [need to] understand the rationale as to why they have done an RA and to document that in a simple, straightforward fashion so we can look at it, and we can pull off the performance stats around the teams and the outliers, the ones that are doing really well and those that aren't. (PPMMD1)

The guidelines also state that the requirement to record the rationale is 'not meant to be an onerous bureaucracy', but 'should' include information about whether 'the victim is fearful of the perpetrator', the 'willingness of the victim to engage', a 'summary of research' and the 'determination of the suitability for the RA' (doc. D8: 3). This further indicates that the aim was to encourage officers to reflect on why RJ might or might not be suitable in different cases.

The reasoning behind the retrospective monitoring of this decision seemed to differ in Gloucestershire, data from which implied that the priority was to ensure that eligibility rules had been adhered to. All electronic crime records were reviewed by the Incident Assessment Unit (IAU). Alongside the RJ Manager, who reviewed all handwritten RJ records, the IAU monitored adherence to eligibility rules. One policymaker/manager described this process:

[The IAU] would say: 'Don't forget that needs an Inspector's authority', or: 'That person has five previous, you shouldn't be doing that'. Or, in some cases: 'The RJ Manager needs to intervene'. That's where he has a direct intervention with an officer. [...] That experience is used to educate the officer so that they don't make the same mistakes again' (PPMMG6)

The only police facilitator who discussed this process stated:

The form gets sent off, and you only tend to know about it if it's not been correct, when you get an email by somebody that says it's not appropriate to use RJ here. [...] So, you might have an RJ outcome, and gone back and gone: 'Oh no, they've already had two of these before'. (POG5)

Gloucestershire did not require the police to record their rationale for using RJ on the Level 1 recording form (docs. G10, 11). The guidance (doc. G29) stated that a decision rationale was required to refer cases for conferencing, although it was not clear from the data either what this required, or whether or by whom this was reviewed or for what purpose. It seems that Gloucestershire's stricter and more numerous rules were accompanied by a more quantitative monitoring process, informed by the desire to ensure compliance with rules. In Durham, in contrast, the decision to use RJ (or not) seemed to be recorded and monitored in a more qualitative manner. This aligns with broader force strategies: by training many of its officers in conferencing and all its staff in RJ principles, Durham placed more emphasis than Gloucestershire on developing a deep understanding of RJ across the force. This reflects what McLeod (2003: 364) described as a 'quality approach to public administration' which focuses on 'means and principles over rules and regulations'. She believed that this approach would characterise police forces during the transition from bureaucratic to restorative organisations.

Questions remain regarding the extent to which these monitoring processes structured officers' discretion in practice. In Gloucestershire, for example, officers may have received feedback when they used RJ in cases of repeat offending, in which case the crime would not be recorded as having been detected. Whether this provided a strong disincentive to breach the policies, however, is unclear. As one policymaker/manager stated: 'I wouldn't say it's necessarily acted upon because the same things come up time and time again' (PPMMG4). Another noted that an officer could be banned from using RJ, if they breached the rules too often. This might represent a 'big stick sanction' (McBarnet, 2001: 17) rather than just 'words of advice', although it was reported that this had never happened. In Durham, the consequences of poor performance were described as feedback to supervisors and to officers; no specific sanctions were discussed.

Some of Gloucestershire's eligibility rules may have been especially difficult to enforce. Detecting when RJ was used with someone with a criminal history is one thing; detecting its use with an offence which was too serious to qualify would be much more difficult, as the police can often select which from several offences to record (Westmarland, et al., 2017). Case records, including offence type, can be 'constructed' to comply with bureaucratic and legal requirements, rather than necessarily to reflect what happened (Ericson, 1981; McConville, et al., 1991). The police can also disguise their deviations from procedural requirements in

relation to arrest (Waddington, 1999b) and stop and search (Delsol and Shiner, 2006; Miller, 2010; Murray, 2014; Bridges, 2015), which are equally invisible processes. Receiving feedback on one's practice might simply incentivise an officer to manipulate future records to avoid being caught, rather than to change their practice. As Christie noted, policing 'leaves little trace on paper, if the police so wish [making] control from above close to impossible' (1982: 86). Ultimately, the low visibility of the decision to offer RJ meant that it was mostly discretionary – as was the process by which the offer of RJ was made.

## 6.4 Structuring the offering process

Each force attempted to structure the process by which the offer of RJ was extended, once the decision had been made to do so. However, the policies which were introduced for this purpose were mostly flexible and difficult to enforce, given the lack of supervision and the discretion which accompanied the low visibility of the process. This section analyses the rules relating to coercing participation and informing suspects about the potential for disclosure, and the (limited) guidance in relation to which forms of RJ should be offered.

Both forces' guidelines outlined specific rules on obtaining participant consent. Durham's stated:

Participation in RA must always be voluntary for all parties and in particular, the victim or harmed. The victim or harmed person must never be coerced or be involved in this process against their wishes. (doc. D8: 2)

Gloucestershire's guidance similarly required officers to ensure that victims 'should never be (or be made to feel) coerced into agreeing to participate', while the offender 'must not be coerced or forced into taking part' (doc. G29: 4-5). Although both documents seem to provide an unequivocal right to voluntariness for both parties, they both emphasised the victim above the offender. Alongside the broader rhetoric around being victim-focused and RJ being for victims, these provisions were open to being interpreted as indicating that voluntariness was more important for victims than it was for offenders.

Nonetheless, data from both areas implied that officers had used coercive tactics or pressured victims into participating in RJ. One policymaker/manager from Gloucestershire said of case records that they had seen:

In the way that a crime resolution is written up, the underlying tone is that we as police officers have gone out and said: 'We're going to do this'. (PPMMG4)

In Durham, one member of staff from the PCC's office said that the police had been found to coerce victims in situations of shoplifting:

There are examples where it has been done really badly, where store managers have seen someone coming in and hammering the place, and they've just been told: 'We're going to do an RA'. (PCCD2)

A small number of police facilitators from both forces also indicated that they had coerced or imposed RJ on one or both participants. For example, one implied that they had framed RJ so as not to give the offender any choice, stating that they would 'see the harmer, get an admission, and tell them that's how we're going to deal with it' (PCNPTD1). This quotation also suggests that, in a further violation of force policy, corroborating evidence might not have been collected. Another officer claimed to be aware of two cases where victims had been coerced by other officers. In one, the respondent felt that the victim had, in their view, been 'railroaded' into accepting a letter of apology (PCSOG2). A third respondent implied that they had taken several young children to apologise to an elderly person without first obtaining the victim's consent:

We knocked on the door – you can imagine her horror seeing these three kids standing there – and I said: 'Hang on, it's ok, they've got something they want to say to you'. All three boys apologised to her immediately. (PCSOD6)

As noted in Chapter 3, these approaches might reduce the potential effectiveness of RJ if the process was seen as imposed (Tyler, 2006, 2006b). Furthermore, to the extent that voluntariness acts as a safeguard – both to prevent victim

(re)traumatisation, and to prevent OOCs being imposed on suspects who are not legally guilty – these findings could be problematic. For example, in the case of the elderly woman, the officer seemingly had not spoken to the victim before bringing them face-to-face with the offenders. This meant that the officer may not have confirmed whether this was a one-off incident or ongoing problem, explored the possibility that the offenders were known to the victim, or assessed the victim's emotional state. Though the incident in question was, in theory, relatively minor (objects being thrown against a house without causing damage), some elderly or vulnerable victims could suffer fear or trauma disproportionate to the offence (Davis and Friedman, 1985). This might mean that they are not suitable for RJ – or, at least, that sensitive preparation would be needed in advance (Chapman, 2012). This officer's strategy, therefore, was both risky and contrary to the principle of voluntariness. That some such cases may not have involved direct contact between the parties may reduce the risk of victim retraumatisation, albeit while still breaching their right to decline to participate.

That this process was not supervised, meant that the extent to which RJ was presented to prospective participants as voluntary largely depended on how officers decided to exercise their discretion when offering it. The discretionary nature of this decision meant that the offering process may have been influenced by police culture, working rules, and organisational pressures and priorities. For example, that all community resolutions had to be delivered as RJ might have incentivised the officer to put pressure on the parties to agree, if officers sought to process cases quickly. As the next chapter shows, there were cases in which officers wanted to use an informal resolution, but the agreement of one or both parties was not forthcoming. The use of pressure in these cases would be in line with the implicit or explicit wielding of authority to maximise efficiency when resolving low-level disputes and offences (Reiner, 2010). Additionally, the officer who stated that 'some victims are not really victims' (PCNPTG6) might have been inclined to put pressure on those who insisted on making a formal complaint, but whose cases the officer felt should not be escalated further. This would be consistent with the treatment of 'rubbish' victims whose complaints are not seen as important by the police (Reiner, 2010). Another officer stated:

A lot of the time, where you're dealing with a reasonable person as the victim, with balanced and reasonable firmness of mind or character, what they want

is not to see someone criminalised at the level of some of the offences we are dealing with. (PCNPTG5)

While these quotations might not directly signify a willingness to impose RJ if victims 'unreasonably' declined informal resolution, they indicated that these officers might have gone into some situations with the desire to resolve them informally. Thus, a tension emerged as officers could not use informal disposals without victims' consent. This may have created an incentive for them to put pressure on citizens to participate in RJ in cases which officers wanted to resolve informally, but where victims were unwilling to do so.

As explained in Chapter 3, the police may also have unintentionally put pressure on people to participate. As one policymaker/manager noted:

The police just saying, 'Will you do something?' is actually quite powerful because we've got that authority. [...] Most people do whatever you ask them to do. [...] I think sometimes officers forget that they go over that line of persuasion. (PPMMG1)

Police officers might believe that they are presenting something as optional, even if their position of authority leads others to interpret their suggestions or requests as compulsory. Yet, upon being asked about communicating the voluntary nature of RJ, only one officer reported having reflected on this possibility:

Always in your mind, you think, 'Am I making him do this?'. [...] That's why I think you're always trying to stress that it's their option, but I guess you can't know what they're thinking. If they feel pressured, then there's no way of knowing. (PCSOD7)

The other 31 police facilitators interviewed stated or implied the belief that it was easy for them to communicate the voluntary nature of the process to prospective participants. One simply responded to a question about voluntariness by saying: 'Obviously, both people have got to agree to it' (PCSOD3). Another said:

I think that is pretty straightforward, it's always made clear that it's a voluntary process. Obviously, if one party is unwilling to do it, then it doesn't go ahead. (PCSOD4)

That some officers equated voluntary participation with agreeing to participate is significant, as the former has a higher threshold than the latter (see Chapter 3). This suggests that these officers did not realise the potential for unintentional pressure, which may also mean that they did not take steps to avoid it.

In addition, both forces compelled officers to inform suspects about the disclosure of community resolutions, as part of the offering process. This was not written in Durham's guidelines which, unlike Gloucestershire's, related to the use of RJ with outcomes other than the community resolution. However, this was mentioned in Durham's Level 1 training curriculum (doc. D4) and was also written into the police's Level 1 facilitation script. The latter stated that officers had to 'Advise the harmer that this is NOT a criminal record, BUT will show on an enhanced CRB [Criminal Records Bureau] check' (doc. D32).

Gloucestershire's RJ guidance, which related exclusively to community resolutions, emphasised the need to explain their disclosure to the offender, stating: 'Offenders must be informed that RJ disposals may be disclosed if they are subject to an enhanced DBS [Disclosure and Barring Service] check' (doc. G29: 5). In addition, their Level 1 recording form included paragraphs which explained the potential for disclosure, directly underneath which offenders were required to sign (see Figure 6.1):

<p><b>Caution</b></p> <p>You have been identified as being responsible for this offence / the harm caused. The harmed party has indicated that they are willing to have this matter dealt with informally and provide you an opportunity to make recompense for your actions. This is voluntary and if you agree and complete the process you will not be subject to any further Police investigation. Failure to complete the agreed actions may result in a formal investigation and you being liable to prosecution. This declaration may then be presented as part of the case against you:</p> <p><b>Response:</b></p> <p>I accept responsibility for my involvement in this offence / the harm caused and I agree to participate in the agreed outcome outline below. I am aware that this will not constitute a criminal conviction but that the information may be disclosed in an enhanced Disclosure and Baring Service (DBS) check.</p>
--

*Figure 6.1: Offender statement, Level 1 RJ form (doc. G10)*

Still, it cannot be assumed that either force's approach necessarily resulted in suspects understanding the potential for disclosure. As Section 2.7 explained in relation to other policies, the low visibility of such a process meant that the police could have neglected to explain this, or explained it in a manner which the suspect did not understand. Suspects could not be compelled to read the above paragraphs before signing the form, much less to comprehend its contents – nor did any officers indicate that they would check for comprehension.

With community resolutions, this problem is exacerbated by the uncertainty surrounding their disclosure. Their recording as police information means that they are only disclosed on an enhanced criminal records check and, contrary to what was stated on Durham's Level 1 script, only if 'the chief officer of police considers the information to be both current and relevant to the application' (Ministry of Justice and Youth Justice Board, 2013: 21). Their disclosability in future court appearances is also uncertain, although the Sentencing Council website (2017) ambiguously states that if one is 'recent and relevant to the offence it may be considered to be an aggravating factor'. This means that the police would not have been able to articulate precisely the likelihood of disclosure, despite the possible implications for future employment, study or travel (Pager, 2003; Irving, 2014; Ispa-Landa and Loeffler, 2016). That there is no specific process for rescinding a community resolution (Unlock Information Hub, 2017) makes it even more important that the decision to accept one is made freely and is well informed. Yet, as the next chapter shows, suspects were described as accepting disposals quickly and without legal advice, meaning that they may have lacked the information or time to make an informed decision.

Prospective participants might also have lacked information about their options, as officers had discretion in deciding what form(s) of RJ to offer. Neither force's policies required their officers to offer a referral to the RJ Hub; the decision to do so was entirely discretionary. In fact, neither compelled officers to offer conferencing in any situation. Durham's guidelines did not mention this at all, although their Level 2 training syllabus stated that conferencing should be used with 'more complex crime and ASB where a Level 1 RA would be superficial and/or unsuitable' (doc. D6: 2). Gloucestershire's practitioner guidance stated that 'Level 1 should be used for instant or "on street" disposals where officers use restorative skills to resolve issues', while Level 2 should be used:

Where the issue cannot be resolved immediately using Level 1; to tackle more serious or persistent problems; [and] to seek long term solutions or to address re-offending habits. (doc. G29: 3)

Again, the subjectivity of these terms (e.g. 'unsuitable', 'serious' and 'persistent'), alongside the low visibility and non-supervision of the offering process, meant that the decision of what to offer was highly discretionary in practice. The next chapter suggests that organisational pressures to be efficient (particularly in certain roles) may have influenced this decision, potentially deterring officers from offering more time-intensive processes. Even in cases where officers provided all the available options, they might not have explained each process in sufficient detail; previous studies have found that RJ often takes place without it having been explained to the prospective participants (Gavrielides, 2007).

Durham had attempted to standardise the offering process by providing its officers with leaflets for victims. This explained RJ on its front cover using a definition akin to the MoJ's dialogic definition. The inside of the leaflet, meanwhile, stated that the victim could ask for a face-to-face meeting, mediation, electronic communication, reparation or a written apology (see Figure 6.2):

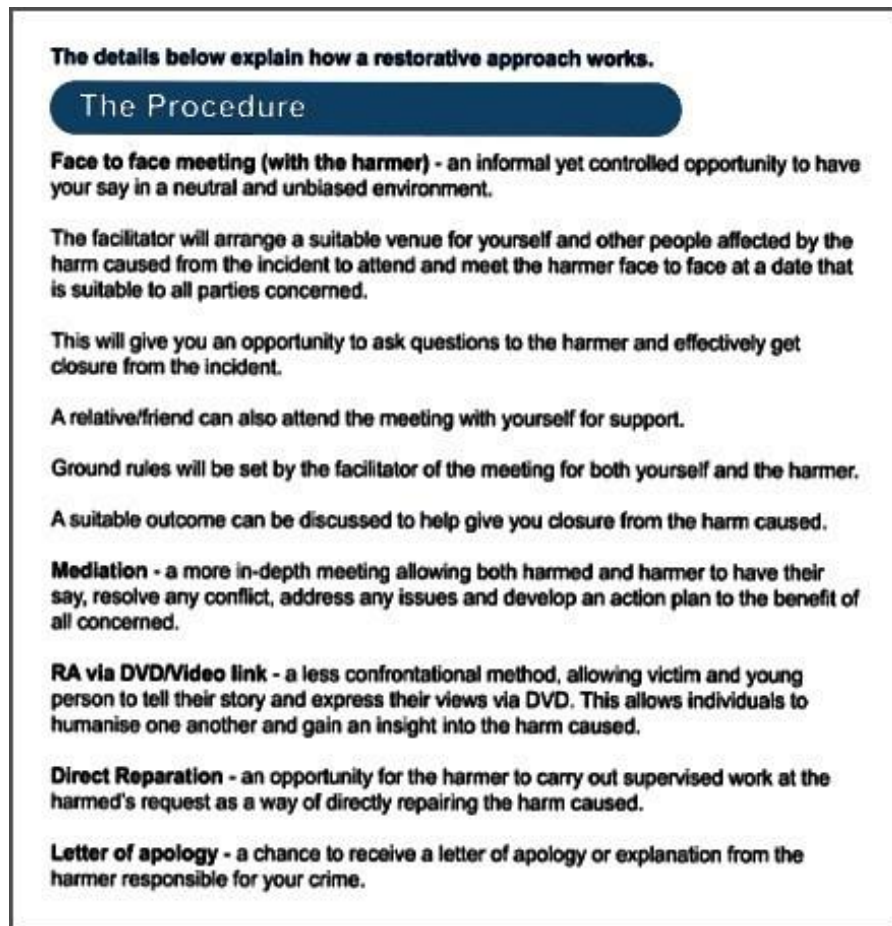


Figure 6.2: Information leaflet for victims, inside-left (doc. D12)

There was no suggestion, however, that the police were (or, indeed, could be) compelled to carry or provide victims with the leaflet. Of the 22 respondents from Durham Constabulary, only one mentioned it, a police facilitator who stated:

We have RA leaflets that I take with me all the time when I'm on appointments. If I think this is applicable for RA, then I will mention it and I will leave them the booklet so they can have a read. [...] I know a lot of people don't use these leaflets, that should be readdressed. (PCNPTD1)

While one recent study recommended the use of leaflets as a way of helping or encouraging the police to offer RJ (Shapland, et al., 2017), the experience in Durham suggests that many may choose not to use them. The use of leaflets also assumes that victims will be able and inclined to read and understand its contents. In addition, by being specifically directed at victims, Durham's leaflet further suggests to all concerned that RJ is a victims' service.

The next chapter examines frontline officers' experiences of the offering process in more detail. For now, it is important to note that, in both areas, internal findings of poor performance led to the banning of specific processes which came to be seen as 'easy options'. In Durham, it was found that officers were systematically offering letters of apology instead of dialogic approaches. In the context of shoplifting, one policymaker/manager stated:

What some of the staff do is, 'Well, just write a letter of apology to the store', and that's it. It's not restorative in any way, some half-baked letter of apology, and this person walks free. [...] That's the sort of misunderstanding by people because they don't fully buy into the concept. (PPMMD6)

Towards the end of the data collection, police officers in Durham were banned from recording a practice as RJ based solely on a letter of apology. A couple of months prior, Gloucestershire had also banned its officers from suggesting that a payment to charity, on its own, could constitute RJ (doc. G29). Interestingly, these two practices reflected the 'purist' and 'maximalist' approaches at each site. In Durham, the 'easy option' involved at least some communication (i.e. a letter), while in Gloucestershire, it involved some (indirect) reparation (i.e. a payment to charity). Both also reflected the tendency within justice agencies, mentioned in earlier chapters, to prioritise task completion over the quality of the work done.

## **6.5 Structuring the process of delivery**

The process by which RJ was delivered was also characterised by low visibility. Street RJ was delivered in people's homes, shops and, as the name suggests, on the street. Conferences also took place in numerous locations, including houses, community centres, shops and police offices. Still, both forces tried to encourage facilitation approaches which accorded with how they expected RJ to be executed. This section considers the respective roles of training, scripts and monitoring in achieving this end.

As noted, all staff in Durham were given one day of Level 1 training, and many officers had an additional day of conferencing training. In Gloucestershire,

most frontline officers were given one day of training in Level 1 RJ, and around 40 received separate, three-day conferencing training. Some officers in both forces had also attended longer, externally delivered conferencing courses.

Upon being asked about their internal training, a small number of officers stated that more time should have been spent on preparation (n=3) or on facilitation skills (n=1). The remaining respondents all reported that their training had sufficiently equipped them to deliver RJ. Yet, one respondent from the PCC's office in Durham noted that the training might not have been enough to ensure that officers had sufficient facilitation skills. Consequently, they questioned the wisdom of having all officers delivering RJ:

Some people it's just not in their nature. Within every organisation, you get some people who are good at certain things. In the police, you get some people who are really good at locking people up, but they see RJ as being a little bit more kinda social work-y, and it's not really their kind of thing. I don't think we should be forcing everyone [to facilitate]. (PCCD2)

One police facilitator from Durham who had received external training, noted that the internal training did not teach all the necessary skills:

The [course] with the police was very brief about holding a conference and what impact it could have. By the end of it, you would feel equipped to sit people down and have a conversation, but I wouldn't have felt as equipped as I do. [...] For example, I was trained [externally] to utilise the silence, whereas officers I've done them with that have just done the police training, if there's a silence for a couple of seconds they'll jump in and say: 'Come on, how did you feel?' I just think: 'there's a silence for a reason, they're thinking about it, just hang back a minute'. Obviously if it gets too long, step in. But the [external] training was definitely a bit more in-depth. (POD2)

A member of staff from DNR described helping to train officers who were unaware of their own weaknesses in relation to facilitation skills:

We did role plays and they asked for feedback. One guy was really trying to be as warm and empathic as possible. But in fact, he was coming across to

me, who played the client, as a really authoritative, powerful figure, quite intimidating, which is a presence that they need for a lot of the work that they do. He was quite shocked because he thought it was the warmest and most empathic he'd ever been. (RJHSD3)

Researchers have also questioned whether the police's RJ training is sufficient to ensure that facilitation practice is of an acceptable quality. Concerns over training have been expressed by Wright (2015), and by Gavrielides (2013: 85) who argued that: 'Providing 1-3 day training packages to police officers, probation staff and prison guards will not deliver the restorative vision.' Generally speaking, the literature on police training is often unclear as to its impact on their practices. Some evaluations have found that trainings on interpersonal communication, mental health and disability yielded changes in attitude among some officers (Buchanan and Perry, 1985; Bailey, et al., 2001), without indicating how enduring this was or whether practices also changed. One study found that training on procedural justice increased officers support for its principles in the long-term but, again, did not explore its impact on practices (Skogan, et al., 2014). Others have argued that training may make the police more liberal, but that this diminishes over time (Brown and Willis, 1985; Fielding, 1988).

Alongside the evidence of variable skills among officers, as described in Chapters 2 and 3, the evidence of limited training further highlights the risks of expecting all officers to facilitate. Some researchers have suggested using specialists to reduce the risks of substandard practice (Shapland, 2009; Hoyle, 2011). This was the approach taken in Gloucestershire for conferencing, although their desire to improve victims' experiences of informal disposals meant that all officers delivered street RJ, mostly with only a single day of RJ training. In Durham, meanwhile, virtually all officers were encouraged to deliver conferences to support the goal of culture change. Yet, despite ACPO's suggestion that RJ training should be delivered by 'an accredited training provider with a proven track record of delivering RJ' (2012: 7), the decision to develop shorter, internal training was reportedly made on the grounds of cost:

I can't remember what it [previous external training] was per individual but it was a significant cost to the organisation. So that was the initial training, and I think about 40-50 were trained initially. What we found was it was too few

for what we were trying to do. [...] That's when we all got back round the table and we decided we do it internally. (PPMMD2)

That most officers in Durham had at least some conferencing training, meant that they could employ those skills at Level 1. This might help to explain why the data point to a much greater use of 'hybrid' practices in that area (see Section 7.4). Still, the decision to deliver condensed training – and to use the internal training department to deliver it – illustrates how resource limitations might lead to variable training quality (Gavrielides, 2007) and limit the potential of police reform (Skogan, 2008). That internal conferencing training was limited to two days suggests that senior leaders in Durham made a trade-off between the desire to use conferencing experience to change culture, and the need to ensure that standards of practice were met. The attitude that the benefits of this strategy outweighed its risks, was expressed by several policymakers/managers, one of whom stated: 'The benefits far, far outweigh any of the obstacles that we've identified' (PPMMD4). Yet, these policy decisions were made despite limited evidence that RJ could change organisational cultures, or that police officers could deliver RJ effectively with limited training (Clamp and Paterson, 2017), suggesting that something of a gamble was made.

Indeed, given the low visibility of RJ delivery, there were few ways for forces to ensure that officers delivered RJ in a certain way. As noted, supervision was minimal and monitoring was retrospective. Moreover, few participants would have had a detailed understanding of what the process was supposed to look like, making it difficult for them to challenge police practices which did not meet certain standards (Daly, 2003). For example, there was little that either the forces or the participants could do to guarantee that facilitators engaged in preparation, the importance of which was not acknowledged in either force's guidelines. These documents similarly said little about the process by which RJ would take place (although, as Section 6.2 noted, Durham's mentioned that the purpose was to discuss feelings). What both forces did introduce, however, were scripts (and, in Gloucestershire, a form) to structure facilitation practices.

As part of its most recent launch of RJ, Durham Constabulary created a bespoke script for its officers. This was reportedly based on the Restorative Solutions script, which had been initially provided to those trained externally:

The script that we use now is different to the one I used from the outset from Restorative Solutions. That was longer and took into account a lot of the logistics. (POD1)

The new script was simplified and intended to be used both in conferencing and in street RJ, encouraging dialogic approaches to the latter. As Durham's training syllabus stated of the two levels: 'The model is identical' (doc. D6: 3). This was consistent with the interpretation that all RJ should involve some form of dialogue. One respondent described the script's development as follows:

We took the decision internally that [the original script] was too much for a lot that we'd be dealing with. We needed a basic framework that provided officers the confidence to deliver those Level 1s in the first instance and then for their experience to develop their own scripts. (PPMMD1)

One officer allowed the researcher to photograph their script (Figures 6.3 and 6.4):

<div data-bbox="300 1151 667 1294" style="border: 1px solid black; padding: 5px; text-align: center;"> <b>Instant Restorative Approach Question Set.</b> </div> <p><b>ASK:</b></p> <div data-bbox="300 1339 671 1370" style="background-color: red; color: white; padding: 2px;">Person who caused harm.</div> <div data-bbox="300 1384 671 1415" style="background-color: blue; color: white; padding: 2px;">Person harmed and others.</div> <p><b>FACTS:</b> Before - At the time - Afterwards</p> <ul style="list-style-type: none"> <li>• Tell us what happened before the incident?</li> <li>• What happened next?</li> <li>• Any questions ?</li> </ul> <p><b>AFFECT:</b></p> <ul style="list-style-type: none"> <li>• Who has been affected by what happened?</li> <li>• How were they affected?</li> <li>• How did you become aware of what happened?</li> </ul>	<ul style="list-style-type: none"> <li>• What were you thinking at the time?</li> <li>• How did you feel at the time?</li> <li>• How else were you affected?</li> <li>• What was the hardest thing for you?</li> <li>• Who else was affected by what happened?</li> <li>• How do you feel about what happened now?</li> </ul> <p><b>OUTCOME:</b></p> <ul style="list-style-type: none"> <li>• Before we move on is there anything you would like to say to those here?</li> <li>• What would make things better for you (personally)?</li> <li>• What do you think could stop this happening again?</li> <li>• Is that fair and reasonable?</li> </ul> <p><b>RE-INTEGRATION:</b></p> <p>Allow parties opportunity, with refreshments if possible, to spend time together without facilitator intervention.</p>
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Figure 6.3: Instant script, Durham (inside) (doc. D32)


<p><b>RESTORATIVE APPROACH</b></p> <p>Advise the harmer this is NOT a criminal record, BUT will show on an enhanced CRB check.</p> <ul style="list-style-type: none"> <li>• Admission of guilt by harmer</li> <li>• RA process does not jeopardise any trial / prosecution for any other offender</li> <li>• Juvenile - Parents informed / present</li> <li>• Update appropriate systems e.g. Sleuth</li> <li>• Both parties willing to participate (best practice: Harmer addressed first)</li> <li>• Domestic Violence/Sexual Offences liaise with Partnerships Head</li> <li>• Risk assessment carried out on all parties</li> </ul> <p><b>A CASEMAN/VICMAN to be opened on sleuth and populated with details as above.</b></p> <p><b>Crime to be finalised appropriately.</b></p> <ul style="list-style-type: none"> <li>• Brief facts about the incident, including day, date, time and place.</li> <li>• Details of intervention, including day, date, time and place.</li> <li>• Any reference to other records relating to the same incident</li> <li>• Details of the parents / guardians spoken to</li> <li>• Details of any reparation agreed</li> </ul> <p>If RA completed prior to charging advice mention on MG3</p> <p>If RA completed prior to submitting case file mention on MG5</p> <p>If RA completed before court case inform CJU to inform CPS to inform magistrates</p> <p><b>ASB incident - place relevant information on the ASB incident update form</b></p>	 <p><i>Altogether Better Policing</i></p> <div style="border: 2px solid blue; padding: 10px; display: inline-block;"> <p><b>Restorative Approach</b></p> </div> <p>L07-13</p>
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Figure 6.4: Instant script, Durham (front and back) (doc. D33)

This script was relatively similar to a Restorative Solutions-branded script seen in Gloucestershire. One respondent, who stated that they used this script when delivering conferences, allowed the researcher to photograph it (Figure 6.5):



<div style="text-align: center;">  <p><b>W.R.T.</b></p> </div> <div style="text-align: center;">  <p><b>RESTORATIVE SOLUTIONS</b></p> </div> <p><b>PS SMART</b></p> <p>Simply follow the plan below and answer the prompts. Your action plan should be smart and try to identify tangible areas for development, tending towards behaviours which are measurable rather than nebulous areas like 'I will be better at ...'</p> <p><b>P - PROPORTIONATE</b></p> <p><b>S - SUPERVISED/SUPPORTED</b></p> <p><b>S - SPECIFIC</b></p> <p><b>M - MEASURABLE</b></p> <p><b>A - ACHIEVABLE</b></p> <p><b>R - RELEVANT</b></p> <p><b>T - TIME RELATED</b></p> <p>What are you going to develop/change/do differently?</p> <p>How will you measure your improvement/change?</p> <p>When will you review your progress? (Usually a maximum of one month between reviews.)</p>	<p><b>INFORMAL SCRIPT</b></p> <p><b>Offender / harmer / person responsible</b></p> <ul style="list-style-type: none"> <li>• Tell us what happened?</li> <li>• What were you thinking at the time?</li> <li>• What were you feeling at the time?</li> <li>• Who do you think has been affected by what happened?</li> <li>• Do you think (name of harmed-if not mentioned) has been affected by your actions?</li> </ul> <p><b>Harmed / person affected</b></p> <ul style="list-style-type: none"> <li>• How did you become aware of what happened? (if necessary)</li> <li>• What were you thinking at the time?</li> <li>• What were you feeling at the time?</li> <li>• What have your thoughts been since?</li> <li>• How do you feel now?</li> <li>• What has been the hardest thing for you?</li> <li>• Has anyone else been affected by this?</li> </ul> <p><b>Offender / harmer / person responsible</b></p> <ul style="list-style-type: none"> <li>• You have just listened to everyone and heard what they had to say about what happened and the harm that has been caused. Is there anything you want to say?</li> <li>• Do you see the choices (you) made have caused harm?</li> <li>• Do you think you need to do something to repair the harm?</li> </ul> <p><b>Harmed / person affected</b></p> <ul style="list-style-type: none"> <li>• What do you want to come out of this meeting?</li> </ul> <p><b>Offender / harmer / person responsible</b></p> <ul style="list-style-type: none"> <li>• What do think needs to happen?</li> <li>• What do you think is the right and fair thing for you to do?</li> </ul> <p><b>Summary of what has been said/agreed – is that correct (PS SMART)</b></p> <ul style="list-style-type: none"> <li>• Is there anything else that anyone wants to say?</li> </ul> <p>CLOSE.</p>
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Figure 6.5: Informal script, Gloucestershire (front and back) (docs. G49, 50)

The structure of these two scripts is broadly similar: they both begin by asking the parties to discuss the incident, before exploring who is affected and how, and concluding with the determination of outcomes. Notably, however, they afford offenders different opportunities to express their personal thoughts, feelings and needs. Gloucestershire's script, designed by a specialist, independent provider, asks both victims and offenders to state what they were thinking and feeling at the time of the incident; Durham's script only asks these questions of victims. Moreover, Gloucestershire's script asks offenders an open question in relation to outcomes: 'What do you think needs to happen?' In contrast, Durham's only asks the victim what they think the outcomes should be, before asking offenders the more leading question: 'Is that fair and reasonable?' This imbalance in Durham's script might decrease the likelihood that the process would be experienced by offenders as fair and legitimate, and increase the chances of it being perceived as degrading (Braithwaite and Mugford, 1994). That offenders' opportunities to express themselves and provide input were cut as the script was shortened, further illustrates how the simultaneous prioritisation of victims and efficiency in restorative policing can result in the neglect of offenders.

Although Gloucestershire's script was entitled 'Informal Script', its owner implied that they only used it for conferences, as street RJ was not expected to involve dialogue between the parties. Instead, Gloucestershire had introduced a specific form which officers were required to fill out when delivering Level 1 RJ. Most officers interviewed at that force were of the view that this form had replaced or was otherwise to be used instead of the script for street RJ. For example, one officer said: 'For Level 2 you do [use the script], but I don't do Level 2, I just follow the form I've got when I do it' (POG6). Another similarly noted:

It's not [the script] anymore. It's different now, it's a long thin book and it just gives you positions to write things in. [...] We used to have a little script, though. You started with the card, you give time for them to respond. That was my first lot of training I did. (POG4)

The form in question was also obtained by the researcher (Figure 6.6):

<b>GLOUCESTERSHIRE CONSTABULARY</b> <b>RESTORATIVE JUSTICE - LEVEL 1 RESOLUTION</b>							
<p>Date: _____ Time: _____</p> <p>Crime No: _____ Incident No: _____</p> <p>Location: _____</p> <p>Brief Circumstances: _____</p> <p>_____</p> <p>_____</p> <p><b>HARMED PERSON DETAILS</b></p> <p>Title: _____ Surname: _____</p> <p>Forename(s): _____ DoB: _____</p> <p>Address: _____</p> <p>_____</p> <p>Postcode: _____</p> <p>Tel No: _____</p> <p>Ethnicity – Officer Defined: _____ Self Defined: _____</p> <p><small>The resolution process has been explained to me and I agree for this matter to be dealt with as outlined below. I understand that once the resolution has been completed the Police do not propose to take any additional formal action. Gloucestershire Constabulary will not be held responsible for any loss or damage incurred as a result of this agreement.</small></p> <p>Harmed Comments: _____</p> <p>_____</p> <p>Harmed Signature: _____</p> <p>Appropriate Adult Signature: _____</p> <p><b>HARMER DETAILS</b></p> <p>Title: _____ Surname: _____</p> <p>Forename(s): _____ DoB: _____</p> <p>Address: _____</p> <p>_____</p> <p>Postcode: _____</p> <p>Tel No: _____</p> <p>Ethnicity – Officer Defined: _____ Self Defined: _____</p> <p><b>APPROPRIATE ADULT</b></p> <p>Title: _____ Surname: _____</p> <p>Forename(s): _____ DoB: _____</p> <p>Address: _____</p> <p>_____</p> <p>Postcode: _____</p> <p>Tel No: _____</p> <p><b>Caution</b></p> <p><small>You have been identified as being responsible for this offence / the harm caused. The harmed party has indicated that they are willing to have this matter dealt with informally and provide you an opportunity to make recompense for your actions. This is voluntary and if you agree and complete the process you will not be subject to any further Police investigation. Failure to complete the agreed actions may result in a formal investigation and you being liable to prosecution. This declaration may then be presented as part of the case against you.</small></p> <p><b>Response:</b></p> <p><small>I accept responsibility for my involvement in this offence / the harm caused and I agree to participate in the agreed outcome outline below. I am aware that this will not constitute a criminal conviction but that the information may be disclosed in an enhanced Disclosure and Barring Service (DBS) check.</small></p> <p>Harmer Signature: _____</p> <p>Appropriate Adult Signature: _____</p> <p><b>AGREED OUTCOME</b></p> <table style="width: 100%;"> <tr> <td><input type="checkbox"/> Apology</td> <td><input type="checkbox"/> Compensation</td> <td><input type="checkbox"/> Verbal</td> </tr> <tr> <td><input type="checkbox"/> Reparation</td> <td><input type="checkbox"/> Written</td> <td><input type="checkbox"/> Other</td> </tr> </table> <p>Other – Details: _____</p> <p>_____</p> <p>Officer Name &amp; Collar Number: _____</p> <p>Officer's Signature: _____</p>	<input type="checkbox"/> Apology	<input type="checkbox"/> Compensation	<input type="checkbox"/> Verbal	<input type="checkbox"/> Reparation	<input type="checkbox"/> Written	<input type="checkbox"/> Other	<p>Summary of Evidence (Covering Points to Prove): _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Checks – PNC: _____ UNIFI: _____</p> <p>Covert Submitted: _____</p> <p>_____</p> <p><b>WITNESSES</b></p> <p>Title: _____ Surname: _____</p> <p>Forename(s): _____ DoB: _____</p> <p>Address: _____</p> <p>_____</p> <p>Postcode: _____</p> <p>Tel No: _____</p> <p>Ethnicity – Officer Defined: _____ Self Defined: _____</p> <p>_____</p> <p>Title: _____ Surname: _____</p> <p>Forename(s): _____ DoB: _____</p> <p>Address: _____</p> <p>_____</p> <p>Postcode: _____</p> <p>Tel No: _____</p> <p>Ethnicity – Officer Defined: _____ Self Defined: _____</p> <p>_____</p> <p>Title: _____ Surname: _____</p> <p>Forename(s): _____ DoB: _____</p> <p>Address: _____</p> <p>_____</p> <p>Postcode: _____</p> <p>Tel No: _____</p> <p>Ethnicity – Officer Defined: _____ Self Defined: _____</p> <p><b>SUPERVISORS CHECKS</b></p> <p>Comments: _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Name, Rank &amp; Collar Number: _____</p> <p>Signature: _____</p> <p style="text-align: center; margin-top: 20px;"> <small>When completed forward to Restorative Gloucestershire at Cirencester Police Station.</small> </p>
<input type="checkbox"/> Apology	<input type="checkbox"/> Compensation	<input type="checkbox"/> Verbal					
<input type="checkbox"/> Reparation	<input type="checkbox"/> Written	<input type="checkbox"/> Other					

*Figure 6.6: Gloucestershire Level 1 form, front and back (docs. G10, 11)*

The first point on which to compare the scripts and this form relates to the discretion in using them. In Durham, as a previous quotation suggested, officers were explicitly authorised to modify or deviate from their scripts. This position was endorsed by another policymaker/manager, who stated:

We provided everybody with a script. That was really just to get people started and to give people a framework to work to. I think as people get more experienced, you can see that it becomes a more individualised process. People work to it loosely. I think it's different for every victim. Sometimes if it's too scripted, it feels false and you never get people to really engage. We had to provide a framework to get people's confidence up, because what we didn't want was people just going into a room and going off on a tangent, but certainly in recent months, I've seen that people have adapted their own, which is good. It shows some progression. (PPMMD2)

Similarly, in Gloucestershire, there was also no evidence to suggest that officers who delivered conferences were compelled to adhere to their script, although some respondents reported doing so. In fact, most police facilitators from both areas reported adhering at least to the model implied by the script, if not necessarily following it word for word, when delivering dialogic processes. One, for example, stated that 'you tend to go off script quite a bit [but] you remain conscious that everyone's getting their say and you're touching all the bases' (PCNPTG1). Another said: 'I think it can be deviated from, but as a whole we would use the script as a template for every meeting' (PCSOD4). Others said that they 'changed it a little bit' (PCNPTD2), 'stuck to the rough order of doing things' (PCSOD7), or used it 'loosely' (PCSOD9) or 'as a guide' (POD3). One reported following the language of the script closely when facilitating, stating: 'I stick to it pretty much religiously, because I know it works' (PCNPTG5). Others reported deviating from the language of the script on practical grounds. For example, one officer reported varying it according to the capacities of the participants:

You're dealing with people that are vulnerable, that have learning difficulties. [...] I tailor it, within reason and within the law obviously, to each individual. What they are able to understand? If they don't understand it, it's not gonna benefit them. 'What do you feel now?' – it doesn't always work like that, sometimes it can, but you just gotta use common sense and be aware of the impact it can have on people. (PCSOD2)

Another police officer reported changing the script depending on the number of participants:

The script that we initially got is more for a one-on-one RJ. But obviously, in some RJs, you might have two or three offenders with one victim, so you gotta then adapt it. (PCNPTG2)

A small number of officers from Durham suggested that they did not use the script. One stated: 'You just use your common knowledge of the situation and take a structured view on the situation that you come across' (PCSOD8). Another, when asked if they used the script, said that they 'tend not to' (PCNPTD4), while a third responded:

No, I know you can, but for me personally, if I'm worried too much about a script and they go off it, I'll lose track of what's going on. It comes across insincere from my end, because if they know I'm reading something or I've prepared something in my mind. It will come across as stagnant, so I try to be as natural as possible, but stick to the rough order of doing things and hit the key points. Like getting the offender to admit it first, then come to the victim. (PCSOD7)

These data suggest that the script likely had structured the general approach to facilitation used by many officers, even if they did not use it *verbatim*. However, it also seems that, in practice, officers retained the discretion not to use the script, or to change or deviate from it as much or as little as they wished (see Chapter 7 for more on the extent to which officers described using the script in practice).

Gloucestershire's Level 1 form, meanwhile, had to be used while the process was being delivered, because the parties had to sign it. All respondents from Gloucestershire reported using the form when delivering practices which were recorded as Level 1 RJ (although, as noted in Chapter 5, not all cases of street RJ may necessarily have been recorded as such, or at all). Importantly, this form did not imply a dialogic model of delivery. It required only that the details of each party and the offence be recorded, together with the 'agreed outcome'.

In contrast, both scripts divide the process according to its past- and future-focused elements (Crawford, 2015), that is, to the addressing and repairing of harm (Roche, 2006). In Durham's script, for example, the 'Facts' and 'Affect' sections relate to the former, while the 'Outcome' section relates to the latter.

Similarly, Gloucestershire's script contains six subheadings; the first three and last three related to the addressing and repairing of harm, respectively. The design of both scripts clearly indicates that the role of the facilitator is to ask questions and allow the parties to communicate their answers to each other verbally, thereby encouraging a dialogic approach to RJ delivery. In contrast, Gloucestershire's Level 1 form does not suggest that officers should ask either party about the causes or impact of the offence, nor enable them to communicate. Instead, it requires the officer only to facilitate an agreement on outcomes. Thus, Gloucestershire's form corresponds with their written definition of RJ and their policymakers'/managers' understanding of the concept, indicating a maximalist interpretation of RJ (in that it focuses on outcomes rather than dialogue).

Gloucestershire's focus on outcomes also extended to its monitoring, which is described in the next section. However, Durham's focus on dialogic processes led to the introduction of additional mechanisms with which to structure officer discretion when facilitating communication between the parties. No officers in either force suggested that their RJ practices were being routinely supervised prospectively, and Durham's internal review of RJ from 2014 reported finding 'little evidence of supervisory interventions to quality assure the process' (doc. D11: 4). Again, this is consistent with the existing evidence that police managers seldom supervise operational policing practices in advance of their taking place (Brown, 1988; Shearing and Powditch, 1992). In Durham, however, RJ practice records were reportedly monitored to establish the quality of delivery, and feedback was given to officers and their line managers on this issue:

We'll check those [records] for the quality and see how we're doing, try and identify good officers, bad officers, problems that we've got. [...] We give feedback to their supervision and feedback to their officer, saying 'this is what we expect, this is what a good one would look like, you need to improve, and if you come up again then'... well, we would probably speak to them to say, 'this is unacceptable. This needs to improve'. (PPMMD1)

No respondents in Durham reported receiving this feedback, or being aware of their colleagues receiving feedback. Questions remain as to how effective this monitoring might be in identifying and addressing poor practice, given the absence of sanctions for poor performance, and officers' ability to construct

records in ways which do not necessarily mirror their practices (McConville, et al., 1991). The substantial discretion afforded officers in Durham seemed to arise as the force held the goal of encouraging officers to use RJ, above the need to undertake close monitoring of the police's practices. Still, the desire to regulate performance using qualitative frameworks, again reflects what McLeod (2003) argued was indicative of a transition to a restorative organisation.

To this end, additional facilitation support was introduced in Durham in the form of a number of 'RA Champions'; the number was not communicated to the researcher. Officers were reportedly assigned this role based on their facilitation experience, and were available to assist other officers in delivering conferences if they so desired. The one respondent who had this role described it as follows:

If you had a problem as a PC, you wanted to know how it worked, you wanted a bit more guidance on what to do, you have a problem in facilitating or you want somebody who's a mediator to come and do it, I can come and help out and guide people in the right direction. (POG6)

The creation of these roles was among the recommendations of a recent study on the use (or lack thereof) of RJ in three other English forces (Shapland, et al., 2017). Previously, Shapland, et al. (2011) suggested that co-facilitation could be used to reduce the risks of substandard practice. In Durham, however, accessing this support was optional, and no respondents reported having ever requested assistance from an RA Champion. However, one volunteer facilitator from DNR reported being asked to co-facilitate with a police officer:

I hadn't met either party. As far as I was concerned I was just going to sit in the meeting and chip in if need be. I got there and [the officer] said 'Look, I'm not sure what I'm doing, will you run the meeting?' So that was hard because suddenly I was doing a face-to-face meeting without having met either party. (RJHFD2)

Given the pressure on officers to deliver conferences in Durham, all those who felt unsure may not necessarily have accessed assistance in this way. In essence, the force trusted its officers to seek assistance if they felt that it was necessary to do so. Again, this is consistent with McLeod's notion of a 'restorative

agency' which 'empowers people to take risks and, if need be, make mistakes.' (2003: 367). Yet, these data may exemplify how, as Ashworth (2002) warned, enthusiasm for the potential of RJ can lead to safeguards being overlooked. It is also problematic that there were few remedies for citizens who participated in substandard practices – especially as the low visibility of the process afforded officers the opportunity to exert control over outcome agreements.

## 6.6 Structuring outcome determination

Both forces included in their guidelines some direction with respect to outcome agreements. Again, however, the flexibility of this guidance and the low visibility of the process meant that the detail and enforcement of outcomes depended on how officers decided to exercise their discretion.

Durham's guidelines provided some information about the outcomes they envisioned might take place (Figure 6.7):

**4. Have you considered appropriate reparations?**

This should be considered as the last element of the RA and only discussed once the motivations for engaging have been identified – the reparation should not be the motivation for engaging i.e. payment for damage. Restorative reparations are essentially personal commitments between the harmer and the harmed. In all cases please be guided by the wishes of the victim within the framework of Force Policy. It is important to note the more than one form of reparation can be agreed as part of this personal commitment.

Reparation could include, but is not limited to:

- A verbal apology (in the case of intimate partner violence) must be facilitated through a face to face conference. Any exceptions to this (victims wishes) must be authorised by Chief Inspector rank with full rationale recorded.
- Commitment to access support to resolve any underlying factors leading to offending behaviour.
- Written apologies may not be suitable for Domestic Abuse RA's. This should only be considered in exceptional cases and with oversight from Safeguarding.
- Reparative work for the victim.
- Reparative work for a community cause selected by the victim.
- Financial payments if agreed (directed and witnessed or, with appropriate safeguards, through the OIC).

When reparation is being considered that involves activity or actions beyond the conference, they should consider who will be responsible for supervising the reparation and how much time will be facilitated for this to be completed. Any likely legal proceedings should be borne in mind with regards reparation i.e. time limits for prosecution etc.

*Figure 6.7: Guidance on outcomes, Durham (doc. D8: 3)*

Gloucestershire's guidance included a comparable section (Figure 6.8):

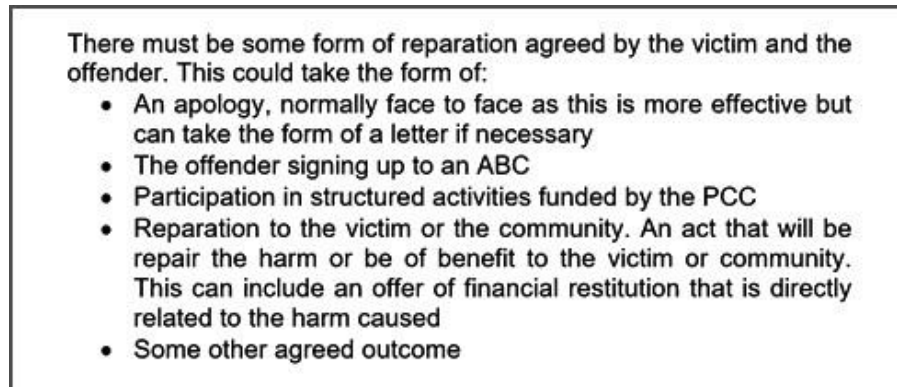


Figure 6.8: Guidance on outcomes, Gloucestershire (doc. G29: 3)

One similarity between these sections lies in the fact that both essentially used the term 'reparation(s)' as a synonym for 'outcomes'. This mirrors the tendency of the police (and other justice agencies), to focus on more practical (and easily quantifiable) outcomes like reparation in lieu of more expressive, educational or relational outcomes (Crawford, 2006; Shapland, et al., 2017).

Still, Durham's guidance seemed to be more encouraging of the latter types of outcomes than Gloucestershire's. It said that 'the reparation should not be the motivation for engaging' (doc. D8: 3), distinguishing between the process itself and any outcomes which emerged from it. Similarly, its last paragraph began with the phrase '*When reparation is being considered that involves activity or actions beyond the conference*' (doc. D8: 3, emphasis added). This indicates that participants in Durham were free to decide that the dialogue itself sufficiently satisfied their needs (which, as explained in Chapter 3, may often be the case for victims). By comparison, Gloucestershire's guidelines stated that 'There must be some form of reparation' (doc. G29: 3), before listing a series of options. This further illustrates the difference in how the forces conceptualised the purpose of the exercise. In Gloucestershire, the outcome agreement was essentially seen as synonymous with RJ, indicating a 'maximalist' understanding. In Durham, reparation could emerge from, but was not seen as integral to (or synonymous with), the RJ process, which more closely reflects the 'purist' approach.

Gloucestershire's guidance did not state the process by which the outcomes should be determined. Under the heading 'procedure', it listed some of the various requirements with respect to the decision to use RJ, before stating only

that ‘RJ outcomes must be meaningful and SMART and should allow offenders to make amends for the harm caused’ (doc. G29: 6). The acronym ‘SMART’, though not explained therein,<sup>7</sup> is commonly used in RJ training in the UK to suggest that outcomes should be ‘Specific; Measurable; Achievable; Relevant; and Time Related’ (Thames Valley Partnership and Restorative Solutions, 2015). In contrast, Durham’s guidance told officers in regard to outcomes: ‘In all cases, please be guided by the wishes of the victim’ (doc. D8: 3), after having stated:

The victim should always be consulted when determining which reparation would be the most suitable. The victim is at the centre of the process – ultimately it is their decision. NOT a police decision. (doc. D8: 2, emphasis in original).

This is important, firstly, because it emphasises that the police should play, at most, a limited role in outcome determination; there is no equivalent provision in Gloucestershire’s guidance. Secondly, by both emphasising the role of the victim and omitting the offender from the outcome determination process, it risks being interpreted in a way which legitimises the overlooking of offenders’ needs and input when determining outcome agreements.

Ultimately, these policies placed considerable power and responsibility in the hands of officers to determine how to balance the public and private interests of all relevant stakeholders (Ashworth, 2002; Warner and Gawlik, 2003). In the absence of clear remedies and mechanisms through which the police’s discretion could be effectively limited, the risk was that the police were empowered to select whose rights and wishes to prioritise, and whether and how to influence outcome decisions accordingly. Again, this could result in participants being given an unequal level of input in accordance with the police’s working rules, attitudes and biases (McConville, et al., 1991), or in the police prioritising their own agendas at the expense of participants’ needs (Hoyle, et al., 2002).

In theory, Gloucestershire’s guidance placed some limits on the police’s discretion by stating that reparation was compulsory and that it must be ‘agreed by the victim and the offender’ (doc. G29: 3). The latter point meant that, technically, outcomes could not be imposed without the agreement of the parties.

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<sup>7</sup> In Gloucestershire’s script, however, this acronym is explained – see Figure 6.5.

This is important because, as noted earlier, outcomes under the previous COPS disposal did not need the victim's approval. This distinction was mentioned by several respondents from Gloucestershire, most of whom noted that there was resistance to the change within the force for that reason:

I don't think they [other officers] like the decision being taken out of their hands. It's very much victim-led, whereas with COPS, the last process, we got to decide what we're gonna do with it. (PCNPTG1)

This officer was typical of their colleagues in terms of their interpretation: they believed that, under RJ, outcome determination was supposed to be 'victim-led'. Again, this suggests that offenders may not have been involved in the process, and that there may have been a tension between the desire to use informal disposals to resolve cases quickly, and the requirement that both parties must agree to any outcomes.

The previous section outlined how quality monitoring in Durham seemed to focus on the process by which RJ took place. In contrast, the equivalent monitoring process (i.e. that which was undertaken by the thematic RJ Manager, and which did not relate to the decision to offer RJ) in Gloucestershire seemed to focus primarily on the detail of the outcomes:

Standards are maintained through the quality assurance process that the RJ Manager does. He checks each outcome and prepares a report based on that for the Chief Inspector for operational and uniform policing on a monthly basis. [...] That process allows us to make sure that we are maintaining the quality of service we should be. (PPMMG6)

Again, this is consistent with the idea that RJ was seen within Gloucestershire as characterised by, and synonymous with, its outcomes. It also suggests that there was at least some form of monitoring in place which, in theory, could have limited the police's discretion to allow or impose disproportionate outcomes. The fact that the process was retrospective, however, meant that it could not stop these outcomes from being imposed in the first place. It was also dependent on how the RJ Manager elected to exercise their own discretion in this regard; the monitoring process may have been shaped by their own working credos and

attitudes, *inter alia*. Moreover, the Level 1 form did not give the RJ Manager much to work with in relation to monitoring outcome agreements. Figure 6.9 shows the 'agreed outcomes' section of the form they received:

AGREED OUTCOME		
<input type="checkbox"/> Apology	<input type="checkbox"/> Compensation	<input type="checkbox"/> Verbal
<input type="checkbox"/> Reparation	<input type="checkbox"/> Written	<input type="checkbox"/> Other
Other – Details: _____		
_____		
_____		

Figure 6.9: Agreed outcomes, Level 1 RJ form, Gloucestershire (doc. G10)

The lack of detail required by this form may have afforded officers the discretion to record outcomes in a manner which disguised how punitive or limited they might have been. As a previous study of street RJ noted, there are inherent limitations to quality assurance procedures which 'focus on the quality of the reports, rather than on feedback from victims' (Criminal Justice Joint Inspection, 2012: 28). Overall, there is little within the data to suggest that Gloucestershire's outcome monitoring process would have prevented police abuses.

The final point to make at this stage pertains to the enforcement of outcome agreements. The guidelines in relation to this seemed to be quite complex, affording officers considerable discretion in practice. With respect to 'RA Only' (i.e. community resolutions), Durham's guidance stated:

If an RA fails because the offender has failed to complete the process or reparation agreed, an alternative disposal method should be considered. Checks should be made to ensure that the RA has been undertaken. (doc. D8:4)

The slideshow for Durham's Level 1 training similarly stated that 'failure to complete the reparation' gave the officer the 'option to invoke normal crime proceedings' (doc. D2: 21). This seems to imply that it was at the discretion of the officer whether to revoke the community resolution, if the agreement was not adhered to. This was contradicted in the lesson plan for the Level 1 training, which stated that, if the offender did not complete the outcome agreement, then:

The following will happen: [...] invoke proceedings as per normal for a criminal investigation. i.e. arrest/voluntary attend the harmer as you would in normal criminal proceedings. (doc. D4: 11)

However, if the offender failed to complete an outcome agreement where RJ took place alongside another disposal:

Then ultimately there is nothing more that can be done. [...] This should be viewed as you would for failure of conditional cautions where CPS would consider if it's worth running the case back to court. (doc. D4: 12)

The same document also states that, with respect to unpaid financial reparation, 'we are not here to be debt collectors, and if monetary reparation does not get paid, then we cannot use any force or legislation to get money out of people' (doc. D4: 10). Overall, this represents a somewhat confusing series of instructions in relation to outcome enforcement. As the next chapter shows, the complexity of this policy, alongside the low visibility of the process, meant that the police were largely free to determine how to exercise their discretion in this regard.

In Gloucestershire, where RJ could only be used with community resolutions, the guidance stated simply that RJ outcomes 'must be followed up by the OIC [officer in charge]' (doc. G29: 6) who 'is responsible for ensuring that agreed outcomes are complied with' (doc. G29: 8). The force's RJ flowchart adds to this by stating that 'OICs [are] to monitor and ensure outcome complied with within 1 month [for Level 1] [or] 3 months [for Level 2]' (doc. G28: 1). This did not specify what would happen in cases of non-compliance. Again, given the low visibility of the process, this may have afforded officers the discretion to determine whether to suggest to the parties that outcomes were enforceable, and what to do in cases of non-compliance. Both forces also seemed to allow officers to judge when an offender was to be considered not to have complied. Overall, officers retained considerable power and discretion in relation to outcomes due to the flexibility of these policies. This meant that participants were at risk of being treated differently, depending on a given officer's attitudes towards the offence or the victim and offender, as well as their inclination to be interventionist when determining outcomes, and lenient or stringent when enforcing them.

## 6.7 Concluding comments

In both forces, policy frameworks reinforced the ‘purist’ and ‘maximalist’ framings of RJ, previously identified as being implicit in force strategies. However, force policies also left individual officers to make many of the pertinent decisions in relation to RJ relatively autonomously. In practice, internal rules and guidelines were mostly flexible, the support provided officers was optional, accountability mechanisms were easily evaded, and the (generally on-street) environment in which RJ took place was characterised by low visibility. This meant that officers were not precluded from acting in ways which were arguably undesirable, or which force policies were designed to avoid.

Affording facilitators discretion is seen as vital within RJ, as it enables them to respond to the unique needs and interests of participants (Braithwaite, 2002b; Schiff, 2007). In the police context, however, the risk is that this discretion permits officers to deliver RJ in accordance with institutional, organisational and personal rationales, goals and priorities, many of which may not accord with the research evidence on effective RJ facilitation practices, or with restorative or due process principles. Some force policies even seemed to encourage officers to prioritise victim satisfaction and demand management over other goals. As with policework in general, the extent to which any such risks materialised, ultimately depended on how officers opted to exercise their discretion in practice.

Moreover, that each force implemented RJ primarily within community resolutions, had implications for how RJ could be used and how officers’ discretion was structured. Many of the tensions and risks identified in this chapter – such as those created by the requirement that victims consent to informal disposals – seemed to flow directly from this decision, as they might not have existed (or would have existed differently) had RJ been integrated differently into the OOCR framework. In these ways, police policies were both shaped by the institutional context in which they were designed, and likely acted to shape the execution of restorative policing in practice.

## **Chapter 7 – Exploring the use of restorative justice by the police in practice**

### **7.1 Introduction**

The last two chapters examined both forces' RJ strategies and policies. They suggested that conflicting and unranked goals, flexible rules and guidance, and low visibility, meant that RJ delivery was highly discretionary. This chapter examines frontline officers' explanations of how and why they elected to exercise this discretion in practice. Based on officers' stated experiences of offering and delivering RJ, the chapter assesses patterns and variations in their reported approaches to facilitation, and in the implicit or explicit reasoning which informed their decision-making. These data indicate that officers were largely free to use RJ according to what they considered to be an appropriate response to each case in which the concept was invoked. Their decisions in this regard seemed to be shaped by a number of factors, including organisational pressures and priorities, situational demands, officers' own motivations for using RJ, and other features of the institutional context in which restorative policing took place.

This chapter is divided into four sections. The first section explores officers' motivations for using RJ, while the second investigates the processes by which RJ was offered to prospective participants. The third section then describes and analyses reported practices, before the fourth explores the detail of outcome agreements and the processes through which they were made. Each section considers the factors which seemed to shape officers' decisions and behaviours, identifying the implications of different approaches and comparing officers from different forces and roles where possible.

### **7.2 Motivations for using restorative justice**

This section analyses how police officers expressed and framed their motivations for using RJ. From this, their priorities with respect to when and how

to use RJ, and the possible implications for those who might or might not qualify as participants, are inferred. This section begins by outlining the types of cases in which respondents reported using RJ, before considering their motivations for doing so and the implications for practice. Frontline officers' motivations for using RJ fell into five main categories which related to diverting low-level offenders, reducing reoffending, closing cases quickly, satisfying victims, and resolving complex disputes. The section ends by noting the pressure which some officers from Durham felt to use RJ as often as possible.

Police facilitators described using RJ with an array of different offences and non-crime incidents. Officers in all roles reported delivering RJ in response to low-level offences committed by young and adult offenders, such as shoplifting, minor assaults and low value criminal damage. PCs within NPTs and PCSOs were most likely to report using RJ in relation to youth ASB and other incidents which they described as non-criminal, including verbal abuse and harassment, excessive noise and disturbing property without causing damage (e.g. by littering a garden, drawing on property with chalk, or throwing or kicking objects against houses). Some PCs and PCSOs also used RJ in cases which they labelled as neighbour disputes. A smaller number of PCs from each area reported using RJ with potentially more serious offences, such as hate crime, violence, higher value criminal damage, and acquisitive crime with individual (rather than corporate) victims. These cases – where offenders may have been on the cusp of a higher sanction – were, alongside neighbourhood disputes and incidents without clear victims and offenders, the most likely to involve conferencing.

Restorative policing was generally banal, as most cases in which RJ was reportedly used were exceptionally low level. This reflects the breadth of the practices which respondents considered to qualify as restorative. As Chapter 5 argued, some officers saw their peacekeeping activities as falling within their use of RJ. It also reflects the roles held by interviewees, in that PCSOs and NPT officers rarely investigate serious crime (O'Neill, 2014; Longstaff, et al., 2015), and were overrepresented among respondents in this study (13/16 in Durham; 10/16 in Gloucestershire). The data also suggest that, when police respondents used RJ with recorded offences, it took place without arrest and alongside a community resolution disposal. Only one case (a theft in Durham) was described as involving an arrest, and no officers explicitly reported delivering post-sentence RJ. It was also not always clear how non-crime incidents were recorded, although

no officers implied that they had used RJ alongside a civil injunction or other formal ASB power. Rather, non-crime cases seemed either to be documented as police information, or not recorded at all.

What virtually all the described cases had in common, therefore, was that officers perceived them to be suitable for informal resolution. Indeed, that both forces required all community resolutions to be delivered as RJ, meant that the police's decision to utilise the latter was almost always linked to the decision to use the former. As a result, when police respondents reported their motivations for using RJ, they also typically spoke about diversion in general.

Accordingly, several officers from both forces reported being motivated to use RJ on the basis that they wanted to divert young or first-time offenders from criminalisation. For example, one officer stated:

I deal with a lot of people that are first-time offenders, doing things that are stupid and they don't realise the consequences. Rather than popping them through the criminal justice system, [RJ] gives me a chance to deal with them in a different manner. (PCNPTD2)

A second officer similarly espoused RJ as a diversionary approach:

I think it's good not to criminalise people, so if we've got the opportunity to use restorative justice to help somebody and find other ways, that's a good thing. (POG5)

Likewise, another officer maintained that RJ could allow them not to criminalise young offenders:

I realise that when I was a youngster, I made lots of mistakes. Kids do make mistakes, so I don't think you should criminalise children for those mistakes. For me personally, RJ is for not criminalising youngsters, but giving them an opportunity to see how their behaviour affects other people. (PCNPTG1)

Had this study focused on the use of RJ in prisons or by probation, this motivation could not have existed. Rather, it emerged as a result of RJ being used by the police and, more specifically, being integrated into the police disposals framework

at the lowest level of OOC. This illustrates how the purpose of RJ can depend on the manner of its incorporation into specific institutional contexts.

These data raise two further issues in relation to community resolutions. Firstly, the Home Office categorised them as ‘informal disposals’ (2013: 13) on the basis that they did not create a criminal record which could be disclosed on a standard records check. Yet, they were still documented as police information, and thus could be disclosed on enhanced checks under certain circumstances (Mason, 2010; Home Office, 2015). The suggestion that these disposals were *entirely* diversionary, therefore, is imprecise, as a comprehensive diversion would leave no disclosable record. In cases where offenders would otherwise have been charged, summonsed or offered a higher disposal, the use of RJ, alongside a community resolution, may have been diversionary, insofar as it would have been less disclosable than the alternative. However, it is also possible that, in the absence of community resolutions, some cases would have been discontinued for lack of evidence or resolved without their recording. In such cases, community resolutions might have resulted in ‘mesh-thinning’, in that offenders who would otherwise have been filtered out of the system altogether, would instead have had their actions and details documented by police (Cohen, 1979). Community resolutions rank alongside the Penalty Notice for Disorder as one of a number of on-street disposals which seek to increase system efficiency by encouraging suspects to surrender their due process rights (i.e. to legal advice and trial), in exchange for (at least, theoretically) limiting the potential severity of the outcome (Ashworth and Zedner, 2008; Bui, 2015; Fair Trials, 2017).

Secondly, the discretionary and low visibility nature of the decision to offer a community resolution, might have enabled officers to use or withhold them in an inconsistent or discriminatory manner. For example, the offer of a community resolution may have depended on whether the responding officer was inclined to interpret the offender’s remorse as genuine, among other subjective questions. Consider the following case, in which an officer described their motivations for using community resolution-level RJ in relation to the theft of a handbag by an offender who already had a criminal record:

Initially, I was just gonna arrest him [...] but when I eventually caught up with the offender, he was really, really sorry that he'd done it. [...] His best friend had died just a few days before, and that particular night, he went out and got

absolutely wasted, and was so stupid that he nicked this girl's handbag and stole the phone. All she really wanted was her phone back. So, you're up against, he's got a little bit of previous, he should really be getting arrested and sent to court, up against a victim who doesn't really want to go to court. I've got an offender who's really sorry for what he's done, he's got quite sad circumstances which led him to being really stupid that night, and she's a nice girl who only wants her phone back. (PCNPTG4)

In this case, the decision to offer a community resolution seemed to be closely related to the officer's willingness to divert an offender with an existing record, and to their judgement of both parties' characters: they considered the victim's desire to avoid court to be important, and accepted the offender's remorse and explanation for their actions. Similarly, consider the following case in which several young persons were accused of harassment:

[Following street RJ] there's gonna be no further action because I believed that the apology was sincere. [...] It was really dealing with an incident right there and then, a minor incident, mischief as opposed to crime. (PCSOD6)

Here, the decision not to escalate the case seemed to be underpinned by the belief that the 'apology was sincere' and that the incident was merely 'mischief'. This illustrates the subjective, discretionary nature of the decision to utilise community resolutions, raising the possibility that their use might depend on an officer's attitudes towards diversion and their interpretation of expressions of remorse. Consequently, officers who imbibe the cultural police biases outlined in Chapter 2, might withhold the offer of a community resolution on the basis of their suspicions or prejudices in relation to offenders from certain social and ethnic groups (McConville, et al., 1991). One officer insinuated that the decision to offer RJ was informed by offenders' attitudes towards them:

Generally, you can apply the attitude test because, from what I've seen, if people are all right with you, although they might not realise their actions, once they speak with the victim, it just changes things. (PCSOD5)

Suspects may hold or express anti-police attitudes for reasons which are not indicative of their remorse, nor relevant to their suitability for RJ or diversion, such as previous experiences of police maltreatment (Koenig, 1980). This might mean that offenders are denied access to an informal disposal, and that both victims and offenders are excluded from RJ, solely on the basis of perceived disrespect for officers (Alarid and Montemayor, 2012). More than this, the use of the so-called 'attitude test' (Warburton, et al., 2005: 122) to determine suitability for RJ, might be discriminatory: officers are more likely to misinterpret civilians' attitudes as anti-police if they come from less 'respectable' backgrounds (Chan, 1996: 119) or from an ethnic group against which the officer is prejudiced (McConville, et al., 1991; Bowling and Phillips, 2002; Payne, et al., 2016). One study found that officers believed RJ to be 'especially suitable for those coming from a "good background" and less suitable for those who are "dragged up"' (Shapland, et al., 2017: 71-2), implying a class bias. That the decision to use RJ seemed usually to be made quickly, may increase the likelihood that it was based on intuitive biases, rather than on a thorough consideration of case suitability (Kahneman, 2011). Furthermore, that this decision was often also the decision to divert an offender from a more disclosable record, raises questions about the fairness of the process through which criminal records are obtained.

The second motivation for using RJ which officers expressed, related to reducing recidivism. Recent years have seen the police play a growing role in rehabilitation and offender management through IOM and other approaches (Mawby, et al., 2006; Routledge, 2015). In line with findings by Hoyle, et al. (2002) that using RJ encouraged rehabilitative thinking among police, several officers discussed the desire to use RJ to foster desistance. One stated that RJ 'gives me a chance to deal with them in a different manner which might have a better effect on them reoffending' (PCNPTD2). Another described speaking to the parents of two young girls who had harassed and verbally abused a disabled person:

I said: 'This is what's gonna happen. Rather than make it more difficult to them and more serious, I want to try and educate the girls. I'm gonna speak to the lady in question, the victim, and if she's happy about it, I'd like the girls to meet her, because I think they need to be educated'. (PCSOD2)

These and other officers reported being motivated to offer RJ for the purpose of rehabilitation. However, other respondents were sceptical about the impact of RJ on some types of offenders. For example, one expressed doubt that RJ might help serious violent offenders to desist:

I don't think restorative justice would be good for everything. Serious assaults, that type of thing, I don't think it would be wise, because I don't think that you can change somebody who's prepared to stab or slash or do something along those lines. (PCNPTG3)

This suggests that offender rehabilitation was among this officer's motivations for using RJ, but that they might not offer it in serious cases because of the belief that it would not achieve this goal. The implication is that the officer might have failed to consider the possible benefits of RJ for victims of serious crime (Daly, 2005b, 2006; Shapland, et al., 2011), or that they saw these as insufficient to justify delivering the process. Similarly, one PCSO from Durham reported that they did not perceive RJ to be effective with shoplifting:

For shoplifting, I'd say it's not fantastic. I don't think the offenders sit back and think: 'Well, I won't do it again'. [...] We would get the offender to meet with the management, they'd pay for the goods that they'd stolen, they might exchange a letter of apology and the management would tell the offender the impact on the store, but in my experience, it hasn't stopped the offender doing it again. (PCSOD9)

This officer said that they used RJ with shoplifting anyway, suggesting that they may have done so for other reasons. Still, those who saw rehabilitation as a core motivation for offering RJ, may have been less likely to do so in cases where they felt that it would not influence future offending. This builds on previous findings that some officers are largely offender-focused in how they understand the purpose of RJ, potentially resulting in victims' needs being neglected (Hoyle, et al., 2002; O'Mahony, et al., 2002).

The third and fourth motivations to use RJ, as expressed by officers, were the processing speed which it enabled and the possibility of using the process to help victims. Depending on a victim's needs and desires, these two priorities may

have been possible to satisfy simultaneously if, for example, some victims only wanted an apology or compensation. As previous chapters mentioned, however, these two priorities may have been in tension, insofar as enabling the victim to participate in dialogue or decision-making is often more resource intensive than excluding the victim from the process altogether.

It is significant, therefore, that these priorities seemed to be weighted differently by officers from the two forces. Most respondents in each area reported that both concerns motivated them to use RJ. However, officers in Durham were more likely than those in Gloucestershire to discuss victim satisfaction as their primary concern. For example, one described RJ as 'a way of the victim getting more satisfaction than they would probably get if it went down normal routes' (PCSOD4), while another stated: 'Whether it's Level 1 or 2, it's all about the satisfaction of the victim' (PCSOD2). By comparison, officers in Gloucestershire were more likely to suggest that the desire to be efficient and to conserve resources was their primary concern, although they sometimes also noted that RJ could impact positively on its participants. One officer said: '[RJ] reduces paperwork and, in the long run, rules out having to go to court. So, it's sort of swift justice, really, which helps everybody' (POG3), while another stated:

It's an easier out, a better way, it's an easier system, and more people benefit from it. So obviously, with the jobs that we do and the length of time, and you know that it's gonna have a better outcome, you're gonna do this system rather than go through custody. (PCNPTG8)

Although these sentiments were also expressed in Durham, respondents from that force were generally less likely than those from Gloucestershire to imply that they elevated the goal of speed above victims' needs. These differences were subtle, and might have been partially rhetorical. Yet, they correlated with the more sophisticated representation of victims' needs within Durham's strategies and by policymakers/managers, and with the higher levels of victim satisfaction achieved by that force. These data might indicate, therefore, that respondents from Durham had internalised the strategic goal of prioritising victims' needs. Notably, Level 2-trained officers in Gloucestershire were less likely to emphasise processing speed than those who were trained only to Level 1. Thus, there may have been a relationship between the receipt of conferencing training and/or the experience

of facilitation, and the prioritisation of victims' needs over processing speed. If so, this might have influenced the overall use of RJ in both forces: in Gloucestershire, only around 40 officers (<5%) had received conferencing training – figures which, in Durham, were greater by a factor of ten.

This is not to say that victim satisfaction was necessarily an exclusively normative goal for frontline officers. Indeed, many officers from both forces seemed to equate victim satisfaction with the victim's willingness to sign off on an RJ disposal. It may be that, by requiring the victim's consent for a community resolution, both forces had made it so that officers saw victim satisfaction as a means to an end – the end being the efficient closing of cases. Consider the following statement from an officer in Durham:

Closure for the victim is one of the outcomes, closure for us as a police force to have that crime solved, and a bit of closure for the person who's carried out the offence as well. That's making sure that all three parties are satisfied with it. It's no good just saying: 'Right, it's satisfied your needs, it hasn't satisfied mine. I just got that incident opened on my incident log, on my crime system. I need to have it closed in that respect'. But a bit of closure for the victim, really that's the main thing. (PCNPTD4)

This officer, while implying that the victim was their primary concern, referred also to their own workload in a manner which suggests that they were at least partially motivated to satisfy victims because it was a bureaucratic requirement. In both forces, the integration of RJ into the community resolution essentially turned 'victim satisfaction' into a bureaucratic outcome, measured as the victim's willingness to consent to a community resolution. On one hand, this might have incentivised officers to put pressure on victims to participate, or otherwise to obtain victim consent and complete the RJ process as quickly as possible. This incentive structure might have led to the exploitation of victims 'in the service of system efficiency' (Crawford, 2000: 292). On the other hand, if officers internalised the priorities implicit within recording requirements (Ericson, 1981; McConville, et al., 1991), this could have resulted in a genuinely enhanced focus on victims' needs, in parallel to the desire to resolve cases quickly.

The fifth motivation which officers expressed in relation to their use of RJ, was the perceived ability of dialogic practices to resolve (and therefore close)

cases which did not have a clear victim or offender. This included neighbourhood conflicts in which it was not apparent if either party could be held ultimately responsible. For example, one officer described a case as follows:

I just tried to use my RA training. I didn't have somebody quite clearly admitting to the harm, but I had two parties who couldn't come to a solution about a problem and both blaming each other. Touch wood, it worked. Not had any more problems at that address. (PCNPTD1)

Similarly, some officers reported running conferences in response to one-off incidents for which they believed that responsibility was shared, most notably in fights between young people. One officer described a case of this kind:

I gave [conferencing] a go, and both parties went away and thought, 'Right, yeah, we've been stupid'. It wasn't so much a victim. It was mainly two offenders to be honest. They weren't cautioned. They were young people, and they went away thinking they were absolutely stupid and they hadn't realised what they were doing. As far as I'm aware, there have been no recurrences of the behaviour. (PCNPTD2)

Another officer discussed a comparable example:

I went to meet the person reporting the potential assault, who said: 'Yeah, he pushed me over, I fell against the wall, I cut my leg'. We go and see the [suspect]: 'Yes, I did push him over because him and his friends were bagging up bags of urine and one of them hit me'. [...] So, back to the victim: 'Ah well, yeah, we did'. So, obviously we need to get everyone together. Obviously, nothing was crimed. [...] It was more of an exchange of what's happened, and I think everyone went away thinking: 'Well, it's just been an unfortunate situation that's occurred, and no one really is at fault'. [...] It's very, very difficult when you get the call. It may spell out, one person is causing all the hassle, but then when you get people together that's not the case. (PCSOD8)

McConville, et al. (1991: 12) argued that blunt, dichotomous legal categories often require the police to 'render down the complex to the simple' in ways which 'deny

ambiguities of real world experience'. The quoted officers perceived that the legal categories of 'victim' and 'offender' were not easily applicable to their cases, motivating them to use conferencing on the basis that it could resolve the conflict without requiring the officer to impose these labels. This is consistent with the common presumption that RJ has the 'capacity for dealing with muddy, confusing situations that may not have a clear victim and offender' (Stuart and Pranis, 2006: 127; see also Young, 2000).

Notably, these cases were all in Durham. Officers from Gloucestershire seemed to be much less likely to entertain the use of RJ in cases which did not have clear victims and offenders. One officer suggested that cases of this kind required mediation instead:

When you have two parties and you don't have a clear offender, I don't think RJ should be used under those circumstances. [You could use] mediation, which is apparently quite a different approach. I'm not trained in that but I wouldn't mind being. (PCSOG1)

Another drew a similar distinction between RJ and mediation:

Sometimes, people say to me: 'I need a RJ', and what it is, is mediation. It's not the same thing. [...] Mediation, is six of one, half a dozen of the other, often. RJ is where you've got a clear offence and somebody's at fault. (PCNPTG6)

A third suggested that RJ was more difficult to administer in such cases:

For RJ to work, a lot of the time, you really need to have somebody who will admit responsibility for what's happened. But, unfortunately, in neighbourly disputes, you don't really get that. (PCNPTG4)

There may not have been much difference between how these cases were resolved in the two areas. In Durham, officers reported variable adherence to the script in these cases, while one officer in Gloucestershire suggested that they had done 'one true RJ', but that 'all the other [cases] have been mediation, but with RJ as a framework' (PCSOG2). The point is that the extent to which a given practice

is informed by restorative principles, is a different question as to whether or not that practice is labelled as RJ (Gavrielides, 2007). Still, respondents in Gloucestershire seemed to be much more reluctant than those in Durham to locate their more complex dispute resolution activities within a broad restorative framework. This reflected Durham's promotion of RJ as a philosophy with which to underpin policing in general, and the fact that officers in Durham were encouraged to take risks with it. In fact, their Level 1 training slideshow said, in capital letters: 'DO NOT BE RISK AVERSE' (doc. D2: 20). Accordingly, officers in Durham reported applying RJ more broadly than their counterparts in Gloucestershire.

That RJ was promoted so strongly within Durham, might have led to another, more perverse motivation behind its use: to alleviate managerial pressure to be seen to comply with the RJ strategy. No officers in Gloucestershire reported ever having felt under pressure from their organisation or managers to use RJ. In Durham, however, two officers, who were not from the same division, reported that there was pressure on officers to use RJ more often. One argued that this could lead to its use in cases for which it was not appropriate:

I think we're under pressure to use it as often as possible, which dilutes its effectiveness. [...] You can try and force it to happen because you might get asked the question, 'How many RAs have you done?', and if it's not many compared to someone else, you feel the need to get them up, or some might feel the need to get them up. It should be applied when it's needed, not because you think I should get them up. (PCSOD7)

Another officer described how middle managers might exert pressure on frontline officers in order to be seen to be implementing the RJ strategy in their areas:

Probably for internal, political reasons, I think everybody's kind of thinking about it all the time, because there is a lot of pressure on people to be seen to be using this. [...] I am a big fan of a lot of what Mr. Barton's done for this force, but probably two levels below him carry his message, or what they claim to be his message, and often it's not necessarily the case. I don't know if it's for fear of being held to account or anything, but they'll really drive that forward and certainly RJ was no different. Examples being, 'right, everybody's got to have an RJ once a month'. [...] What I know is still

happening is that people just use it in situations where it shouldn't be used. [...] I bet I couldn't find it written down, but I bet I could find you ten people who had it said to them: 'I want to see one every month.' [...] Some people know what the difficulties are around it, but that doesn't change the fact that they're gonna tell you to do it because someone's told them they've gotta tell you to do it, and that's not exclusive to this. (POD3)

While no documents or policymakers/managers alluded explicitly to the existence of a target, an HMIC report on Durham stated: 'Senior leaders promote the use of restorative approaches, with an expectation that officers will carry out at least one restorative approach per month' (2014c: 22). Such a target might be problematic if, as noted in Chapters 2 and 3, its introduction led to 'gaming', that is, to the proliferation of measured activities which aimed to meet the target, rather than to be socially useful. Stockdale (2015b), whose research explored the implementation of RJ in Durham, asked whether 'a facilitator acting under duress [might] undermine the process' (Stockdale, 2015b: 197) by engaging in poor quality delivery. This question was addressed directly by a Durham Constabulary internal report from late 2014, which hypothesised that officers were 'chas[ing] those numbers to avoid being held to account', and that this may help to explain the 'mechanistic' use of compensation and letters of apology (doc. D11: 4). Plausibly, the strong promotion of RJ within Durham (whether through informal targets or otherwise), incentivised officers to maximise the number of cases processed through RJ at the expense of each practice's quality.

The internal report was careful to state that it had not identified a causal relationship between managerial pressure and the inappropriate use of RJ, as there is no objective standard for when RJ should or should not be used, or for what it should look like in each case. Moreover, other officers explicitly said that they were encouraged only to use it when appropriate, including one who stated:

I think it was good that it had come down from higher officers and the chief officer that it wasn't to be seen as a quick fix, it was only to be used if it was applicable and if it was the right thing to do. (PCNPTD1)

These data may indicate that officers had received different messages. Some managers might have been more performance-oriented than others, or different

local teams could have come under different levels of pressure from senior officers to increase their use of RJ. Alternatively, individual officers may have been put under pressure to use RJ more often because they were defying the RJ strategy by refusing to offer or deliver it. Indeed, the officers who reported experiencing this pressure, were also among those who expressed the most scepticism about its applicability to their work.

The extent to which these motivations for using RJ informed the way in which RJ was offered and delivered, can be considered further by investigating how officers explained their use of RJ in practice.

### **7.3 The offering process**

Chapter 3 explained that RJ should optimally take place with the free and informed consent of the participants. However, the low visibility of the offering process afforded officers the discretion to determine, on a case by case basis, what to offer and how to do so. This section explores the police's explanations of how they offered RJ in practice. It considers both what was reportedly offered, and whether pressure might have been used to encourage participation.

Most descriptions of the offering process fell into one of two types: those which portrayed RJ as dialogic, and those in which victims were offered the opportunity to propose outcomes. While both approaches were reported in both areas, the former was reportedly used more systematically in Durham, where most officers implied that they typically framed RJ as dialogic:

I just basically go down the lines of [...] 'there's a new scheme which Durham police brought in, called restorative approach, whereby both people, in a nutshell, get in a room and we discuss our differences. [...] It's a discussion to try and solve the problem, so that we're both in a mutual environment, and it gets sorted there and then.' That's generally how I go about it. (PCSOD5)

Another officer from Durham stated: 'It's offered all the time, they don't all involve face-to-face meetings, [but] the victims are always offered that' (POD2). By

comparison, those in Gloucestershire were more likely to report describing RJ to victims as their chance to propose outcomes. One officer said:

[Victims] look at you blankly, because they've never heard of it. [...] So, you explain. 'Well, how do you want it dealt with? One extreme is nothing, one is words of advice, one is restorative justice, or the other end is an arrest, if I deem it suitable'. [...] If they say 'restorative justice', you say: 'Ideally then, how do you want it to be dealt with, what are you looking for?' (POG2)

Another officer from Gloucestershire stated: 'You just ask [the victim]: what do you want from this?' (PCSOG1), while a third said:

I usually sit down with [the victim] and say: 'What's the best outcome for you? What would you like to see happen? What do you want?' Because the bulk of the stuff that I deal with is shoplifting, the shop is normally quite happy as long as the goods are paid for. (POG6)

The significance of these differences lies in the fact that most prospective participants would not already have an understanding of RJ. Consequently, the police had the discretion to offer it in a manner of their choosing, and the parties may not have been able to challenge their proposals (Daly, 2003; Laxminarayan, 2014). Recent polling shows that most people in England have never heard of RJ (Restorative Justice Council, 2016b). In this study, only two officers reported encountering one victim each who had heard of RJ, while another reported that some shops in their area knew about it through previous experience. Most other facilitators reported that nobody they interacted with had heard of the concept. As one volunteer facilitator asserted, this meant that they were required to explain it to prospective participants, and that they might do so on the basis of their own understanding of how the process should work:

Every time that you mention it, you also have to be prepared to explain to whoever it is that you're talking to what restorative justice means, and when you do that, you're giving your version of what you think restorative justice means rather than there being a textbook version of it. (RJHFD4)

This meant that victims and offenders who were not offered the opportunity to speak to each other, might not have realised that this was an option. Participants might also have had different expectations of the process, depending on how it was described to them (Van Camp and Wemmers, 2013; Laxminarayan, 2014; Vanfraechem, 2015): a victim who is offered the chance to share their feelings with the offender may have different expectations than a victim who is only asked to propose outcomes without speaking to the offender.

One possible explanation for these different approaches lies in how officers understood RJ. All respondents were asked what the term RJ meant to them, at which point the two officers from Durham who were just quoted as offering it dialogically, defined it dialogically. Similarly, one officer from Durham who defined RJ non-dialogically – as ‘empowering the victim to have a say in what punishment or what outcome that an offender has’ (PCNPTD2) – also described offering RJ without necessarily raising the possibility of dialogue:

I explain RA: ‘We could go down RA and we can sit and ask you once we’ve spoken to [the offender] and maybe interviewed them, then we can come back to you and sit down and decide how you would like it to go, what would you like to be done about it’. (PCNPTD2)

This officer, like those quoted from Gloucestershire, reported portraying RJ as the victim’s opportunity to propose outcomes. This suggests not only that officers in Durham had the discretion not to offer dialogue, but that whether they did or not might have depended on how they understood RJ. This correlation broke down in Gloucestershire, however, where officers who understood RJ dialogically and delivered conferences, also reported offering mostly non-dialogic processes at Level 1. This suggests that the offering process was shaped by each force’s RJ strategies and policies: in Durham, officers were trained and expected to offer dialogue at Level 1, while the reverse was true in Gloucestershire.

The data also suggest that the time and resources it took to deliver a formal conference, might have informed the decision of whether or not to offer one. In Durham, several officers reflected on this point, with one stating:

Quick-time ones, the on-street ones, can be done instantly. [...] The mediation level takes a bit of time to go back and speak to the person, get an

agreement for that to happen, a time for a meeting to take place and find a venue. All that can be time consuming. (PCNPTD4)

Another officer noted that both time and the identification of a location were among the barriers to conferencing:

You've got to find a mutual venue, which can be [the station] but you've gotta book it out. Although it was worth it in the end, it is time-consuming, and that's the only downside to it. (PCSOD5)

While many officers from Durham noted this difference between street RJ and conferencing, none explicitly stated that it deterred them from offering dialogic approaches. In Gloucestershire, however, some officers made this connection. One stated that conferencing was 'just not on the radar for most people' because of the difficulties in 'arranging for all the parties to be here when [the conferencing specialist] is around' (PCNPTG6). Another officer, who was trained to Level 2 but who had not delivered a conference in the previous year, explained:

We've got less and less police stations. Plus, they're not secured for individuals to be coming in and out of them, and we don't have designated RJ conference rooms, so that's hard. If I'm arranging a meeting, I would have to think very hard about where I would hold that. (POG4)

Given that most respondents lauded RJ for its ability to increase efficiency, these pressures may not have deterred the police from using RJ *per se*, but rather informed the *types* of RJ which were offered, with dialogic approaches – or, at least, formal conferences – being neglected in favour of quicker, less structured and less planned processes.

Similarly, the propensity to offer conferencing might have depended on an officer's role, with those in neighbourhood policing – especially PCSOs – given more time to undertake proactive work, than those in mostly reactive roles. For example, one respondent from Gloucestershire, who was not in neighbourhood policing, suggested that they rarely had time to use even street RJ:

Time is always what we would like to have more of. A lot of officers will tell you they'd probably like to sit down and talk to people, but unfortunately from the department that we work in, it's really difficult for us to do that. That's one of the constraints. (POG5)

Similarly, a PCSO from Durham suggested that their role enabled them to use conferencing more often than others:

From a neighbourhood perspective, it's easier because you do have that little bit extra time, whereas if you maybe speak to somebody from response who's going from job to job to job, it's more difficult because they've got a lot of other things to do as well. [...] With stuff like this, especially Level 2 – and I mentioned it takes a lot of time – [managers] will allow time to facilitate and to discuss it. (PCSOD5).

That neighbourhood officers might have had a greater ability to deliver conferences than officers in other roles, has been noted elsewhere in the literature (Bazemore and Griffiths, 2003; Cutress, 2015; Clamp and Paterson, 2017; Shapland, et al., 2017). Still, each officer had to make a conscious choice to offer a dialogic process, knowing that, if they could get the victim to consent to a non-dialogic process, this could satisfy their bureaucratic requirements quicker. This might help explain why several studies, including this one, have found that the police use street RJ much more often than conferencing (Cutress, 2015; Shapland, et al., 2017; Westmarland, et al., 2017). The combination of low visibility discretion and the pressure to resolve cases quickly and efficiently, might incentivise the police to prioritise processing speed over other goals, and encourage officers to limit the choices they make available to prospective participants (Cutress, 2015). Additionally, the reframing of some peacekeeping activities as RJ, might have increased the proportion of police activities which were labelled as restorative, without involving formal dialogic processes.

The data also indicate that respondents went to different lengths to communicate the voluntariness of the process to prospective participants. Previous quotations suggested that some officers described RJ to victims as one of several options from which they could freely select. However, several officers

described 'selling' RJ to victims in ways which may have resulted in victims feeling under pressure to participate. For example, one officer stated:

It's no good going into someone's room who's never heard of it before and saying: 'We've got this thing called restorative approaches'. [...] It's how you as a police officer sell that to that person. 'This is what we can do, it's not a soft option, it can run concurrent to a criminal conviction, it gives you a bit of closure, it might give you a bit of time to meet them, find out why they've done that'. (PCNPTD4)

Several other officers also reported actively trying to convince victims to participate in RJ by making reference to what they might gain from doing so. Another remarked: 'When I'm trying to sell it to the victim, I would always give examples of good cases that we've had' (POD2). Similarly, another commented: 'A lot of it is us selling the concept and what can be achieved' (PCNPTG1). Officers justified this approach on the basis that victims were initially unable to grasp the benefits of participating. Still, as explained in Chapter 3, they risked giving the impression that RJ was their preferred outcome, meaning that some parties might have consented primarily because of the officer's authoritative position (Delsol, 2006; Nadler and Trout, 2012).

A small number of officers, all of whom were from Gloucestershire, reported using rather more threatening approaches in an attempt to convince sceptical victims to participate. For example, one said that they emphasised the hassle it might cause for the victim if they chose not to do so:

The victim is told: 'You don't have to make a complaint, no one is gonna force you, but if you do want to make a formal complaint, it could end up in court and you could be compelled to go to court. If the judge decides they're gonna call you, you could be summonsed and a warrant issued'. (POG2)

Another officer reportedly suggested to victims that they might be partially responsible for future offending if they refused to participate in RJ:

You can, not persuade the victim to get involved in the RJ process, but you can explain to them why it would be good if that person is involved in RJ.

Sometimes, it takes you to explain to them: 'You're happy to leave this, it was only minor damage, you're not too bothered. But what happens if it goes up the scale, you knew about it and you didn't want anything done?' But it's not being sort of horrible and nasty to a victim, saying: 'Well, you've got the guilt on your mind if it happens again'. It's just saying: 'Look, you can help this person.' (PCNPTG2)

These approaches may have been even more likely to be interpreted by victims as pressure, than the more positive 'sales pitches' discussed previously. Further, they reflect the varying motivations for using RJ described earlier. Some quoted officers may have encouraged participation based on the belief that the victim would benefit, while the last quoted officer seemed motivated to 'sell' RJ to victims on the basis that it might reduce reoffending. Others, still, implied that their offering process might be informed by the desire to resolve cases quickly. For example, one officer from Gloucestershire, in a potential Freudian slip, suggested that they might 'impose' RJ to avoid having to make an arrest:

We're located at [place], so to have RJ as an alternative means of disposal, means that we don't have to go to cells. [...] It's such a drive, and when you get there, the whole world seems to stop turning, and it takes you out for the whole day. Whereas if RJ can be imposed or [pause] dealt with there and then, it's brilliant. So, it's saving time. (POG3)

This further illustrates how the presence of unranked policy goals – in this case, victim satisfaction, reoffending reduction, resource conservation and voluntary participation – can enhance discretion by enabling officers to determine what to prioritise in a given case (Sanders, et al., 2010). Consequently, voluntariness may be sacrificed if it is perceived to conflict with other goals.

In fact, several officers from Gloucestershire argued that the principle of voluntariness was problematic because it was in tension with their ability to resolve cases to their own liking. In this regard, many compared RJ to the previous, more discretionary, COPS disposal. One stated:

Because we'd used COPS for quite a while, and because it was changing and becoming more victim-focused, I know a lot of people were dreading it.

We were turning up to things and telling people 'this is how we're going to deal with it', whether they liked it or not, to put it bluntly. Then it was becoming more, the victim's got to go along with it. If they don't want it, then you're a bit stuck really. (POG6)

Officers from Gloucestershire often lamented this loss of discretion on the basis that victims did not always consent to informal disposals in cases where, in the officer's view, this was the most proportionate outcome. One stated that their ability to use informal disposals was restricted by victims who 'wouldn't be happy unless they got blood' (PCNPTG1), suggesting that a victim's desires might be in conflict with the principle of proportionality. Another made a similar point:

There are times that, although it's not voluntary, it's the common-sense approach for it to happen. [...]. Some officers will think it should be more police-led than victim-led. 'Right, this is a job, a minor incident compared with what we deal with day-in day-out. For me to go down the criminal route on this incident is not in the public interest, I think it should be dealt with by, you shake each other's hand, say sorry, and that's the end of it.' (POG1)

This officer went on to describe this issue in relation to shoplifting:

Some stores [say], 'we've detained them, we want them arrested'. Well it's £5 shoplifting, they've never been in trouble before, we should be able to make that decision. 'Right, what's gonna happen is, you're gonna get the product back so you're not out of pocket, they're gonna be banned from your store so they can't come in here again. They're gonna be dealt with by restorative justice, with those outcomes agreed. If they get caught again, they won't get another chance after that'. But that still has to be victim-led. (POG1)

That there was perceived to be a tension between victims' desires on one hand, and the offender's and broader public's interest in having a proportionate and efficient justice process on the other, reflects the dual role that officers played in both facilitating RJ and making policing decisions. They did not, as an independent RJ service might, get referred cases for which all pertinent legal decisions have already been made. Rather, they were required to balance public and private

interests in determining whether a given outcome or disposal was appropriate and, concordantly, what should happen in cases where community resolution/RJ could not be used. This illustrates how officers' decisions on RJ can be shaped by their responsibility to balance the needs and interests of various stakeholders, including, but not limited to, the direct victim and offender in a given case. In this case, the overlap between RJ and community resolutions may have created an incentive to impose RJ on victims who were felt to be unjustifiably insisting on prosecution. In this sense, the use of RJ may have been informed by the (perceived) necessities of the operational policing role, and by the manner of its integration in the police disposals framework.

Some officers may also have put pressure on offenders to participate, whether intentionally or not. Only one officer – who, in the previous chapter, was described as uniquely cognisant of the possibility that this might happen unintentionally – reported being especially careful to avoid this. On offering a conference, they stated: 'I spoke to the young lad, laid out the options, can't steer him in any particular way. I just laid out the options' (PCSOD7). Some other officers, mostly from Gloucestershire, implied that they might offer RJ to offenders alongside a specific threat in relation to what would happen if they declined. One suggested that they might frame the offer as a direct choice between RJ or court:

If I ever had anybody that refused to take part in the RJ, then, obviously, the carrot or the stick. The stick is: 'Ok, you get arrested or, at least, I report you and you go to court. It's up to you. This is actually your opportunity, if you want to take your chance in court, then by all means.' (POG4)

Similarly, another reported framing the offer as a choice between RJ or arrest:

I usually kind of sell it, well, not sell it. It sounds bad, doesn't it? You're kind of saying to them: 'look, these are your options, you can be arrested or you can pay a bit of money, apologise', etc. I kind of sell it more to the offender so they'll go along with it. (POG6)

The second quotation in particular implies that the officer made the offer with the express intent of securing consent. A third respondent similarly remarked that they had 'been able to talk round' some reluctant offenders (PCNPTG1). These

comments are consistent with research findings that the police may 'behave in ways which dissuade many suspects from exercising their rights' (Sanders, et al., 2010: 252), such as by persuading them to consent to OOCs. This may even happen in cases where there is not enough evidence to charge, or where there are legal defences (Sanders, et al., 1989). Thus, not only might officers use these threats as 'ploys' to ensure participation by magnifying the underlying pressure on offenders to participate for fear of a worse alternative, but they might even engage in deception when doing so.

Perhaps the highest pressure practice described in Durham, was by one officer who used the threat of arrest to encourage a teenage offender not to leave a conference with their grandmother, from whom they had stolen cash:

Both were crying. He actually got up and walked out, and I went after him and said: 'We need to deal with this. If you walk out the door I will arrest you because we need to get this sorted and this was the agreement we had'. (PCNPTD1)

Another officer from Durham stated that their desire to be victim-focused meant that they wished they could put pressure on offenders to participate:

A couple of times I wanted to deal with the restorative approach, and either I couldn't, or I didn't get the outcome that I wanted for the victim, and I felt that we could do things a little differently. Maybe, not force people's hands, but a bit more pressure on offenders to engage in a restorative approach. Sometimes they don't wanna engage in it and I think, being victim-focused, I feel like I've let the victim down. (PCNPTD3)

This might reflect Reiner's suggestion that 'much police wrongdoing can be attributed to the misguided pursuit of a "noble cause"' (Reiner, 2010: 120). In the latter case, the officer seemed to believe that pressuring offenders into participating might be a legitimate tactic because it could help victims. This may be one manifestation of how the 'victim-focused' rhetoric might have shaped some officers' understandings of the purpose of RJ.

## 7.4 Enabling stakeholders to communicate

All officers were asked to describe any communication which they enabled between the parties when delivering RJ. Their responses suggested that this varied considerably, both between and within the categories of Level 1/street RJ and Level 2/conferencing. This section considers each of these ‘types’ of RJ in turn, assessing the extent and nature of any communication which reportedly took place, and the possible implications for those who participated.

Procedurally, Level 1 practices were described as varying substantially. That being said, only one case was explicitly portrayed as involving no direct or indirect communication whatsoever between a victim and an offender. In fact, this case had no victim, in the conventional sense of the term:

We had a 16-year-old who was found in possession of cannabis. [...] I felt that educating him was more a restorative way forward than just criminalising him. [...] The education that he received was dealt with through a psychiatric nurse who understands the harms of drug abuse, understands the mental health side of cannabis. [...] I don't think there was a restorative side as in for a victim but, with his age, I think the victim was the young person himself anyway, not understanding what he is doing and what the consequences were, should he continue. (PCNPTG3)

The acceptance of non-dialogic practices as RJ, may have enabled officers to exercise their discretion creatively under the guise of RJ, and to utilise practices and outcomes which reflected their own understanding of the term. In this case, the officer may have believed that offender education, in the absence of a victim, was restorative. Alternatively, they may have believed that this was simply the most appropriate response to the case, but had no choice but to label the disposal as RJ, and therefore described it as such.

Many officers described other Level 1 practices which involved only very limited, often indirect, communication between the parties. This is exemplified by the approaches described earlier, in which victim participation was restricted to being asked to provide input in outcome decisions, the result of which was then communicated to the offender by the officer. The following description of practice typified much of the street RJ reported in Gloucestershire:

I would normally sit down with both parties, separately usually. We've got a booklet, so I fill out the form with them and have a chat with the shop or the victim, see what they're happy with of the different options. Then I go to the offender and say, 'right, this is the option we've got, you can either pay and write a letter of apology or whatever, or be arrested and go to court'. (POG6)

In these cases – which, in Gloucestershire, were often structured according to the Level 1 form (see Figure 6.6 earlier) – communication between the parties was usually indirect and limited to the officer informing each party of the other's willingness to resolve the case informally and/or of the nature or acceptance of any conditions. The parties may have then communicated directly if one outcome was a letter of apology, although respondents suggested that these were usually quite narrow in scope. One officer, for example, stated: 'Normally they just write out a standard 'Really sorry for what I did'. It's very basic, [we] don't expect much from them' (POG6). The parties may also have communicated directly if the offender personally handed compensation to the victim. One officer said that, in cases involving compensation, the parties tended to 'deal with it amongst themselves' (PCNPTG7) – although it was not specified how much, or how often, the parties would speak at that point.

To the extent that victims could propose or suggest outcomes, they may have experienced these practices as empowering, as defined in Chapter 1, because of their participation in decision-making. The next section discusses the inclusion or exclusion of one or both parties from the outcome determination process. For now, it is important to note that such practices precluded the parties from being empowered *via* participating in a dialogue in relation to the causes and impact of the offence or incident.

Dialogic practices, explained Crawford (2015: 175), are 'janus-faced' and 'look backwards and forwards across time'. In theory, the backwards-looking element empowers the parties by enabling them to express themselves directly to other stakeholders, to ask and answer questions and to reflect on the causes and impact of the incident (Roche, 2006; Zinsstag, et al, 2011). This 'emotional exchange' (McCold and Wachtel, 2002: 115) is designed to *address* harm 'at the micro level' (Bazemore and Umbreit, 1995: 302). As Chapter 3 explained, this may generate empathetic responses from both parties and lead to more relational

outcomes (Rossner, 2013). Chapter 3 also noted that this form of participation is widely seen as crucial to the empowerment of stakeholders within RJ, as well as being linked to the perceived fairness of the process and its effectiveness at reducing reoffending, satisfying victims and aiding in victim recovery. Yet, as previous studies also found (Meadows et al., 2012; Walters, 2014; Cutress, 2015; Westmarland, et al., 2017), participants in street RJ were often not enabled to address harm through dialogue.

As noted, their discretion meant that officers could offer mechanistically (written or spoken) apologies or (direct or indirect) compensation in order to close cases quickly. For example, one policymaker/manager from Durham said that some officers used face-to-face apologies to achieve this goal:

It's very easy for me as a cop, particularly at a shoplifting, to say 'Just apologise', 'I'm sorry', 'Right, you're barred from the shop, I'll put that down as a RA'. No, it's not an RA in the true sense, that's cuffing it. (PPMMD1)

The concept of 'cuffing' has been used elsewhere to refer to non-recording of offences to avoid paperwork or other more time-consuming work (Pepinsky, 1987; Patrick, 2009, 2011; Myhill and Johnson, 2016). In this context, one policymaker/manager defined 'cuffing' as 'tak[ing] the easy option, rather than taking the right option' (PPMMG3), while an officer described it as 'getting rid of a job without doing it properly' (PCSOD7). For example, one officer reported a case of assault which they perceived to have been 'cuffed' on the basis that the officer who delivered it had failed to offer conferencing, despite the suitability of the case for that process:

I think it could have been a really good opportunity to have done a proper RJ and drilled down and got to the basis of why it was all happening, which culminated in the neighbour slapping the neighbour. But instead of us exploring that option, the officer just said, 'I'm gonna get them to write a letter of apology', which ended up being one line. We could have had a full-blown conference around that, and that might have resolved the underlying issue. I thought there was an opportunity missed. (PCSOG2)

Officers who 'cuffed' cases by prioritising less time-consuming (and less dialogic) forms of street RJ, might represent the 'avoider' cultural group identified by Mastrofski, et al. (2002) as passively resisting change by doing as little work as possible to implement it. However, identifying a 'cuffed' practice retrospectively is complicated by the lack of an objective standard for when dialogue is needed. On one hand, it might be argued that officers should have offered conferencing in all cases, leaving it up to the prospective participants to determine whether they wanted to engage in it. On the other hand, the integration of RJ into police peacekeeping meant that RJ, in the broad sense of the term, was being used regularly with minor incidents in which conferencing might have been excessive. This may illustrate another tension between the policing and facilitation roles: while police officers are expected to use professional judgement to determine the most efficient method of negotiating order, facilitators are expected to enable stakeholders to determine this for themselves. Police officers, when delivering RJ, must balance their responsibilities to their organisation, the state and wider society (i.e. to be efficient and to achieve just outcomes) with their responsibilities under RJ to enable stakeholders to participate and make decisions.

It is significant, therefore, that many cases of street RJ – mostly in Durham – were reported to involve some form of dialogue. In these cases, officers described bringing the parties together more or less immediately for an impromptu, face-to-face meeting. One PCSO stated:

The majority of my RAs are the on-street ones where you literally got the kids who have been a nuisance, you say 'right, what are you gonna do?'. So, straight away we can always do the easy one of going to the door and speaking with the person who's called the police. (PCSOD1)

Another recounted a case where young people had damaged a garden wall:

I said [to the victim], 'I'll give you a few options. You can go down the ASB route, look at getting them on curfew and all that. [...] Or, a dry-stone wall, doesn't need cement or anything like that and there's not a great deal of it gone. If I speak with them in front of the parents, and the parents agree, [they could] rebuild the wall? They can come and say sorry obviously', I also

express the process to them, 'and you can tell them the effect it's had on you [...] and [they can] tell you why they've done it'. (PCSOD3)

A third officer from Durham stated that all their 'six or seven' cases of street RJ in the previous year had involved face-to-face communication between the victim and offender. They noted that one of these cases involved shoplifting and was 'sort of Level 2' (PCSOD4), explaining:

The person agreed to apologise directly to the shop manager for what he'd done. He was then made aware of how it affected the shop manager and the staff in the store and the business, and the shop manager was able to speak directly to the offender to find out why he'd targeted their business. (PCSOD4)

In Gloucestershire, much fewer officers reported delivering practices of this kind, although one policymaker/manager implied that they often took place, stating: 'A lot of Level 1s are of a standard where you could look at them and be happy with that as a Level 2' (PPMMG6). These data echo what Meadows, et al. (2012: 22) discussed in their report on restorative policing in South Yorkshire:

What seems to have emerged in practice is a continuum of RJ approaches which incorporates Instant/Street RJ and conferencing but also includes hybrid approaches which fall somewhere between the two.

The current study provides further evidence for the existence of 'hybrid' practices which afforded the parties an opportunity to address harm through an impromptu dialogue. Though these practices lacked in structure, preparation and follow-up, they may represent a way for the police to balance their need for convenient, efficient peacekeeping methods, against their need as RJ facilitators to enable stakeholder dialogue.

Again, this raises the possibility that (street) RJ had become a framework with which to structure (or, at least, label) various peacekeeping activities which may have involved some form of informal negotiation and resolution anyway. All officers were asked whether they saw RJ as a new way of working for the police, and some suggested that it was analogous to what they did previously. For example, one officer stated: 'If you look at Level 1, taking people to apologise and

speak to the victim, that would be sort of the norm in sort of the years gone by' (PCSOD4). Another similarly argued that RJ was 'a lot of getting the neighbours to talk to each other, which is just good old-fashioned policing really' (PCNPTG7). These data suggest that these officers' informal practices might not necessarily have changed much, aside from being relabelled as RJ. However, many officers responded to this question by contending that, while street RJ was similar to what they might have done anyway, they had modified their practices in accordance with one or more elements of their RJ training. For example, one officer said that they would not previously have brought the two parties together, asserting: 'A lot of us did it anyway. [...] But now it's a more formalised process and also getting two parties involved as well, so it takes it to the next step' (PCNPTD3). Another officer reported using scripted questions to structure their informal negotiations in order to elicit more emotive responses:

You're facilitating RJs left, right and centre without even knowing it. It's just that there is a more formal process in place to assist the officer in going down the correct way of asking questions and how to look at people, so we're trying to get true feelings out of those people. (PCNPTG2)

These two were among several officers from both forces who commented that street RJ was akin to their existing peacekeeping activities, but represented 'a more formatted way of doing it' (POG4) or was 'a bit more structured' (PCSOD8). These data do not necessarily suggest that these practices were deeply informed by restorative principles and processes. Still, they lend credence to the argument that restorative principles and processes might shape, structure or encourage a strategic approach to peacekeeping (Bazemore and Griffiths, 2003; Weitekamp, et al., 2003; Meyer, et al., 2009; Clamp and Paterson, 2017). Questions remain as to whether these practices could be made to include safeguards at the same level as might be expected of conferences. Yet, as was found in the research on referral orders (Newburn, et al., 2002) and restorative cautions (Hoyle, et al., 2002), these data imply that something at least partially restorative can take place alongside non-restorative priorities and frameworks.

With respect to Level 2 RJ, all such cases described by officers seemed to involve some form of dialogue between, at least, a victim and an offender. Only one officer from each force described having delivered shuttle mediation, involving

two-way communication which focused on the transmission of information beyond the outcome agreement. One officer from Durham stated:

Shuttle mediation, if the victim doesn't want to take part in a face-to-face but there are things that they want to know, we can get them to write down what it is they want to know. We then take it to the offender, and get them to answer the questions and take it back, and if there's any clarification, we take it back. (POD2)

An officer from Gloucestershire, who was trained in conferencing, described one practice they had delivered as follows:

I got the victim to write a letter first. She wrote this really lovely, long letter, saying: 'Do you understand the impact this has had on me?' [...] I said to [the offender], 'Well, I'm really sorry, but she doesn't want to meet you, but can you write her something back? Here is what she's written to you first.' He then responded to it. I've done letters a few times, but the two times when I've got the victim to write first, I've ended up with a much better letter from my offender because they've had a basis to start from and see the impact [...] That works really well, and we don't get trained to do that. (PCNPTG4)

Recent research has suggested that these practices, while not as effective as face-to-face processes, may still reduce reoffending (Bouffard, et al., 2017). However, that such practices were so rare, suggests that they only took place on the initiative of officers who were willing to exercise their discretion creatively in these ways. As the latter officer stated, they had not been trained (nor, seemingly, encouraged) to do this; the former officer, meanwhile, only learned about this technique on an external training programme.

Most officers from both forces who had been trained in conferencing (16/16 in Durham; 11/16 in Gloucestershire), also reported having delivered at least one conference in the previous year (12/16 in Durham; 10/11 in Gloucestershire). These practices were characterised by being scheduled for a later date, and took place in a variety of settings, including victims' homes, police stations and offices, the offices of other public agencies, shops, churches and community centres.

Relative to street RJ, they were more often used in response to more serious or complex issues, such as more serious assaults and criminal damage, hate crime and longstanding neighbourhood disputes. Moreover, unlike most street RJ, some conferences also included indirect stakeholders, usually the parents or other family members of one or both parties. In one case, a young offender's football coach attended a conference as their supporter.

As Section 6.5 explained, all respondents who were trained in conferencing were given scripts, although these were not always used. Some officers reported not using their script at all, including one who said: 'I didn't use any script at all, I just winged it and went through what felt natural' (PCNPTD3). However, this officer also implied that they adhered at least to the structure of the script by asking questions which allowed the parties to address the harm done:

I asked the boys, 'How do you think that the members of the congregation felt? What do you think the impact would have been?' Then I got the members of the congregation to tell them how it impacted on them. (PCNPTD3)

Reportedly, the parties then agreed that the offenders would undertake some reparative work. While the officer might not have used the script, their practice still adhered to its structure by including backward- and forward-looking elements (Crawford, 2015). Similar practices were described by several other officers who reported that they had delivered conferences without adhering closely to the script, but which had included both backwards- and forwards-looking elements. Thus, it may be that at least the structure of the script, if not necessarily its language, had shaped these officers' facilitation practices.

Indeed, officers were free to determine what kind of language to use when facilitating. Some said that they followed the script's questions closely:

We would sit down and ask the questions to the harmer in red, and the blue ones to the harmed. Some of the questions may get answered, so you just omit that one and follow the flow. (PCNPTD1)

The colours refer to the scripted questions which were directed at each party (see Figure 6.3). The suggestion is that this officer delivered conferences by asking the questions directly from the script. To the extent that Durham's modified script

gave victims more opportunities to express themselves and provide input than it did offenders, this may have resulted in processes which failed to empower the offender or to treat them and the victim equally. Still, the use of the script may have reduced the likelihood that police facilitators dominated practices (Walker, 2002); as another officer said of the script: 'You can see I like talking. I had to learn to shut up in RJ. [The script] is a good prompt' (PCNPTG6).

Moreover, scripts which were designed with a greater level of participant equality in mind, may have reminded the facilitator to treat all the parties equally in terms of the questions they asked. For one volunteer facilitator, the script ensured that they 'don't ask superfluous questions to one [party] that you don't ask the other' (RJHFD7). Similarly, one officer argued that it reminded them to give both parties at least some opportunities to speak:

If you stick to that script, you will be speaking to each one, which means you wouldn't be just aiming your conversation at the harmed and asking him 'what have you done, what have you...', because you go back to the other one. [...] It's got a flow to it and you involve both parties. (PCNPTD1)

Moreover, scripts may also have discouraged the use of judgemental language by providing short, open questions which encouraged the officer to ask people how they felt, rather than to use investigative language or to apportion blame. In fact, some officers who reported deviating from the script implied that they might have used more direct, pointed or personal language as a result. One said:

I try to let it flow naturally. They know what they wanna say, it's just getting that chance to say it. [...] I find it's always easier if you've got the two in the room, if you just say to the victim 'Go!', so to speak, and they just go: 'Right, you knocked my wall down. This is what I feel like', and all the rest of it. Then it's: 'Have you anything to say to that?', especially with the kids, you have to be a bit more sort of firmer with them, you know, 'Have you got anything you want to say then?', and they go: 'Sorry, I done it', 'So why did you do it? How did you feel when you done it?' So, I prompt it a little bit. I have my own way that I like to go about it without breaking out of the structure. (PCSOD3)

Although this description broadly fitted within the structure of the script, the idea that the officer might be 'firm' with the young person might suggest that deviation from the script could result in offenders being questioned more harshly. This is also important because officers reported varying in their ability to conceal their partiality. When asked if they found it easy or difficult to treat all the parties equally, some claimed to be proficient in this:

I always remain impartial. I never, ever take sides with anybody. Even the boys [offenders in a conference], I made sure that they understood that they could approach me at any time. (PCNPTD3)

Another officer similarly reported having both the capacity and the inclination to remain impartial when delivering RJ:

I find that very easy because I do not take sides, exactly the same way as I do as a police officer. I'm supposed to be impartial in all this, and I'm not there to take sides with either of them, I'm there to facilitate a conversation between them, and hopefully find a solution that is agreeable to both sides. (PCNPTG3)

Several other officers, however, implied that they or their colleagues found it difficult, at least in some cases, to treat the parties equally. One stated:

When you know someone's done something and they've admitted it to you prior to this meeting, or you've got CCTV of them, and they have a bit of an attitude on them, you find it hard not to sort of lean towards the victim and get a bit snappy. (PCSOD3)

Another officer responded that 'it depends on their attitudes. [...] It can be tricky to view people independently' (POG5). A third added:

I've had to explain to my colleagues the neutrality of it all. It's not an interview, you're not questioning an offender about an offence. You're there to be totally neutral and everyone gets a say. I think, as police, we tend to side more with the victim, and that's why RJ is something quite different. (PCNPTG1)

As Chapter 3 explained, practices in which the officer dominated discussions, was overtly partial or used judgemental language, may have been less likely to be perceived by participants as procedurally fair. Previous studies of scripted, police-led RJ similarly found substantial deviations from the script, resulting in the stigmatisation of young offenders (Hoyle, et al., 2002). In lieu of a professional level of facilitation training, adherence to a restorative script – depending on its design – might help to limit the police’s interventions and maximise the chances they act in a procedurally fair manner (Sherman, et al., 2015).

This is not to say that deviation from the script is always undesirable. Chapter 6 noted that some modifications were necessary to be responsive to different situations. Indeed, some researchers have argued that scripts are too restrictive, and that questions may need to be reordered, rephrased or removed, depending on the context (Cook, 2006; Vanfraechem, 2006, in Zinsstag, et al., 2011; Turley, et al., 2014). Additionally, O’Reilly (2017: 173) contended that scripts encourage an unnatural ‘performance’, making conferences less ‘passionate’ than they otherwise might be by repressing emotions and preventing the parties from expressing themselves at a pace and in a manner of their own choosing. That facilitators need to ‘think on their feet’ means that the script may not be a perfect substitute for specialist training and experience (Pranis, et al., 2003). Still, this study’s findings suggest that it may have helped to structure the discretion of those who used it when facilitating, in ways which enhanced the likelihood that some restorative principles were realised.

## **7.5 Determining outcomes**

Some aspects of outcome determination have already been discussed, as street RJ was often described as involving little more than this process. This section analyses further the detail and implications of the outcomes which were achieved and the processes through which they were selected. It begins by exploring the recorded and unrecorded outcomes which police facilitators reported, before considering how outcome decisions were made.

Officers reported a variety of outcomes to their RJ processes. As noted, symbolic reparation was ubiquitous among descriptions of street RJ. In many cases of low-level ASB or crime, a verbal or written apology was the only formally agreed outcome. As one officer stated of such cases: 'Normally the apology has been enough' (PCNPTG4). These findings echo other recent studies which found symbolic reparation to be the most commonly recorded outcome in street RJ (Meadows, et al., 2012; Cutress, 2015).

Material reparation, in the form of compensation or labour, was reported as a formal outcome in a substantial proportion of the cases involving acquisitive offences or property damage. This was often set at a level which directly mirrored the loss or damage. Shoplifters paid for or returned the stolen goods: as one officer said: 'Usually all [the shop] wants is the goods paid for, so they're not out of pocket' (POG6). Similarly, property damage often involved some material reparation through payment or, less often, labour: some offenders fixed what they had damaged (such as the children described earlier who rebuilt a garden wall) or cleaned graffiti for which they were responsible.

Cases where monetary payments directly corresponded to the loss incurred, essentially amounted to reimbursement. Several officers, mostly from Gloucestershire, reported delivering street RJ in the following manner:

[The victim] might turn around and say 'That's cost me £200 mate, so I want £200.' So, we go back to the offender and say, 'Right, you owe him £200, ok? Get £200 by such and such a date.' Here you go, job's a good 'un, the victim's happy, the offender might not be happy, but he's paying for the damage he caused and he's not getting a criminal conviction. (POG4)

This 'compensatory justice' (Christie, 1982: 95) may represent what Swan (2016: 966) referred to as the 'tortification' of criminal offences. By facilitating the transfer of monetary restitution from the offender to the victim, officers essentially applied civil law principles to diversion. Braithwaite and Pettit (1990) similarly cited tort law as a framework which could be used to respond to offending without resorting to criminalisation. In Christie's terms (1977), this may allow victims to retain ownership over the conflict, insofar as the state's withholding of fines is one manifestation of its 'theft' of a conflict from the victim.

Christie (1982) later noted one problematic assumption inherent in this approach, namely that compensation can be given. In other words, one's access to diversion from criminalisation may depend on one's ability (or the ability and inclination of one's parents) to pay, further entrenching inequalities (Zhang and Xie, 2010; McMahon, 2013). Ashworth similarly raised the possibility of 'middle class mitigation' (2000b: 15) as a risk to fairness and consistency in the context of informal justice processes, while Delgado, et al. (1985: 1372) argued that negotiated justice can amplify existing inequalities, making it 'no safe haven for the poor and powerless' (see also Waldman, 1999). These risks are especially pertinent given the lack of transparency, appeals processes and accountability mechanisms in police-led RJ. Indeed, there was little to ensure that the process could not be abused by victims (whose costings of loss often did not seem to be verified by the police) or by officers who could impose or suggest compensation, and decide whether to agree to compensatory requests.

In some cases, officers reported that reparation did not directly mirror the losses incurred. In one case, two children had stolen some petrol from a church's generator and undertook some gardening on the church's grounds. In another case, a young person returned a stolen chocolate to a small shop and undertook one hour of unpaid labour, clearing boxes from its storeroom. Another officer reported that some offenders would compensate victims by 'helping around the house, doing the garden and stuff like that' (POG5). This raises issues around proportionality, insofar as the amount of work which is proportionate to a given offence, is a subjective question. Indeed, how much a person's labour was worth, was seemingly determined on a case-by-case basis. Still, in cases where the alternative option would have involved a more disclosable criminal record (which was not necessarily always the case), it seems probable that such outcomes would have been net-beneficial for participating offenders.

Payments to charity, which were only reported in Gloucestershire, also often did not correspond to the value of any loss. Instead, amounts were set during the outcome determination process, often following an officer's suggestion. As noted, this approach had been banned in Gloucestershire shortly prior to the data collection. According to one policymaker/manager:

Officers were telling offenders, 'You're going to pay £20 to whatever the charity was'. Which, in effect, is a fine. There's nothing wrong with paying

for goods stolen or paying for damage caused, but when you start talking about fining people or compensation, that's not the police's role. We don't have a mandate for deciding on that, that's what court's there for. It's taken a long time to re-educate officers that that isn't acceptable. (PPMMG6)

Several officers from Gloucestershire reported that, prior to this policy change, they had often asked offenders to put £10 or £20 into the charity tin of the store from which they had shoplifted. One officer described a different type of case involving a dog which bit two joggers, for which the dog's owner paid £200 to an animal charity. The officer in this case said that they had suggested this amount because they 'took a look at [their] property and I thought: "You can afford that" [laughter]' (PCNPTG8). Only one officer reported an agreement in which the offender was to pay money to the victim beyond the level of damage or loss. In this case, that decision was based on the officer's own suggestion:

The damage really, in monetary value, was probably about £10, it was the pain-in-the-ass value that made it 20. So, he came over, and I had sort of discussed it with the victim before, and I said 'Well, ok, it cost £10, but I think he should give you £20.' (PCNPTG6)

Incidentally, the victim in the above case reportedly declined the additional £10 upon being handed it by the offender. Still, the low visibility of the process allowed officers to propose different levels of compensation, depending on their own judgement as to what was reasonable. This raises the possibility of inconsistent or punitive approaches, essentially allowing officers to 'sentence' offenders.

Other officers reported that more relational and psychological outcomes sometimes emerged from dialogue, although they were not necessarily recorded in outcome agreements. Many conferences were described as resulting in expressions of forgiveness, embraces or regards for the future. Such 'conciliatory gestures' (Ristovski and Wertheim, 2005: 63) or 'reintegrative gestures' (Hoyle, 2011: 803) were more common in cases where emotions had been expressed, or where the participants already knew each other. One officer stated that 'the main [outcome] is the emotional connection' (PCSOD7), while another officer described the (unrecorded) outcomes of a long-running neighbourhood dispute:

After that hour and a half, that was it, they were getting on absolutely brilliant and hugging. Now they have barbecues, while previously they both wanted to move. (PCNPTG7)

Another officer stated: 'Quite often, by the time they leave the conference, they're talking and saying, "I hope you do well at college"' (POD2), while a fourth said: 'A lot of times I've left conferences and they've ended up having a cup of tea together, shaking each other's hand and everything's been really good' (POG1). Many officers also reported that dialogic practices allowed the parties to express their feelings and communicate information in ways which led to victims feeling relieved. One officer remarked that the main outcome of a restorative conference might be that the victim is educated as to the circumstances of the offence, or informed of the offenders' contrition:

The RJ conference is an outcome in itself. There's a massive barrier that gets dragged down as soon as the victim and offender start talking, because they go 'Ah! He didn't mean it' or 'She's sorry, I can see that'. (POG1)

Another officer implied that victim expression might be seen as an outcome:

A lot of the face-to-face I've done wasn't really around reparations in terms of a monetary reparation or painting the fence, it was really about an opportunity for the victim to say how they felt. (POD1)

A further officer also noted that how victims felt after the conference was an important outcome, although it was not always recognised as such:

The real outcome, which I'm always concerned maybe we miss because it's too blindly obvious, is the peace of mind. [...] The best outcome, taking away what's documented on paper, is the fact that the victim had their chance to ask the questions and get the answers. That's more valuable than any letter of apology, money repayment or whatever happens. (PCNPTG5)

While these data relate only to officers' perceptions of how victims felt, they are consistent with the research evidence outlined in Chapter 3 in relation to the

importance of information and expression to victims. As Sherman and Strang (2015) argued, one of the problems with street RJ is that it is assumed to have similar benefits as conferencing, despite the differences in the two procedures. Overall, these data lend further credence to a relationship between dialogic processes and relational and psychological outcomes (Rossner, 2013), and to the suggestion that non-dialogic, street RJ processes may be less likely to have these results (Cutress, 2015; Shapland, et al., 2017).

The data also indicate that outcome determination processes varied. A small number of officers described conferences in which the outcomes were determined collectively by the participants. One officer, for example, stated: 'Quite often [the participants] sort of do decide amongst themselves what is an achievable outcome' (PCNPTG7). Another officer described a specific case:

[The offender] was adamant that she wanted to pay this money back, and I said, 'look, I'm not gonna sit here and force you to do it'. But between them, in this meeting, they agreed she was gonna pay some money back when she could on certain dates that she got some money in, and it would go through a third party that they knew. [...] So, they just totally, amongst themselves, decided what they were gonna do. (POD3)

A third described a similar conference they had delivered:

There was an agreement drawn up to say that [the offender] would get a part-time job or pay at least some towards the missing tooth. I didn't set that condition, they agreed it between them. (PCSOG1)

A fourth officer outlined how they took a particularly non-interventionist approach to the process of outcome determination during conferences:

There is a moment [on the script], where you say, 'Is there anything that they can do to make this situation any better for you?' So, I do throw that in there, and if the victim doesn't come up with anything, then I leave it at that. (PCNPTG4)

This 'transference of responsibility from professionals to lay people' is a key characteristic of 'fully' restorative processes (Hoyle and Rosenblatt, 2016: 43). Some commentators believe that, if the parties do not have specific outcomes in mind, it is not the role of the facilitator to make suggestions (Karp, 2015; Zellerer, 2016). As explained in Chapter 3, processes in which the officer does not interpose themselves in outcome decisions, may most likely be experienced by the parties as fair, legitimate and empowering.

However, most officers implied that they did not always relinquish control entirely during outcome determination. Although no officers explicitly described imposing outcomes without at least consulting the parties, several reported being aware of their colleagues doing so, as per the earlier description of a victim being 'railroaded' (PCSOG2) into accepting a letter. As described in Chapter 6, letters of apology and payments to charity were banned in Durham and Gloucestershire, respectively, partially because there was fear among senior leaders that they were being imposed. The imposition of an outcome on victims and offenders without even consulting them, is anathema to their empowerment, insofar as this requires stakeholders to participate in such a way that they influence the process and its outcomes (Zimmerman, 1995; Richards, 2011).

Significantly, many outcome agreements reportedly emerged following a negotiation between the victim and the police officer. As noted earlier, some officers described discussing outcomes with victims, before bringing that agreement to offenders as a 'take it or leave it' plea offer for an informal disposal. This seemed to be most common in Gloucestershire, where one typical officer described street RJ as allowing the victim to 'coordinate what they would like to happen and we can try to facilitate that' (POG5). Some conferences were even described in these terms. For example, in the aforementioned case of theft from a church in Durham, the officer reported that they had 'already agreed with the members of the church that the boys were gonna do some work in the church to help' (PCNPTD3), prior to the restorative conference taking place. When asked if the offenders had also agreed to that, the officer stated: 'Kind of, yeah. It was mentioned to them certainly, and then it was formally agreed and accepted within the face-to-face' (PCNPTD3).

This might have been more empowering for victims than restorative cautioning which, by focusing on reintegrative shaming, often overlooked victim input (Strang, 2001; Hoyle, et al., 2002; O'Mahony, et al., 2002). By excluding the

offender from the decision-making process, however, the approaches reported in the current study may have allowed outcome decisions to be dominated by victims and officers, potentially making it less likely that offenders' needs would be expressed and met. Offender input at this stage may also act as a safeguard against disproportionate outcomes (Fattah, 1998) and increase the legitimacy of the process and the police in their eyes, making compliance with the agreement more likely (Sherman and Barnes, 1997; Tyler, 2006, 2013). Yet, the twin goals of increasing processing speed and enhancing the focus on victims, seemingly legitimised offenders' exclusion from these decisions and created a power imbalance between them and the victim. Especially in the absence of the empathy which might have been induced by a dialogic process, this approach might have increased the risk of punitive outcomes (Christie, 2010).

This also meant that police officers were largely responsible for promoting the offender's rights and interests during outcome negotiations with victims. In many cases, officers reported vetoing victims' suggestions which they felt were disproportionate or unrealistic. One stated:

You have to sit down and say: 'Look, what you're wanting to do, for whatever reason, totally isn't feasible. They're juveniles, I can't make them work that time'. [...] I say: 'Well, does that actually fit the offence? I agree, it is a punishment and a humiliation for them, and it is a benefit to somebody, but it doesn't actually fit what they've done. So, shall we think about something else?' We tend to lead them. (PCNPTD2)

Another officer stated: 'Some victims want the moon on a stick [and] need to be led by police, so it can't wholly be victim-centred' (POG3), while a third said:

They might be way off and say, 'I want this or that.' You might say 'I don't think that's proportionate, but we'll see what we can do. I agree that they need to pay something towards that'. You coach them a little bit regarding what is proportionate, what you're ok with and what's sensible. (POG2)

These and other officers reported being motivated to exert control over the outcome determination process to ensure that outcomes fairly balanced the rights and interests of victims and offenders. This intervention might have helped to

ensure that this balance was not threatened by punitively-minded victims. Yet, this also meant that any persons who offended against victims of this disposition, were largely at the mercy of whether the officer opted to exercise their discretion to negotiate the proposed outcomes on their behalf. Officers were responsible for determining which outcomes were proportionate or realistic, giving them substantial powers to allow, block, impose or suggest outcomes.

In fact, several officers, most of whom were from Gloucestershire, reported exercising their discretion to make suggestions without necessarily being asked to do so. For example, the officer who delivered the case in which a payment was made to a dog charity implied that the outcome was their idea:

Probably my suggestion, yeah, but with the victim's agreement. When I go to the victim, I ask them what they want to do, and they kind of say, 'I don't want to go to court, I don't want the dog seized and put down.' So, you kind of give them ideas of what we can do. (PCNPTG8)

Another officer similarly implied that, although they tried to relinquish control over outcomes decisions, it was still their role to make suggestions because of their knowledge about what might be possible:

Sometimes, you make a suggestion because you're obviously the expert, they've probably never been in that situation before. [...] As much as you can, you let it be their ideas and outcomes. (POG1)

Again, the problem with the officer making suggestions lies in the power it affords them, and in the authoritative position of the officer. The point of the court system is to ensure that outcome decision-making is consistent and transparent (Daly, 2005). RJ tends to prioritise responsiveness and participation over consistency, but does not always include mechanisms to prevent facilitators from abusing the power inherent in this flexibility (Ashworth, 2002, 2004; von Hirsch, et al., 2003). In addition, the police's authority may mean that victims and offenders agree to anything the officer suggests, or with anything which the officer indicates (or is perceived to indicate) as their preference for how a case should be resolved. Consequently, on the basis of an officer's suggestion, outcomes may be imposed

or agreed to, which neither party wanted, are in neither party's interests or are perhaps even harmful to one party.

This might be especially problematic if officers are culturally predisposed towards certain outcomes which do not necessarily reflect stakeholders' needs. Chapter 3 outlined research which suggested that state-dominated RJ processes often neglect relational outcomes in favour of more quantifiable and easily-achieved outcomes, such as reparation. Some officers in Gloucestershire insinuated that their colleagues were particularly biased in favour of cash transfers, with one stating:

A lot of officers go into an RJ with this expectation that the victim always wants something. Police officers are trained in thinking that everybody has a price to pay. From a victim's perspective, most of the time all they want is an apology. [...] It will be the police officer, at the end, that will be trying like to get some sort of compensation or something at the end to repay the victim. (PCNPTG4)

One police policymaker/manager from Gloucestershire similarly stated:

One of the big hang-ups officers have had is, there's a crime, there must be a punishment. Actually, they need to accept that if the victim doesn't want a punishment, if they want an apology, then that's an acceptable outcome for that victim because it's what that victim wants. (PPMMG6)

These findings are consistent with other recent studies which found that officers may both suggest or impose outcomes (Meadows, et al., 2012; Cutress, 2015) and be biased towards compensation when doing so (Shapland, et al., 2017). A study of restorative cautioning similarly found that officers might 'overstep their remit by pursuing their own reparative agenda' (Hoyle and Rosenblatt, 2016: 7). As previously, whether this happens or not in a given case, seemingly depends primarily on how individual officers elect to exercise their discretion in practice.

## 7.6 Concluding comments

This chapter explored officers' experiences of facilitation. It identified several patterns and variations in what motivated them to offer and deliver RJ, and in how they reported exercising their discretion when doing so. It also highlighted some of the tensions between their policing and facilitation roles.

The data suggest that officers' decisions and practices were shaped by the need to balance and achieve competing goals. They were asked to satisfy victims' needs and enable victim participation in decision-making, while also ensuring that their policework was efficient and that justice was done. This meant that practices partially mirrored organisational strategies and policies, but that they ultimately depended on what officers opted to prioritise in any given case. Moreover, the tensions between these goals limited the extent to which officers could adhere to restorative principles and processes when facilitating, a finding which is consistent with the existing literature pertaining to the institutionalisation of RJ (Daly, 2003; Blad, 2006; Crawford, 2006; O'Mahony and Doak, 2017). Drawing on Skolnick's (1966) seminal remarks, there was pressure on the police to be efficient rather than restorative when the two norms were in conflict.

Practices were also shaped by the ways in which RJ had been integrated into operational policing. Street RJ largely overlapped with the police's peacekeeping responsibilities, with officers expected to negotiate order both restoratively and efficiently. That all community resolutions had to be delivered as RJ created further tensions between pragmatism and stakeholder participation. Additionally, the low visibility of the process meant that officers were largely free to determine what to offer and how to offer it, the extent and nature of any communication between the parties, and the extent to which they would relinquish control over outcomes. Thus, how RJ was executed in practice was ultimately up to individual officers, as they decided how to balance the various pressures and incentives which contextualised their involvement in facilitation. As a result of these and other factors, reported practices partially reflected restorative principles and processes, and partially reflected the police's existing priorities, rationales and goals.

From an RJ perspective, many described practices deviated substantially from restorative principles and evidence-based processes. This might be seen as a failure by those who expect the use of RJ to remain faithful to its theoretical roots and to best practice guidelines. However, Daly has cautioned against using a strict

theoretical framework 'as the benchmark for what is practical and achievable' through RJ (2003: 234). Indeed, from a police perspective, it might be said that officers' reticence systematically to devolve control to citizens or utilise more resource-intensive processes, simply reflects the necessities of the operational policing role. Clamp and Paterson noted of restorative policing that 'organisational demands and an emphasis upon law enforcement can seep into the logic of restorative practice' (2017: 107). The current study's findings suggest that it may be worth considering this relationship in the opposite direction: implementing RJ in the police may result in its principles and processes seeping into – without entirely transforming – existing police practices.



## **Chapter 8 – Institutionalised restorative policing in Durham and Gloucestershire**

### **8.1 Introduction**

The last three chapters presented this study's empirical findings in relation to the RJ strategies, policies and reported practices in Durham and Gloucestershire Constabularies. These findings suggest that both forces made substantial efforts to mainstream RJ within their organisations as a concept and practice, although it was understood and used in ways which reflected the institutional context in which operational policing took place. The purpose of this chapter is to develop several features of the models of restorative policing which emerged from the data in both sites. It argues that what police-led RJ looked like in practice, largely depended on how frontline officers exercised their discretion when deciding how to interpret and balance their (oft-conflicting) responsibilities towards victims and offenders, their own organisations and wider society.

This chapter examines three ideas in turn: that restorative policing was victim-focused; that the police used RJ as a tool with which to manage the demand on their time; and that officers managed the empowerment of those who participated in police-led RJ in an attempt to strike a balance between the competing needs and interests of the various stakeholders in their work. The chapter considers the implications of each theme for participants in police-led RJ and for the development of restorative policing more broadly.

### **8.2 Restorative policing as victim-focused**

Respondents from all levels and at both forces expressed the view that the purpose of RJ was largely to satisfy victims, and suggested that they were motivated to implement and use RJ in order to achieve this goal. This section examines in more detail the possible implications of this interpretation of RJ for those who participated in police-led practices.

This study's findings suggest that RJ was understood by respondents in both areas as a victim-focused theory and practice. This interpretation of the concept manifested in various ways. In Chapters 5 and 6, it was argued that strategies and policies in both forces largely framed RJ as being primarily for victims. For example, Durham's training stated that 'victim focus' was one of four tenets of a 'restorative organisation' (doc. D2) and its redesigned script primarily enabled victim rather than offender expression, while Gloucestershire's practitioner guidance explicitly defined RJ as a 'victim focused resolution' (doc. G29: 2). Additionally, in Chapters 5 and 7, police policymakers/managers and officers from both areas expressed that the desire to satisfy victims was one of the primary impetuses behind the implementation or use of RJ. At the level of practice, officers reported that victims were given many more opportunities than offenders to express their needs and provide input into outcome decisions at both Levels 1 and 2.

Preliminary conversations with contacts from both forces indicated that they largely justified their development of RJ on the basis of its benefits for victims. Shortly beforehand, the government had designated RJ as a service for victims (Ministry of Justice, 2013) and created a right to information about RJ in the Victims' Code (Ministry of Justice, 2015). Officers were therefore asked several questions which sought to explore the relative position of victims and offenders within restorative policing, and the vast majority of their answers implied that they saw the satisfaction of victims' needs as more important than that of offenders' needs within RJ. For example, one officer from Durham said:

I get that the offender is wholly part of that situation, and there will probably be some realisation and some learning for the offender, and that potentially reduces their offending going forward, but, fundamentally, it starts with the victim. Everything else is secondary or tertiary to that, in my view. (POD1)

Another officer from Durham similarly rationalised their approach to delivering RJ with reference to the prioritisation of victim satisfaction:

I think the main priority is that the victim comes away from that thinking that the police have taken action. [...] If a crime has been committed, I think the victim is the person that is most affected, the person that we give our premium

service to, that they walk away thinking we're working for them. We are out there to get a result for them. (PCNPTD2)

A third similarly spoke of the belief that RJ was and should be focused primarily, or even 'purely', on satisfying victims:

From my understanding of it, it's set up for the victim, and I think it should be purely victim-focused. At the end of the day, it's them who are having to come face-to-face with someone that's potentially done them a lot of harm. [...] I've watched videos where [offenders] who have done it said, 'it's one of the hardest things I've done, blah, blah', but I think for the victim it's potentially life-changing to see who's done it and why, and to get their feelings across. I think it should be purely, purely victim. (PCSOD3)

Officers from Gloucestershire reported holding similar views, although, in line with the more outcome-focused approach within strategies and practices in that force, this was more often expressed in relation to victims' control over, or satisfaction with, outcome decisions. One stated: 'Potentially both parties get something out of it, but, ideally, the victim is pleased with the outcome and has got the justice they want' (PCNPTG1). Another said of victims: 'At the end of the day, they're the people that have been wronged, so to speak, so I think really it should be mostly their decision' (POG6). A third officer also expressed the idea that victims should be in control of outcome decisions:

'You have someone that's lost something as a result of somebody else's actions, and it gives them the opportunity to take control over how the offender is dealt with' (POG4)

While, as noted in Chapter 7, some officers discussed reducing reoffending as an important motivation for using RJ, only one officer articulated the belief that this should take priority over victim satisfaction – and even then, only to ensure that victims remained satisfied in the future:

I think the key thing is – I know it's about the victim – the key thing is how much has it worked for the offender. Because what good is it, if he goes and

does it again? The victim is gonna lose faith in the process, in the criminal justice system, in me and in the organisation. So, strangely enough, my priority is: has it worked for the offender? (PCSOD7)

Three other officers were ambivalent on the question of who RJ was 'for', stating that RJ was or should be about both parties equally, but also that, in practice, it did or should focus more on victims. One said:

It has to be victim-centred, because we have to agree with what they want to do. But then also the offender's got to agree, because if both parties don't agree, it's not gonna go anywhere. So, it's 50-50 really, but obviously we ask the victims first what they would like. (PCNPTG8)

Another officer began by suggesting that RJ was about both parties equally, before expressing a rather contradictory viewpoint:

It's got to be 50-50. Yes, it's primarily about getting the answer for the victim that they're looking for, right? But it's not gonna work if the offender isn't up for it. So, your ultimate result has got to be for the victim, obviously, right? Because, I don't know if I should say this or not, do we really care how the offender feels at the end of it? (PCSOD6)

Several other police respondents, all of whom agreed with the idea that RJ should be centred on victims, noted that it could still be mutually beneficial for both parties. For example, one said: 'I see this becoming more and more an area where we need to be using it because it is best for everyone' (PCSOD8). Another said that RJ was 'better for everyone' (POG5), while a third said: 'When you see one work, you do start to think, yeah, this is better for everyone involved than putting them in front of a courtroom' (POD2). Implicit across the interview data, however, was the impression that RJ necessarily has to prioritise the victim, otherwise it risks prioritising the offender. One officer articulated the idea that control in RJ might be a zero-sum game by stating:

Somebody has been a victim of crime, and they should be leading what they want to do in conjunction with the police. If you switched around and it was

the suspect or the offender who was the lead role, then I don't think that would really work. (PCSOD5)

The idea that RJ could or should be a zero-sum game between victims and offenders, reflects the tensions inherent to its integration into criminal justice. Many advocates of dialogic practices argued that they can afford direct stakeholders an equal opportunity to participate, to be treated fairly, to provide input, and to express their needs and have them met (Braithwaite, 2002; Pranis, et al., 2003; Chapman, 2012; Zellerer, 2016). As Chapter 3 delineated, the idea that victims and offenders should be treated and enabled to participate equally, is central to many theoretical restorative frameworks. Yet, existing systems are characterised by imbalances which may shape the implementation of RJ and make it difficult for this principle to be realised in practice. Christie (1977) argued that Anglo-American justice systems are inherently professional- and state-centric, and that they disempower victims, offenders and communities despite their direct stake in the resolution of specific incidents. Moreover, the fact that criminal justice focuses primarily on retribution, rehabilitation, deterrence and incapacitation, means that justice processes tend to ask only what the outcome should be for offenders, and neglect to identify and meet victims' needs (Zehr, 1990).

Recent years have seen various attempts to enhance the role of reparation and the focus on victims' needs within the police, and across criminal justice more broadly (Hoyle, 2011). Yet, these efforts have come up against deeply embedded rationales within criminal justice systems and agencies, in that offenders are expected passively to accept the (often, punitive) obligations imposed on them, while deep engagement with victims is seen by justice agencies as an optional luxury (Blad, 2006; Crawford, 2006). These assumptions also informed previous attempts to institutionalise RJ in the UK, which often focused on deterring or rehabilitating offenders at the expense of victim participation and direct reparation (Hoyle, et al., 2002; Newburn, et al., 2002; O'Mahony, et al., 2002). More recent studies found that expediency and other system-focused goals continue largely to outweigh any desire to enable victim participation or satisfy victims' broader needs within RJ (Walters, 2014; Barnes, 2015; Cutress, 2015; Rosenblatt, 2015).

It is significant, therefore, that the current study found such a substantial foregrounding of victims among force strategies and policies, expressed beliefs and reported practices. The data on strategies and expressed beliefs may be

explained partially by the politicisation of the topic, while there may also be a gap between attitudes, intentions and reported practices on one hand, and actual practices on the other. Moreover, baseline, quantitative data would be necessary to determine the extent of any cultural change which RJ implementation caused. Still, the study's findings seem to indicate that RJ had been integrated into each force's activities in a manner which may have enhanced, informed or reinforced the idea that policing in general, and informal disposals in particular, should involve victim engagement and aim to satisfy victims' needs. In particular, RJ training, combined with the requirement on officers to obtain victim consent in order to use community resolutions, may have enabled and encouraged officers to undertake actions to achieve this goal. The data suggest that only some victims were offered the opportunity to express their feelings, questions and needs directly to the offender. Yet, even non- or less-dialogic practices may have been experienced positively by victims whose ability to participate in outcome decisions and receive reparation might have provided them with more gratification than had their offenders been cautioned or prosecuted instead.

That at least some practices reflected the restorative principles of victim participation and reparation, may represent a shift towards (or the consolidation of) a more victim-focused approach to policing in these areas. However, without a corresponding reconsideration of the position of offenders, this may have created or heightened an imbalance between the two parties. Most police respondents described victims as having – and as being justified in having – more opportunities than offenders to express themselves and to provide input into outcome decisions. This mirrors the existing assumption that justice processes need not address harms suffered by offenders, nor contextualise offending in a way which enables wider social obligations to be recognised (Pali, 2015). Rather, descriptions of practice suggest that RJ was often used to individualise crimes in isolation of their social context – what Karstedt (2011) labelled as the salient risk of using RJ in neoliberal systems (see also Richards, 2011). Although some officers expressed the belief that diversion was normatively desirable, their focus on offenders tended to be actuarial – in terms of reducing the risk of reoffending – rather than necessarily reintegrative or supportive. Again, this reflects the broader ideological context within which RJ is often seen as 'an effective means of securing order in the future' (O'Malley, 2006: 222), rather than as a way to build social capital or meet stakeholders' needs.

At the case-level, this created specific risks for offenders who may have been used in the service of victim satisfaction. Offenders might still have benefitted if they were diverted from a more disclosable record, as long as the RJ process and its outcome(s) were not so onerous as to cause hardship in excess of that which would have happened otherwise. Still, they often played only a passive role in practices which were dominated by others and which typically prioritised victims' participation and needs over their own – often, in response to incidents which might not have been chargeable. Processes and outcomes which provided support for offenders were seldom reported, while outcomes in which the victim benefitted or was empowered at the expense of the offender were prevalent.

Practices were often described as lacking the safeguards for offenders which were identified in Chapter 3. In many cases, the victim and police officer simply negotiated an outcome agreement without the offender's input, and without direct contact between the victim and offender. This creates risks for offenders because, as dialogue and offender input are sacrificed, outcomes may also become more punitive and disproportionate (Braithwaite and Mugford, 1994), while offenders' needs may remain unidentified and unsatisfied (Schiff, 2007).

It was noted in Chapter 2 that police culture already encourages officers to feel limited concern for offenders whose rights and behaviours may be seen as barriers to the preservation of a social order with which officers identify (Reiner, 2010). If a victim-focused model of restorative policing changes attitudes towards victims without changing attitudes towards offenders, this may help to create or consolidate the assumption that there is necessarily a trade-off between the two, and that it is justifiable to neglect the rights and needs of the latter, in order to satisfy those of the former. As Christie noted, 'victim power amplified with state power would indeed become a strong driving force towards a more punitive society' (2010: 118). Advocates of restorative policing must ask not just how the use of RJ by the police can be increased, but how they can 'accomplish a greater extent of participatory justice, without losing important protective devices within our recent system' (Christie, 1982: 110; see also Ashworth, 2004; O'Mahony and Doak, 2004; Christie, 2010).

### 8.3 Restorative policing as demand management

The second key feature of restorative policing which was common to both forces, was the notion that RJ was a ‘tool’ which could be used to manage the demand on the police’s resources. The integration of RJ into informal disposals – and thus into the police’s peacekeeping, diversion and order maintenance activities – meant that officers had, as RJ facilitators, to balance the requirement that they enable stakeholder participation against the pressures on them to be quick and efficient in executing these tasks. This section elaborates on the nature and implications of the tensions between these responsibilities.

Chapters 5 and 7 presented data which suggested that respondents at all levels of both forces saw RJ as a mechanism with which to manage the demand on frontline officers’ time. Chapters 6 and 7, moreover, noted that officers had near-total discretion to determine the extent to which they would enable the parties to engage in dialogue when using RJ. This meant that, when invoking the concept of RJ, officers could choose whether to manage the demand on their time by resolving underlying problems or closing cases quickly.

With respect to the former, many officers, most of whom were from Durham, reported using conferencing with longstanding or complex neighbourhood conflicts to resolve underlying issues. They believed that this would save them time in the long-term by reducing calls to the police. One officer described such a case:

It had been going on for years and we'd never tried the restorative approach Level 2. [...] The desired outcome was that we don't get further calls, although you might not want to speak with each other at all, at least we've solved the problems now and that will be that. (PCSOD5)

Another said of RJ in general:

It is a means to an end, to sorting out problems. I know that our force is big on ‘if you can solve the problem, then it will reduce the call on resources to the police and the other emergency services’. [...]. We can't keep going back and back and back and back and back to the same address. [...] Certainly, in Neighbourhoods, RJ is a means to problem-solving. (PCSOD6)

The framing of RJ as a way of managing demand might have incentivised officers to use it in the manner just described, if they believed it to be an effective solution to these problems. This suggests that restorative policing could develop as a mechanism through which some of the aims of problem-oriented policing could be realised (Weitekamp, et al., 2003; Bazemore and Boba, 2010), and that dialogic practices could be promoted within the police as an investment in time in the short-term which might save police time in the long-term (Shewan, 2010).

To a degree, the use of conferencing in this way aligns with early conceptions of problem-oriented policing: it implies a change of approach from processing individual incidents, towards identifying and resolving underlying problems which cause multiple incidents to occur over time (Goldstein, 1990). However, it still involved reacting to specific problems at the micro-level, rather than assessing and proactively working to resolve tensions and problems at a community- or societal-level. As Boba and Crank (2008) noted, this kind of gap between theory and practice is common across efforts to implement problem-oriented policing, which are shaped by pressures on the police to focus on responding to individual cases. Still, there have been few experiments in which RJ has been used directly to target neighbourhood conflicts and other conflicts or harms without clear victims and offenders (Turley, et al., 2014), despite the fact that such cases tend to consume a substantial proportion of the police's resources (Sykes and Brent, 1983; Skogan, et al., 1999). Developing RJ in this way may also help fill a gap identified by O'Neill (2014), who found that PCSOs often negotiated neighbourhood disputes, but were seldom highly trained or skilled in doing so.

More often, as Chapter 7 explained, officers seemed to use non-dialogic forms of street RJ to close cases quickly. In other words, officers were enabled, and often elected, to prioritise processing speed at the expense of restorative principles, safeguards and evidence-based practices. The data suggest that many outcomes were determined without direct contact between the parties, while some involved impromptu, face-to-face meetings for which the parties had not been prepared. Many officers reported that time constraints inhibited their ability to prepare for, or follow up on, RJ. As one officer stated with respect to follow-up:

I don't follow up because I'm too busy. It's left to [the parties] to contact me if they feel they need to. [...] There's such a strain on the constable role at the minute, we just don't ever stop. (PCNPTG5)

The risks of failing to prepare or follow-up in RJ may have been limited in the many cases which involved low-level harm and little or no communication between the parties. Still, this reflects a broader issue in which the pressure to be efficient can override other goals, often to the detriment of more resource-intensive, but potentially more beneficial, processes. This is not to say that conferencing was needed in every case; rather, it is to note that many officers in this and other recent studies (e.g. Walters, 2014; Cutress, 2015; Strang and Sherman, 2015; Shapland, et al., 2017; Westmarland, et al., 2017) reported exercising their discretion to offer or impose symbolic reparation or compensation at Level 1, seemingly without exploring whether the parties might desire dialogue or benefit from conferencing. Evaluations of RJ implementation across other British justice agencies have also found that processing speed often takes precedence over preparation, dialogue, collective decision-making and relational outcomes, when RJ is mainstreamed as a criminal justice process (Hoyle, et al., 2002; Newburn, et al., 2002; Daly, 2003; Barnes, 2015; Wigzell and Hough, 2015).

As with many other public services, RJ asks practitioners to provide their clients with bespoke assistance. In fact, RJ goes further than most other activities undertaken by the police and other justice agencies, as it also asks practitioners to empower citizens by enabling their participation in discussions and decision-making. Yet, the desire to deliver RJ and other public services in a participatory, personalised manner is in tension with the contemporary management of (corporatised) public services – or ‘New Public Management’ – which tends to prioritise efficiency above these goals (Stohl and Cheney, 2001; Crawford, 2006; D’Enbeau and Kunkel, 2013). This management style not only incentivises the provision of generic, routinised services, it encourages practitioners to use their discretion to control clients and to determine the content, timing and pace of any interactions in order to maximise processing efficiency (Lipsky, 2010).

In RJ, this may manifest in what Bazemore and Boba (2010: 260) called the ‘casework model’ of delivery, in which a formulaic approach to RJ is used to the detriment of more inclusive or emotive practices. Similarly, in a reflection on her previous research, Daly (2003: 231) identified ‘the containment of justice ideals by organisational routines’ as a barrier to realising restorative principles. She argued that practitioners may be attracted to quick RJ processes and reparation because they are easier to achieve than more relational or emotional processes and outcomes, and because their work is often assessed quantitatively (see also

Stockdale, 2015b). Daly (2003: 232) concluded that ‘shortcuts are inevitable [...] if jurisdictions want to introduce conferencing as a high-volume activity’. The current research suggests that, not only might these shortcuts be inevitable, but, as with the implementation of community and problem-oriented policing (Clamp and Paterson, 2017), they may be built directly into restorative policing, as RJ is (re)interpreted and used in a manner which helps to achieve existing goals.

This raises questions as to why officers might have enabled victim participation to the extent implied by the data. It may be that this reflected a cultural shift in which, whether for normative or political reasons, officers were inclined to engage (or to report engaging) with victims. However, this may also have stemmed from the integration of RJ into street policing, alongside the requirement on the police to obtain the victim’s consent in order to use community resolutions. Victim consent and engagement were not technically required for restorative cautions, referral orders or post-sentence RJ, all of which ultimately achieved relatively low levels of victim participation (Hoyle, et al., 2002; Newburn, et al., 2002; O’Mahony and Doak, 2002; Rosenblatt, 2015; Wigzell and Hough, 2015). In contrast, respondents in this study reported at least speaking to victims (and, usually, consulting them as to their desired outcomes) in virtually every case. That officers had the option to offer and deliver RJ immediately following the response to an incident may have made it easier for them to use RJ, as they usually had to speak to victims at that point anyway. Moreover, the requirement that victims sign off on community resolutions may have created an incentive for officers at least to try to identify and satisfy victims’ needs (of desires), without necessarily needing to be normatively inclined to do so.

The requirement that victims had to provide their consent for community resolutions to take place, essentially turned victim satisfaction into a bureaucratic outcome. That this inhibited the police’s discretion to use informal disposals, means that it may also have created perverse incentives on officers to pressure victims into consenting or to offer compensation as a ‘carrot’ for victims to encourage them quickly to consent. Indeed, many officers implicitly or explicitly described the purpose of RJ as being to obtain something for victims so that they would agree to resolve cases informally. This would be consistent with research on recording frameworks, which suggests that they can incentivise officers to do only the minimum which is needed to satisfy the criteria on paper (McConville, et

al., 1991). That is, this requirement may have led to victims also being used 'in the service of system efficiency' (Crawford, 2000: 292).

At the same time, officers who wished to utilise community resolutions and abide by force policies on their use, were strongly incentivised at least to inquire into victims' wishes when they wanted to use community resolutions. To the extent that enhancing victim engagement is a goal of RJ, the fact that RJ was broadly defined and highly discretionary at both forces may have been more conducive to its achievement than had RJ been defined only as conferencing (McCold and Wachtel, 2001; Alarid and Montemayor, 2012). In other words, officers' ability to undertake quick, on-street practices under the guise of RJ, may have encouraged them to apply some restorative principles in low-level cases which they may have resolved informally anyway (Hines and Bazemore, 2003). Moreover, as O'Mahony and Doak (2013) argued, adopting a broad definition of RJ in policing allows police reformers to identify and promote instances where restorative principles are realised in police practices, while also making it seem more practical and attractive to frontline officers. These findings illustrate how the implementation of RJ within existing systems can involve some of its principles being sacrificed in favour of others (Blad, 2006; Crawford, 2006). Still, the findings suggest that efforts to integrate RJ into policework in a manner which elided police, victim and offender needs, limited the empowerment of the latter two parties in practice.

#### **8.4 Restorative policing as managed empowerment**

Chapters 1 and 3 defined 'empowerment' within RJ as stakeholders' ability to participate in discussions and decision-making in a manner which provides them with some level of control over the process and its outcomes (Zimmerman, 1995; Barton, 2000, 2003; Richards, 2011). This study's findings suggest that, when delivering RJ, officers could exercise their discretion in ways which largely determined the extent to which participants would be empowered. This section considers how officers described relinquishing and maintaining control over RJ processes and outcomes, before exploring whether Davey's framework (2015) of 'managed empowerment' might help to interpret these data.

In the first instance, officers could maintain or relinquish control by deciding whether or not to offer RJ at all. Chapter 7 noted that some officers were willing to propose RJ based on the belief that it would result in the best outcome for one or both parties, despite some cases lying outside of their formal responsibilities, or being unusual, difficult to administer, or on the cusp of requiring a more serious response. Other officers, in contrast, expressed the belief that RJ was usually unnecessary or should not be used at all with certain types of offences, or with offenders who exhibited certain attitudes. As one respondent stated of the (perceived) need not to enable RJ in certain cases:

A big-time drug addict, gang member, violent and hates everybody, it is pointless to try and get him to come and say 'sorry'. [...] That victim may want that, but they need to be kept in check. [...] So, I think we do need to have a little bit of control. (POG4)

The findings suggest that stakeholders' ability to shape processes and outcomes, depended wholly on how officers exercised their discretion in deciding whether or not to offer RJ. Moreover, the lack of awareness of RJ among the public means that the decision not to offer RJ would probably go unchallenged in most cases. This is one example of how officers retained ultimate control, as they were not obliged to defer to citizens' wishes, nor provide them with the full range of options, if their professional judgement dictated that they should do otherwise.

When officers did decide to use RJ, they could maintain control by only offering indirect, street RJ processes. This permitted officers to regulate the flow of (and, potentially, distort or selectively report) information between the parties (Erez, 1999), and afforded victims and offenders few opportunities to shape the process according to their own needs. When discussing indirect street RJ practices, many officers described using their intermediary position to focus on outcome determination, without allowing the parties to share their views and feelings or ask questions in relation to the causes or impact of the offence. Though victims may still have had some input over outcomes, this approach still partially reflects the way that stakeholders are disempowered by courts, insofar as the professionals determined what was important (i.e. quickly finding an outcome to which the victim would consent) and directed the process accordingly (Christie, 1977). At the same time, some officers, mostly from Durham, reported

delivering indirect processes which were followed by an impromptu face-to-face meeting. These 'hybrid' processes usually seemed to represent an attempt by the officers who delivered them, to enable some form of stakeholder dialogue, albeit while still prioritising swift case processing.

Chapter 7 suggested that the pressure on officers to be efficient may have incentivised them to withhold the option of direct dialogue to achieve this goal, if they believed that it would be possible to reach an appropriate resolution more quickly without it. Similarly, officers might have been disinclined to include indirect stakeholders in their RJ processes in order to maximise control and efficiency. As one officer from Durham argued in relation to their use of conferencing:

I think the more things you bring in, the more complicated it gets. Already, it's like herding cats trying to get everything together. [...] Do I want to get it done or not? If the answer is yes, include as few people as possible. (PCSOD7)

The exclusion of indirect stakeholders enhanced officers' control over processes by reducing the number of persons who could challenge officers' authority and whose needs, desires and expectations had to be taken into account. This exemplifies how officers could use control to achieve the police-defined goal of demand management. Again, participants might not have realised that dialogue or the inclusion of other persons were technically possible, and thus they might have been unable to challenge officers' decisions to withhold these options.

Officers also reported exercising their discretion to relinquish or maintain control to different degrees when facilitating conferences. Some officers reported allowing participants to shape the process entirely; others suggested that they used the scripted questions, or otherwise structured the process according to what they thought would be most likely to achieve a positive outcome. To this end, some might have adopted an especially interventionist or directed approach to ensure that the discussions proceeded according to their own expectations. For example, some respondents reported attempting to 'extract' information from one party (usually the offender). One commented that they found it 'really hard sometimes to extract what you need in order to have a satisfactory outcome' (POG5), while another stated: 'It's like when we interview offenders in custody: you need to tease more out of them' (PCNPTG4).

In other cases, officers reported exerting control to terminate proceedings or shut down lines of discussion, usually if they believed that the parties' behaviour was detrimental to the success of the process, or that one party was treating another in an unacceptable way. For example, one officer recounted a case in which the parties 'just argued and I had to ask everybody to leave' (PCSOG1). Several others spoke of cases where they felt that they had to intervene because the parties were arguing, including one who said:

On occasion, we've had to say: 'Oi, let's get it real, let's calm down, let's start again.' They need to know who is the adjudicator, the referee, the umpire, there needs to be someone there to be prepared to manage it. (POG4)

Another officer described intervening in processes to prevent young participants from being abused by participating adults:

I've had them where parents in a child-on-child assault have started to have a go at the child. You can see that that child is shrinking in front of you and finding it very awkward, then I would step in. (POD2)

As Chapters 2 and 3 noted, facilitators require a certain combination of skills and knowledge to understand when and how to intervene in RJ processes (Shapland, 2009). When delivering conferences, there is a fine line between, on one hand, the need to structure, direct and even stop discussions if necessary, and, on the other hand, the need to avoid dominating the process, giving the impression of bias, or unduly restricting the parameters of the discussions (Restorative Justice Council, 2011; Chapman, 2012). This thesis provides three reasons why police practices might have been problematic in this regard: firstly, as one respondent warned earlier, officers' training might have been insufficient to ensure that their interventions were benign and optimal (Gavrielides, 2013; Strang, et al., 2013); secondly, certain aspects of the police culture, as outlined in Chapter 2, may have meant that some officers were predisposed to intervene excessively or deleteriously; thirdly, the data presented in Chapters 6 and 7 indicated that some officers may have been inclined towards excessive or degrading interventions. The comment made above in relation to interviewing in custody, for example, may indicate an approach to RJ facilitation which was especially disempowering for

offenders (Young, 2001; Hoyle, et al., 2002). Again, whether participants experienced their conferences as empowering, may have depended on how officers exercised their discretion when facilitating.

Finally, in relation to outcomes, officers reported maintaining or relinquishing control as they decided who would be allowed to participate in deliberations, and whether to exert their authority over outcome decisions. This is significant because, as previous chapters explained, there may have been implications for perceived fairness and legitimacy, and for whether selected outcomes satisfied each party's needs (Braithwaite, 2002; Tyler, 2006; Crawford, 2010).

The data presented in Chapter 7 suggested that outcome agreements, rather than being determined collectively among stakeholders, were often negotiated between victims and officers, before being put to offenders as the conditions of an informal disposal to which they could agree or not. It was also reported that some officers in both forces imposed outcomes without consulting either party, or that they made outcome suggestions which the parties may have seen as orders or as the only option for an informal resolution, whether or not officers intended this. These findings suggest that officers might have exercised their discretion to achieve both of their main priorities: by enabling victim participation or suggesting reparation, they might have expected to satisfy victims; by imposing, suggesting or negotiating outcomes in the absence of dialogue or offender involvement, they seemingly hoped to achieve speedy resolutions to these cases. In other cases, officers reported exerting control over outcome agreements by overruling victims where their suggestions or desires were perceived to be disproportionate or unrealistic. This might reflect a combination of normative and instrumental reasoning, as officers reported wanting the outcome agreements they oversaw to be both fair and practical. Again, participant empowerment was largely in the hands of the officer, as they retained ultimate control over both the process by which outcomes were determined, and the detail of outcome agreements.

Overall, these findings echo those of previous research by McConville, et al. (1991) and Choongh (1998): in the former, officers were observed reproducing situations which allowed them to maximise their own discretion and control; in the latter, officers often used their discretion and authority to achieve police-defined goals, rather than to enforce the law or promote 'due process' or 'crime control' values. Likewise, officers in this study reported exercising their discretion in ways

which allowed them to control situations and achieve police-defined goals – most notably, to achieve quick resolutions to which victims consented. Yet, the findings also suggest that many officers used their discretion to promote normative goals, including fairness, proportionality and stakeholder participation. This reflects how Garland (1997) described the modern administration of criminal justice, in that different approaches to RJ facilitation seemed to be variously informed by instrumental and moral imperatives. Indeed, the findings suggest that officers could maintain or relinquish control over different parts of the process so as to achieve what they saw as an appropriate balance between these (sometimes conflicting) goals. The willingness to enable hybrid (i.e. quasi-dialogic) practices and to prevent disproportionate outcomes, were examples of how the tension between the need to empower participants and the desire to maintain control manifested when officers delivered RJ in practice.

This is not to say that control and empowerment were necessarily always opposing forces. Indeed, RJ facilitation inherently requires practitioners to retain some level of control over the proceedings. Barton argued that, in RJ, participant empowerment is both ‘bounded’ (2000: 2) and ‘directed’ (2000: 4), as facilitators are responsible for delivering practices which adhere to shared social norms and achieve restorative outcomes. To this end, he contended, participant agency is necessarily constrained within RJ processes, as facilitators act to structure and administer them in accordance with social and restorative values. This can be seen within the current study’s findings, as officers sometimes intervened on behalf of those who might otherwise have felt degraded, unheard or punished disproportionately. In other words, some level of facilitator control can help ensure a fair balance or enable an overall increase in levels of stakeholder empowerment (Braithwaite and Pettit, 1990; Braithwaite and Mugford, 1994).

Implicit in Barton’s analysis (2000; see also Barton, 2003), however, is the assumption that those who deliver RJ will necessarily understand and act in accordance with a predefined set of social and restorative values. Barton’s hypothetical facilitator seems to circumscribe participant empowerment only to the extent which is necessary to ensure that these values are adhered to. Yet, this ignores the fact that facilitators may interpret and use RJ in ways which are shaped by the norms, rationales, goals and priorities which characterise the institutions in which they work and the broader systems and structures within which RJ is implemented (Blad, 2006). As Chapter 2 explained, operational

policing emerges as the social and political setting in which it takes place, interacts with the power and authority which characterise the role, the legal framework, the hierarchies within police organisations, and a variety of further pressures and expectations on frontline officers as they exercise their low visibility discretion to respond urgently to a wide array of situations. Thus, it should be anticipated that these factors will influence and be reflected in the police's facilitation work. Despite the requirement that officers empower victims and offenders when facilitating, they were still expected to satisfy the needs of other parties to whom they were responsible, most notably their own organisations and the broader public interest. To this end, officers usually did not enable or deny participant empowerment entirely. More often, it seemed that this was *managed* by officers, as they attempted to balance the varied, and sometimes competing, needs and interests of all those who had a stake in their work.

The notion of 'managed empowerment' appears elsewhere in the research literature on attempts to encourage public professionals to devolve control to citizens. Notably, Davey (2015: Chapter 6), in her study on the role of healthcare professionals in empowering patients to make their own treatment decisions, developed a three-pronged framework of 'managed empowerment' which can be applied to this study. Davey (2015: 228) argued that patient empowerment was never absolute, because of the role which healthcare professionals necessarily played as 'knowledge brokers', 'ethical agents', and 'enablers'. As 'knowledge brokers', they acted as gatekeepers to information and to the various options available to patients. As 'ethical agents', they remained responsible for ensuring fair and equitable outcomes which maximised patient wellbeing. As 'enablers', they were tasked with providing patients with support and resources, and facilitating informed consent. This framework illustrated how, despite efforts to deprofessionalise decision-making, the power imbalances between healthcare professionals and patients were intrinsic and structural – they arose from the nature of the relationships between the parties and the institutional context in which healthcare services were provided.

In theory, this framework could be applied to virtually any situation in which the state enlists public professionals to devolve control to citizens over matters in which power would otherwise be vested entirely in those professionals. Attempts to deprofessionalise decision-making require practitioners to empower citizens to act autonomously and make their own decisions, while also ensuring that

processes and outcomes accord with practitioners' own expertise and legal, organisational and professional responsibilities (Gill and O'Berry, 1999; Stohl and Cheney, 2001; McDermott, et al., 2008; D'Enbeau and Kunkel, 2013; Collins, 2015; Davey, 2015). 'Managed empowerment' arises as practitioners are asked to empower citizens, while remaining under pressure and being afforded the discretion to restrict this empowerment, so as to ensure that processes and outcomes are consistent with the norms and values of their profession. In Davey's research, healthcare professionals:

Adopt[ed] managed empowerment as an expedient means to enable the patient to make 'any kind' of choice as long as it aligns with (or is pre-sanctioned by) the [healthcare professional]. (2015: 261-2)

In the context of restorative policing, for citizens' choices to align with the norms and preferences of the relevant professional (i.e. frontline police officers), they had to strike what the officer believed to be an appropriate balance between the needs and interests of the victim and offender in a given case, the goals and priorities of their own organisation, and the broader public interest in ensuring that justice was administered in a fair and efficient manner.

The competing nature of these varied interests underpinned many police respondents' arguments as to why it was often not possible, necessary or desirable for them to relinquish control entirely. Consider, for example, the imposition of RJ on victims without their consent. As noted, the decision to use RJ was intertwined with the decision to use community resolutions. This created a tension in cases where victims wanted offenders to be prosecuted, but officers believed that this was not in the interests of justice, either because it was disproportionately harsh, or that it would not be a sensible allocation of time and resources. Many respondents believed, for example, that they should be able to impose reparative outcomes in cases of low-level shoplifting because it was not in the public interest to expend time and resources in arresting and prosecuting these offenders. This was one example of how officers 'read in' the public interest when making decisions around their use of RJ. In the context of conferencing, several writers have discussed the role of the facilitator in acting 'on behalf of any public interest beyond the set of private interests assembled for the conference' (Braithwaite and Mugford, 1994: 147; see also Young, 2000; Vynckier, 2009). In

addition, Lipsky (2010) argued that this was part of the role of all frontline public professionals, whose work requires them to make a judgement as to the nature of the 'public interest' and to balance this against the rights and interests of their 'clients'. In this research, the way in which RJ had been integrated into informal disposals meant that officers had to consider the public interest when deciding both how to use RJ and whether or not to do so in the first place.

Similarly, some officers suggested that the tension between victims' desires and offenders' interests informed the decision of whether or not to impose RJ on unwilling victims. For example, one stated:

[The offender] chucked a stone at his mate, but missed and smashed a window. He's not been in trouble with the police before, but the victim wants [the offender] hung up or locked up in prison. Well, that's not gonna happen, that's not justifiable. Now, if [the offender]'s mum and dad say 'sorry' and offer £100 to pay for the damage, I think, even if the victim is not happy with that, there should be a line where police use common sense and go: 'This is the right outcome'. (POG1)

Again, this tension only arose because of the overlap between RJ and community resolutions. If community resolutions did not have to be 'restorative', then the officer could have imposed the same outcome without invoking the concept of RJ. In both forces, however, all such disposals had to be delivered restoratively, limiting officers' ability to resolve cases informally without the victim's consent. This was discussed more often in Gloucestershire than in Durham as, in the former, officers had more recently lost their ability to impose informal disposals *via* the 'COPS' disposal. One policymaker/manager described their officers' continued imposition of informal disposals (i.e. RJ) as follows:

I know that sometimes they have used RJ a bit like COPS, where victims haven't consented [but] would you want to criminalise a 14-year old for a quite minor offence, just because the victim is jumping up and down to criminalise that person? Is that right for society? So, I appreciate that will always be at odds. [If] they insist on prosecuting where it's totally inappropriate, in those cases we have to make decisions on behalf of the public, rather than just that individual victim. (PPMMG3)

RJ delivery was shaped by the fact that, when deciding whether or not to use it alongside informal disposals, officers were also making judgements as to how best to distribute resources and administer justice. Thus, despite the pressure on them to relinquish control to victims, they still had to 'read in' the interests of wider society (and, indeed, the offender, who was not necessarily present) when making these decisions. In doing so, officers were afforded a substantial level of discretion and a considerable amount of responsibility to determine what 'justice', 'fairness' and 'proportionality' should look like in any given case.

This responsibility was particularly conspicuous in relation to outcome decisions. Many officers reported being acutely aware of their responsibility to ensure that outcomes were proportionate and fair to offenders, and noted that they would sometimes deny victims the power to select outcomes as a result. For example, one officer argued:

Sometimes the victims have become almost obsessed with the power they might have and start demanding unrealistic outcomes. I think that's wrong. [...] We can't dress people up in yellow suits saying: 'I'm a criminal', and get them to walk down the streets. There's some people who'll want that, so we have to be very careful that that's not done. (POG4)

Another officer similarly described the limitations to victim empowerment:

I'm all for giving the victims a voice and getting them to steer the procedure, but sometimes what the victim wants, I don't feel is right ethically or proportionate to what's happening. [...] You've got to try and rein it back in and that can lead to friction between you and the victim because they say: 'I thought it was all about me'. (PCOSD7)

In this sense, the control which officers reported exerting over practices and participants, reflected the ways in which they managed the limitations of RJ theory. Cuneen (2010: 132) explained that RJ theory 'places great expectations on [victims and offenders] to do certain things, exhibit certain emotions and behave in certain ways'. Notably, it assumes that, through RJ, these persons will necessarily arrive at just outcomes. This fails to account for the strong, punitive undercurrent in contemporary societies, and for the fact that RJ represents a new

'justice script' (Daly, 2003: 232) with which citizens may be unfamiliar. It also ignores the stake held by criminal justice professionals in the day-to-day work that they do. As police officers and public professionals, it is incumbent on them to act in accordance with organisational priorities, while they also retain a general duty to society to inject the public interest into their work, and to balance the need to be responsive and fair in individual cases, against that to oversee an equitable distribution of resources and justice outcomes (Lipsky, 2010).

If these conflicting responsibilities contributed to an innate power imbalance between police officers and citizens, then it is logical to apply Davey's framework (2015: 228) of managed empowerment when interpreting this study's findings. As 'knowledge brokers', for example, officers acted as gatekeepers to the various options available to citizens, enabling them to withhold information (e.g. that RJ was voluntary, or that it could involve dialogue or certain outcomes) or resources (e.g. those required for formal processing) depending on what they judged to be the most appropriate process and outcome in a given case. As 'ethical agents', they could exercise their discretion to ensure that outcomes and processes were (at least, in their eyes) fair and just (e.g. by blocking or suggesting outcomes or intervening in dialogic processes). Finally, as 'enablers', officers could choose when and how to provide the resources and to facilitate the consent required for stakeholders to participate in discussions and influence outcomes. The extent to which an officer utilised the facilitation role to empower participants, depended largely on how they opted to balance the wide array of instrumental and normative motivations which informed their work. Restorative policing was simply whatever the police decided to do when seeking to strike this balance in a given case – as long as their selected option was understood to be restorative, or was recorded as such within their force's bureaucratic framework.

## **8.5 Concluding comments**

This chapter expanded on what the data suggested were the three key elements of restorative policing in both forces. It elaborated on the tensions inherent in the police's use of RJ, as officers navigated organisational pressures and situational exigencies, while balancing the conflicting needs and interests of

a wider variety of stakeholders than RJ theory necessarily presumes to exist. The result – namely, the models of restorative policing which emerged from the data – might best be understood as the products of the institutionalisation of RJ within Durham and Gloucestershire Constabularies.

The findings suggest that restorative policing was generally oriented towards achieving the police's existing goals of victim satisfaction and demand management. This is consistent with research which suggests that the police can exercise their discretion to achieve police-defined goals (Choongh, 1998), as well as with recent studies which have found that RJ has been reinterpreted by the police as being equivalent to informal resolutions (Walters, 2014; Cutress, 2015; Westmarland, et al., 2017). However, the findings depart from these studies, and from previous studies of restorative cautioning (Hoyle, et al., 2002; O'Mahony, et al., 2002), in identifying a series of incentives and motivations to help and engage with victims. This illustrates how the contemporary politicisation of the victim has permeated RJ implementation, and how the implementation of abstract concepts within the police enables police forces to give precedence, within their strategies, policies and practices, to whichever features of those concepts might overlap with existing police priorities. In the context of RJ, this created risks for participants, as safeguards were discounted in favour of police-defined goals, and as officers were afforded extensive discretion and power to interpret the purpose of RJ and to shape processes and outcomes accordingly.

Measured against the idealism inherent in many presentations of RJ theory, these findings suggest that the police empowered victims and offenders in only a limited manner. However, this research gives further credence to the argument that the absolute, almost mythical form of empowerment promoted by some advocates of RJ, might not be an appropriate benchmark against which to measure efforts at RJ implementation (Daly, 2003). Far from deprofessionalising decision-making entirely, RJ, and street RJ in particular, gave officers substantial powers to decide when and how to afford participants autonomy, and to select the conditions within which participants were permitted to exercise their (limited) freedom of choice. The police retained an ultimate monopoly over decision-making power; participant empowerment was structured, partial and reversible. At the same time, police-led RJ may have created a more empowering (and restorative) platform for (some) victims and offenders than might have been possible under previous or other existing enforcement options. Indeed, to the

extent that Davey's framework (2015) can be applied to the deprofessionalisation of decision-making more broadly, it may be that all state-led RJ practices should be considered as forms of managed empowerment. As Walgrave argued, those who can invoke the criminal law retain the 'implicit eventuality of coercion, even at the level of voluntary deliberation' (2015: 289). Ultimately, this structural reality, alongside other entrenched and contemporary features of the institutional context in which operational policing took place, seemed to shape how the police understood and used RJ in practice.

## **Chapter 9 – Conclusions**

### **9.1 Introduction**

This thesis analysed empirically the ways in which RJ was understood and delivered within two English police forces. It asked how the police explained their use of RJ, aimed to discover the ways in which restorative policing was shaped by the institutional context in which it was implemented, and sought to identify its risks and consequences for its participants. This chapter draws out the salient themes and findings from the thesis, considers their wider implications and makes suggestions in relation to the development and study of restorative policing.

The first section reflects on the study's findings. It discusses what they tell us about the models of restorative policing used in Durham and Gloucestershire, and the broader issues in relation to integrating RJ into the police institution and policework. The second section reflects on the manner of the study's execution, while the third section identifies the implications of its findings for how restorative policing theory, policy, practice and research might progress. The thesis then finishes with some final thoughts on the project.

### **9.2 Reflections on the findings**

Overall, the study's findings suggest that the institutional context in which restorative policing was implemented and delivered, shaped the way(s) in which it was understood and used. In both forces, strategies, policies and reported practices reflected national pressures, organisational priorities and the functions and demands of the operational policing role. Decisions made with respect to the integration of RJ into police disposals, underpinned how it was interpreted and applied by the frontline. Similarly, organisational goals – most notably, to manage demand and satisfy victims, especially in relation to low-level offences and disputes – were echoed in descriptions of practice and expressed by respondents at all levels and from both forces as motivations for policing restoratively. Within

these structures, officers were still afforded enough discretion to determine, on a case-by-case basis, the extent to which they would use the RJ process to control or empower participants. Thus, on each occasion in which the concept of RJ was invoked, its meaning depended largely on how officers elected to balance their various (often competing) goals and responsibilities.

As part of the process through which RJ was institutionalised in both forces, police actors at all levels were enabled (or, perhaps, required) to adopt, adapt or reject features of its underpinning philosophical framework, in accordance with what they perceived to be its most desirable, useful and viable features in the context of their work. Consequently, the police's strategies, policies and practices reflected only the partial integration of restorative principles into policework. The findings suggest that many outcomes were determined through negotiation and that harm-focused dialogue sometimes took place. At the same time, indirect stakeholders were often excluded entirely, efficient approaches were usually prioritised over relational outcomes, and police officers (and, in some cases, victims) were permitted largely to dominate nominally restorative processes. This created issues around quality and safeguarding, as preparation, evidence-based processes and offenders' needs were often neglected.

The precedence afforded victims was consistent with the politicisation of that label in contemporary criminal justice discourses (Duggan and Heap, 2014), and with the police's generally dismissive approach towards offenders' needs and rights (McConville, et al., 1991; Reiner, 2010). Moreover, the integration of RJ into community resolutions appeared to encourage officers to engage with victims by allowing them to do so quickly and instantly, and by requiring some minimum level of victim involvement in the process. This may have enabled victims to play an enhanced role in decision-making and to request and receive symbolic and material reparation which might not otherwise have been forthcoming.

Some participating offenders – most notably, those who may have escaped a more disclosable record – might also have benefitted from the process. At the same time, the bureaucratisation of victim satisfaction and the prioritisation of demand management seemed to incentivise officers to offer and use processes and suggest outcomes which largely excluded offenders, and which may have satisfied only the surface-level needs of either party. This is not to say that no described practices showed a focus on offenders' needs, dialogue or relational outcomes. However, especially in Gloucestershire, these were only foregrounded

in a small minority of the processes which were understood and described as restorative. Instead, many reported practices reflected the police's tendency towards pragmatic, reactive approaches to achieving police-defined goals, and indicated that harms were individualised in lieu of more inclusive or proactive approaches to law enforcement and order maintenance.

At all levels, the data from Durham reflected a more 'purist' interpretation of RJ than that from Gloucestershire. In Durham, the aspiration to create a 'restorative organisation' tallied with a stronger emphasis on dialogic approaches, a deeper understanding of the concept and a greater willingness to invest time and resources in transforming the force's approach to peacekeeping and low-level offending. This illustrates the central role which moral entrepreneurs in leadership positions can play in driving and shaping change within their own organisations. In Gloucestershire, meanwhile, their strategies, understandings, policies and practices more closely mirrored what Chapter 1 defined as a 'maximalist' approach to RJ, while achieving broader cultural change did not factor highly on the overall agenda. Correspondingly, RJ in Gloucestershire tended to be described as more focused on quickly obtaining something for the victim, than it was on encouraging and enabling dialogic approaches.

In both forces, these interpretations of RJ were inculcated in officers through training, recording requirements, monitoring processes and the various materials which were used to structure RJ delivery. In Gloucestershire, the Level 1 form encouraged an outcome-focused approach, whereas officers in Durham were expected to administer their street RJ practices according to the structure (if not the detail) of the script. This was consistent with how policymakers/managers understood RJ, and with force strategies in general. It indicates that training, policies and materials could help to encourage the use of dialogic approaches by frontline officers. While some differences in the reported practices between the forces might have been an artefact of the composition of the samples, the data still point to a much more even distribution of conferencing work among officers in Durham compared to Gloucestershire. Thus, the differences in strategies and policies between the two areas may help explain the differences in reported practices. That there were still so many similarities between each force's model of practice, however, suggests that restorative policing was shaped by factors which existed across both forces – and which may exist to some extent across operational policing (at least, in England and similar jurisdictions). These factors

include the exact nature of the operational police role, the design of the national disposals framework and the competing desires to be efficient in maintaining order and to enhance the service provided for victims. These factors may also help explain why practices were so heterogeneous within the forces.

Some of these findings depart from the existing research on restorative policing in England. That RJ was used 'on the street' and required victim consent, meant that Durham and Gloucestershire's models of delivery were much more conducive to victim involvement than previous attempts to use RJ alongside cautions (Hoyle, et al., 2002). Some have hypothesised that police-led RJ will necessarily be offender-focused (McCold, 1996; Kenney and Clairmont, 2009). In Durham and Gloucestershire, however, the prevalence of victim-focused rhetoric, alongside a supportive bureaucratic structure, corresponded with a much stronger focus on victims than had been observed elsewhere. This may suggest that both the use of language and managerial frameworks might play a role in encouraging greater victim participation or a greater focus on their needs. Alternatively, the ease with which victims were contacted at the incident investigation stage might help to explain their greater participation in RJ alongside community resolutions, than alongside cautions. Either way, care ought to be taken to avoid propagating new imbalances between stakeholders, and to ensure that the participants are not simply instrumentalised to achieve system-focused priorities (Crawford, 2000; Warner and Gawlik, 2003; Blad, 2006).

The flexibility of street RJ allowed officers to adopt expedient approaches to its use. Given the underlying pressures on officers to prioritise speed (Skolnick, 1966), it should hardly be surprising if they exercised their discretion accordingly. However, officers who were trained in conferencing suggested that they were often willing either to offer and deliver conferencing, or, as Meadows, et al. (2012) also found, to enable impromptu dialogues at Level 1. Indeed, victims were reportedly asked to provide input in many of even the most lackadaisical Level 1 processes. Notwithstanding the possibility that these data might not be truthful or generalisable to the whole forces, they seem to suggest a greater willingness among many respondents to enable victim participation and/or dialogue, than is implied within much of the recent literature (Walters, 2014; Cutress, 2015; Strang and Sherman, 2015; Shapland, et al., 2017; Westmarland, et al., 2017). It may be that training officers in conferencing would help to maximise stakeholder empowerment in the context of street RJ. Equally, forces which previously

implemented dialogic practices have been found to drift away from using them over time (Cutress, 2015; Clamp and Paterson, 2017; Shapland, et al., 2017). Ongoing action may be required to prevent this kind of reversion to form as implementation becomes more distant.

In other ways, the study's findings mirror the literature on the mainstreaming of RJ within existing justice systems. They suggest that bureaucratic processes, politicisation and managerial pressures can act as barriers to the realisation of justice ideals (Newburn, et al., 2002; Daly, 2003; Crawford, 2006; Barnes, 2015; Rosenblatt, 2015). They illustrate how criminal justice agencies and professionals can stretch the concept of RJ so widely as to incorporate an array of informal or exclusionary approaches which may resemble what they were already doing, or wanted to do (Doolin, 2007; Gavrielides, 2007). They lay bare the tendency of the police and other agencies, when interpreting and implementing abstract philosophies, to adopt only or mostly those features which coincide with existing approaches or goals. Overall, they further support the argument that, as RJ is mainstreamed within institutions with strongly embedded rationales and ways of working, some of its theoretical principles will necessarily be sacrificed, and hybrid restorative-traditional practices will emerge (Daly, 2003; Aertsen, et al., 2006; Blad, 2006; Crawford, 2006; Mackay, 2006; Laxminarayan, 2014).

The findings suggest that, as RJ was integrated into operational policing, the pressures and responsibilities which characterised that role influenced the ways in which RJ was used. As Chapter 2 explained, the police are expected to respond urgently to an array of 'things-that-ought-not-to-be-happening' (Bittner, 1990: 249) and are uniquely entitled to use force and coercion when doing so (Goldstein, 1977). Accounts of operational policing illustrate how frontline officers ration these powers, using persuasion, negotiation and the underlying threat of coercion to 'keep the peace' (Banton, 1964; Bittner, 1967; Muir, 1977; Kemp, et al., 1992; Reiner, 2010). Thus, it might be expected that any attempt to implement RJ in street policing will be informed by the police's habitualised responses to these 'situational exigencies' (Bittner, 1990: 131; see also Lipsky, 2010).

In general, the discretion afforded police officers in their day-to-day role means that they must decide how they will balance the (often competing) needs and interests of various stakeholders in their work (Lipsky, 2010). This study's findings indicate that RJ, as a concept and framework which is explicitly focused on empowering (non-state) stakeholders (Braithwaite, 2002; Schiff, 2007), brings

to the fore any tensions or conflicts between these parties' needs, interests and desires, both in relation to each other, and in relation to police officers and their organisations. Theories of restorative policing dictate that the police should de-emphasise system-focused goals and relinquish control to victims, offenders and communities (Weitekamp, et al., 2003; Clamp and Paterson, 2017). Yet, there may be limits to this in practice, as officers are asked also to satisfy public, private and police interests (Warner and Gawlik, 2003), to ensure that 'justice' is done, and to empower individuals with whose views they might disagree.

These tensions seemed to inform the decisions made by officers as they opted to maintain some level of control over RJ processes. Many found that they could not simultaneously enable dialogue and close cases quickly; others found that they could not achieve just outcomes if they transferred decision-making power entirely to victims. That some victims will always lean towards revenge and antagonism rather than forgiveness (and *vice versa*), represents a key challenge to the development of participatory justice processes (Christie, 1982; Kelly and Erez, 1997; Ashworth, 2000), as do the entrenched organisational routines and managerial and neoliberal logics which pervade modern justice agencies, and which may co-opt any attempt to implement alternative approaches therein (Daly and Immarigeon, 1998; Daly, 2003; Karstedt, 2011).

Many officers reported that they were willing to overrule victims to ensure that sanctions and resources were distributed according to (what they saw as) the interests of individuals, justice and the wider society. It is precisely this responsibility, however, that so concerns those authors who tend to laud the consistency, transparency and accountability which (at least, in theory) characterise more open, formal justice processes, or which may be more likely to be absent from less formal approaches (Delgado, et al., 1985; Ashworth, 2000, 2002, 2004; von Hirsch, et al., 2003). Their worries relate to the power which officers are afforded, when delivering RJ, to shape processes and outcomes, to balance conflicting needs, and to determine, in a low visibility environment, what 'justice' should look like in any given case. As Hoyle (2011; 815) observed:

The argument that there should be a separation of powers between the key stages of the criminal process is persuasive. It is clearly problematic to have one agency having so much power and control over a criminal process, from

arrest to punishment, especially when that agency has a strained relationship with certain, often disadvantaged, communities.

This thesis sheds some light on the nature and scope of the power which RJ afforded officers to direct processes and influence outcomes, and the ways in which this power was used in practice. Virtually all officers in both forces were expected to deliver RJ in one form or another, often with limited training and no supervision. This meant that officers could facilitate RJ in accordance with their own beliefs regarding the appropriate response to a given situation, with little to prevent them from acting in a discriminatory, degrading or punitive manner if they so desired. Yet, this research also indicates that RJ might encourage officers to exercise their discretion creatively, inclusively and constructively when resolving disputes and low-level offences. ‘No-one’, contended Bittner (1967: 701) over five decades ago, ‘can say with any clarity what it means to do a good job of keeping the peace’. For those who are attracted to RJ, this thesis should provide some hope that its principles and processes might help to answer this question.

Ultimately, this research suggests that citizen empowerment was usually limited in practice, as existing power imbalances between the police and citizens acted as a barrier to the deprofessionalising of decision-making processes. By applying the concept of ‘managed empowerment’ (Davey, 2015) to the police’s use of RJ, we can begin to see how citizens’ autonomy might necessarily be circumscribed (or, at least, circumscribable) under any police- or state-led RJ process. Public professionals who are asked to devolve control to citizens, retain their existing legal and professional duties and organisational responsibilities when doing so. They are charged with negotiating an equitable balance between the needs of their clients, the preferences and priorities of their institution and the interests of wider society. The current study suggests that this balancing act may help explain the gap between theory and practice in RJ, when it becomes institutionalised within existing systems and agencies.

### 9.3 Reflections on the study's design and execution

In retrospect, there were benefits and limitations of the way this study was conducted. It was substantial in scale, involving an extensive collection of data across two study areas at opposite ends of the country. This produced a wealth of information from which many inferences could be made about the factors which shaped the implementation and use of RJ. For example, that interviews took place with policymakers, managers and practitioners, enabled the researcher to explore the reasoning behind each force's strategies and how they might have shaped the ways in which frontline officers understood and used RJ. However, the volume of data created difficulties with data management and in narrowing the scope of the thesis. As a result, some parts of the data, including that which was collected from the PCCs and RJ Hubs, were largely excluded – although these will form the basis of future research and publications.

Furthermore, the comparative element of the research allowed similarities and differences to be identified among the data from each force. It confirmed the importance of moral entrepreneurs in senior leadership positions, illustrated how force policies can shape the ways in which officers understand and administer RJ in practice, and indicated that similarities between the forces related to factors which existed across both. It also meant that the data interpretation process was more reliable than had only one force been studied. If Durham was anomalous in its depth of commitment to RJ, then it was arguably an important object of study in its own right. Additionally, the ability to compare RJ in Durham with a somewhat less anomalous force (with respect, at least, to its relationship with RJ) assisted in determining just how exceptional Durham was and which features of its approach may be more or less transferrable. At the same time, the comparative analysis created an equal and opposing need to avoid generalising about each force from differing datasets.

The most significant limitations to this study were inherent in conducting interview research within any large, difficult to access organisation. They mostly relate to the reliability, validity and representativeness of the data collected from police facilitators which, as explained in Chapter 4, limit the study's accuracy and its generalisability within and beyond the studied forces. This could be improved in two ways: firstly, by utilising a strategic sampling process with more detailed criteria when selecting interviewees; secondly, by using other methods – such as

quantitative surveys and observations – to triangulate findings. With respect to sampling, the collected data may reflect selection biases which relate specifically to the gatekeepers' control over sampling processes. Thus, it is conceivable that the researcher's experience was being actively controlled (although neither force denied him access to any person, nor prevented him from snowball sampling). Ideally, therefore, researchers should retain as much control as possible over sampling processes. With respect to methodological triangulation, a survey might have enabled the researcher to measure officers' attitudes towards restorative principles across the whole of each force, and to identify whether these related to age, length of service, role or other characteristics; the forces could also have been reliably compared in this respect. In addition, observations could have been used to ascertain the extent of any gap between how officers said they facilitated and how they facilitated in practice.

While it is possible that some respondents withheld information or deceived the researcher, he felt that his ability to build rapport made respondents inclined towards honesty. Certainly, none gave any overt indications of deception. In fact, during one interview in Durham, a respondent from earlier that day radioed the present interviewee to say: 'Make sure you tell him the truth, he's alright' (PCSOD7). While this suggests that a rapport was built, it also implies that the first officer suspected that the second might not be entirely truthful. Furthermore, the data collected from officers only represent how they interpreted, rationalised and described their actions *post hoc*. In this sense, it is necessary to avoid presuming that their decisions were necessarily intentional, rational and strategic in nature, rather than simply being intuitive reactions to situational factors. The inability of interview research to discover 'the truth' highlights the importance of methodological triangulation. Still, whether or not police officers' accounts were 'accurate', they can contribute to our understanding of how police knowledge was constructed and the principles and priorities which underpinned their approaches (Shearing and Ericson, 1991).

## 9.4 Implications for theory, policy, practice and future research

The fundamental tension within restorative policing is that RJ requires the state to devolve control to individual citizens, while policework involves wielding power and exercising authority on behalf of the state and wider society. As Clamp and Paterson noted, the primary difference between conventional and restorative forms of policing lies in ‘the removal of the police officer from their traditional sovereign position as the owner of the conflict’ (2017: 168). By applying the concept of ‘managed empowerment’ to restorative policing, it is possible to see how this tension, and the associated power imbalance between the state and its citizens, might shape almost any attempt to use RJ to deprofessionalise decision-making. Whether in police disposals, schools’ disciplinary processes or prison adjudication, it is the state’s representatives who ultimately determine whether restorative measures are adopted, how they are administered and whose needs to prioritise (Wachtel, 2014; Walgrave, 2015). In doing so, they must also decide how to balance the competing needs and interests of the various stakeholders in their work – not least, themselves and their own organisations.

In her reflections on the gap between theory and practice in RJ, Daly argued that, when implementing RJ as a mainstream intervention, ‘we should expect to see organisational routines, administrative efficiency and professional interests trumping justice ideals’ (2003: 231). This echoes Garland’s arguments (1997) in relation to the tensions between the normative and instrumental rationales which underpin the workings of contemporary criminal justice. Daly (2003) suggests, and this research indicates, that the gap between theory and practice in RJ may emerge partially from a process through which professionals balance their own priorities and those of their organisation against participants’ needs and interests. If so, then this reflects the failure of RJ theory to account for the role of the state in RJ and the stake which its representatives and agencies hold in the RJ processes which they deliver. Theoretical frameworks (e.g. Christie, 1977; Zehr, 1990) often do not account for the state’s stake in RJ (Crawford, 2002, 2006). Rather, they tend intentionally to omit state actors from their models, focusing exclusively on victims, offenders and the community (however defined) as the stakeholders, and framing RJ as a way in which these *real* stakeholders might reclaim *their* conflicts from the state (Johnstone, 2008).

The least reflective RJ advocates tend to presume that the 'victim-offender-community' framework reflects the full breadth of interests which are represented within the RJ process (Ashworth, 2002). Yet, restorative policing epitomises the centrality of the state's role in most of its modern, Western forms. Even in areas where RJ is delivered by non-state actors, funding and referrals often derive from state agencies which retain a stake in the processes they sanction (Zinsstag, et al., 2011). Under restorative policing, state agents remain responsible for virtually all activities relating to RJ implementation. It follows that theoretical efforts to model restorative policing – and RJ more broadly – must account for the influence of the state and its edifice. Bureaucratised agencies and punitive rationales exist within modern justice systems; RJ principles and processes may be appended to these rigid structures without necessarily replacing them. We are yet to see RJ being mainstreamed in a way which disrupts the ultimate authority of the state or which does not leave the legal and professional responsibilities of its agencies and professionals intact. These facts must be built into the core theoretical assumptions which underpin debates and research in relation to RJ.

Theoretical restorative frameworks might develop by taking into account the state's influence and stake in RJ at three levels: firstly, at the level of the state as an overarching political and technocratic system which sets rules and governs societies, which is underpinned by entrenched rationales, and which is delegated the task of representing the interests of society as a whole; secondly, at the level of justice agencies (e.g. police forces) as living organisations with various responsibilities towards citizens and with interests in self-preservation, control and expansion; thirdly, at the level of state representatives (e.g. police officers) who have a personal interest in the tasks and duties which constitute their professional lives. The occurrence of crime creates obligations on the state at all three levels to develop and implement capacities to prevent or respond to offending (Walters, 2014). It could be argued that this fact necessitates the re-evaluation of the state as a key stakeholder in RJ.

The utility of this approach lies partially in its implications for how we see the police's role in delivering RJ in practice. Chapter 8 argued that RJ requires police officers to devolve power to stakeholders, while also maximising citizen wellbeing, achieving equitable outcomes and realising organisational goals and priorities. The need to strike a balance between these responsibilities means that the officers are not detached observers in the RJ processes they deliver. Rather,

they are professionally and personally invested in the outcomes of the incidents in which they intervene. Their careers and job satisfaction are shaped by their ability to achieve ever-changing and often conflicting measures of success which are set by themselves, their organisation, the state and the public (Lipsky, 2010). In doing so, they must navigate the tensions between these goals, and between the instrumental and normative motivations which underpin their work (Garland, 1997). They may be affected psychologically and emotionally by their jobs (Miller, 2006), and they inevitably develop some form of relationship with the individuals with whom they interact and the communities in which they work (Clamp and Paterson, 2017). The point is that police officers are humans with a need for emotional and mental wellbeing and a satisfactory conclusion (however defined) to the activities they undertake in their professional lives. A more nuanced and realistic debate on RJ in general, and restorative policing in particular, would take this into account when considering the relative positions of state and non-state actors in RJ. It is not necessary to pass judgement on the appropriate role of the state or the police in RJ in general, to observe that its theory is incomplete if it does not recognise their current position as a stakeholder in its use.

The theoretical and empirical insights which emerged from this study could inform the development of restorative policing. They also point to areas in which further empirical work is needed. The remainder of this section considers how policy, practice and empirical research might progress in relation to four themes: the integration of RJ into street and neighbourhood policing; safeguards for those who participate in police-led RJ practices; the disclosure of informal disposals; and the transformative potential of restorative policing.

Firstly, unlike in Thames Valley (Hoyle, et al., 2002), RJ was integrated into the forces studied in this thesis primarily within street and neighbourhood policing. Consequently, officers understood RJ to include the resolution of a wide range of conflicts, incidents and offences using processes of varying levels of formality. The flexibility of street RJ seemed to be critical to its adoption and acceptance in each area, and may have encouraged the use of more dialogic, harm-focused and inclusive approaches to the resolution of low-level incidents, disputes and other peacekeeping activities. Yet, there is a dearth of knowledge about the overall effectiveness and use of street RJ across English forces (Strang and Sherman, 2015; Westmarland, et al., 2017).

Questions remain as to the impact of different forms of RJ, which processes should be used under what circumstances, whether it might be possible to develop a strategic, targeted approach to offering and using different processes, and when it may be necessary, safe or acceptable to sacrifice certain restorative principles and elements of best practice, such as preparation, dialogue and follow-up. Researchers, whose involvement in RJ implementation has been found to improve its use (Schwalbe, et al., 2012), should collaborate with the police on experimental and action research which addresses these questions and develops policies and practices accordingly. Studies should be conducted in which baseline data are collected and, following the introduction of RJ, used to investigate the extent of any change in officers' willingness to use diversion, consider other stakeholders' needs or enable participatory decision-making. In addition, researchers should collaborate with the police on a pilot study in which RJ is used to resolve cases without clear victims and offenders; an aim of this project should be to develop specific guidance and policies for such cases.

Secondly, researchers and police forces should consider how to design and introduce additional safeguards within restorative policing, including clear and viable mechanisms of appeal and redress. Researchers may also wish to explore the process by which the meaning of RJ and the potential for its disclosure is explained to suspects or offenders. Such a study could be used to inform future efforts to maximise the likelihood that this is described clearly and understood accurately by its target audience; survey research might be used to establish the latter. As other mechanisms of regulating street policing proliferate – such as informal resolution scrutiny panels and body-worn video cameras – consideration should also be given as to if or how these might be used to ensure quality and standards within restorative policing.

Thirdly, empirical research should take place in relation to the disclosure of community resolutions in practice. Recent years have seen substantial reforms to the system by which police information is disclosed, resulting in the discretion of disclosure officers being restructured and constrained (Mason, 2010; Home Office, 2015). Yet, there does not appear to be any published research which examines how these new procedures are used in practice, nor how the disclosure of community resolutions is interpreted by employers. Quantitative studies which measure the disclosure of police information, alongside qualitative studies which

explore the working credos and practices of disclosure officers, might help to establish how these new rules are being interpreted and used in practice.

Finally, the themes considered so far relate to the use of RJ practices within day-to-day policework – that is, to a largely ‘programmatic’ model (Bazemore and Griffiths, 2003) of restorative policing. Yet, there may be other forces which, like Durham, would be willing to explore the potentially transformative impact of RJ on their organisational culture. Ideally, any future attempts to do so would involve collaboration between the police and researchers from the start. It is essential to collect baseline data on attitudes, practices and other variables in advance of RJ being implemented, if we are to establish whether RJ can be used to change the culture of a police organisation. This study’s findings indicate that senior leaders in Durham were willing to take the risk that some of their officers would deliver RJ poorly, in exchange for an assumed longer-term gain brought about by a shift in force culture. However, the dearth of research specifically on the use of RJ to change organisational culture, meant that the likely extent of any such change could not have been reliably predicted. Further attempts to use RJ in this manner should be comprehensively evaluated to inform future discussions on whether this risk is worth taking and how any challenged can be overcome. Lessons might also be learned from ‘whole organisation’ approaches to RJ from education and other fields. Notably, often recommend that, to change organisational culture, it is necessary also to use restorative approaches *proactively* within the target organisation (Hopkins, 2004; Green, et al., 2014; Acosta, et al., 2016).

## 9.5 Final thoughts

Towards the end of their seminal book on practitioners’ use of discretion to construct official narratives of crime, McConville, et al. (1991: 206) claim that:

Changing police culture is not possible on its own, for it derives from the policing mandate. [...] The issue, therefore, is not just the methods and methodologies of policing, but its *objectives*. (emphasis in original)

The despondence which McConville, et al. subsequently articulated is not shared by most advocates of restorative policing. To them, the attraction of RJ lies in its ability simultaneously to redefine police objectives with fresh 'principles of intervention' (Bazemore and Griffiths, 2003: 344) and to explicate the methods through which those objectives can be achieved. In theory, restorative policing represents an attempt to encourage the police to depart from what Clamp and Paterson call 'the "police use of force" paradigm' (2017: 168), and to inculcate a new policing purpose in which citizens are supported to participate in decision-making, to build social capital and to make use of latent capacities for order maintenance. Some see it as a methodology by which the elusive notions of community and problem-oriented policing might finally be realised (Weitekamp, et al., 2003). In theory, restorative policing both requires (in its objectives) and assists (through its methods) police officers to transfer power directly to citizens, ideally enabling a benign form of civic participation in preventing and responding to crime and conflict (Weitekamp, et al., 2003). Through this, it is argued, the police can deliver better outcomes for victims, offenders and communities, and move towards a much more progressive, legitimate, responsive and consensual policing model (O'Connell, 2000; Lofty, 2002), reversing the managerial trend towards being inward looking (Moor, et al., 2009).

As McConville, et al. (1991) and Chan (1996) pointed out, however, existing social and institutional structures act as barriers to reform efforts. When a police force implements RJ, those who are responsible for doing so extract what they believe to be useful and desirable from the miscellany of ideas, principles and practices which underlie the concept. Their decisions in this regard are informed by existing rationales, priorities, goals and ways of working within the police, as well as by the social and political context within which the police exist and policework takes place. At the end of this process, it reforms as something else altogether – a 'restorative policing' which, as a fusion of RJ and traditional policing, is essentially bound to represent a hybridised version of both. This does not preclude the possibility that restorative policing might represent a substantial improvement on the status quo. It does mean, however, that care must be taken to ensure that it is the case.



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## List of Abbreviations and Acronyms

ABH	Actual Bodily Harm
ACPO	Association of Chief Police Officers
ASB	Anti-social Behaviour
COPS	Community Oriented Police Solutions
CPS	Crown Prosecution Service
CRB	Criminal Records Bureau
CRC	Community Rehabilitation Company
DBS	Disclosure and Barring Service (formerly CRB)
DNR	Darlington Neighbourhood Resolution
doc.	Document (see Appendix B for a full list of collected documents)
EU	European Union
Gloucs.	Gloucestershire
HMIC	Her Majesty's Inspectorate of Constabulary
IAU	Incident Assessment Unit
IOM	Integrated Offender Management
MoJ	Ministry of Justice
NCRS	National Crime Recording Standard
NJP	Neighbourhood Justice Panel
NPT	Neighbourhood Policing Team
OBTJ	Offences Brought to Justice
OIC	Officer in Charge
O OCD	Out-of-court Disposal
PACE	Police and Criminal Evidence Act 1984
PC	Police Constable
PCC	Police and Crime Commissioner
PCSO	Police Community Support Officer
RA	Restorative Approach(es) (equivalent to RJ in Durham)
RJ	Restorative Justice
RPSPPP	Restorative Problem-solving Police Prevention Programme
YOT	Youth Offender Team
YRD	Youth Restorative Disposal

## Appendix A: Request for collaboration



**UNIVERSITY OF LEEDS**

### **RE: Request for collaboration on restorative justice research**

This document sets out a request for collaboration on restorative justice research which requires access to force-held data and personnel at two forces in England and Wales. The study is funded by the Economic and Social Research Council, and is being conducted by Mr. Ian Marder, a Ph.D. student at the Centre for Criminal Justice Studies, School of Law, University of Leeds. The research is being supervised by Professors Anthea Hucklesby and Adam Crawford.

#### Aims

The aim of this research is to study innovations in the involvement of the police in the delivery of restorative justice practices (RJs) in England and Wales in order to establish the implications for the implementation of the principles of restorative justice in this context.

#### Background

This research is particularly timely and necessary because of the numerous ongoing policy changes and other developments relating to the delivery of RJs by the police and other justice agencies. There has been a surge in restorative justice activities among police forces as a result of these policy changes and other developments, which include, among others:

- central government backing for the expanded use of RJs at all stages of the justice process;
- changes to recording practices and targets, as they relate to Community Resolutions;
- broader reforms to the out-of-court disposals framework;
- the new role of Police and Crime Commissioners in providing funding for restorative justice;
- the release by ACPO of guidelines relating to the police's involvement in facilitation;
- a growing focus on improving the efficiency and effectiveness of police work in the context of significant cuts to police budgets;
- an increasing emphasis on the need to ensure the quality and safety of RJ delivery;
- and the growing role of community volunteers, multi-agency partnerships and third-sector organisations in the development and delivery of RJs.

### What is the researcher asking for as part of the collaboration?

As part of this study, the researcher requests from each participating force:

- to have access to policy documents and to statistical data held by the force and relating to the involvement of its staff in the delivery of RJs and their regulation, coordination and management;
- to deliver a short survey to at least 50 police officers (or other police staff) who have delivered an RJ in the last twelve months (hereafter: 'police facilitators'), in order to study their attitudes towards RJs;
- to interview at least fifteen police facilitators in order to study their experiences of facilitation and obtain practitioner insight relating to the factors which enable successful delivery;
- and to interview at least three persons involved in developing and implementing restorative justice policy and practice at force-level.

In the event that only one force is studied, it is expected that the targets relating to sample sizes outlines above will be increased, and that the additional time available would allow for a more in-depth methodology. This might include the interviewing of local stakeholders external to the force and of volunteer restorative practitioners who work with or take referrals from the police.

The data collected will form the basis of the lead researcher's Ph.D. thesis, and will be the subject of academic publications and presentations. All individuals who provide data will be kept fully anonymous, unless otherwise agreed. The naming of the forces will be subject to the consent of the relevant force-level authorities. The data collection will take place in early-to-mid 2015, and should be completed by August 2015. The aim is to submit the thesis for examination by the end of 2016.

### What benefits will there be for the force?

The force will be participating in a unique and in-depth research project which has the potential to assist police forces across and beyond England and Wales by informing their development and delivery of safer, more effective and more efficient RJs. The research should be seen as an opportunity to obtain knowledge that will improve the experiences of future participants of RJs. In addition, the force will be working with a researcher who recognises the value of practitioner insight, which is too often ignored by academics, governments and others who pertain to be interested in evidence-led policy.

The researcher is also offering to:

- produce a confidential, tailored report for each participating force which will summarise the main findings and include recommendations on how to increase the safety, effectiveness and efficiency of both restorative justice training and police-delivered RJs;
- present the research findings to the relevant individuals in each force area;
- provide a copy of the finished thesis;
- and have further discussions about how the force, its partners and other stakeholders may benefit from the research.

For further information, please contact:

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If you would like to contact my academic supervisors at the University of Leeds, their details are:

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## Appendix B: Full list of collected documents

### Collected policy documents – Gloucestershire

#	Organisation	Title	Audience
G1	Restorative Gloucs.	What is RJ leaflet	General public
G2	Restorative Gloucs.	What is RG and RP leaflet	General public
G3	Restorative Gloucs.	Info for offenders leaflet	Offenders
G4	Restorative Gloucs.	Annual report 2013 2014 (missing p.4-5)	General public
G5	Restorative Gloucs.	Annual report 2013 2014 (p.4-5 only)	General public
G6	Restorative Gloucs.	Annual report 2015	General public
G7	Restorative Gloucs.	Application form for volunteers	Prospective volunteers
G8	Restorative Gloucs.	Interview questions for prospective volunteers	Prospective volunteers
G9	Restorative Gloucs.	Advertisement for volunteers from partners	Prospective volunteers (partner agencies)
G10	Gloucs. Constabulary	RJ L1 form (front)	Police officers
G11	Gloucs. Constabulary	RJ L1 form (back)	Police officers
G12	Restorative Gloucs.	Referral form for L2	Partner organisations
G13	Gloucester City Homes/ Project Solace	Review of mediation and RJ by GCH and PS	Internal/RG
G14	Gloucester City Homes/ Project Solace	Survey of practitioners	Practitioners in GCH/PS
G15	Restorative Gloucs.	Monthly feedback form for partners	Partner organisations
G16	Gloucs. Criminal Justice Board	OCD scrutiny panel terms of reference	Scrutiny panel members
G17	Restorative Gloucs.	Restorative Gloucs. Memorandum of Understanding	Partner organisations
G18	Restorative Gloucs.	Information Sharing Agreement	Partner organisations
G19	Restorative Gloucs.	Administration support officer role process maps	Incoming administrative worker(s)
G20	Restorative Gloucs.	Quarterly report Q4 2014	Partner organisations

G21	Restorative Gloucs.	Quarterly report Q1 + April 2015	Partner organisations
G22	Restorative Gloucs.	All data on L1 and L2 Sept 2014-Aug 2015	Partner organisations
G23	Restorative Gloucs.	Report from probation and volunteer supervision meeting June 2015	Probation/ volunteer facilitators
G24	Gloucs. Constabulary	Review of change from COPS to RJ L1	Internal/RG/GC
G25	Gloucs. Constabulary	List of police trained to L2	GC
G26	Restorative Gloucs.	List of L2 trained in partner organisations	RG
G27	Gloucs. Constabulary	Guide to the use of RJ Feb 2014	Police officers
G28	Gloucs. Constabulary	Guide to the use of RJ flowchart Feb 2014	Police officers
G29	Gloucs. Constabulary	Guide to the use of RJ July 2015	Police officers
G30	Restorative Gloucs.	Guidance manual for RP within G (missing p.10-11)	All facilitators in G
G31	Restorative Gloucs.	Guidance manual for RP within G (p.10-11 only)	All facilitators in G
G32	Restorative Gloucs.	GCJB Governance structure	RG
G33	Restorative Gloucs.	Police youth forum proposal	RG
G34	Restorative Gloucs.	Decision log updated after quarterly SG meeting Feb 2015	RG
G35	Restorative Gloucs.	Action log updated after quarterly SG meeting Feb 2016	RG
G36	Restorative Gloucs.	RSQM options	RG
G37	Restorative Gloucs.	Decision log quarterly SG meeting June 2015	RG
G38	Restorative Gloucs.	Action log quarterly SG meeting June 2016	RG
G39	Gloucs. Constabulary	Force operations board report on RJ implementation	GC/RG
G40	Restorative Gloucs.	Quarterly report Jan-end July 2015	RG
G41	Restorative Gloucs.	Decision log quarterly SG meeting Sept 2015	RG
G42	Restorative Gloucs.	Action log quarterly SG meeting Sept 2016	RG
G43	PCC	Annual report 12-13	General public
G44	PCC	Annual report 13-14	General public
G45	PCC	Annual report 14-15	General public

G46	Restorative Gloucs.	Awareness booklet	General public
G47	PCC	Police and crime plan 13-17	General public
G48	PCC	Police and crime plan 13-17, revised 14-15	General public
G49	Restorative Solutions	Script - outcomes page	Police officers
G50	Restorative Solutions	Script - questions page	Police officers
G51	PCC	Young people becoming adults	General public
G52	GC	COPS v RJ pros and cons	GC SMT

### Collected policy documents – Durham

#	Organisation	Title	Audience
D1	Durham Constabulary	Plan on a page 15-16	Police officers
D2	Durham Constabulary	RA L1 training	Police officers
D3	Durham Constabulary	RA L1 info	Police officers
D4	Durham Constabulary	RA L1 lesson plan	Police trainers
D5	Durham Constabulary	What is RA (principles) lesson plan	Police trainers
D6	Durham Constabulary	RA intro to L2 lesson plan	Police trainers
D7	Durham Constabulary	L2 roleplays lesson plan	Police trainers
D8	Durham Constabulary	Practical guidance for officers and supervisors	Police officers and their supervisors
D9	Durham Constabulary	RA decision tree	Police officers
D10	Durham Constabulary	Stats on RA use April 2014-Aug 2015	Performance management
D11	Durham Constabulary	Implementation review of RA	DC
D12	Durham Constabulary	Information leaflet for victims	Victims
D13	PCC	RJ sub-group terms of reference	RJ sub-group
D14	PCC	RJ sub group framework	RJ sub-group
D15	Restorative Hub	Centre of excellence flyer	General public

D16	Restorative Hub	Facilitator development portfolio (DNR)	Volunteer facilitators
D17	Restorative Hub	Self-referral form (DNR)	Prospective RJ participants
D18	Restorative Hub	Referral form (DNR)	Practitioners
D19	Restorative Hub	Leaflet for referred parties (DNR)	Referred parties
D20	Restorative Hub	Ad for facilitators (1) (DNR)	General public
D21	Restorative Hub	Ad for facilitators (2) (DNR)	General public
D22	Restorative Hub	Prospectus for advanced facilitator training	Volunteer facilitators
D23	Restorative Hub	Flyer for facilitators (March 2015) (DNR)	Volunteer facilitators
D24	Restorative Hub	Pre-allocation case risk assessment (DNR)	RH
D25	Restorative Hub	Leaflet for prospective facilitators	Prospective volunteer facilitators
D26	Restorative Hub	Leaflet for victims	Victims
D27	Restorative Hub	More detailed leaflet for victims	Victims
D28	Darlington YOS	Information for victims of youth crime	Victims
D29	Restorative Solutions/ Safe Durham	Repairing the Harm video transcript	General public
D30	Safer Durham	Integrated RP strategy	General public
D31	HMIC	Three measures of force efficiency	General public
D32	Restorative Solutions	RA script 1 front and back	Police officers
D33	Restorative Solutions	RA script 1 inside	Police officers
D34	Durham Constabulary	RA script L1 and 2 front and back	Police officers
D35	Durham Constabulary	RA script L1 and 2 inside	Police officers
D36	PCC	Current national victim support model	PCC
D37	PCC	Our vision for integrated victim referral assessment	PCC
D38	PCC	Durham pilot integrated support for victims	PCC
D39	Restorative Hub	Monthly referral statistics	Restorative Hub management
D40	PCC	Police and Crime Panel update on RJ funding	Police and Crime Panel
D41	Safer Durham	County Durham Domestic Homicide Overview Report	Public
D42	Restorative Hub	Competency and Progression Checklist for Volunteers	Volunteer facilitators

## Appendix C: Sample interview schedule (police facilitators)

### SECTION A: SURVEY

*OK, so I just want to start by asking a few questions about yourself so that I can describe the characteristics of my sample, if that's ok?"*

- 1) Could you please state your age, gender and ethnicity?
- 2) In which force and division do you work?
- 3) What is your current rank and role?
- 4) How long have you worked for the police?
- 5) What did you do before you joined the police?
- 6) In approximately how many cases did you facilitate restorative justice in the last year?
- 7) Approximately what percentage of the RJ you have facilitated were Level 1 (i.e. 'instant' or 'on the spot'), Level 2 (i.e. formal conferences before or instead of a court process) or Level 3 (i.e. formal conferences following a court-given sentence)?
- 8) Have these all involved face-to-face meetings between victims and offenders? If not, approximately what percentage have involved either indirect, two-way communication or indirect, one-way communication?

### SECTION B: INTERVIEW

#### **B(1) YOUR UNDERSTANDING OF THE MEANING AND PURPOSE OF RJ**

- 1) I'd like to start the interview by asking about your views on the meaning of restorative justice. So could you please tell me what the term 'restorative justice' means to you?
- 2) Ok, and what would you say are the core principles or values that make restorative justice what it is?
  - *Are there any aspects of the process or the intended outcomes which you emphasise when you facilitate?*
  - *To what extent do you think that there is a gap between restorative principles and the way that it is used in practice?*
- 3) To what extent does restorative justice appeal to you on a personal level?
- 4) And to what extent do you find restorative justice to be a useful tool for helping you to achieve what you want to achieve as a police officer?

- 5) **What do you see as the main benefits and challenges relating to the use of restorative justice by the police?**
- *What role would you ideally like to see restorative justice play in policing in the future?*
  - *What role would you ideally like to see restorative justice play in criminal justice in the future?*
  - *Do you think that there are any limits to its use in criminal justice?*
  - *To what extent do you agree with the idea that RJ should be "victim-centred"?*
- 6) **Ok, and is there anything else about the meaning or purpose of restorative justice that you'd like to mention?**

## **B(2) YOUR INVOLVEMENT IN FACILITATION**

- 7) **Now I'd like to move on to asking you about your involvement in facilitation. Were you required to take the facilitator training, or did you choose to take it?**
- *If you chose to take it, why did you do so?*
  - *To what extent did you see it as a new idea or as a new way of working for the police?*
  - *Has your opinion on it changed since you started facilitating?*
  - *How much facilitation training did you receive, and who delivered it?*
  - *Did you find it useful?*
  - *To what extent do you think that the training you received prepared you well for facilitation?*
  - *Is there anything based on your experience of facilitating that you think should have been covered in your RJ training, but wasn't?*
- 8) **Next, I want to ask you about the process you go through when facilitating. You've said (EITHER) that you've only delivered L1/L2, so I would like to ask you about the process you go through when doing so (OR) that you have delivered both L1 and L2 (and L3?). Could you please tell me about your experience of how this works, and how it differs at each level?**
- *How does the referrals process work? Do you personally offer it? In what order, is it face-to-face and what do you say? Do you have to get permission from anyone first? Do you find it easy or difficult to get all of the information you need?*
  - *Do you conduct a risk assessment? Does it involve paperwork? What factors do you consider?*
  - *Do you do anything to prepare yourself or the participants?*
  - *Do you use a script? If so, what do you think of it? To what extent do you deviate from it? To what extent and how do you encourage participants to address harm? What is your approach to devising an outcome agreement?*
  - *What is the process for following-up with participants afterwards? What happens if someone doesn't comply with the agreement, but it wasn't a crime? Do you get feedback on your work? Do you get to find out what happens after?*
    - i. *What factors affect your ability to enable all those affected by an incident to participate? Do you find it easy or difficult?*
    - ii. *Do you find it easy or difficult to communicate the voluntary nature of the process to prospective participants? Why?*

- iii. Is it easy or difficult to treat participants equally and respectfully throughout the process? Why?
- iv. Do you find it easy or difficult to enable participants to be in control of the discussions? Why?
- v. Are participants usually able to determine the outcomes among themselves? Why or why not?

**9) Does your approach to facilitation differ depending on the disposal it is being used with?**

**10) When you facilitate, what outcomes do you aim to achieve?**

- *And what in practice are the most common outcomes, in your experience?*
- *To what extent does the harm caused by the incident get repaired? What do you think enables or prevents this from happening?*
- *To what extent do participants leave feeling reintegrated into their communities? What do you think enables or prevents this from happening?*
- *To what extent do you see improvements in the relationship between participants? What do you think enables or prevents this from happening?*
- *Do you think that, if the harm of the incident has been repaired to the satisfaction of the victim, the offender should still be punished? Why or why not?*

**11) Do you do anything to help participants to express their emotions to each other?**

- *Do you find it easy or difficult to manage the emotions of participants?*

**12) To what extent do you feel that you can relate to participants in the restorative justice you facilitate?**

- *Does this affect your work at all?*

**13) And what's your experience of how the work you do as a facilitator is supervised and supported?**

- *To what extent does your force's approach to the supervision and support of facilitators help or hinder your work?*
- *How much does this supervision and support affect the way you work as a facilitator?*
- *Is there anything you would change about the way that you are supervised and supported?*

**14) Ok, and is there anything else about your involvement in facilitation that you'd like to mention?**

### **B(3) RESTORATIVE JUSTICE AND YOUR FORCE**

**15) Ok, I'd like to move on to asking about restorative justice and your force. What was the reaction of your colleagues when it was first introduced?**

- *Was it seen as a new idea or new way of working?*

- *To what extent have your colleagues changed their minds about RJ? If they have, why?*
  - *To what extent is there a difference in attitude between those who are involved in its use and those who are not?*
  - *Are there many people who are resistant to its use – if so, who and why?*
- 16) What do you think are the main factors that have driven the use of restorative justice by your force?**
- *Do you think it's a priority at your force?*
- 17) To what extent has the way that your force uses restorative justice changed over time?**
- 18) To what extent have other practices or ways of thinking in your force have changed as a result of its involvement in restorative justice?**
- *To what extent does RJ fit with the culture of your force? Why or why not?*
  - *What do you think would need to change to make it fit better with your force's culture?*
- 19) Are there any differences in the approaches of (a) your force's leadership, (b) your division's leadership and (c) your line managers towards restorative justice?**
- *Have any of their approaches changed over time?*
  - *What's the relationship like in this force between senior staff, middle managers and frontline staff?*
  - *To what extent do their views on restorative justice affect what you do as a facilitator?*
- 20) Ok, and is there anything else about your force's involvement in restorative justice that you'd like to mention?**

#### **B(4) MODELS OF DELIVERY**

- 21) Ok, now I'd like to ask a few questions about the way restorative justice is delivered in your area. In what situations do you have contact or work with volunteer facilitators, or with any of the organisations that your force partners with on restorative justice?**
- *What is your relationship like with them?*
  - *Do you feel comfortable working with them?*
  - *Do you think that they do a good job?*
  - *Is there anything you would change about the role of these persons/organisations, or about the way that the police work with them?*
- 22) Ok, and, if you had the opportunity to decide how restorative justice was used with out-of-court disposals in your area, who would facilitate, and why?**
- *Why should others not be involved? (volunteers, police, other CJ, professionals, private sector)*

- *To what extent should the community play a role in restorative justice in your area?*
- *What, if anything, do you think volunteer involvement adds to the process?*
- *Do you think that companies/for-profit companies should be involved in developing and delivering?*

**23) And, if you could make changes to the way that restorative justice is used in your area, what would they be?**

- *Would you use it more or less with certain crimes/incidents, certain types of offender or certain types of victim?*
- *Would you put more or less emphasis on certain aspects of its processes or intended outcomes?*
- *Would you make any changes to how restorative justice is coordinated in your area?*
- *Should restorative justice be used with complaints against the police and other justice agencies?*
- *Should it be used as part of internal dispute resolution mechanisms of the police and other justice agencies?*
- *What do you think would enable what you've just suggested from happening?*
- *What do you think is currently preventing what you've just suggested from happening?*

**24) And finally, is there anything else you'd like to tell me about your experience of working with others involved in RJ, or about changes you'd like to see in how restorative justice is delivered or coordinated in your area?**

**THANK YOU VERY MUCH FOR YOUR TIME AND HELP!**

## Appendix D: Information sheet



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### Invitation to participate in restorative justice research

#### Information Sheet – Interviews with police officers and other police staff involved in the delivery (i.e. facilitation) of restorative justice (for the participant's records)

My name is Ian Marder and I am a Ph.D. student at the University of Leeds. My research is looking at the different approaches to the delivery of restorative justice practices (RJ) in England and Wales, and I have selected your area as a case study because of the model of RJ delivery used here.

As someone who has facilitated one or more RJs in the last year, this research project is seeking your views. Your contribution will help to improve the experiences of the participants of future RJs, and it is therefore important that your voice be heard.

This interview should last around one hour, and I would like to make a digital recording of the interview in order to ensure that your views are accurately reflected in my thesis. I am using an encrypted audio recording device to maximise the security of your data. If you prefer the interview not to be recorded, please tell me and I will take notes instead.

If you decide to take part, you are allowed to ask for a break or to stop the interview at any time. Equally, you can refuse to answer particular questions, and can also bring up new subjects that you think may be of interest at any time.

#### What I will do with your data?

Any data collected as part of this research is anonymous and will be held securely. This means that nothing you say can or will be identified as belonging to you in any subsequent publication or presentation, or in the thesis itself. Any documents containing personal details (namely, the consent form) will be stored in lockers separate from electronic data, and all electronic data will be stored securely using my University's server.

Data will be kept confidential unless you disclose something that is likely to cause serious harm to yourself or others, in which case I will contact my supervisory team for advice on what course of action to take.

You will be able to read about the findings of this research in any subsequent publications, and will also be able to request a copy of the finished thesis from me upon completion. I will also hold a feedback event for you and your colleagues upon the completion of my Ph.D., if so desired.

This is an important project which will help to improve the way that RJ is used, both in England and Wales and beyond. Your contribution is very important and I hope that you will agree to participate in this research.

If you have any questions after the interview, you can contact me on: [i.marder@leeds.ac.uk](mailto:i.marder@leeds.ac.uk) or my thesis supervisors Professor Anthea Hucklesby on [a.l.hucklesby@leeds.ac.uk](mailto:a.l.hucklesby@leeds.ac.uk) or Professor Adam Crawford on [a.crawford@leeds.ac.uk](mailto:a.crawford@leeds.ac.uk).

**Do you have any questions about the interview before we begin?**

## Appendix E: Consent form



### Restorative justice research

#### Consent form (for the participant's records)

My name is Ian Marder and I am a Ph.D. student at the University of Leeds. My research is looking at different approaches to the delivery of restorative justice practices (RJ) in England and Wales, and I have selected your area as a case study because of the model of RJ delivery used here.

If you have any questions after the interview, you can contact me on: [i.marder@leeds.ac.uk](mailto:i.marder@leeds.ac.uk) or my thesis supervisors Professor Anthea Hucklesby on [a.l.hucklesby@leeds.ac.uk](mailto:a.l.hucklesby@leeds.ac.uk) or Professor Adam Crawford on [a.crawford@leeds.ac.uk](mailto:a.crawford@leeds.ac.uk).

In order to comply with the ethics code of the University I would be grateful if you would sign this consent form stating that I have explained the interview process to you fully and that you understand the interview process, and all procedures related to data storage and data analysis.

#### Participant's Consent

I voluntarily agree to participate in the research on my force's use of restorative justice, which is being conducted by Ian Marder.

I agree for my anonymised data to be used in the thesis and other research publications and reports.

I confirm that I have read and understood the information sheet for the above study and have had the opportunity to ask any questions.

I understand that my participation is voluntary and that I am free to withdraw at any time during the interview without giving any reason.

I agree that Ian Marder can record the interview.

☐  
☐  
☐  
☐  
☐

Signature .....

Name (printed) .....

Date .....

Researcher's signature .....

Date .....