

Report for the Royal Commission into
Institutional Responses to Child Sexual Abuse

MARCH 2016

THE USE AND
EFFECTIVENESS
OF RESTORATIVE
JUSTICE IN CRIMINAL
JUSTICE SYSTEMS
FOLLOWING CHILD
SEXUAL ABUSE OR
COMPARABLE HARMS

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Responses to Child Sexual Abuse

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Preface

On Friday, 11 January 2013, the Governor-General appointed a six-member Royal Commission to inquire into how institutions with a responsibility for children have managed and responded to allegations and instances of child sexual abuse.

The Royal Commission is tasked with investigating where systems have failed to protect children, and making recommendations on how to improve laws, policies and practices to prevent and better respond to child sexual abuse in institutions.

The Royal Commission has developed a comprehensive research program to support its work and to inform its findings and recommendations. The program focuses on eight themes:

1. Why does child sexual abuse occur in institutions?
2. How can child sexual abuse in institutions be prevented?
3. How can child sexual abuse be better identified?
4. How should institutions respond where child sexual abuse has occurred?
5. How should government and statutory authorities respond?
6. What are the treatment and support needs of victim-survivors and their families?
7. What is the history of particular institutions of interest?
8. How do we ensure the Royal Commission has a positive impact?

This research report falls within theme 5.

The research program means the Royal Commission can:

- obtain relevant background information
- fill key evidence gaps
- explore what is known and what works
- develop recommendations that are informed by evidence, can be implemented and respond to contemporary issues.

For more on this program, please visit www.childabuseroyalcommission.gov.au/research

Table of Contents

Authors	2
Preface.....	3
Table of Contents	4
Executive summary.....	6
1. Introduction	9
1.1 Background, aims and scope	9
1.2 Definitions	11
1.3 What is restorative justice?	12
2. Methods.....	17
2.1 Strategy 1: Published studies concerning empirical research.....	17
2.2 Strategy 2: Other literature on restorative justice and child sexual abuse.....	19
2.3 Strategy 3: Utilising research networks.....	19
2.4 Scope and limitations	19
2.5 Findings from the search strategy	20
3. Prevalence of restorative justice programs in criminal justice systems	21
3.1 Point of intersection of restorative justice programs with criminal justice systems	25
3.2 Program aims.....	26
3.3 Program emphasis.....	27
3.4 Summary of main approaches.....	28
3.5 A note on therapeutic jurisprudence and restorative approaches.....	29
4. Effectiveness of restorative justice practices in criminal justice systems	31
4.1 Findings on institutional child sexual abuse	31
4.2 Findings on child sexual abuse and adult sexual abuse	31
4.3 Findings on comparable areas of harm	33
4.4 Research designs, outcome measures, scope & limitations	40
4.5 Conditions for success	43
5. Restorative justice providers operating independently of the criminal justice system.....	46
5.1 Why would restorative justice be offered independently of the criminal justice system?	46
5.2 Aims & emphases of restorative services operating independently.....	51
5.3 The effectiveness of restorative services operating independently	53
6. Discussion	57
Common findings and strengths of a restorative justice approach	57
Potential challenges, arguments for and against using restorative justice.....	58
Final words	61
Appendix A: References	62
Appendix B: Further information on method	71
Appendix C: Reviews and commentary	72

Tables

Table 1: Keywords used in the search	17
Table 2: Databases searched	18
Table 3: Restorative justice programs in the criminal justice system by offence relevance	22
Table 4: Placement of programs within the criminal justice system	25
Table 5: Criminal justice programs' stated aims	26
Table 6: Criminal justice programs categorised by victim, offender or balanced focus	28
Table 7: Effectiveness of restorative justice programs in criminal justice systems	34
Table 8: Research designs employed	40
Table 9: Studies concerning restorative justice within criminal justice systems, by area of impact	42
Table 10: Posited conditions framing positive effects	43
Table 11: Services operating independently of criminal justice systems)	48
Table 12: Services by stated aim (note only services with a published 'aim' were included)	52
Table 13: Studies on effectiveness of services operating independently of the criminal justice system	54

Executive summary

The Royal Commission into Institutional Responses to Child Sexual Abuse has commissioned an international literature review to examine the research evidence on the use, justification and effectiveness of restorative justice approaches in relation to child sexual abuse, and any problems or concerns arising, particularly in relation to institutional and non-familial child sexual abuse. As this report informs the Commission's criminal justice project, it focuses on restorative justice approaches used within criminal justice systems. This report presents the results of a brief review of international literature and addresses four main areas, which are:

- the extent to which restorative justice is currently used in cases of institutional child sexual abuse and other child sexual abuse (or arguably, comparable areas such as adult sexual or personal violence offences, or child-related crimes, to the extent they may inform possible approaches to child sexual abuse or institutional child sexual abuse)
- the empirical evidence (if any) to support using restorative justice for child sexual abuse (or comparable areas)
- associated issues and criticisms
- particular considerations or implications for institutional child sexual abuse.

Method

A methodological framework was developed to provide a transparent and reproducible review of existing literature on the use and impact of restorative justice for institutional child sexual abuse. To maximise the chances of capturing all of the relevant existing literature, three strategies were used. The first and primary strategy focused on collecting, documenting and summarising published research with an empirical base. The research was based on keywords in 12 databases. The second strategy focused on collecting the most relevant work published *outside of refereed outlets* ('grey' literature). This was identified using similar search terms as specified in the first strategy in three databases dedicated to grey literature. The final strategy for capturing evidence entailed contacting the six largest international restorative justice networks to draw from their knowledge bases of current practices and research being conducted.

Prevalence of restorative justice practices in criminal justice systems

The review found 15 discrete programs attached to criminal justice systems that offer (or had offered in recent years) restorative justice to address harm following child sexual abuse or an arguably comparable area. Of the 15 identified:

- none reported completing cases relating to institutional child sexual abuse
- six programs (40 per cent) have used restorative justice to address other forms of child sexual abuse
- five programs (33 per cent) have used restorative justice after some form of adult sexual abuse
- four programs (27 per cent) work with other kinds of (comparable) harm.

The review identified three programs that are tailored to address the needs of victim-survivors and offenders after sexual abuse: 'Project Restore' in New Zealand (which began in 2005 and is still operating), 'RESTORE' in Arizona in the US (which operated between 2003 and 2007) and the New South Wales Pre-Trial Diversion of Offenders (Child Sexual Assault) Program which operated between 1989 and 2014 (known as 'Cedar Cottage'). Both Restore and Project Restore (inspired in part by the program in Arizona) are located

within explicitly feminist frameworks, advocating for the needs of victim-survivors of sexual abuse. Cedar Cottage was designed to rehabilitate offenders, however it concurrently aimed to assist victim-survivors. Empirical literature on the impact of each of these programs has been published. The majority of identified programs (12 out of 15, or 80 per cent) are primarily designed to meet the needs of victims and offenders in the aftermath of serious (usually violent) crime. Within this scope, some cases of historical child sexual abuse (that is, where the crime occurred during childhood but the victim-survivor is now an adult), child sexual abuse (where the crime occurred during childhood or young adulthood and the survivor is still a child or young person) and adult sexual violence have been completed. As there are no specific forms of sexual abuse that are ineligible across these programs, a range of cases – including non-familial and familial sexual abuse, and child-to-child and adult-to-child sexual abuse – have been completed.

Features of the programs

- In the majority of practices (12, or 80 per cent) victim-survivors and the perpetrators attend restorative justice as adults. The notable exceptions are youth court diversion programs such as in South Australia and Canberra, and the Northern Ireland Youth Conferencing Scheme.
- Of the 15 programs identified, just over half (eight, or 53 per cent) operate pre-sentencing, four (27 per cent) operate post-sentencing with the offender either still in prison or being managed in the community by the relevant criminal justice department, two (13 per cent) accept referrals at either the pre or post-sentencing stage, and one operates pre-court (with referrals made by the prosecutor). Similarly, just over half (eight) are guided by legislation or government policy that regulates their operation.
- This review identifies four main goals: (i) to support perpetrators in non-offending by increasing their insight into the impact of the harm, and reducing reoffending (seven mentions); (ii) to improve victim-survivors' experience of justice by considering their wellbeing and addressing specific needs (for example, for information) (six mentions); (iii) to improve victim access to justice by offering a different avenue for addressing the harm (five mentions); and (iv) to build healthy communities where relationships are strengthened (two mentions). The consistency of aims suggests a shared vision for what restorative justice could offer victims, offenders and communities in the aftermath of child sexual abuse (or comparable harms).
- The majority of programs (nine, or 60 per cent) have a clear victim focus, reflecting one of the key goals of restorative justice. Six restorative programs (40 per cent) focus on perpetrators of sexual violence (including child sexual abuse) and reducing reoffending.

Effectiveness of restorative justice practices in criminal justice systems

All 15 programs have been evaluated, with 30 empirical studies included in this review. The studies are not equal in terms of scale, scope and rigour. A limitation of the existing data is that to date, no research has disaggregated the research findings by offence type, and more specifically by form of sexual abuse. A number of programs have used restorative justice approaches following (non-institutional) child sexual abuse or adult sexual abuse. For both Project Restore (New Zealand) and RESTORE (US) the research documented in detail the experiences of victims and offenders using a range of measures, though both studies were based on small sample sizes. Both sets of research, though small, present good-quality and valuable data suggesting that under specific conditions, participation improves victim wellbeing and is perceived by victim-survivors as satisfying, worthwhile and procedurally fair. There is also good evidence for

offender-oriented treatment practices such as the Cedar Cottage Pre-trial Diversion Program in New South Wales. Internationally, there is good evidence for using restorative justice post-sentencing. The 95 per cent success rate (based on pre and post meeting justice needs being met) documented in the Victim Offender Conferencing model run by the Restorative Justice Unit in New South Wales, Australia since 1999 (Bolitho 2015) is very similar to that documented in other long-established post-sentencing programs in the US (Victim Offender Sensitive Dialogue, Umbreit et al. 2006) and in Canada (the Community Justice Initiatives Association's Victim Offender Mediation Program, Roberts 1995 and Gustafson 2005). In each of these programs, a proportion of work has concerned child and adult sexual abuse cases.

The most useful research (based on rigour, relevance and sample size) relates to the South Australian Family Conferencing model studied by Daly 2002, 2006, 2007 and 2013) over many years. This work is important because it compares court to restorative conference outcomes for young people who have committed sexual offences. The findings suggest that matters are dealt with more quickly through conferencing than court, more perpetrators agree to stay away from victims, and more perpetrators offer apologies. In addition, offenders are more likely to participate in a treatment program tailored to address the reasons for sex offending. However, future reoffending was predicted by offence history rather than experiences of court or conference and for victims were mixed with Daly (2006) concluding that the primary benefit of a restorative conference is the early admission of guilt that a survivor gains when an offender participates in this program.

Conditions for success

The evidence suggests that restorative justice can be practised to good effect following sexual abuse; however, outcomes were seen to be contingent on particular conditions. These conditions are: specialism, which includes facilitator skill, knowledge and experience; vigilant use of screening (relating to suitability, not just eligibility); the use of experts (in sexual offending and the dynamics of violence) throughout the process; flexibility and responsiveness to participant needs; timing of the meeting appropriate to victim-survivor readiness; and for offenders, participation in a targeted sex offender treatment program.

Restorative justice providers operating independently of the criminal justice system

An additional 29 programs were identified that are independent of any formal criminal or civil justice system. Of these, nine (31 per cent) have completed some cases relating to institutional child sexual abuse;. A further seven programs (24 per cent) have completed cases involving child sexual abuse, nine programs (31 per cent) have worked in the aftermath of adult sexual abuse and four services (14 per cent) work in comparable areas of harm (two after serious violence and two after hate crimes). Providers identify three main aims: (i) to support perpetrators in non-offending by increasing their insight into the harm they have caused and using planning to maintain a crime-free existence (11 mentions); (ii) to meet survivors' justice needs (nine mentions); and (iii) to improve survivors' access to justice by offering a different avenue for addressing the harm (three mentions). There were 25 empirical studies concerning these programs. Rigorous evidence for the effectiveness of particular programs exists including for the Circles of Support and Accountability models seen in the US (Duwe 2013), Canada (Wilson et al. 2009) and the UK (Hoing et al. 2013) ,and the Victims' Voices Heard program in Delaware (Miller 2011).

1. Introduction

1.1 Background, aims and scope

The use of restorative justice practices in Western countries – particularly Canada, the US, the European Union, New Zealand and Australia – has become widespread over the past two decades. While predominantly introduced as an alternative to traditional criminal justice options for young offenders, and most commonly in relation to minor, non-violent offences, restorative approaches have increasingly been adopted as a mechanism for responding to adult offenders and victims after more serious types of offending. However, doubt remains about the applicability of restorative justice where the crime was experienced as a traumatic event and/or where there were (and remain) significant power differentials between the parties. Typically, this includes all forms of gendered, familial and sexual violence, and, most relevant to this Royal Commission, child sexual abuse. Because of the severity of harm, careful consideration must be given to any perceived potential benefits of restorative justice against the potential risk of further harm. While some argue that the potential risks of re-traumatisation to the victim¹ through restorative justice processes are too great (Cossins 2008), others express cautious optimism (Daly 2008). Within carefully delineated parameters, including those of best and probably specialised practice, restorative approaches might improve both the access to, and the experience of, justice for some survivors. In addition, restorative approaches may trigger a deeper sense of accountability within offenders that, when coupled with targeted support (both clinical and personal), may encourage desistance from offending.

The foundation of restorative justice is the opportunity for the parties directly affected by a crime to come together to acknowledge the impacts and discuss the way forward. Restorative justice hinges on three potentially powerful mechanisms for emotional and behavioural change: the ability to speak to an experience (this is about narrative and voice); to bear witness to this narrative (this is about validation and accountability); and to reflect on the future (which is a pragmatic plan addressing the immediate and longer term impacts). Each of these core elements of restorative justice offers a counterpoint to the loss of power inherent in a criminal event(s) and the aftermath. Good restorative practice is based on understanding the general and specific power dynamics underscoring the behaviours of individuals and groups. However, for the Royal Commission, the critical question is the extent to which the ideals of restorative justice could actually be achieved following sexual abuse. The power dynamics of sexual abuse are particular; in addition, dynamics vary within specific forms of child sexual abuse. Restorative approaches would need to address the differential power that underscores all acts of sexual abuse, the pre-existing and potentially continuing power dynamics where victims and perpetrators know each other (where relevant), and the situational power dynamics present in any facilitated face-to-face encounter.

¹ At times the term ‘victim’ is used in this report as a marker of the loss of power experienced by a person at a specific point in time but where possible, language that highlights the strength of individuals as survivors is used, particularly to signify experiences after the event(s).

That we are even having a debate about the applicability of restorative approaches to something as serious as institutional child sexual abuse stems largely from the reality that while child sexual abuse is one of the most serious crimes in terms of offence severity, for a range of reasons very few cases reach the court (Parkinson et al. 2002), and of those that do, there are few convictions (Fitzgerald 2006). This means that for many survivors of child sexual abuse (in any form) justice is simply not achieved. One of the key debates in the criminal (and restorative) justice spheres is whether and how we can improve the conventional adversarial, court-based criminal justice system to make justice more achievable, or whether, either instead of or (as is more commonly argued) in conjunction with committing to this task, we begin to explore what alternative avenues to justice might offer victims, offenders, their families and communities.

Attempting to, concomitantly, better address the needs of victim-survivors as well as offenders and communities in the aftermath of child sexual abuse is a contemporary challenge for all conventional Western criminal justice systems. While practitioners and academics in this field are united in a vision for attaining better access to justice for survivors of child sexual abuse, whether or not to invest in restorative justice as a mechanism to achieve this justice is still contested. In addition, even if restorative approaches were found to be useful as a mechanism for addressing harm after sexual abuse, there is debate about how, if at all, these approaches would intersect with existing criminal justice systems, as technically, they may operate within, alongside or independent of formal justice processes (Daly 2011, Centre for Innovative Justice 2014).

To this end, the Royal Commission into Institutional Responses to Child Sexual Abuse has commissioned an international literature review to examine the research evidence on the use, justification and effectiveness of restorative justice approaches in relation to child sexual abuse, and any problems or concerns arising, particularly relating to institutional and non-familial child sexual abuse. As this report informs the Royal Commission's criminal justice project, it focuses on restorative justice approaches operating within criminal justice systems.

This report presents the results of a brief review of international literature and addresses four main areas, which are:

1. the extent to which restorative justice is currently used in cases of institutional child sexual abuse and other child sexual abuse (or arguably comparable areas such as adult sexual or personal violence offences, or child-related crimes, to the extent they may inform possible approaches to child sexual abuse or institutional child sexual abuse)
2. the empirical evidence (if any) to support using restorative justice for child sexual abuse (or comparable areas)
3. associated issues and criticisms
4. particular considerations or implications for institutional child sexual abuse.

1.2 Definitions

For the purposes of this review the key terms are defined as follows:

Restorative justice: This is defined as ‘any process in which the victim, the offender and/or any other individuals or community members affected by a crime actively participate together in the resolution of matters arising from the crime, often with the help of a fair and impartial third party’ (United Nations 2002, *Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters* Article 1 (3)). This definition has been chosen for its simplicity and clarity. It is similar to the most commonly used definition of restorative justice, which is: ‘a process whereby all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future’ (Marshall, 1999). Marshall’s definition is often used because it was deemed to be the most acceptable working definition of restorative justice by a group of experts convened to define restorative justice (Working Party on Restorative Justice of the Alliance of NGOs on Crime Prevention and Criminal Justice, 3/14/97, as cited in Braithwaite 2002). The parameters of restorative justice are more specifically described in Section 1.3.

Child: The definition is taken from the Royal Commission’s Terms of Reference (based on the United Nations Convention on the Rights of the Child 1989). A child is defined as a human being who is below the age of 18 years.

Child sexual abuse: The Royal Commission’s Terms of Reference refer to ‘any unlawful or improper treatment of children that is, either generally or in any particular instance, connected or associated with child sexual abuse’.

Institution: The definition is taken from the Royal Commission’s Terms of Reference. It means any public or private body, agency, association, club, institution, organisation, other entity or group of entities of any kind (whether incorporated or not).

Evidence base: This means any evaluated effect, outcome or impact of a restorative justice approach. Researchers have canvassed empirical literature, with a focus on good-quality quantitative and qualitative studies based on appropriate and rigorous research design, execution, analysis and sample size.

1.3 What is restorative justice?

Restorative justice is best understood as one part of a broader social movement for the use of ‘restorative practices’ after harm. ‘Restorative practices’ is a term used for strategies that *prevent* as well as *address* harm and/or to describe practices that are not attached to a criminal justice system. This term is more commonly seen in literatures relating to schools, workplaces and communities. ‘Restorative justice’ most commonly refers to practices used *after* harm has occurred and to practices that operate within or alongside a formal criminal justice system. For this report, the term ‘restorative justice’ is used; however, the review includes any restorative practice that attends to the issue of child sexual abuse (or arguably comparable harms).

Restorative justice is premised on the value of particular principles; operationally it refers to any process that reflects these principles. The core principles of restorative justice approaches are:

- a participatory process with the active involvement of the parties who were most directly affected by the harm
- consensual decision-making (it is deliberatively democratic)
- empowerment (by providing a space where the main parties can voice their experiences)
- dialogue, storytelling, narrative, and respectful and active listening – *communication* as the main vehicle for addressing harm
- a deep sense of personal accountability (where this is understood as acknowledging the specific, personal and often emotional dimensions of harm)
- reparation of harm (where this means attending to the needs of victims, offenders and the community immediately and into the future).

Universally, restorative justice processes begin after an offender has made an admission of harm². Although many truths around an event may surface during a discussion, restorative practices are not designed to be fact-finding encounters. Within a restorative justice meeting, there is less focus on the legal definition of a crime (which is why the term ‘harm’ is generally used) and more focus on acknowledging and addressing the meaning of an event for the affected parties. Because restorative justice is not driven by the need to achieve a legal truth and does not prescribe particular outcomes, it is a process-oriented approach.

Who attends?

If restorative justice is designed to bring together the directly affected parties to address a particular harm, there must be an understanding of who the directly affected parties are, how the harm is conceived and why a conversation between these parties will be helpful. On the surface, restorative practices vary in terms of who may be invited and whose participation is considered necessary for the meeting to go ahead. For the purposes of inviting participants and planning for the dynamics of restorative encounters, McCold & Wachtel (2003) distinguish between primary and secondary ‘stakeholders’. Primary stakeholders are those directly affected by a harm. This is subjective; it likely includes the actual victim and offender (and in cases such as homicide the direct victim’s family or loved ones), but it may also (particularly in serious or

² Taking responsibility is a prerequisite for an offender’s participation in restorative justice. However the form this takes and level of detail varies in practice.

traumatic cases), refer to the direct victim and offender's immediate friends, family or loved ones (often termed the 'community of care'). Secondary stakeholders are those for whom the harm has been more vicarious — the harm is aggregate rather than specific and/or impersonal rather than personal (ibid, p2). This might include other family members, neighbours or community but also those attending in a professional capacity (such as a prison psychologist or victim advocate). While many restorative practices are based on the involvement of both direct parties (victim and offender), it is not uncommon for one primary party to meet with a secondary stakeholder. At other times, 'circles' may be held for an offender (or a victim) and their supporters to process an event without the other party's direct participation. Alternatively, a primary stakeholder may meet with a 'surrogate' – for example, a perpetrator might meet with a victim of a similar type of crime but not the actual victim. While facilitators make the ultimate decision about who attends a restorative meeting, the parties drive this decision through their description of the harm and articulation of their justice needs in the preparation phase for a meeting.

Why justice needs inform restorative practice

Restorative justice prioritises understanding (and then meeting) the *needs* of victims, offenders and communities. While needs vary between individuals and even within individuals with the passage of time, Toews (2006) suggests that universal needs are for:

- safety (physical and emotional, short and long term, including the prevention of reoffending)
- empowerment (an avenue to publicly voice and affirm the wrongness of a particular act)
- information (to find out or share information about what happened and why)
- voice (to talk about what happened and how it felt – then, now and into the future)
- accountability (for a victim – to hold a perpetrator to account for the specific harm; and for a perpetrator – to acknowledge, accept and take responsibility for this harm)
- growth (where this refers to not being incapacitated (emotionally, physically and/or materially) following the crime)
- meaning (where this refers to placing the event within a context).

In all instances, needs relate to the specifics of the crime, and what is meaningful to a victim/ offender/ community representative at that time and place. Of relevance to this Royal Commission is the likelihood of many dimensions of harm being experienced by survivors of institutional child sexual abuse. For example, while a victim-survivor may describe the physical and psychological impact of a crime attributable to a specific perpetrator(s), it is also possible that some survivors may attribute harm to the *institution* that housed the perpetrator during the commission of the crime. Where a survivor describes their harm in relation to an institution (rather than direct perpetrator), and/or uses language that relates to the need for acknowledgement and a desire for amends from this institution, then the institution (according to restorative principles) should become a key party to the dialogue. Restorative justice approaches have the flexibility to meet the needs of victims of crime because different layers of harm, even complex traumatic harm, can be identified and then addressed.

In the restorative justice sphere, some debate has taken place about pure versus more diluted restorative practices. McCold & Wachtel (2003) suggest we understand restorative justice as a continuum where 'restorativeness' ranges from minimalist to purist models. Purist models have both primary stakeholders present in a face-to-face meeting, while minimalist models may involve just one primary party or a non-face-to-face exchange of information. Others contest the notion of a continuum, arguing that 'restorativeness' is not bound to a particular mode, and that practices can be just as 'restorative' or 'transformative' without both primary parties present and/or without a face-to-face encounter (Bazemore & Walgrave 1999). In this more encompassing perspective (sometimes termed the 'maximalist approach'), any program that aims to address harm using restorative principles is 'restorative'. Regardless of this debate, in a practical sense the features distinguishing different kinds of practice need to be described so that outcomes can be contextualised. This review will canvass minimalist to purist models.

How does restorative justice work?

Most often in restorative justice, participants sit in a circle and a third party guides the conversation. This person(s) is variously called the facilitator, convenor, mediator or keeper of the circle. Throughout a restorative justice meeting, facilitators use many skills (including non-verbal as well as verbal communication) purposefully and strategically to guide the meeting safely through what is often emotional terrain. While facilitators may be trained mediators, it is a different practice to conventional mediation because there are no facts that are in dispute. While in some restorative practices facilitators are community members working on a voluntary (and/or casual) basis with minimal training, it is more common for facilitators working within the context of serious crime to be employed by criminal justice agencies on a continuing basis, with specific skill sets in advanced mediation and restorative justice, as well as knowledge bases relevant to the work (such as understanding trauma, violence, violent offenders and victims).

There is a clear past, present and future orientation to a restorative justice meeting and usually the discussion is structured around core questions that are asked in a particular sequence:

- what happened?
- who was affected and how?
- what might be done to repair past harm and prevent further harm?

Usually, though not always, reflection on the way forward means arriving at a plan for what might be done to attend to the harm (in addition to participating in the meeting) and to prevent further harm. A plan (variously termed agreement, action, redress or outcome plan) between the parties may be developed to this effect. Best practice dictates that although citizens are responsible for decision-making concerning their matters, human rights must be protected in restorative approaches. Legally specific upper limits must be honoured and agreement plans made transparent and appealable (Braithwaite 2002; United Nations, *Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters*, 2006). Notwithstanding these limits, plans tend to be creative and personal and may include components such as financial restitution, community service, apology, agreement to attend treatment programs or agreement on keeping safe relations (for example, maintaining distance or future contact only to be initiated via a third party). Depending on the purpose of the restorative justice meeting, these agreements may or may not be formally monitored through a criminal justice system.

Across the international sphere, the service delivery of restorative justice approaches varies. For example, in New Zealand – where the Victims' Rights Amendment Act (2014) makes restorative justice an option after any crime, at any stage of the criminal justice system all services are delivered by community providers that have applied for and met the national accreditation standards. In Australia, service delivery is specific to each State and Territory.

Internationally, there has been an increased focus on accreditation, best practice and standards, with national guidelines developed in New Zealand (Ministry of Justice, retrieved 10/10/15), Canada (Correctional Service Canada, retrieved 10/10/15) and the UK (Restorative Justice Council 2011 retrieved 10/10/15). There are no national guidelines in Australia, though work on standards has begun in States such as Victoria (Victorian Association for Restorative Justice's *Best Practice Standards for Restorative Justice Facilitators* (2009). The need for specialist guidelines for practitioners working restoratively with sexual or family violence is increasingly recognised. In New Zealand, there is now additional accreditation and specific best practice guidelines (Ministry of Justice, retrieved 10/10/15), and a practice guide was recently completed for the European Forum of Restorative Justice (Mercer et al. 2015).

Why do restorative initiatives seem so diverse?

While restorative practices share a set of core principles, initiatives can seem quite diverse. This is because restorative justice:

- can operate at different stages of the criminal justice system³ (pre-sentencing; post-sentencing; as sentencing or independent of the conventional adversarial system)
- has different forms and may be called different names (such as 'conferencing', 'family group conferencing', 'circles', 'victim–offender mediation', 'victim–offender conferencing' or 'dialogue')
- may consist of a singular restorative meeting or a series of steps such as an exchange of information, a circle, another exchange of letters etc.
- can be victim-focused (focusing on victim needs), offender-focused (focusing on offender needs) or 'balanced' (addressing victim, offender and community needs)
- can have a range of goals – for example, to rehabilitate an offender; to attend to victim needs; to minimise the contact a young offender has with the formal criminal justice system (diversion); or to challenge, create or strengthen a particular 'culture' (such as in residential settings, within prison 'dorms', or in the 'restorative city' models of Hull in the UK⁴ and of New Zealand⁵).

To understand the scope of restorative justice, it is important to recognise that the program logic (that is, the theory and expected outcomes) underpinning the use of restorative justice *varies* depending on where and why it is embedded (if at all) in a criminal justice system. For example, where a court diverts a case from court to restorative justice (but the case must return to court for finalising), the logic may be that diversion allows the directly affected parties to have a say in the resolution of the matter, and that this capacity for voice is useful for both victim and offender. Or diversion might be perceived as beneficial for an offender

³ A novel iteration of restorative justice that to date has not been implemented in Australia or internationally is the 'restorative justice guilty plea' where, rather than offenders being processed via a restorative justice program or the court, restorative principles inform the giving of a guilty plea and/or the plea is conditional on certain (negotiated) restorative outcomes (Combs, 2007).

⁴ www.hullcentreforrestorativepractice.co.uk

⁵ www.restorativepracticeswhanganui.co.nz/whanganui-restorative-practices

because it decreases the potential criminalisation that comes from court processing, and increases their likelihood of referral to an intervention that targets the reasons for offending.

In other practices, particularly within Indigenous communities, the logic may be more that a healthy community is one that strengthens the bonds between its individuals by sharing responsibility for addressing its own harms. In post-sentencing practices, the logic may be that the conventional justice system is necessary for administering the reprobation necessary following serious crime, but that many parties need and want more than this for the matter to feel 'complete'. Here, the healing potential of restorative justice is brought to the fore. Post-sentencing restorative practices may offer the opportunity to ask questions and provide answers, to vent emotions within a safely mediated space, for a more personal accountability and for reassurance of no further harm.

It is useful to recognise that, domestically and internationally, restorative justice programs are used for a variety of purposes, and particular restorative principles will be emphasised in particular programs to achieve particular ends. While keeping the scope of this review in mind – in particular, that this report informs the Royal Commission's criminal justice project – this review did not preclude literature based on any particular 'version' of restorative justice.

In summary

Restorative justice seeks to 'address victim(s) harms and needs; hold the offender(s) accountable to put right those harms; and involve the victim(s), offender(s) and communities in this process' (Zehr & Gohar 2003, p23). It is both a mechanism for obtaining justice, and a kind of justice; that is, it is a justice marked by certain qualities. This review will describe the use of restorative practices after child sexual abuse (or arguably comparable harms) and assess the evidence on whether restorative justice meets (or does not meet) these goals.

2. Methods

For this report a methodological framework was developed to provide a transparent and reproducible review of existing literature on the use and impact of restorative justice for institutional child sexual abuse. Because few places in the world routinely use restorative justice as a criminal justice option for young or adult offenders charged with child sexual assault, it was expected that few scientifically rigorous studies would be identified. In addition, it was likely that existing literature would be spread across a number of disciplines, including criminology, law, social work, psychology, medicine, public health and social science. Three strategies were used to maximise the chances of capturing all of the relevant existing literature.

2.1 Strategy 1: Published studies concerning empirical research

The first and primary strategy focused on collecting, documenting and summarising published research with an empirical base. Table 1 lists the keywords used in this strategy. All the keywords in Table 1 were searched together using the Boolean operator 'OR' – that is, restorative justice* OR restorative practice* OR child sexual abuse* etc. combined with each other using the Boolean operator 'AND' – for example, restorative justice AND sexual violence. Keywords were searched as 'subject headings', where available. Where there were too many references, the searches were limited to 'title' and 'abstract' fields, as this was a more targeted approach.

Table 1: Keywords used in the search

Theme	Keywords
Restorative justice	Restorative justice*, restorative practice*, victim offender mediation, restorative conference*, conferencing, family group conferencing, circle sentencing, circles, circles of support, circles of support and accountability, COSA
Child sexual abuse	Sexual abuse, assault, sexual violence, adolescent, child*, young people, juvenile, youth, young person, teenager, institution*, historical child sexual abuse, contemporaneous child sexual abuse*, victim, survivor
Evidence base	Evaluation, impact, outcome, empirical, quantitative, evidence, effect*, qualitative, mixed method
Other comparable and/or relevant studies	Adult sexual abuse, sexual violence, family violence, personal violence, crimes against a child, hate crime

*The asterisks denote 'wildcards' that entail respectively all possible endings of a word and different spellings.

The focus was on literature concerning institutional child sexual abuse, child sexual abuse more generally, or comparable areas of harm. The most comparable areas were defined to be restorative justice involving cases where the harm was complex and involved significant power differentials, followed by other forms of

personal violence where there had been a trauma response, such as murder, manslaughter, driving causing death, armed robbery and serious physical assault. The search also specifically sought material on restorative practices where the victim-survivor attending was still a child or young person. The scope of this review precluded sexual violence within the context of war, though there has been some writing on restorative justice in this sphere (Daly & Burns 2014). A hierarchy of relevance to the Royal Commission was adopted for this review:

1. Institutional child sexual abuse
2. Non-familial child sexual abuse
3. Familial child sexual abuse
4. Institutional (victimised as adult) sexual abuse
5. Sexual abuse (victimised as adult)
6. Personal violence – intimate partners/family (intimate partner violence, domestic violence)
7. Child victims (not limited to child sexual abuse)
8. Violence – not otherwise specified.

Table 2 shows where the searches were undertaken, by database (mapped to discipline area). Because the number of empirical studies was thought to be low, the searches allowed for an open timeframe. They were limited to articles and books written in English. The search was conducted between July and August 2015.

Table 2: Databases searched

Discipline	Database
Criminology	CINCH Australian Criminology Database Criminal Justice Abstracts
Law	LexisNexis AU and LexisNexis Westlaw AU and Westlaw International AGIS Plus Text
Medicine/health	MEDLINE
Social science	ProQuest Social Science Journals Sociological Abstracts
Social work	Social Services Abstracts
Psychology	PsycINFO
Other	Scopus Web of Science

2.2 Strategy 2: Other literature on restorative justice and child sexual abuse

In anticipation of a paucity of evidence on restorative justice and institutional child sexual abuse, the second strategy focused on collecting the most relevant work published *outside of* refereed outlets ('grey literature'). This was identified using similar search terms as specified in Strategy 1, firstly in Google, which allows for limiters to be used such as PDF format (given most grey literature is made available using PDF). In addition a search was conducted in three specific databases dedicated to grey literature, these were:

- PsycEXTRA – a grey-literature database companion to the PsycINFO database
- OpenGrey – a system for information on grey literature in Europe (www.opengrey.eu/search)
- New York Academy of Medicine's Grey Literature Report (<http://greylit.org>).

2.3 Strategy 3: Utilising research networks

The final strategy for capturing evidence entailed contacting the six largest international restorative justice networks to draw from their knowledge bases of current practices and research being conducted. Pending publications (that is, those that have been accepted but are not yet 'live') and other materials (such as submissions to parliament or other government inquiries) were sought. These groups were:

- Restorative Justice International
- Restorative Practices International
- The Asia Pacific Forum for Restorative Justice
- The European Forum for Restorative Justice
- Restorative Justice for All
- Real Justice.

2.4 Scope and limitations

Across all three search strategies, literature identified as commentary, theoretical, attitudinal survey, position statement, critical reflection or description only (of either the process or the program participants) was excluded from further review. Programs that will, but are not yet, operational were excluded, notably in the Australian Capital Territory, the *Crimes (Restorative Justice) Act 2004* provides for the use of restorative justice for youth and adult offenders across many offence types, including family and sexual violence. Also excluded was any form of mediation where the facts were still in dispute — for example, the piloting of Coordinated Family Dispute Resolution in Australia following family violence (Kaspiew et al. 2012) and the Brooklyn mediation field test in the US (Davis 2009). Few meta-analyses were included because of the difficulty in separating program effects by the specific offence types relevant to this report (such as the

work of Shapland et al. 2008, 2007, 2004 and Sherman & Strang 2007). The final exclusion was Circle Sentencing in New South Wales. This is an alternative sentencing court available to eligible adult Indigenous offenders following indictable offences. Though this practice uses many features that are 'restorative', Marchetti & Daly (2007) argue that Indigenous courts in Australia deserve unique jurisprudential analysis that recognises the political resistance such courts bring to the post-colonial landscape.

As this report informs the Royal Commission's criminal justice project, the focus was on restorative justice approaches located within criminal justice systems. These were defined as programs that accepted referrals from police, prosecutors or courts, and/or programs situated within or managed by criminal justice departments. Practices located alongside or independent of formal criminal justice systems were also identified, but are addressed separately in Section 5 of this report.

Though many keywords were used in the search, it was unlikely for programs or practices that use a restorative approach but that do not have the term (or variant term) 'restorative justice' in the title or abstract to have been identified. Similarly, it was unlikely that chapters in books and books not specifically alluding to 'restorative justice' (or variant terms) in the title or book abstract to have been captured in the search strategy. These practices have been included where they happened to be found; however, for this reason, the final list of programs and studies is likely to be a slight underestimate of the actual number of practices in existence. A more detailed description of the findings from each of the three strategies, as well as further details on the search as it narrowed, are provided in Appendix B.

2.5 Findings from the search strategy

The search identified 15 restorative justice programs attached to criminal justice systems that have completed work relevant to this Royal Commission. Approximately three-quarters of these programs were identified through database searches and the remaining via searches of grey literature and expert networks. Thirty papers that reported on empirical studies were included for review. The programs are located in Canada (33 per cent), Australia (27 per cent), the US (20 per cent), New Zealand (13 per cent), and Northern Ireland (7 per cent). In addition, the search identified 29 programs that are working independently of the criminal justice system to address child sexual abuse or related harm through restorative justice. Twenty five studies relating to these practices were identified.

3. Prevalence of restorative justice programs in criminal justice systems

The review found 15 discrete programs attached to criminal justice systems that offer (or had offered in recent years) a restorative justice practice to address harm following child sexual abuse or an arguably comparable area. Table 3 presents the programs according to their relevance to institutional child sexual abuse, as well as basic program details. Of the 15 programs identified, none have reported completing cases relating to *institutional* child sexual abuse. However, six (40 per cent) have used restorative justice to address other forms of child sexual abuse, five (33 per cent) have used restorative justice after some form of adult sexual abuse and four (27 per cent) work with other kinds of (comparable) harm.

Of the six programs that have worked restoratively following child sexual abuse, three are specifically tailored to addressing sexual abuse. These are ‘Project Restore’ which began in 2005 and is still operating in New Zealand, ‘RESTORE’ in Arizona in the US, which operated between 2003 and 2007, and the New South Wales Pre-Trial Diversion of Offenders (Child Sexual Assault) Program (known as ‘Cedar Cottage’), which operated between 1989 and 2014. Project Restore and Restore are primarily conceived of as programs for survivors where the sexual occurred as adults, though in Project Restore a number of matters involving child sexual abuse have been completed. Both Restore and Project Restore (inspired in part by the program in Arizona) are located within explicitly feminist frameworks, advocating for the needs of victim-survivors of sexual abuse. Project Restore is the only existing program working restoratively after sexual abuse that has been developed by survivors, for survivors. Cedar Cottage was designed to rehabilitate offenders, however it concurrently aimed to assist victim-survivors. Empirical literature on the impact of each of these programs has been published (see Section 4 of this report).

The remainder of identified programs (12, or 80 per cent) are primarily designed to meet the needs of parties in the aftermath of serious (usually violent) crime. Within this scope, some cases of historical child sexual abuse, child sexual abuse or adult sexual violence have been completed. As there are no specific forms of sexual abuse that are ineligible across these programs, a range of cases – including non-familial and familial sexual abuse, and child-to-child and adult-to-child sexual abuse – have been completed.

Across all of the identified practices the majority (12 or 80 per cent) of victim-survivors and perpetrators attend restorative justice as adults. The notable exceptions are youth court diversion programs such as in South Australia and Canberra, and the Northern Ireland Youth Conferencing Scheme⁶⁷.

⁶ Indeed the only program identified in this Report to be purposefully and primarily designed to attend to *child* sexual abuse is the Irish ‘One in Four’ program which runs restorative justice meetings for adult survivors of child sexual abuse and perpetrators. This will be discussed in Section 5 as it operates independent of the criminal justice system (Kenny, date not given).

⁷ For a thoughtful discussion of best practice when working with children in restorative justice see the ‘needs-rights’ framework proposed by Gal (2011).

Table 3: Restorative justice programs in the criminal justice system by offence relevance (n=15)

Program	Jurisdiction	Offender/victim participation	Offence types	Eligibility ⁸ and referral	Point of contact	Regulation
<i>Programs/services that have completed cases relating to child sexual abuse</i>						
South Australian Family Conferencing	South Australia, Australia	Young offenders, victims invited	Vary. Inclusive of sexual violence	Admission of offence. Referrals made by police and occasionally Youth Court	Pre-sentencing	South Australian Young Offenders Act (1993)
Project Restore Specialist Sexual Violence Service	New Zealand	Adult or youth offenders, victim or victim advocate	Sexual offences with identified victims and offenders, and no current safety issues between parties	Guilty plea at court. In addition, offenders must agree to be assessed for treatment and then be treated if that is an outcome of the restorative justice process. Referrals made by police, courts or self-referrals	Pre-sentence and post-sentence (and independent of the criminal justice system)	New Zealand Victims' Rights Amendment Act (2014) , New Zealand Ministry of Justice's Restorative justice standards for sexual offending cases (2013)
Community Holistic Circle Healing program	Hollow Water, Manitoba, Canada	Adult offender, victim(s)	Vary. Inclusive of sexual violence and child sexual abuse	Guilty plea at court	Pre-sentencing	NA
Victim Offender Conferencing, Restorative Justice Unit, Corrective Services NSW	New South Wales, Australia	Adult offenders, does not proceed without a victim in attendance	All forms of serious crime	Conviction, no outstanding court matters, still being actively managed by Corrective Services NSW (offender is either in prison or on parole). If the matter is a sex offence, offender must have completed sex offender program in prison. Referrals made by victims or offenders	Post-sentencing	NA
Cedar Cottage Pre-Trial Diversion Program (no longer operating)	New South Wales, Australia	Adult offenders, victims encouraged	Intra-familial child sexual abuse	Guilty plea at court. Agreement to undergo treatment	Pre-sentencing	New South Wales Pre-Trial Diversion of Offenders Act 1985 (lapsed 2012)
Family Group Decision Making Demonstration Project (no longer operating)	Newfoundland, Labrador, Canada	Offenders (within family structure), victims	Most commonly child neglect, but also included domestic violence and 10 cases of child sexual abuse	Referred by child welfare, parole, youth corrections and probation staff	Pre Court	NA
<i>Programs/services that have completed cases relating to sexual abuse perpetrated on an adult</i>						
RESTORE (Responsibility and Equity for Sexual Transgression Offering a Restorative Experience) (no longer operating)	Arizona, US	Adult offenders. Does not proceed without a victim or victim	Felony and misdemeanour sexual offences	Offender accepts responsibility (but not necessarily enters a guilty plea). Referral only via the prosecutor	Pre-court diversion	NA

⁸ In addition to eligibility requirements, many programs have strict suitability requirements. In all programs participation is voluntary except in Circles of Peace where participation is mandatory for offenders.

Program	Jurisdiction	Offender/victim participation	Offence types	Eligibility ⁸ and referral	Point of contact	Regulation
		advocate in attendance				
Collaborative Justice Program	Ottawa, Canada	Adult or youth offenders. Does not proceed without a victim in attendance	Vary, but have included a very small number of sexual violence cases	Guilty plea at court. Referrals made by Victim/Witness Assistance Program, the Investigating Officer or the Crown Attorney at court (or independent of court)	Pre- and post-sentencing (or independent of court)	NA
Community Justice Initiatives Association's Victim Offender Mediation Program (VOMP)	British Columbia, Canada	Adult offenders, victims	Violent crime including sexual violence	Referrals made by offenders or victims	Post-sentencing, usually post-prison	NA
Restorative Opportunities	Canada	Adults offenders, victims or victim representative invited	Violent crime including sexual violence	Conditional on offender taking responsibility. Referrals made by prison staff (no direct referrals by offenders)	Post-sentence (does not affect parole)	Correctional Service Canada Commissioner's Directive 785
Victim Offender Sensitive Dialogue	Texas and Ohio, US	Adult offenders, victims	Violent crime, including a small number of sexual violence cases	In both Ohio and Texas, offender admits guilt and accepts responsibility. Referrals can only be made by victims	Post-sentencing (in prison or afterwards)	In Ohio, regulated by the State of Ohio Victim Offender Dialogue Policy , Office of Victim Services (2014)
<i>Programs that have completed cases on comparable harm</i>						
Australian Capital Territory police youth diversion (subsumed into new scheme)	Australian Capital Territory, Australia	Young offenders, victims invited	Vary	Referred by police	Pre-sentence	NA
Northern Ireland Youth Conferencing Scheme	Belfast, Northern Ireland	Young offenders, victims invited	Most offences – except offences with a mandatory penalty of life imprisonment	Referrals made by court or prosecution	Pre-sentence	Justice (Northern Ireland) Act 2002
Mana Restorative Justice Program ⁹	New Zealand	Offenders. Does not proceed without a victim in attendance	Intimate partner violence	Guilty plea at court. Referral made by victim, offender, lawyer, court, judge or police	Pre-sentence (generally)	New Zealand Victims' Rights Amendment Act (2014) , New Zealand Ministry of Justice's Restorative justice

⁹ In fact there are a number of services working in family violence in New Zealand; one study by Kingi (2014) discusses 5 sites. This study has been excluded because the sites were not named and findings not disaggregated. While each service in New Zealand must be accredited by the Ministry of Justice there are likely to be individual features that make each service unique.

Program	Jurisdiction	Offender/victim participation	Offence types	Eligibility ⁸ and referral	Point of contact	Regulation
						standards for family violence cases (2013)
Circles of Peace	Arizona, US	Offenders, victims invited	Domestic and family violence	Court-referred via sentencing	Post-sentencing (sentence involves this treatment)	Arizona Department of Health Service policy

3.1 Point of intersection of restorative justice programs with criminal justice systems

The following table presents the programs by the point at which they intersect with the criminal justice system.

Table 4: Placement of programs within the criminal justice system

Point of intersection	Name of program
Pre-court diversion, case returns to prosecutor if declined	RESTORE, Arizona US
Pre-sentencing diversion, case returns to court for finalisation	South Australian Family Conferencing, Australia
	Community Holistic Circle Healing program, Canada
	Cedar Cottage Pre-Trial Diversion Program, Australia
	Family Group Decision Making Demonstration Project, Canada
	Northern Ireland Youth Conferencing Scheme
	Mana Restorative Justice Program, New Zealand
	Australian Capital Territory
Restorative justice forms part of the sentencing	Circles of Peace, US
Post-sentencing (offender still under the management of formal criminal justice agency)	Victim Offender Conferencing, Australia
	Community Justice Initiatives Association's VOMP, Canada
	Restorative Opportunities, Canada
	Victim Offender Sensitive Dialogue, US
Located at any of: before, after (or independent of) the criminal justice system	Project Restore Specialist Sexual Violence Service, New Zealand
	Collaborative Justice Program, Canada (pre- or post-sentencing)

Of the 15 programs identified, just over half (eight, or 53 per cent) operate pre-sentencing, which means matters have either been diverted by police to restorative justice (if that is an option in the program) or directly diverted by magistrates at court to restorative justice when a plea is entered (and eligibility criteria met). In general, once the restorative justice meeting has been completed, the 'outcome' is returned to court for final processing. There was one pre-court program identified; in RESTORE Arizona, the local prosecutor (rather than the police or court) referred eligible cases to the program, which further assessed suitability. If the case did not proceed via RESTORE, the prosecutor would then consider the case for court. In all pre-court and pre-sentencing approaches, if the meeting does not go ahead, or is disbanded during the process, the certainty of conventional legal sanctioning remains. A smaller number of programs (four, or 27 per cent) operate post-sentencing, with the offender either still in prison or managed in the community by the relevant criminal justice department. Two programs (13 per cent) accept referrals at any stage, that is, pre- or post-sentencing, or independently of the criminal justice system. Just one program was identified where a restorative approach is the sentence (Circles of Peace).

In all programs, there is some kind of acknowledgement of guilt – whether in the form of a conversation about responsibility with a relevant professional (in the case of post-sentencing programs) or a guilty plea entered at court (in the case of the pre-sentencing programs). Of the 15 programs identified, just over half (eight) are guided by legislation or governmental policy that regulates operation.

3.2 Program aims

This review of literature on restorative justice and child sexual abuse is also concerned with why restorative practices have been used to address this kind of harm. Table 5 shows the stated aim/s of each program. In the majority of cases, there is more than one aim. This review identifies four main themes across these aims, which are:

- to support perpetrators in non-offending by increasing their insight into the impact of the harm, and reducing reoffending (seven mentions)
- to improve victim-survivors' experiences of justice by considering their wellbeing and addressing specific needs (for example, for information) (six mentions)
- to improve victim access to justice by offering a different avenue for addressing the harm (five mentions)
- to build healthy communities where relationships are strengthened (two mentions).

The stated aims of all the programs are a good match with the principles of restorative justice. The relative consistency in aims suggests a shared vision for holding offenders accountable and reducing reoffending, and improving both the access to and experience of justice for victim-survivors.

Table 5: Criminal justice programs' stated aims

Program	Stated aim/s
South Australian Family Conferencing	Aim is bound by the <i>Young Offenders Act 1993</i> (SA): 'The object of this Act is to secure for youths who offend against the criminal law the care, correction and guidance necessary for their development into responsible and useful members of the community and the proper realisation of their potential' (South Australian <i>Young Offenders Act 1993</i> , Section 3 (1), accessed September 2015).
Project Restore Specialist Sexual Violence Service, New Zealand	'[T]o provide victim-survivors with an experience of a sense of justice, support offenders to understand the impacts of their behaviour and to facilitate the development of an action plan' (Jülich et al. 2010, p. 223).
Community Holistic Circle Healing program, Canada	'[T]he process holistically involves victims, victimizers and their respective families; it creates spiritual, physical, emotional and intellectual balance that benefits the entire Hollow Water community' (Couture et al. 2001).
Victim Offender Conferencing, Australia	'[T]o address the unmet needs of victims of crime' (Restorative Justice Unit, Corrective Services NSW website, accessed August 2015).
Cedar Cottage Pre-Trial Diversion Program, Australia	The three main program aims were: 'To help child victims and their families resolve the emotional and psychological trauma they have suffered; to help other members of the offender's family avoid blaming themselves for the offender's actions and to change the power balance within their family so the offender is less able to repeat the sexual assault; to stop child sexual assault offenders from repeating their offence' (provider website, accessed September 2015).

Family Group Decision Making (FGDM) Demonstration Project, Canada	The project was designed to 'test the extent to which FGDM would eliminate or reduce violence against child and adult family members and to promote their well-being' (Pennell & Burford 2000, p. 137).
RESTORE, US	'[T]o provide an additional avenue that might reduce attrition in the criminal justice system', where this refers to 'the large numbers of sexual assault cases that are closed at each stage of the justice system, cutting off survivor victims' search for acknowledgment of their harm and a concrete response to it'. Further, 'RESTORE was intended as a justice process that expanded on justice options and responded in the ways survivor victims say they would like to be treated', where what survivors want is 'a justice process that validates their status as legitimate victims, focuses on the offender's behaviour and not on theirs, provides a forum to voice the harm done to them, accords them influence over decisions about their case, and incorporates their input into the consequences imposed' (Koss 2014, p. 1627).
Collaborative Justice Program, Canada	'[T]o empower individuals affected by crime to achieve satisfying justice through a restorative approach' and 'to offer participatory mechanisms through which the victim, the offender, and affected community members could work together to develop resolution plans that repaired, to the extent possible, the harm caused by the offence' (Rugge 2005, p. 5).
Community Justice Initiatives Association's VOMP, Canada	'To foster peacemaking and the resolution of conflict in the community through the development and application of restorative justice values, principles and processes' (provider website, accessed September 2015).
Restorative Opportunities (RO), Canada	'The goal of the RO program is to meet the needs of participants and to address the harms caused, while protecting against re-victimisation' (provider website, accessed September 2015).
Victim Offender Sensitive Dialogue, US	In Ohio: 'To work in partnerships to make a positive difference in the lives of crime victims, by affording them meaningful participation throughout the Ohio corrections process' (provider website, accessed October 2015).
Australian Capital Territory police youth diversion	Not known
Northern Ireland Youth Conferencing Scheme	'[Y]outh conferencing seeks not only to encourage young people to recognise the effects of their crime and take responsibility for their actions, but also to devolve power by actively engaging victim, offender and community in the restorative process' (Campbell et al. 2006, p. 7).
Mana Restorative Justice, New Zealand	'Restorative Justice brings victims and offenders and their support people together to discuss the offending in a safe environment' (provider website, accessed October 2015).
Circles of Peace, US	'[T]o offer innovative treatment options that contribute to ending the cycle of abuse for individuals, families and communities' (provider website, accessed September 2015).

3.3 Program emphasis

To explore the features of the identified programs, Table 6 categorises programs according to whether they have a victim, offender or balanced emphasis. Programs were defined to be victim-focused if the starting point for a referral was a victim's need, or the program as a whole was designed to improve victims' access to and/or experience of justice. These programs and services do not proceed without a primary or secondary victim present. Arguably, some may be better defined as balanced approaches, because they attempt to attend to both parties' needs and do not go ahead without both direct parties present. Indeed, one of the unique features of restorative approaches is this ability to balance needs in a manner quite different to conventional processing. Commenting on the RESTORE Arizona program, Koss et al. noted that 'perhaps the most significant aspect of RESTORE's procedures is that they permit attention to the healing of survivors in the context of a program that is funded to reduce reoffending' (2004, p. 1448). Programs were

defined as offender-focused if the starting point for referral was addressing an offender’s behaviour, and the goal was rehabilitation and the prevention of reoffending (while the prevention of reoffending does address a victim’s and community’s need for safety, these services are not primarily about giving victims a voice). Generally, these practices can proceed without the direct input of a primary victim.

Using participation and program aims as a guide, it would seem that nine programs (60 per cent) are either victim-oriented (focused on meeting victim justice needs) or balanced in trying to meet both offender and victim needs, while six programs (40 per cent) are offender-oriented (focused on processing offenders in the criminal justice system).

Table 6: Criminal justice programs categorised by victim, offender or balanced* focus

Victim or balanced focus	Offender focus
Project Restore, New Zealand	South Australian Family Conferencing
RESTORE, US	Australian Capital Territory police youth diversion
Community Holistic Circle Healing program, Canada	Northern Ireland Youth Conferencing Scheme
Cedar Cottage Pre-Trial Diversion Program, Australia	Restorative Opportunities, Canada
Victim Offender Conferencing, Australia*	Circles of Peace, US
Family Group Decision Making Demonstration Project, Canada	Collaborative Justice Program, Canada*
Community Justice Initiatives Association VOMP, Canada*	
Mana, New Zealand*	
Victim Offender Sensitive Dialogue, US	

* Programs that explicitly state that the process does not go ahead without both parties present

3.4 Summary of main approaches

Worldwide, there are few restorative justice programs within criminal justice systems that have been designed to address sexual abuse. However, there are numerous practices working with victims and offenders in the aftermath of serious and violent crime such as murder, manslaughter and armed robbery and these programs have completed a small number of sexual abuse cases. Overall, this review found five main approaches to working in this area:

1. victim-focused, specialist sexual violence programs (such as RESTORE in the US and Project Restore in New Zealand). These are designed to attend to the inherent power dynamics of all forms of sexual violence and use a victim needs model to drive the process
2. victim-focused, specialist post-sentencing programs for violent crimes (such as Victim Offender Sensitive Dialogue in the US, Community Justice Initiatives Association’s VOMP in Canada and Victim Offender Conferencing in NSW Australia). These are designed to attend to the trauma of violent crimes like murder and armed robbery but also complete a small number of sexual abuse cases. The processes tend to be driven by the needs of the victim, take many months to prepare and use advanced facilitators

3. offender-focused pre-sentencing programs (such as South Australian Family Conferencing, the Northern Ireland Youth Conferencing Scheme and Australian Capital Territory police youth diversion). These programs focus on diverting young people from court
4. community-focused programs that have been initiated from within a community in an attempt to heal victims, help offenders desist from crime and strengthen community bonds (such as the Community Holistic Circle Healing Program in Canada)
5. offender-focused programs (that encourage victim participation where it is desired) with clear goals of treatment via the use of professional/clinical staff and regular reporting over lengthy periods (such as the Cedar Cottage Pre-Trial Diversion Program in Australia, Circles of Peace in the US and the Family Group Decision Making Demonstration Project in Canada).

Approach 5 will be discussed in section 3.5.

3.5 A note on therapeutic jurisprudence and restorative approaches

Because a maximalist definition of restorative justice was used in the search strategy for this report (that is, it included programs that drew from restorative principles without incorporating all the components in a ‘purist’ encounter such as a face-to-face meeting between a direct victim and offender), a subset of programs were found that fit within a broad definition of restorative definition but that can proceed without a victim, and that have overtly therapeutic overtones (a feature not typically associated with restorative justice). In these programs there is an explicit reference to ‘treatment’, the use of health professionals such as psychologists, social workers and doctors, and an extensive monitoring period for offenders (for example there may be fortnightly sessions or ‘circles’ rather than just one, often for up to a year). Examples include the Circles of Peace program in the US, for offenders convicted of domestic violence; the Cedar Cottage Pre-Trial Diversion Program in Australia, which targeted familial child sex offenders and RESTORE in the US, which was aimed at adult sexual abusers. Further examples (to be discussed in Section 5) are the Circles of Support and Accountability models operating independently of the criminal justice system.

The Circles of Peace program in Arizona was introduced as an alternative to the standard Batterers Intervention Program (BIP) used in that jurisdiction. The Circles of Peace program consists of establishing a ‘circle’ (made up of the offender, clinical and personal supports, and possibly the victim) that meets regularly throughout a year. Like the Circles of Peace program, the Cedar Cottage Pre-Trial Diversion Program in New South Wales was a treatment aimed at reducing sex offending within families. It too used specialised clinical staff with regular reporting mechanisms for offenders across at least a 12-month period. In both programs, victims may be invited and at times encouraged to attend. The features of these programs (using clinical experts and having longer follow-up periods before program completion) are also common to the RESTORE program in Arizona, where the offender (termed ‘responsible person’) must comply with a ‘redress plan’ for 12 months, while being monitored by program staff. Failure to complete the program or re-offending means the case is referred back for conventional prosecution. The victim-survivor

may get updates every three months on the perpetrator's progress towards the redress plan, and they are also able to attend the 'Community Accountability and Reintegration Board', which monitors progress quarterly. At the completion of the year, the perpetrator attends a meeting and gives a formal apology as part of a 'reflective statement'.

All of these practices have many restorative elements; however, the professionals drawn into the circle and the frequency of reporting are features more commonly affiliated with problem-solving courts (such as for drug, alcohol or family violence matters), which tend to frame their work in reference to therapeutic jurisprudence. Indeed, where restorative justice approaches are framed with explicit reference to treatment effects and/or bring to the fore the role of health professionals, there is a crossover in intent with the therapeutic jurisprudence framework, which is concerned with drawing from the behavioural sciences to inform the work of the court and improve wellbeing (Wexler & Winick 1996). Certainly, restorative justice is not therapy; however, some forms, in particular those used after serious crime, can have therapeutic effects (Umbreit et al. 2006, Jülich & Landon 2014).

4. Effectiveness of restorative justice practices in criminal justice systems

This section of the report focuses on the effectiveness of restorative justice approaches following institutional child sexual abuse, sexual abuse or comparable harms within criminal justice systems. Of the 15 programs listed in Section 3, all have been evaluated (broadly defined) and 30 empirical papers were identified for inclusion in this review. Table 7 presents the findings on the effectiveness of the programs, and a brief description of the research design used. Offence types are grouped according to relevance to institutional child sexual abuse.

4.1 Findings on institutional child sexual abuse

This review found no examples of programs attached to criminal justice systems, domestically or internationally that have reported using restorative justice to address institutional child sexual abuse.

4.2 Findings on child sexual abuse and adult sexual abuse

A number of programs have used restorative justice approaches following (non-institutional) child sexual abuse or adult sexual abuse. For both Project Restore in New Zealand and RESTORE in the US, the research documented in detail the experiences of victims and offenders using a range of measures, though, for both, the studies were based on small sample sizes. Both studies, though small, present good-quality and valuable data suggesting that under specific conditions, participation improves victim wellbeing, and is perceived as satisfying, worthwhile and procedurally fair. There was only one documented case, in RESTORE, of a conference being halted because of concern of re-traumatising a victim-survivor (Koss 2014).

There is strong evidence on the Cedar Cottage Pre-Trial Diversion Program in New South Wales, which operated for many years. Numerous studies using a range of quantitative measures with good sample sizes were conducted on this program, with consistently positive findings across a range of offender-oriented outcomes, including re-offending (Butler et al. 2012, Butler et al. 2011, Goodman-Delahunty & O'Brien 2014, Goodman-Delahunty 2009). The conditions for success described in this research included intensive case management and a holistic approach where, though victims were not a focus or mandated to attend the program, many victims did take part in a range of therapeutic services. In addition, the program was tailor-made to meet the needs of perpetrators of sex offences within the family.

The research on Victim Offender Conferencing in New South Wales concerned a well-established (15-year-old) program, using data from 13 years of practice. While this study was based on a census of cases completed in the Restorative Justice Unit, the results were mostly concerned with murder, manslaughter and armed robbery cases and the findings were not disaggregated by offence type. The evidence from this study suggested that under strict conditions, the specific justice needs identified by victims and offenders (including for sexual abuse cases) before taking part in restorative justice were consistently met through participation in the process. The 95 per cent success rate (based on matching the pre VOC stated justice needs to post VOC experience) documented in this program is comparable to the similarly long-established post-sentencing programs in the US (Victim Offender Sensitive Dialogue, studied by Umbreit et al. 2006) and Canada (the Community Justice Initiatives Association Victim Offender Mediation Program, studied by Roberts 1995 and Gustafson 2005). Internationally, good evidence supports using restorative justice post-sentencing.

For the purposes of this review, perhaps the most useful research (based on rigour, relevance and sample size) relates to the South Australian Family Conferencing model studied by Daly (2002, 2006, 2007 and 2013) over a number of years. This research is important because it is the only work to compare restorative outcomes to court outcomes, in this way offering a unique perspective on the justice options available for those affected by child and youth sexual abuse. Daly (2006) found, comparing cases proven at court (n=115) to conference cases (n = 111) that victims were: more likely to receive a verbal and written apology than at court (77 compared to zero, 32 compared to 1, respectively), and more likely to achieve an agreement from the young offender to stay away from them (documented in 23 compared to 10 cases). In addition, offenders were more likely to attend counselling (79 versus 49 counts) and specifically specialist sex offender counselling (52 versus 37 counts). Conference cases were finalised more quickly from report to finalisation (a median of 2.5 months in conference compared to 5.7 months at court). One of the key differences emphasised by Daly (2006) is the much higher admission of sexual abuse that occurred as part of the family conference (94%) compared to court where only 51% were finalised with a sexual component proven.

Daly (2006) argues based on these findings, that a primary benefit of court diversion to restorative conference is the early admission of guilt that a survivor gains when an offender takes part in this program. An admission of the crime is beneficial in validating a victim-survivor's experience. In addition, the findings suggest that matters are dealt with more quickly through conferencing than court (as, in many youth diversion programs, legislation stipulates the completion of conferences within a set time frame), and there are more agreements to stay away from victims and apologies offered by offenders. In addition, it is more likely that an offender will take part in a treatment program tailored to address the reasons for sex offending. In terms of reoffending, the data is complex; Daly concluded that future reoffending was predicted by offence history rather than experiences of court or conference. Furthermore, the sample size precluded analysis of conference inclusive of participation in Mary Street (the specialist sex offender treatment centre) versus conference alone, which would further tease out intervention effects. In another study, Daly (with Curtis-Fawley 2006) explored qualitatively the experiences of victim-survivors of child sexual abuse. In the two case studies presented responses were mixed, reflecting the complexities of this kind of crime.

4.3 Findings on comparable areas of harm

Two programs were identified that addressed domestic violence: the Family Group Decision Making Demonstration Project in Canada (Pennell & Burford 2002), Circles of Peace in the US (Mills et al. 2013) and the Mana Restorative Justice program (McMaster 2014). Each program was found to have positive effects (albeit based on small sample sizes), though in the case of Circles of Peace, reoffending rates did not differ significantly compared to other existing treatments (Mills et al. 2013).

The evidence on restorative justice following other forms of serious crime is in contrast very strong. Over the last two decades, numerous studies have been completed using large sample sizes and a variety of qualitative and quantitative measures including satisfaction, reoffending, and most recently, post-traumatic stress (Angel et al. 2014). Overall, the findings suggest that there is a very high degree of participant satisfaction, and sense of procedural justice (fairness) that comes from taking part in a restorative approach. Two studies reported mixed outcomes. In a detailed analysis of cases where the victim was a young person in the Reintegrative Shaming Experiment data (based on the Australian Capital Territory police diversion scheme), Gal & Moyal (2011) found lower levels of satisfaction among youth victims participating in restorative justice compared to youth victims attending court. The authors posited, based on qualitative responses, that this may relate to perceptions of adult domination and non-child friendly processes. Another study that found mixed outcomes examined the Collaborative Justice Program in Canada (Rugge et al. 2005). While the victims were highly satisfied with the process, there were few changes in attitude (such as fear for victims and attitudes to offending for perpetrators) using a pre- and post-program design. Overall, the studies on restorative justice after serious crime presented a fairly consistent, though not universal, range of outcomes that improve wellbeing.

Table 7: Effectiveness of restorative justice programs in criminal justice systems

Program	Studies	Measures	Findings
Programs/services that have completed cases relating to child sexual abuse			
South Australian Family Conferencing	Daly, Bouhours, Broadhurst & Loh (2013)	Survival analysis (time to reoffence – general or sexual offence) for youth matters finalised at Youth Court, through a caution or by restorative conference, or by referral to a specialist treatment program. Used non-equivalent comparison groups with n=385 cases/365 youth (226 court cases; 118 restorative conferences; 41 formal cautions)	Referral to a restorative conference increased the time taken to reoffend only for youth with no prior offences (identified in the Sexual Assault Archival Study (SAAS)). Similarly, referral for specialist treatment increased the time taken to reoffend only for youth with no prior offending as identified in the SAAS. Those with cases finalised through court were more likely to reoffend than those referred to conference or cautioned; however, they were also more likely to have a more serious offending history. Analysis of reoffending was restricted to general offending, as the number of new charges for sexual offences was too low to be viable.
	Daly (2006)	Examined what differentiates a court case from a conference case; what happens when a case goes to court; and how penalties vary for court and conference cases. Methods were as in Daly et al. (2013)	The study examined case and demographic differences between court- and conference-finalised cases. Offenders with matters finalised in court were more likely to be from a disadvantaged area, were older at the time of offence, were more likely to have offended previously, had older victims and were less likely to have had an intra-familial relationship with the victim. The study also found that conference outcomes used the Mary Street sex offender treatment program more often than the court. Reoffending rates were higher for court than conference cases (66 per cent compared to 44 per cent); however, participation in the Mary Street program was associated with significantly lower prevalence of reoffending for both groups. The author argues that the major difference between court and conferencing for the victims is the requirement of an admission of the offence from the offender; this early admission benefits the victim.
	Daly & Curtis-Fawley (2006)	Two in-depth qualitative case studies presented from a larger sample of 18. Both cases were for child sexual assault (the victims were 12 and 13 years old at the time of the offences), and both offenders were 17-year-old males	In one case study, the victim felt the process of determining the offender's undertaking was unfair, as she had no input into the agreement. Nevertheless, she was satisfied with how the case was handled and believed the process would help her deal with the negative effects of the assault. In the second case study, the victim felt that the agreement was too lenient and inappropriate. She was not satisfied with how the case was handled and continued to experience a variety of negative psychological and emotional effects following the conference. The authors conclude that the power of the conference process is the admission of an offence by the offender. Such an admission was a prerequisite for the offender being offered the option of conferencing.
	Daly, Bouhours, Curtis-Fawley, Weber & Scholl (2007)	Comparison of court versus conference outcomes and characteristics of cases (n=385 including 115 court cases and 111 conference cases)	The more serious the offence, the less likely it was to be proved at court. Authors note, for example, that 49 per cent of court cases involving penetration resulted in a proven-by-court finalisation, versus 93 per cent involving the same act admitted by a young person at a conference. Therefore, the more serious cases were less likely to receive a penalty or therapeutic intervention. In terms of outcomes, young people finalised at a conference were more likely to apologise, receive community service hours and be sent to clinical intervention at Adelaide's Adolescent Sexual Abuse Prevention Program (Mary Street) than those sentenced at court, who were

Program	Studies	Measures	Findings
	Daly (2002)	Eighteen case studies of child sexual assault cases that were finalised by a conference	<p>more likely to receive a supervised order (though 91 per cent were suspended sentences), or a good behaviour bond. Overall, 80 per cent of young offenders in a conference attended counselling (52 per cent at Mary Street) versus 50 per cent at court (specifically, 37 per cent attending Mary Street). Another finding was that a higher share of conferenced young offenders (23 per cent) were ordered to stay away from the victim than at court (10 per cent).</p> <p>All offenders were male and aged under 18. Victims were aged between three and 50 years (average six years). Only one case involved a victim who was unknown to the offender. The victim attended the conference in five of the 18 cases. Where the victim was not present, another person, such as a parent, represented the views of the victim. The offences ranged in seriousness from rape to indecent assault. All offenders in the metropolitan area were required to participate in an adolescent sexual abuse prevention program as an undertaking of the conference outcome. The variability in the character and nature of the sexual offences addressed by conferencing is noted. The author argues that restorative conferences must be concerned primarily with vindicating the harms suffered by victims, and secondly, with rehabilitating offenders.</p>
Project Restore Specialist Sexual Violence Service, New Zealand	Julich & Landon (2014)	Twelve case file analyses and 16 surveys with victims and offenders	All participants noted that the process met their justice needs. Notable features of the program are its development by victim-survivors, feminist framework and engagement with local treatment services for sex offenders and victims. The process is framed by a 'three-cornered stool' approach (expert advocates for each party attend, plus there is a clinical supervisor advising program staff). The authors argue that in this area, specialisation is critical, with minimum standards, codes of ethics and best practice.
	Julich, Buttle, Cummins & Freeborn (2010)	Participant attitudes and perceptions of fairness. Interviews (three victims, one offender), focus groups with staff and case file analysis	During the period of study, nine conferences were completed out of 29 referrals (10 were community referrals, three were post-sentencing and 16 were pre-sentencing). Of the nine completed conferences, six related to criminal justice system referrals.
Community Holistic Circle Healing program, Canada	Couture, Parker, Couture & Laboucane (2001)	Reoffending, cost-effectiveness and attitudes. Wellbeing interviews were held with participants and staff. Researchers also participated in and observed various talking circles, pipe ceremonies and one-on-one healing ceremonies. Community members collaborated in shaping and carrying out the study. There were 107 offenders, including 81 adult males, seven adult females and 19 youth, from the four communities making up Hollow Water. Of the adult male offenders 27 had been charged with sexual assault.	Only two clients (2 per cent) reoffended during the 10-year period of study. The authors compare the costs of the program services with those that would have likely been incurred if victimisers and victims had gone to the traditional provincial and federal services during the first 10 years of operation. The program was a more cost-effective option than the traditional criminal justice process. During this time, the government contributed approximately \$240,000 per year to the community-run program. Similar government-run services would have cost between \$6 million and \$15 million (over ten years). In terms of wellbeing, victim-survivors gave a rating of 0–3 out of 10 in the years 1984 to 1986, rising to 5–6 by 1999; children who participated in the program stayed in school longer; and the community in general were returning to live in Hollow Water.

Program	Studies	Measures	Findings
	Lajeunesse (1996)	Qualitative research focusing on the views of victims	Of 52 respondents, about half were satisfied with the outcomes of the program and half were concerned alcohol abuse was continuing and nothing had changed. Community concern about the ability of Elders to deal with serious crime was voiced, though two-thirds of respondents still said the process was useful.
	Ross (1994)	Description of program features	Notably, nearly all program team members were also victims of sexual abuse. The study describes a number of challenges, but ultimately argues that if disclosure of sexual abuse is the key to healing, and circles are more effective at achieving that than courts, then the identified challenges should be thoughtfully addressed. It also notes that the program is meeting the stated need of the community, which was to own the justice process (independent of the formal system).
Victim Offender Conferencing, Restorative Justice Unit, Corrective Services NSW, Australia	Bolitho (2015)	Mixed-method study (case file analysis, pre- and post-program interviews, observation) concerning 74 out of 76 cases completed by the Restorative Justice Unit between 1999 and 2013	In 95 per cent of cases, the justice needs of victims and offenders, as articulated before and after the conferencing, were met; relatedly there was a 95 per cent satisfaction rate for victims and offenders. Results were aggregated across offence types and conditions for success were noted.
	Bolitho, Bruce, Bargaen & Chan (2014)	Process and impact evaluation of the program	The study provides process and practice information, detailed descriptions of cases and documentation of a number of sexual abuse cases. There were seven cases of sexual violence (of nine cases completed) – four within family (all adult-to-child sexual abuse) and three perpetrated by strangers (all adult to adult, and of these, two were rape and murder). The study also includes 10 cases of intimate partner and other family violence.
Cedar Cottage Pre-Trial Diversion Program, Australia	Goodman-Delahunty & O'Brien (2014)	Dynamic and static risk factors, and recidivism (measured by official reports and convictions) for parental child sex offenders. Clinical files of 213 male parental offenders (93 treated versus 120 who were eligible but did not proceed) over a 14-year period	In the mean follow-up period of nine years, 32 per cent of the sample of 93 men reoffended; however, only 12 per cent sexually reoffended. Notably, the act of disclosure and self-reporting by offenders was protective against reoffending. Authors conclude that intra-familial offenders have unique criminogenic needs (different to other sex offenders), and the low rate of reoffending confirms that community-based treatment is better than standard criminal prosecution. Offenders, on average, spent two years in the program.
	Butler, Goodman-Delahunty & Lulham (2012)	Matched control group. There were 88 offenders accepted into the program. Intention to treat analysis. Matched to offenders who declined treatment and proceeded to court. Propensity score matching was used	The treatment group reoffended less than the comparison group and took longer to reoffend, but the differences were not statistically significant. The authors note the potential positive effects of the program on victims who receive counselling; however, outcomes for victims were not evaluated.
Family Group Decision Making Demonstration Project, Canada	Pennell & Burford (2002)	Impact of family group conferencing (FGC) on family violence via quasi-experimental design. Non-random assignment of families to FGC or comparison group, with pre- and post-program testing via interviews (n=115, relating to 28 families), follow-up check via Child Welfare file review	There were 37 conferences completed during the yearlong project. The study found indicators of child maltreatment and domestic violence were reduced, children's development advanced, and community based social support was extended. The authors concluded that FGC can be effective in stopping child maltreatment and domestic violence. Authors outline the conditions for success as participatory co-leadership, diverse planners, multiple funding sources, firm

Program	Studies	Measures	Findings
	Pennell & Burford (2000)	As above	principles, responsive policy and local ownership. They specifically argued that the 'links' formed between project participants served to 'interrupt' typical thinking on family violence, and this made change possible. Specific findings not outlined in the 2002 article related to reporting on the two groups for whom the project was least successful. These were youth-to-mother abuse, and families where the relationships were highly 'turbulent' and coupled with problems in completing the outcome agreement.
Programs/services that have completed cases relating to adult sexual abuse			
RESTORE, US	Koss (2014)	Participant attitudes including satisfaction, pre- and post-program measures of post-traumatic stress disorder (PTSD), completed outcomes (redress plans) and reoffending (within one year). File data collected from police, clinical reports (including psychological assessment), observation, and pre- and post-conference structured interviews with program participants	There were 20 cases completed, and more than 90 per cent of participants were satisfied with their preparation, conference and redress plan. At intake, 82 per cent of victim-survivors (of a sample of 16) met the diagnostic criteria for PTSD, compared with 66 per cent post-conference (not statistically significant). Eighty per cent of offenders completed the redress plan. There was one reoffence (out of 20 cases) in the 12-month follow-up.
Collaborative Justice Program, Canada	Rugge, Bonta & Wallace-Capretta (2005)	Client satisfaction, if client needs were met, and reoffending rates over a three-year follow-up period. No analysis of outcome by offence type was undertaken. There were matched (on gender, offence type, age and risk level) control groups with 288 participants (65 offenders and 112 victims in the restorative justice group, and 40 offenders and 71 victims in the control group)	There was little change over the course of the program, as evidenced by no significant changes in offender remorse, victim fear levels, attitudes towards the criminal justice system and opinions about the importance of restorative goals. Nevertheless, program participants were far more satisfied than control group participants and the program had a small positive impact on the recidivism of offenders. The authors conclude that overall, the restorative approach can be successfully applied to cases of serious crime at the pre-sentence stage.
Community Justice Initiatives Association's VOMP, Canada	Gustafson (2005)	Offender (n=31) and victim (n=30) attitudes to participation (following traumatic crime), one case study describing pre- and post-program PTSD scores in a test case	The study found 27 out of 31 prisoners would participate in restorative justice if given the opportunity. A common motivation reported for this was to dispel the idea of being a 'monster' and to be seen as human. The majority of victims (17 out of 28) wanted to meet the offender, seeing it as integral to their ability to get 'closure' from the event. For many, there was anger, frustration at their (minimal) role in the court and a desire to ask questions. The case study results showed a reduction in the number and severity of PTSD symptoms.
	Roberts (1995)	Participant attitudes to the VOMP experience, including perceptions of impact. There were 39 cases studied, including 18 for sexual assault (46 per cent), and interviews with 22 offenders and 24 victims	A number of process features were described, notably that 65 per cent of cases were screened out. The program had the unanimous support of all the victims and offenders interviewed (specifically, they felt it was professionally run and would recommend it to others). The author describes the main impact for victims as 'closure'; all but one victim felt VOMP had helped them come to terms with the event. Offenders commonly identified a sense of personal growth as the main 'impact'.
Victim Offender Sensitive Dialogue, US	Umbreit, Vos, Coates & Armour (2006)	Description of program characteristics, experience of offenders and victims in the program following severely violent crime. Interviews were held with 20 victims from Ohio and 20 from Texas, and 19 offenders in Ohio and 20 in Texas. There were eight cases of sexual assault included	The main stated reason for offender participation was to help the victim. Ninety-seven per cent of all victims and offenders were satisfied with the preparation, 77 were satisfied with the outcome, 85 per cent of victims would recommend the program to others, and 97 per cent of offenders would recommend it to similar offenders. Eighty per cent of all participants reported it had a 'profound effect' on their lives.

Program	Studies	Measures	Findings
Restorative Opportunities, Canada	Stewart, Sapers & Wilton (2013)	Reoffending (time to offence), with a matched sample (age, sentence length, gender, current offence) of offenders in the program versus those in prison during same time period but who did not complete the program. In both groups, 45 per cent the most common index offence (most serious at time of charge) was homicide followed by 30 per cent relating to a sexual offence. N=76	One year after release from prison, offenders who completed the program had fewer returns to custody than those who didn't participate in the program. However, the rates of reoffending were considered too low to detect reliable differences.
Programs that include cases of comparable harm (adult- or youth-perpetrated violence)			
Australian Capital Territory police youth diversion	Angel, Sherman, Strang, Ariel, Bennett, Inkpen, Keane & Richmond (2014)	Random control trial and structured interviews. Specifically measured post-traumatic stress symptoms (PTSS) for burglary and robbery victims within 1 month of treatment. N=192	Analyses show that PTSS scores are significantly lower among victims assigned to the program as well as criminal justice processing through the courts, than for customary criminal justice processing alone. The findings suggest that restorative justice conferences reduce clinical levels of PTSS and possibly PTSD in a short-term follow-up assessment.
	Gal & Moyal (2011)	Satisfaction for child victims. Random controlled trial. Comparisons were made on the basis of intention-to-treat analysis. Structured interviews were held with young offenders, and official court and criminal justice data was collected (part of the Reintegrative Shaming Experiment – known as RISE). The study on victims focused on victims of property and violent crimes only. Violent offenders under 30 years of age were eligible for RISE; however, serious cases of violence, and sexual and domestic violence offences, were excluded	The main findings suggest that whereas conferencing left adults more satisfied than courts (Cohen's d = 0.50), conferenced juvenile victims were less satisfied than court juvenile victims (Cohen's d = -0.28). In addition, more serious harm is associated with decreased process satisfaction for all victims.
	Strang, Sherman, Woods & Barnes (2011)	Perceptions of fairness. Random control trial. Structured surveys of victims, offenders, offenders' parents and police officers, and file records were used. Comparisons were made on the basis of intention-to-treat analysis. Participants were interviewed at case finalisation, and at two years and 10 years later	Both offenders and victims found conferences to be fairer than court. Victims gained more benefits from conferences than court. Findings relating to victims' perceptions of court and conferences are reported elsewhere (Strang 2002, Sherman et al. 2005).
	Gal (2011)	Qualitative analysis of five property cases and 28 violence cases involving children as victims (extracted data from RISE case files based on interviews – drawn from 175 cases of property offences and 100 cases of violence offences in the RISE dataset)	The author concludes that overall, child victims who took part in the program were more satisfied, stated more often that their rights had been respected and reported greater emotional healing than those processed through court. The more mixed cases are presented to draw out the specific issues for child victims.
	Strang, Sherman, Angel, Woods, Bennett, Newbury-Birch & Inkpen (2006)	Victims were asked about the impact of conferencing on their fear of the offender, anger at the offender, sympathy for the offender, self-blame and satisfaction with the restorative conferencing experience. Random control trials. Retrospective interviews were conducted with victims about their feelings before and after conferencing took place. The responses of victims (n=210) who participated in trials in Canberra (Australia) and in London, Thames Valley and Northumbria (UK) were examined. The study includes victims of violent offences committed by juvenile offenders, young adult offenders (under 30 years of age) and adult offenders	Despite substantial variations in offence type, social context, nation and race, the changes in victims' feelings and attitudes revealed by qualitative and quantitative methods showed improvements in all measures examined for victims who participated in restorative conferencing.

Program	Studies	Measures	Findings
	Sherman, Strang, Angel, Woods, Barnes, Bennett & Inkpen (2005)	A comparison of outcomes for victims, examining if the victim had received an apology, their perception of the sincerity of the apology, whether they had forgiven the offender, their desire for violent revenge against the offender, and if they experienced self-blame for the crime. Meta-analysis of four random controlled trials. Comparisons were made on the basis of intention-to-treat analysis	Victims whose cases were randomised to conference often expressed less desire for revenge against offenders, less anger at the justice system and greater satisfaction with how their case was handled, compared with victims who were not randomly assigned to conference. Victims assigned to conference were more likely to receive an apology from the offender.
	Strang (2002)	Structured surveys of victims of property or violent crimes. N=232	Overall, the empirical evidence shows that the restorative alternative of conferencing, more often than court-based solutions, has the capacity to satisfy victims' expectations of achieving a meaningful role in the way their cases are dealt with, as well as delivering restoration from the harm they have suffered. Results suggest that conferences played a positive role in improving the emotional and psychological states of victims. Conference participants' anger, fear and anxiety towards their offender declined after their conference, while their feelings of security for themselves and sympathy for their offender increased. Overall, victims most often said their conference had been a helpful experience in allowing them to feel more settled about the offence, to feel forgiving towards their offender and to experience a sense of closure.
Northern Ireland Youth Conferencing Scheme	Campbell, Devlin & O'Mahony (2006)	Participant attitudes, particularly motivation to attend the program and view of the outcome agreement. Interviews (participants and stakeholders) and observation of court and conferences processes. N=185	Both young offenders (93 per cent) and victims (79 per cent) believed the outcome agreement to be either 'very fair' or 'fair'. Similarly, 71 per cent of young people and 79 per cent of victims were 'very satisfied' or 'satisfied' with the plan. Young people attended conferences to 'make up for what I had done' (85 per cent), to be forgiven by the victim (79 per cent), and to both help the victim (70 per cent) and hear what they had to say (70 per cent). For victims, 79 per cent attended because they wanted to help the young person.
Family violence, New Zealand	McMasters (2014)	Completion of outcome plans, reoffending and participant attitudes via qualitative analysis of case files and interviews with six perpetrators and eight victims. Reoffending information via data from police call-out files (n=48)	Victims generally felt safe during the meeting, all victims reported that the offender apologised and all participants remembered having an opportunity to participate. There were 42 out of 48 offenders who completed the required restorative justice tasks. There was a reduction in the reoffending rates of offenders who completed their restorative justice agreement, from 63 per cent before to 5 per cent after the program.
	Kingi (2014)	Participant attitudes and satisfaction, via interviews with 19 victims and 19 perpetrators	All agreed that it was, in general, a good way to deal with family violence, and 80 per cent said they would take part again if they needed to.
Circles of Peace, US	Mills, Barocas & Ariel (2013)	Reoffending. Domestic violence cases (152) were randomly assigned to either the Batterers Intervention Program (BIP) (the usual 'treatment') or the Circles of Peace 'treatment' between September 2005 and March 2007. High attrition among the participants was observed (51 per cent of the Circles of Peace group and 40 per cent of the BIP group completed treatment)	Statistically significant differences were detected at the 12-month (p<.05) follow-up comparisons for non-domestic violence re-arrests (the Circles of Peace group offended significantly less). However, no statistically significant differences were detected for domestic violence re-arrests. The authors conclude that the Circles of Peace model is a viable alternative to BIP as no additional harm was reported.

4.4 Research designs, outcome measures, scope & limitations

Research designs in studies of restorative justice

Table 8 shows that the majority of studies in this area have used mixed-method approaches (employing qualitative as well as quantitative components), though there have also been a few focused quantitative studies (primarily concerning reoffending) and purely qualitative works exploring process, attitudes and attitudinal change.

Table 8: Research designs employed in the study of restorative justice, child sexual abuse, adult sexual abuse and comparable harms

Research designs	Child sexual abuse	Adult sexual abuse	Comparable harms
Quantitative	Daly, Bouhours, Broadhurst & Loh (2013); Goodman-Delahunty & O'Brien (2014); Butler, Goodman-Delahunty & Lulham (2012)	Stewart, Sapers & Wilton (2013)	Angel, Sherman, Strang, Ariel, Bennett, Inkpen, Keane & Richmond (2014); Gal & Moyal (2011); Strang (2002)
Mixed method (interview, focus groups, observation, file analysis)	Daly (2006); Daly, Bouhours, Curtis-Fawley, Weber & Scholl (2007); Daly (2002); Couture, Parker, Couture & Laboucane (2001); Bolitho (2015); Pennell & Burford (2002); Pennell & Burford (2000)	Koss (2014), Ruge, Bonta & Wallace-Capretta (2005)	Strang, Sherman, Woods & Barnes (2011); Sherman, Strang, Angel, Woods, Barnes, Bennett & Inkpen (2005); McMasters (2014)
Qualitative (interview)	Daly & Curtis-Fawley (2006); Jülich & Landon (2014); Jülich, Buttle, Cummins & Freeborn (2010); Lajeunesse (1996); Ross (1994)	Gustafson (2005); Roberts (1995); Umbreit, Vos, Coates & Amour (2006)	Gal (2011); Strang, Sherman, Angel, Woods, Bennett, Newbury-Birch & Inkpen (2006); Campbell, Devlin & O'Mahony (2006)

The use of mixed method approaches is indicative of the fact that any work in the area of sexual abuse needs to proceed cautiously and carefully. Early academic work prioritised conceptual work on the fit between restorative justice and 'justice' after sexual abuse (Van Wormer & Berns 2004, Wager 2013, McAlinden 2014, Hudson 2002, Hayden et al. 2014 and Ptacek 2010). Current research has begun to document what this justice looks like in practise, but retains a focus on:

- the meaning of justice for survivors of child sexual assault;
- the ways in which restorative justice can (or does) address the harm caused by child sex offending;
- the ways in which restorative justice would be (or was) able to be practised safely (that is, doing no further harm);
- whether victim (and offender and community) needs were met, and if so, how this was known;
- the ways in which the justice that victims (and offenders and communities) achieve via restorative practice is different (if at all) from the justice achieved through conventional models.

This kind of research can only be addressed via research designs that include at least some qualitative components (with pre- and post-restorative practice interviews or surveys) because exploring the meaning attached to the restorative event is integral to working out whether the intervention is safe, whether it 'worked', and if so, why. As knowledge bases emerge and practices grow, research can begin to use other designs to investigate the causal relations between treatment (the restorative practice) and outcomes (variously, these might be addressing a victim's needs, improving perceptions of procedural justice, or preventing reoffending). The 'gold standard' research designs – randomised control trials followed by quasi-experimental models with non-equivalent control groups, but with the use of analytic techniques that control for relevant pre-existing differences between groups – are best applied when particular kinds of questions need to be answered, such as 'Does conferencing reduce reoffending compared to court?' or 'Do circles of support and accountability reduce sex offending as compared with no treatment?' Table 8 shows these kinds of research designs are already being used in programs that focus on rehabilitating of offenders.

Outcome measures in studies of restorative justice

In the restorative justice research sphere, the outcome measures used can (and do) vary. The most common outcome measures used to assess the impact of restorative justice are participant satisfaction, perceptions of procedural justice and reoffending. This likely reflects specific program goals. It also probably reflects the questions governments ask of researchers and the (relative) ease of use and availability of these kinds of data and measures. More recently, efforts have been made to move beyond satisfaction and reoffending studies, to measures that gauge 'restorativeness' – for example, whether the justice needs that participants have before a restorative meeting are actually met through the process (Bolitho 2015, Jülich & Landon 2014, Daly 2013).

In addition to the standard measures of outcome in restorative justice, it is also fair to consider what objectives or outcomes would likely be important to victim-survivors in the context of institutional child sexual abuse. While there are no studies of what victims of institutional child sexual abuse might want from restorative justice per se, both Jülich (2006) in a study of 21 survivors of historical familial child sexual abuse, and Gavrielides (2012) in a study of 22 survivors of clergy-perpetrated child sexual abuse, asked victims about their general conceptions of 'justice' with a view to matching these to restorative approaches.

Across these two studies there were three common themes identified by survivors, these were:

- to have their story heard and their experience validated by witnesses, including bystanders/church authorities
- to have a greater opportunity to participate within a forum based on equality
- for offenders and bystanders/church authorities to hear firsthand and understand the impact of child sexual abuse over a lifetime.

Other objectives survivors identified were the prevention of harm and assurance of no further harm (to self or others); that 'treatment' was in place for the offender; to know of an offender's location (Gavrielides

2012, p. 13); and for a few, for the relationship with the offender to be transformed to the extent necessary for coexistence in a shared community (Jülich 2006, p. 131). Both authors note the match between these kinds of needs and what restorative justice typically offers. Table 9 presents the main outcome measures used in the research studies identified in this review. While the majority presented generally positive findings, a number were more mixed (notated with an asterisk).

Table 9: Studies concerning restorative justice within criminal justice systems, by area of impact

Indicator	Child sexual abuse	Adult sexual abuse	Comparable harms
Reoffending	Couture, Parker, Couture & Laboucane (2001); Daly, Bouhours, Broadhurst & Loh (2013)*; Goodman-Delahunty & O'Brien (2014); Butler, Goodman-Delahunty & Lulham (2012); Pennell & Burford (2002) & (2000)	Koss (2014); Ruge, Bonta & Wallace-Capretta (2005)* Stewart, Sapers & Wilton (2013)	McMasters (2014); Kingi (2014)
Victim satisfaction and sense of procedural fairness	Jülich, Buttle, Cummins & Freeborn (2010); Lajeunesse (1996)*; Bolitho (2015)	Koss (2014); Ruge, Bonta & Wallace-Capretta (2005); Umbreit, Vos, Coates & Amour (2006); Roberts (1995)	Strang, Sherman, Woods & Barnes (2011); Gal & Moyal (2011)* (mixed); Gal (2011); Strang, Sherman, Angel, Woods, Bennett, Newbury-Birch & Inkpen (2006); Sherman, Strang, Angel, Woods, Barnes, Bennett & Inkpen (2005); Strang (2002); Campbell, Devlin & O'Mahony (2006); Kingi (2014)
Victim experiences of restorative justice	Daly & Curtis-Fawley (2006)*; Daly (2002)	Koss (2014); Umbreit, Vos, Coates & Amour (2006); Roberts (1995)	Gal (2011); Strang, Sherman, Angel, Woods, Bennett, Newbury-Birch & Inkpen (2006); Sherman, Strang, Angel, Woods, Barnes, Bennett & Inkpen (2005); Strang (2002); McMasters (2014); Kingi (2014)
Victim needs	Jülich & Landon (2014); Bolitho (2015)	Ruge, Bonta & Wallace-Capretta (2005)	Strang (2002)
Motivation for participation	Bolitho (2015)	Umbreit, Vos, Coates & Amour (2006); Roberts (1995); Ruge, Bonta & Wallace-Capretta (2005)	Campbell, Devlin & O'Mahony (2006)
Offender attitudes (to experience or outcomes)		Koss (2014)*; Ruge, Bonta & Wallace-Capretta (2005)*; Roberts (1995)	
Post-traumatic stress symptoms		Koss (2014); Gustafson (2005)	Angel, Sherman, Strang, Ariel, Bennett, Inkpen, Keane & Richmond (2014)

Scope and limitations

Inherent in a review of this kind is the challenge that comes from trying to draw together different types of research on a range of restorative practices, following different forms of institutional (or other) child sexual abuse or comparable harm, in order to comment on ‘what works’. To attempt to answer this question simply is to negate the reality that programs have a variety of purposes, can be embedded within quite different contexts and are framed by differing resources. Pawson & Tilley (1997) suggest that a more useful question than ‘what works’ is ‘what works for whom, in what contexts, under what conditions and why’. In this realist evaluation framework, outcome measures remain important, but attention is also paid to the *mechanism(s)* of change (identifying why something worked, or did not work) and the particular *conditions* (or context) within which these outcomes were achieved. Conditions underlying ‘success’ will be discussed in the next section.

A simple analysis suggests that of the 30 studies, only three report mixed or negative findings. However, the 30 identified pieces of research are not equal in terms of scale, scope and rigour. In addition, a serious limitation of the existing data (for the purposes of the Royal Commission) is that to date, no research has disaggregated research findings according to offence type, and more specifically, by kind of sexual abuse. The dynamics of sexual abuse vary, and while reading across studies suggests promising results for victims and offenders *in general*, there is a lack of specific data.

4.5 Conditions for success

This review finds that, though a range of beneficial outcomes was reported, they were consistently seen to be contingent on particular conditions. That is, for the practices that reported positive impacts, the research authors identified some notable features that made these outcomes possible. There were seven studies (all concerning programs that had completed sexual abuse cases) that explicitly linked program outcomes to conditions for success; these conditions are presented in Table 10.

Table 10: Posited conditions framing positive effects

Condition	# mentions	Studies – child sexual abuse cases	Studies – adult sexual abuse cases
Facilitator skill	✓✓✓✓✓	Julich et al. (2010), Bolitho (2015), Koss (2014)	Umbreit et al. (2006), Gustafson (2005)
Screening** (at assessment) including clinical	✓✓✓✓	Julich et al. (2010), Bolitho (2015), Koss (2014)	Roberts (1995)
Use of experts (specialisation) not just at assessment but throughout the process	✓✓✓✓	Julich et al. (2010) Bolitho (2015), Koss (2014)	Umbreit et al. (2006)
Safety (emotional and physical)	✓✓✓✓	Julich et al. (2010), Bolitho (2015)	Gustafson (2005), Roberts (1995)

Flexibility and responsiveness	✓✓✓✓	Jülich et al. (2010), Bolitho (2015)	Umbreit et al. (2006), Roberts (1995)
Timing of meeting	✓✓✓	Jülich et al. (2010), Bolitho (2015), Koss (2014)	
Specialist sex offender treatment	✓✓✓	Daly (2006), Jülich et al. (2010), Bolitho (2015)	

The most distinctive feature of the well-established and evaluated practices identified in the research is a specialised approach to working with crimes that have complex power dynamics. Facilitators are both more experienced and knowledgeable than standard restorative justice facilitators and are specifically aware of the complex dynamics of sexual abuse. In New Zealand, this is formalised so that practitioners must gain additional accreditation to work in this area. In addition, as distinct from general restorative justice processes, in a number of programs the knowledge bases of specialists in sexual violence were drawn upon routinely in the preparation phase, with specialist ‘advocates’ actually attending in Project Restore in New Zealand. Supporting the evidence for specialism are the mixed findings reported by Lajeunesse (1996) concerning the Community Holistic Circle Healing Program model used in Hollow Water, Canada. The author reported concerns within the community that some Elders and other stakeholders participating in circles *were not* adequately equipped with appropriate knowledge bases across all of the potential issues facing the participants (including drug and alcohol abuse), and that this was a potential impediment to the consistency of the program. Where restorative justice has been extended to addressing sexual violence, it would seem that specialism is a key condition for positive outcomes.

Program staff members must also have an integral role in assessing suitable participants. The screening phase of restorative programs was identified as a condition for success. Indeed, the majority of potential participants are screened out of participation (whether through lack of interest or suitability). In regard to the Community Justice Initiatives Association VOMP model practised in Canada, Roberts (1995) reported that 65 per cent of cases were screened out. Similarly, in regards to Victim Offender Conferencing in New South Wales, Bolitho (2015) reports that of all cases referred to the program, 8 per cent completed a face-to-face conference. Likewise, of those cases referred to Project Restore in New Zealand during the period of study, nine of 29 (31 per cent) led to a completed face-to-face meeting (Jülich et al. 2010). Making good decisions about who is suitable for participation may be a crucial component of ensuring safety for participants, and this is tantamount to success.

The timing of conferences is also important. Another core condition for success research authors identified was a program’s flexibility and responsiveness to participants. In general, this reflected the capacity for a program to be timed to suit a victim-survivor’s need (rather than being driven by the need for efficiency in court). It is worth noting that in post-sentencing programs, it can be a long time between the crime and the restorative meeting – for example, Umbreit et al. (2006) report that on average, meetings are held 9.5 years after the crime. In Victim Offender Conferencing in New South Wales, the average time from sentencing to referral is 3.5 years, and the average time from referral to conferencing is 11 months (Bolitho, 2015). A core feature shaping success seems to be that program timing is not rigidly enforced, but flexible and tailored to the context.

The final common condition for success authors identified was the completion of specialist sex offender treatment programs. In all of the specialised and many of the most well-established programs, sex offender treatment is completed either as a precursor to participation in restorative justice (to meet eligibility

requirements) or as part of the restorative approach. In both the Restore programs, treatment may begin before the restorative meeting and may extend past this date (Koss 2014, Jülich et al. 2010). In Victim Offender Conferencing in New South Wales, an offender must have completed the Corrective Services NSW sex offender program before being assessed as suitable to participate (Bolitho 2015). In the South Australian Family Conferencing model, more than half of the offenders undertake a specialist sex offender program as part of the outcome plan. In the aftermath of this kind of crime, restorative justice is not conceived as a panacea, but a space for identifying and addressing a variety of needs that will subsequently be attended to by relevant professionals.

Other features research authors purported as framing success were programs that were victim-initiated (Umbreit et al. 2006); ongoing accountability mechanisms for offenders, such as being required to report back regularly to circle processes (Koss 2014); and the use of ‘advocates’ who attend the circle in addition to the victim and offender – this is part of a ‘three-cornered stool’ philosophy that emphasises the use of experts in shaping safe practice (Jülich & Landon 2014).

One notable feature that authors did not explicitly identify, perhaps because it is taken for granted in restorative approaches, is voluntary participation. The only program identified that has mandatory participation (for offenders) is Circles of Peace in the US, where the program is the core ‘sentence’ for offenders. Perhaps related, this program reported a high attrition rate for offenders with only 51 per cent completing the ‘treatment’ plan. Though, the completion rate of treatment in this program was actually higher than the standard treatment model in that jurisdiction (the ‘Batterers Intervention Program’) which was just 40 per cent.

Summary

The findings from this review suggest that restorative approaches are likely to be experienced as positive encounters by victims and many offenders. The benefits for victims are that restorative justice provides the opportunity to participate, may be a more efficient process (compared to court), provides some assurance in the form of a plan for reducing reoffending, and has a higher likelihood of an apology from the offender. The data on reoffending suggests that restorative approaches are, at a minimum, doing no worse than standard interventions in this regard.

5. Restorative justice providers operating independently of the criminal justice system

In addition to the 15 programs identified that are attached to a criminal justice system, 29 programs were identified that are located ‘in parallel with’ or ‘outside of’ any formal criminal or civil justice system. These services are defined to be ‘in parallel with’ or ‘independent of’ the criminal justice system because they operate in the community, and offenders or victims may or may not have reported their case to police and/or had their matter prosecuted. Services may be said to be ‘in parallel with’ the criminal justice system where they work to actively support victims who decide to report a crime and follow through with prosecution. In this way, these services are seen as ‘working alongside’ rather than ‘instead of’ criminal justice intervention. Other programs operate entirely independently of the criminal justice system. Some programs accept referrals from both the criminal justice system or directly from the community (eg Project Restore in New Zealand and the Collaborative Justice Program in Canada).

5.1 Why would restorative justice be offered independently of the criminal justice system?

The fact a number of programs were identified as existing independently of rather than embedded within a criminal justice system reflects a few factors. First, it reflects the view of some sexual violence practitioners, who practise alongside a criminal justice system because of the additional choice this provides survivors. One of the main concerns of victim-survivor advocates is the significant attrition of sexual abuse cases through the criminal justice system. This is due to low incidence of reporting, discretion by police in the recording of the abuse as a ‘crime’ (or not), low numbers of cases being referred for prosecution, and then, low numbers of guilty findings. If a service is open to *all survivors*, not just to those who have reported their cases and/or had their matter taken to court, potentially more victims will achieve ‘justice’. Indeed, a comparison of the number of cases that go through RESTORE in the US versus Project Restore in New Zealand is indicative of this: Project Restore was designed in reference to its American counterpart, but accepts referrals from the community as well as the criminal justice system (whereas in the US program, referrals came only via prosecutors). While Project Restore has about 30–40 cases annually (as reported by the Centre for Innovative Justice, 2014) the number of referrals to RESTORE remained very small (Koss 2014).

Second, a theme identified in this review was the belief that success for restorative justice approaches following traumatic crime rests on the appropriate timing of such meetings. Having a restorative practice based in the community rather than within a criminal justice system – which necessarily must process cases according to the needs of that system – means the timing of such a meeting is in the hands of professionals who are qualified to make this decision based on their clinical judgment (in turn, driven by the needs of victims and offenders). Evidence suggests that the timing of meetings varies a great deal. The length of time from sentencing to restorative justice documented in a number of studies on post-sentencing restorative

justice suggests that victim-survivors may not be interested or able to safely participate in such a meeting until many years afterwards (Bolitho 2015, Umbreit et al. 2006).

Third, the existence of a number of services operating independently of criminal justice systems reflects a different understanding and conceptualisation of what restorative justice is in practice. If restorative justice is understood as a range of activities that may include – but is not limited to – meetings with direct perpetrators, then programs do not need to be located *in* criminal justice systems. Indeed, of particular relevance to this Royal Commission is the potential dimension of harm that relates to the breach of trust or faith by institutions or other parties that will not be criminally liable for the offence. Service providers exist independently of the criminal justice system because they aim to address harm rather than crime per se.

Table 11 presents the identified service providers existing in parallel with or outside the criminal justice system. Of the 29 practices identified, six have at some point completed restorative work that addresses the harm of institutional child sexual abuse, and an additional three are specifically affiliated with a government response or redress scheme concerned with institutional child sexual abuse (together a total of 31 per cent). A further eight programs (28 per cent) have completed cases including child sexual abuse, eight (28 per cent) have worked in the aftermath of adult sexual abuse and four (14 per cent) work in comparable areas of harm (two after serious violence, and two after hate crimes). Thus this review finds there to be a, perhaps surprisingly high, number of services working restoratively to address sexual abuse in the community.

Table 11: Services operating independently of criminal justice systems (n=29)

Service	Jurisdiction	Brief description	Study/source
Services that have completed cases relating to institutional child sexual abuse			
Single cases x 3	US & Canada	The cases of the Catholic Christian Brothers and: Mount Cashel Orphanage, St Joseph’s Training School and St John’s Training School in Canada	Gavrielides (2012)
Real Justice Australia	Australia	A long-time private provider of restorative justice services including in the aftermath of institutional child sexual abuse. A restorative approach designed on a case-by-case basis to suit the needs of the parties (personal communication, T O’Connell, 2015)	Provider website
Slachtoffer in Beeld	Utrecht, Netherlands	A community-run program titled ‘Victim in Focus’. The offender must have been arrested, and all offence types are eligible, including cases addressing institutional child sexual abuse	Provider website
Triptych Restorative Mediation Approach	Denmark	Uses restorative principles to address child sexual abuse (church-affiliated institutional abuse). Victim meets either perpetrator or representative of the church. Uses a team of specialists to inform good practice, and is formally evaluated	Bisschops (2014)
Faith Communities Affirming Restorative Experiences (FaithCARE)	Canada	Community-based program aimed at using the principles of restorative justice to attend to the harm of institutional abuse, focusing on the needs of faith communities	Provider website
Marquette Law School Restorative Justice Initiative	Milwaukee, US	Offers restorative justice practices for a range of serious crimes, including sexual abuse, and has completed cases involving institutional child sexual abuse (church-related)	Geske (2006)
Services that have completed cases relating to child sexual abuse			
SafeCare	Western Australia	Community-based program focused on treating adult and youth perpetrators and victims of child sexual abuse, with a focus on restorative principles, including attending to victim’s needs. Operated for about 20 years from 1989	Cant, Henry, Simpson, Penter & Archibald (2006)
One in Four	Ireland	Community-based charity established in 2002. Has offered restorative justice since 2012. Service is specifically designed to address childhood sexual abuse. It offers face-to-face encounters that are victim-focused (based on victim needs), features long preparation and uses specialist facilitators. Since beginning, it has completed 12 cases relating to sexual abuse (not specified further)	Provider website
Victims’ Voices Heard	Delaware, US	Post-sentencing, community-based service to address severe harm. Victim-focused (only accepts victim referrals). Includes intensive preparation and specialist facilitators. As at 2008, 14 cases had been completed, including two cases of rape (stranger perpetrated) and three intra-familial rape cases (including two historical child sexual abuse cases)	Provider website , Miller (2011)
Assessment Intervention Moving On (AIM) Project	Manchester, UK	Initiated in 2000. The program targets adolescent sexual offending, and restorative approaches are used in some cases following familial sexual violence	Provider website

Service	Jurisdiction	Brief description	Study/source
Circles of Support and Accountability	US (running in a number of states)	Established in the 1990s. Designed to assist adult male sex offenders in post-prison reintegration. Core member (sex offender) and four to six community members use a 'covenant', which is an agreement about responsibilities. Operates for 12 months. Uses an 'outer circle' of professionals to assist the 'inner circle' where needed. Holds about eight circles per year	Provider website
Circles of Support and Accountability	Canada	Includes core member (offender) and four to six community volunteers. In the initial 60–90 day phase meetings are held daily. Faith-based (Mennonite) initiative.	Provider website
Circles of Support and Accountability	UK	Established in 2002. Funded by the Ministry of Justice. Includes a code of practice and practice guidelines. Circles aim to prevent reoffending. Each circle has four to six volunteer members who meet weekly with the 'core member' (perpetrator) for about one year. At the time of writing there were pilot programs running.	Provider website
The case of 'Lucie'	Northern England, UK	Adult survivor of child rape. Restorative justice convened within the community	McGlynn, Westmarland & Godden (2012), Godden (2013)
Services that have completed cases relating to sexual abuse perpetrated on an adult			
South Eastern Centre Against Sexual Assault (SECASA) pilot program	Victoria, Australia	SECASA will run a pilot program for adult victims of sexual violence and perpetrators beginning in 2016, though it has been informally running such sessions for 20 years	Provider website
Centre for Victims of Sexual Assault	Copenhagen, Denmark	Community-based service. Victim-focused. Dialogue mediated by one to two facilitators, usually via correspondence, but can be face to face. Focuses on the needs of female survivors. Intensive preparation. Agreements are not mandatory	Sten Madsen (2004)
Phaphamani Rape Crisis Counselling Centre	Uitenhage, South Africa	Conducts victim–offender dialogue. Between 2004–05, 72 cases were completed	Skelton & Batley (2006)
The case of Joanne Nodding	UK	Survivor of rape. Restorative justice convened at survivor's request in the community, post-conviction	BBC Radio 4 Woman's Hour, transcript (2011)
Sycamore Tree Project – Prison Fellowship International	Australia	Rehabilitative process for offenders in prison. Offers offenders a meeting with a surrogate victim. It is an 8–12 week program focusing on the effects of crime, harms and making things right. Faith-based, community-run initiative. Established in the late 1990s and operating in 25 countries. One case on file involving perpetration of institutional child sexual abuse (personal communication, M Howard 2015)	Provider website
Reach for Life Programme	Western Australia	In-prison program offered by a community provider (non-government organisation) for perpetrators of sexual violence, usually with surrogate victims. Operating since 2013 in Karnet Prison	Cochram (2015)
Insight Prison Project – Victim Offender Education Group	US	Rehabilitative process for offenders in San Quentin State Prison	Provider website

Service	Jurisdiction	Brief description	Study/source
Revive Program	Ontario, Canada	Support circles and victim–offender facilitated dialogues for adult perpetrators of sexual violence	Provider website
Programs that have completed cases on comparable harm			
Angelhands	Western Australia	Community-based program for survivors of violence. Offers a range of services that draw broadly from restorative principles, particularly the value of voice and validation after trauma	Provider website
Facing Forward	Ireland	Community-based initiative that is a hub for restorative activity in Ireland. Links interested parties to facilitators. Offers a range of restorative practices in the aftermath of adult-perpetrated severe crime	Provider website
Restorative justice dialogue – hate crime	US	Seven sites in the US practise restorative justice dialogue after hate crime	Coates, Umbreit & Vos (2007)
Hate Crime Project	UK (three sites)	Three sites in the UK practise restorative justice after hate crime: Southwark Mediation Centre, South London, and Restorative Disposal run by Devon & Cornwall Police Services	Walters (2014)
Programs designed for specific and finite purposes such as redress following institutional sexual abuse			
Defence Abuse Restorative Engagement Program	Australia	Operating as part of the taskforce assessing and responding to cases of abuse at the Australian Defence Force Academy. Complaints of sexual abuse (among other harms) prior to 2011 are being addressed. To date, 24 per cent of matters have related to sexual abuse, and 48 restorative conferences have been held with the victim (who instigates the process), their support person and a representative from Defence. Some victims were under the age of 18 at the time of the crime	Defence Abuse Response Taskforce Seventh Interim Report (2014)
Towards Healing	Australia	Pastoral response giving victims of child sexual abuse (among other harms) a voice where the perpetrator has been affiliated with the Australian Catholic Church. Operating since 1996	Provider website
Arbitrage Commission (Belgian Centre for Arbitration and Mediation)	Belgium	Parliamentary commission dealing with sexual violence in the church	Provider website

5.2 Aims and emphases of restorative services operating independently of the criminal justice system

The aims of the services providing restorative justice independently of the criminal justice system are presented in Table 12. Three main aims were identified across the services. These were:

- to support perpetrators in non-offending by increasing their insight into the impact of the harm and helping them plan for maintaining a crime-free existence (11 mentions)
- to attend to survivors' justice needs (nine mentions)
- to improve survivors' access to justice by offering a different avenue for addressing the harm (three mentions).

As with the programs embedded within criminal justice systems, the stated aims of these services are a good match with the principles of restorative justice. However, compared to the programs located within criminal justice systems, these programs' focus is more clearly on achieving therapeutic ends for victims and offenders (where this means establishing and maintaining crime-free lives).

Of the identified services, nine use restorative principles to address the needs of perpetrators of child sexual abuse (institutional or other). These are the Sycamore Tree Project in Australia, operated by Prison Fellowship International (in which surrogate victims are used); the Reach for Life prison program (operated in Western Australian prisons, Cockram 2015); the Insight Prison Project – Victim Offender Education Group in the US; SafeCare in Western Australia (no longer operating); the Assessment Intervention Moving On (AIM) project in the UK; the Revive Program in Canada; and the Circles of Support and Accountability models run in Canada, the US and the UK (three sites). These programs use restorative principles but are specifically designed to reduce the risk of reoffending. Particular restorative principles become the focus; rather than focusing on victim voice and validation (in all of these services, victim participation is non-essential and surrogates may be used), they focus on mechanisms that support and hold offenders accountable.

Of the remaining services that have a victim focus, restorative approaches tend to be one part of an array of speciality sexual violence treatment services that relate to healing. Offender participation is rarely used in terms of face-to-face meetings, with communication tending to be via letters or telephone calls mediated by staff. A notable exception is the Victims' Voices Heard model operating in Delaware in the US. This long-established program has many similar features to Victim Offender Conferencing in New South Wales and other post-sentencing programs operating within the criminal justice system. However, while it has established links and working relationships with the local corrective services department, the model is firmly outside the criminal justice system. The restorative justice component of this service is a significant part of its work, and though the focus is on victim needs after serious crime, a number of cases of child sexual abuse have been completed.

Table 12: Services by stated aim (note only services with a published ‘aim’ were included)

Service	Jurisdiction	Aim
Services that have completed cases relating to child sexual abuse		
SafeCare	Western Australia	‘To provide confidential counselling and support services to families where child sexual abuse is an issue’ (provider website (archive), accessed September 2015)
One in Four	Ireland	The whole service aims to ‘give voice to the people who have experienced sexual abuse and provides a space that by its very existence challenges feelings of shame, isolation and self-blame’, and further, ‘to reduce the incidence of sexual abuse by intervening in key areas of the cycle of abuse’ (provider website, accessed August 2015)
Victims’ Voices Heard	Delaware, US	To ‘put key decisions into the hands of those most affected by crime’, ‘make justice more healing and, ideally, more transformative’ and ‘reduce the likelihood of future offenses’. ‘We work to restore victims’ lives and end repeated violence’ (provider website, accessed October 2015)
Assessment Intervention Moving On (AIM) Project	Manchester, UK	Overall, the program is aimed at offering better services for young people who sexually harm. Specific restorative justice goal not yet recorded (provider website, accessed September 2015)
Circles of Support and Accountability	Colorado, US	‘To substantially reduce the risk of future sexual victimization of community members by assisting and supporting released men and women who have committed sexual offenses in their task of integrating with the community and leading responsible, productive, and accountable lives’ (provider website, accessed September 2015)
Circles of Support and Accountability	Canada	‘To substantially reduce the risk of future sexual victimization of community members by assisting and supporting released individuals in integrating with the community and leading a responsible, productive, and accountable life’ (provider website, accessed September 2015)
Circles of Support and Accountability	UK	‘[C]ircles has at its heart the aim to prevent further sexual abuse, working with the objective of no more victims’ (provider website, accessed September 2015)
Services that have completed cases relating to sexual abuse perpetrated on an adult		
Centre for Victims of Sexual Assault	Copenhagen, Denmark	‘[E]mpowering women exposed to sexual coercion in order that further victimization does not occur’, and further, to offer ‘ways in which women may re-establish their self-confidence through control over their lives and the renewal of their sense of justice’ (Madsen 2004, p. 58)
Sycamore Tree Project – Prison Fellowship International	Australia	‘Sycamore Tree promotes healing and restoration of the participants, a greater understanding and acknowledgement of the effects of crime and promotes reconciliation and restitution as integral to justice’ (provider website, accessed November 2015)
Reach for Life Programme	Western Australia	‘To bring together serving offenders and unrelated victims of crime to consider the impact of crime and to develop and implement strategies for recovery. To do this within the context of the establishment of a temporary and safe community. To apply to the programme established principles of restorative justice’ (Cockram, presentation to the 15 th International Symposium of the World Society of Victimology in Perth, Australia, 2015)
Insight Prison Project – Victim Offender Education Group	US	‘[S]upports incarcerated individuals in the process of understanding and developing insight into the underlying circumstances of their lives and the choices that led them to prison. The process utilizes a Restorative Justice philosophy to help individuals to address memories and feelings connected to traumatic and unresolved events in their lives in an effort to integrate these experiences into their lives and experience a renewed sense of wholeness, authenticity, emotional well-being, and positive behaviour’ (provider website, accessed September 2015)
Revive Program	Ontario, Canada	Support services ‘for people who have offended sexually or people with unhealthy sexual behaviours in making safe and healthy choices’ (provider website, accessed September 2015)
Services that have completed cases on comparable harm		
Angelhands	Western Australia	‘Our services encourage awareness of the elements essential to promote and accelerate a person’s recovery from trauma and as well as asserting their needs within the wider community’ (provider website, accessed September 2015)
Facing Forward	Ireland	‘[T]o prevent, reduce and repair harm, heal trauma and transform the lives of individuals and communities impacted by crime, including serious crime’ (provider website, accessed September 2015)
Services designed for specific and finite purposes		
Defence Abuse Restorative Engagement Program	Australia	Eligible participants ‘can participate in a process that allows their personal account of abuse to be heard, acknowledged and responded to by Defence. The Taskforce has established the Program as a means of addressing directly the harm caused by these instances of abuse on complainants and the implications of the abuse on complainants’ lives’ (provider website, accessed September 2015)
Towards Healing	Australia	‘Towards Healing is called a pastoral response. Its intent is to meet victims and survivors primarily in a pastoral relationship as opposed to an adversarial, legal approach’ (provider website, accessed September 2015)

5.3 The effectiveness of restorative services operating independently of the criminal justice system

Table 13 presents studies exploring the effectiveness of service providers located in the community. Overall, there are fewer studies in this area and the research findings are less substantive based on sample size and rigour. However, there are some notable exceptions. There is strong evidence (based on rigour, sample size and relevance) for the effectiveness of the Circles of Support and Accountability (COSA) models used in the UK, US and Canada. In the context of post-prison maintenance programs for adults who have perpetrated sex offences, it would seem that the COSA model consistently reduces reoffending. The distinctive conditions framing this outcome relate to the maintenance aspect of the programs, whereby offenders are held accountable by their circle, in many instances for more than a year. Like models attached to criminal justice systems, an emphasis is placed on specialist sex offender practitioners working within the circle. Sex offender specialists are part of the ongoing dialogue. In addition, a community member who is maintaining an offence-free existence becomes a peer 'buddy' to the offender (like in Alcoholics Anonymous). In this way, the circle brings to the fore both a reintegrative shaming focus (avoiding stigmatising shame, enhancing support), drawing on Braithwaite's (1988) theory to this effect, and a ritual/ceremony focus where scheduled moments celebrate success, such as being six months crime-free (Braithwaite & Mugford 1994).

The Victims' Voices Heard model in the US also has a strong evidence base (Miller & Hefner 2015, Miller 2011, Miller & Iovanni 2013). Miller's research, spanning a number of years, used a mixed-method design to explore in depth procedural fairness, and satisfaction and attitudinal change for offenders and victims. The conditions allowing the program to work effectively are thought to be the tailored approach, intensive preparation, and a stable group of experienced and skilled facilitators. This program, though technically operating independently of the criminal justice system, has strong links with the correctional department, where good working relationships have been built between program and correctional staff; this particularly aids in assessment of suitability for participation.

Evidence of effectiveness in other smaller programs is emerging, with many services managing to achieve an independent process-based evaluation, which provides useful baseline data. Some studies have been more detailed, such as Sten Madsen's (2004) concerning the Danish Centre for Victims of Sexual Assault program. Similarly, the recent book published by Walters (2014) on the use of restorative justice following hate crime includes rigorous study of a small number of cases processed in the UK concerning this kind of violence. With positive results supporting the hate crime research of Coates et al. (2007) in the US, this is an emerging area of interest.

Table 13: Studies on effectiveness of services operating independently of the criminal justice system (n=25)

Service	Jurisdiction	Measures and findings	Study
Services that have completed cases relating to institutional child sexual abuse			
Single cases x 3	US	Review of literature and description of five cases of what victims and institutions want from justice processes in cases of child sexual abuse, and how restorative justice can address some of these issues. The paper argues that clergy child sexual abuse has additional dimensions not identifiable with other contexts of child sexual assault, and that user-led processes, including restorative dialogue, might offer alternative solutions to the criminal justice process	Gavrielides (2012)
Triptych Restorative Mediation Approach	Denmark	Preliminary findings suggest that the role of the mediator was critical to the overall likelihood of a successful meeting between a victim and representative of the Church, and that support for the victim is important.	Bisschops (2014)
Marquette Law School Restorative Justice Initiative	Milwaukee, US	Describes a number of restorative dialogue sessions with victims of institutional abuse, overall the findings were supportive of restorative justice.	Geske (2006)
Services that have completed cases relating to child sexual abuse			
SafeCare	Australia	Independent evaluation, type not known. Noted that the program was providing a useful service for the parties and that practitioners were knowledgeable and well regarded. No further details known	Cant, Henry, Simpson, Penter & Archibald (2006)
One in Four	Ireland	Restorative practice not yet formally evaluated, but program features and processes noted in the program's annual report	Annual report
Victims' Voices Heard	US	There were 14 cases in total. Nine were presented in the book. Of these, two were for adult sexual assault and three were for child sexual assault. A range of therapeutic impacts is described. In all cases, the process was positive, and in some instances described as 'life changing'	Miller (2011)
		Interviews with staff from this program and from the Restorative Justice Unit in New South Wales, Australia. The data reveal that post-conviction restorative justice is compatible with procedural justice for both victims and offenders. Specifically, restorative justice aids in correcting the harms created by the formal criminal justice system	Miller & Hefner (2015)
		Qualitative. Case study n=1 (intimate partner violence). The post-conviction mediation was considered primarily therapeutic. The elapsed time between committing the offence and mediation, as well as the preparation of the mediation by skilled facilitators, were seen as key to the success of the mediation	Miller & Iovanni (2013)
Assessment Intervention Moving On (AIM) Project	UK	Evaluation of the program framework. Interviews were undertaken with professionals who used AIM, and young sex offenders and their families. Interviews conducted with practitioners (n=13), young people (n=5) and carers (n=2). Descriptive statistics on the characteristics of people assessed are provided. Between 1 Jul 2001 and 30 Oct 2003, 75 cases had undergone an AIM assessment	Griffen & Beech (2004)
The case of 'Lucie'	UK	A single case study of a survivor of child rape and other sexual abuse. Semi-structured interviews with victim, victim's counsellor and police. Overall, the objectives of the conference were achieved. The victim considered the mediation to be beneficial but did not think a restorative conference would be appropriate for everyone	McGlynn, Godden & Westmarland (2012)
Circles of Support and Accountability	US	Randomised control trial (COSA vs. control, n=31 each- n=62). Results from Cox regression models suggest that COSA significantly reduced three of the five recidivism measures examined. By the end of 2011, none of the COSA offenders had been rearrested for a new sex offence, compared with one offender in the control group	Duwe (2013)
Circles of Support and Accountability	Canada	Matched control group. N=44 high-risk sexual offenders. This study reports on the same offenders and data as Wilson et al. (2007) with additional analysis of recidivism. Findings reported were consistent with those reported in the earlier publication. Of the offenders included in the three-year follow-up analysis, no COSA offender had a new charge	Wilson, Cortoni & McWhinnie (2009)

Service	Jurisdiction	Measures and findings	Study
		for sexual offences, compared with five new sexual offences in the comparison group. Results show that offenders in COSA had an 83 per cent reduction in sexual recidivism, a 73 per cent reduction in all types of violent recidivism and an overall reduction of 71 per cent in all types of recidivism, compared with the matched offenders. These findings provide further evidence for the position that trained and guided community volunteers can and do assist in markedly improving offenders' chances for successful reintegration	
		Matched control group. A group of 47 high-risk sex offenders at the end of their sentence who participated in COSA were compared with 47 offenders who did not participate in COSA, matched on criminal risk levels, prior involvement in sexual offender treatment programs and time of release. The levels of reoffending in men involved in COSA were markedly lower than the comparison group, for both sexual offending and violent offending, but were not significantly different for general offending	Wilson, Cortoni & Vermani (2007)
Circles of Support and Accountability	UK	Qualitative case studies, coded narratives. N=21 circles. This article reflects the experience of participants in 21 different COSAs (10 in the UK and 11 in the Netherlands). Effective circles are characterised by inclusive strategies, change-promoting strategies, risk-reduction strategies and process-oriented strategies. Mutual trust and openness are crucial for an effective circle	Hoing, Bogaerts & Vogelvang (2013)
Services that have completed cases relating to sexual abuse perpetrated on an adult			
Centre for Victims of Sexual Assault	Denmark	Description of process and outcomes from single cases. In 2004, of 16 cases, 10 resulted in letters (six with reply); and in a few cases, face-to-face meetings were conducted. The author notes that victims report improvements in wellbeing	Sten Madsen (2004)
Phaphamani Rape Crisis Counselling Centre	South Africa	No formal evaluation; however, process details were reported in Koss & Achilles (2008) and Skepton & Batley (2006). There were 63 conferences and 72 victim-offender dialogues for sexual violence between 2004-05. Centre staff reported that overall, participants were satisfied	Skelton & Batley (2006)
The case of Joanne Nodding	UK	Single case described (as reported by survivor in radio interview). Survivor describes positive wellbeing flowing from voice and validation	BBC Radio 4 Woman's Hour, transcript (2011)
Reach for Life Programme	Australia	Informal evaluation/monitoring notes kept by program designer (Michael Cockram). As at 2013, five programs had been run	Cockram (2015)
Sycamore Tree Project – Prison Fellowship International	Australia	Mackenzie's thesis explored facilitator and victim experiences (six facilitators), and highlighted the unique benefits of offenders meeting a surrogate victim. Griffith University is currently evaluating the Queensland model. According to Cockram the director of this program (in a personal communication), over 60 programs have been run since 2005.	Mackenzie (2010) & Cockram (personal communication)
Insight Prison Project – Victim Offender Education Group	US	Semi-structured interviews with eight survivors of violent crime who had completed at least two Victim Offender Education Group Dialogues with surrogate offenders. Results from this study point to the importance of allowing victims to tell their story and highlight the use of offender surrogates as a less anxiety-provoking form of mediation than meeting the offender face to face	Langley (2014)
Revive Program	Canada	Focus group interviews. N=2 focus groups (interviews with four victim-survivors and nine offenders). The responses relate to initial perception and experience of the program, how the program supports its members, structures of the program and outcomes (restorative justice, goals, needs fulfilment, and the overall support that members receive). Findings indicate the powerful capability of a community-based program to heal individuals and relationships, and safely reintegrate both women survivors and males who have sexually offended. Similarities and differences between the experiences of survivors and offenders, in relation to Revive, are discussed and explored	McEvoy (2008)

Service	Jurisdiction	Measures and findings	Study
Programs that have completed cases on comparable harm			
Restorative justice dialogue – hate crime	US	The article is from reports on a two-year study of seven communities that used elements of a restorative justice dialogue approach as one component of responding to bias-motivated crimes and hate-charged situations. Three case studies are used to highlight the invitational nature of such dialogue, the preparation of participants and the dialogue process. It also examines factors that influenced the dialogue, including the intense impact of hate crimes, the role of the media and the involvement of outside interest groups. The authors suggest that restorative justice dialogue offers, at the very least, an opportunity for replacing hate with understanding and respect	Coates, Umbreit & Vos (2006)
Hate crime project	UK	Book reporting empirical study using a mixed-method approach (18 observations and approximately 61 interviews with victims, perpetrators and stakeholders). Findings suggest that a restorative justice approach can be used successfully after hate crime incidents however the dynamics of the harm must be well understood.	Walters (2014)
Programs designed for specific and finite purposes			
Defence Abuse Restorative Engagement Program	Australia	Process report with descriptive quantitative data on program delivery outcomes. Includes comments from participants in restorative engagement conferences. The taskforce was established in 2012 and as at August 2014 forty-eight restorative engagement conferences have been facilitated (including one follow-up conference.	Defence Abuse Response Taskforce Seventh Interim Report (2014)
Towards Healing	Australia	Formal independent evaluation. Not sourced	Parkinson (2009)

6. Discussion

The purpose of this report is to provide the Royal Commission into Institutional Responses to Child Sexual Abuse with a review of literature that outlines the extent, kind and impact of restorative justice programs working within criminal justice systems. The findings from this review reveal 15 programs operating in this area. Though the program names vary, their aims and overall approach show a high degree of consistency.

Of these programs, the majority have developed practices that attempt to give victim-survivors access to a process that will positively benefit their wellbeing. They do this by offering a space for the victim-survivor to talk about what happened, how they felt (then and now) and what it has meant for their lives. The impact of the crime is addressed in ways that are meaningful for that victim-survivor. The available evidence suggests that restorative practices are satisfying experiences for victim-survivors. While many programs focus on the needs of victims, a number of programs are balanced; they do not proceed without both main parties present, and attempt to improve the wellbeing of victims, offenders, and in a few cases, communities. A number of programs also have a restorative justice element that is part of a diversionary scheme attached to court. Of note is the finding that in programs like South Australian Family Conferencing, offenders diverted to conferencing are more likely to receive specialised sex offender treatment than if they are processed at court. Thus, restorative justice becomes the mechanism through which a range of potentially powerful drivers of behavioural change may come into effect. These are in addition to the 'restorative' impact that exists in and of itself.

This review has identified a number of practices operating independently, rather than embedded within a criminal justice system. Here, victim-survivors are able to access a different (and sometimes additional) kind of justice from that offered by the conventional system. While many of these restorative practices are victim-focused, some focus on assisting offenders to desist from sexual offending. There are a number of non-government (including faith-based), in-prison programs that focus on improving the insight of perpetrators into the impact of this kind of crime. Some of these programs include the building of safe communities and networks within the prison to maintain program benefits. In addition, a growing number of practices are specifically using the principles of restorative justice to help offenders maintain a crime-free existence post-prison. One particular model of practice, termed Circles of Support and Accountability, is now being used in a number of different countries, with consistently positive results in the reduction of re-offending.

Common findings and strengths of a restorative justice approach

The evidence base in this area is relatively small and somewhat disparate in terms of rigour. The available evidence across both services operating within the criminal justice system and those operating independently suggests that restorative justice is positively received. The consistency in findings reflects three shared assumptions. Firstly, there is a shared understanding of the scope, purpose and potential impact of restorative justice in this sphere. Because victim-survivors vary in their needs for 'justice', and in when they want to address these needs, restorative justice approaches are situated both alongside and

within criminal justice systems to maximise choice. This means that victim-survivors can be supported in the reporting of a crime and progression of a case through a conventional legal system, *but also* have access (when the time suits them) to an avenue that is tailor-made to their needs. It also broadens the scope of restorative justice so that parties can be included that are not legally liable for a crime, but who are nonetheless important to survivors in terms of addressing harm. Secondly, because there is a shared desire to do more for victim-survivors of sexual abuse, there has been a willingness to think innovatively and to cautiously test practice in this area. For some, such as Daly (2013), the capacity for court-based diversion programs to increase the number of guilty pleas is a 'win', because an admission of guilt is a powerful validation of a victim's experience. Thirdly, there seems to be a shared understanding that to practise in this area safely, the specific dynamics of the presenting crime need to be well understood – recognising that these dynamics vary across cases of institutional child sexual abuse (adult- or child-perpetrated), child sexual abuse (familial or non-familial) and other forms of sexual violence such as that perpetrated against adults. This review finds a shared recognition of the need for specialism in this area of restorative practice. Facilitators working in this field are generally advanced in their practice of restorative justice, have additional knowledge bases around the dynamics of sexual violence and trauma more broadly, *and* bring in (or draw from) the knowledge bases of clinical specialists to support parties before, during and after a meeting. There seems to be a shared understanding that meeting the needs of victims and offenders requires a team-based approach, using appropriate and relevant specialists.

In considering the way forward, the following questions must be examined:

- What is it that restorative justice offers?
- Is this a good match with the evidence on what victim-survivors, offenders and communities are seeking in a response to the harm of institutional child sexual abuse?
- What would it take for restorative justice to be practised safely and effectively in this sphere?
- Do we have evidence that suggests this is already occurring?
- What is it that restorative justice offers that is different from conventional legal system (or other) responses?
- What are the perceived barriers to using restorative justice to address institutional child sexual abuse?

Potential challenges, arguments for and against using restorative justice

Up to this point, this review has focused on the earlier questions; however, the arguments *against* using restorative justice in the contested sphere of sexual abuse need to be outlined. These are set out below.

1. *The use of restorative justice to address institutional child sexual abuse may minimise what may be serious criminal offences. Furthermore restorative justice may encourage keeping sexual abuse matters private, because it is sorted out 'behind closed doors'.*

This critique is premised on the restorative justice approach being used at the diversionary stage of the criminal justice system; however, as this report has shown, this is not always the case. The critique does not apply to post-sentencing practices, of which there are quite a few. However, for the sake of exploring this argument, the concern is that even though universally, an offender must enter a guilty plea to be eligible for

diversion, 'diversion' of any kind is less punitive than conventional prosecution and this may send a message to the broader community that this is not a serious kind of crime. The counterarguments are that there has been a guilty plea (which is formally recorded), restorative justice is in fact not an easy process for offenders to go through, and somewhat ironically, it seems that court diversion to restorative justice actually means that offenders are more likely to undergo therapeutic programming addressing the causes of offending, than if they are processed and sentenced at court (because outcome plans can include attendance at treatment programs).

In addition, some argue that because diversion may be perceived as less stigmatising to perpetrators than prosecution, it is possible that *more* perpetrators will be held to account because they will choose to accept guilt and attend a conference rather than contest the case at court. So, one way of attaining the accountability that is very low in the conventional system is increasing the number of guilty pleas entered at court. However, in turn, this means the goal of more prosecutions cannot be achieved as cases are diverted before this may occur. Furthermore currently, the majority of diversion programs operate for *young* offenders or after familial offending. The principle of diversion for young people is underscored by relevant United Nations guidelines on the treatment of young people in contact with the criminal justice system (such as the *Convention on the Rights of the Child*). Diversion is also more likely when the offending is within a family. These programs exist as avenues for a court to pursue for offenders with particular needs; they tend not to focus on giving victims a voice in the proceedings, though victims may be invited to attend. In contrast, the majority of offenders involved in institutional child sexual abuse are adults and the victim-survivor is outside the family. The justification for treating a serious, indictable offence via diversion is less clear, particularly when the starting point in the discussion of sexual abuse may be the needs of victims.

2. Restorative justice is a 'soft option'.

This critique is premised on a simplistic binary of soft versus tough justice and a relatively naïve view that the alternative (court) processes and sentencing actually achieve all of the components of justice they are supposed to achieve (deterrence, rehabilitation, retribution and denunciation) in every encounter. While for many offenders, the experience of policing, court, prosecution and sentencing will have a deterrent effect, few cases of child sexual abuse are reaching court, and of those that do, few end with a finding of guilt. The counterargument is that in this sphere, restorative justice may do more; primarily, it may increase the number of guilty pleas. As noted earlier, the outcome plans attached to restorative meetings tend to include many components that address the harm for the victim, offender and community. Another issue related to restorative justice as a 'soft' option, is that from the perspective of the broader community it may not be immediately clear how and why it works. Certainly, restorative justice approaches are different to conventional processing in many ways, and were restorative approaches to be more broadly available, there would be a need for public education regarding their nature, scope and effectiveness.

- 3. A proliferation of restorative providers operating independently of a criminal justice system may decrease the likelihood of victims reporting cases, because the victim attains what they need outside the conventional response. While victim-survivors may achieve justice that is meaningful to them, it would not be clear to the community at large that 'justice' had been served.*

This is where the definition of what justice 'is' becomes complex. The public benefits of having more reporting, recording and prosecution of this kind of crime must be weighed against an individual victim-survivor's choice of pathway to justice. Where this pathway does not involve criminal justice, and the choice has been made in an informed context, this may need to be respected; however the community at large does lose some of the deterrent effect of public findings of 'guilt'. Theoretically, this seems to be a strong potential issue of concern. However, the assumption in this critique is that practices working independently of conventional systems may encourage non-reporting or prosecution. There is no such evidence of this in practice. Instead, it seems that programs like Project Restore in New Zealand actively support victim-survivors to make choices including for reporting and prosecution, and restorative justice becomes then an addition to the conventional system.

4. *The power dynamics implicit in all forms of sexual abuse may be re-enacted in a face-to-face encounter, and/or re-traumatisation may occur in the room (unbeknown to a facilitator), before or afterwards.*

These are conceptually legitimate concerns. However, it seems that practices working in this area are meeting the challenge via particular strategies. Facilitators have advanced skills, usually work in a team and have specialist knowledge of the insidious dynamics of sexual abuse, and in Project Restore in New Zealand, advocates for both parties are present during the meeting. Being aware of negative dynamics and knowing how and when to intervene in the meeting is one part of good practice. Another is inviting the right people to the circle and having the meeting at the right time (when victim-survivors are ready). Because the complexity and potential for harm is there, there are standards for restorative practices and accreditation in some spheres (such as sexual violence in New Zealand). The counterargument to this critique is certainly not that the dynamics are not there (they are), but that good facilitators with good processes can manage these dynamics and that this, in turn, offers more justice to victim-survivors than the alternative (which is a process of attrition through the court system).

5. *In the specific case of institutional child sexual abuse, restorative justice is not relevant (at least within criminal justice systems) because the number of eligible cases would be very low due to offenders being deceased, of advanced age and/or perhaps not competent to participate.*

There are a number of considerations here. Firstly, before considering practicalities, there must be reflection on what *should* be done. In New Zealand and in the Australian Capital Territory, legislation has been used to provide for restorative justice approaches at every point of the criminal justice system, after all types of crime including sexual abuse. Here, the normative principle is that restorative justice is beneficial and therefore should be made available to those who are interested in pursuing that path, regardless of the likelihood of cases being completed. Secondly, there needs to be consideration of how cases might be referred to a restorative approach. In the majority of programs identified, police and courts make referrals to restorative justice. A counterargument to the critique is that for the very reasons identified, where cases cannot be taken forward or where it is unlikely that a legal finding of guilt will be achieved, cases might be diverted to restorative justice. Using Daly's (2006) argument, increasing the number of acknowledgements of crime is beneficial to victims in itself. Thirdly, there must indeed be consideration of the pragmatics in terms of individuals having the capacity to participate in a restorative approach. As this is presently an academic issue (that is, there are no firm numbers to work with), we would simply note that much work has been completed in this area within school settings, where a range of

innovative techniques and resources are used to assist individuals with a variety of needs and competencies to actively and meaningfully participate in restorative justice (Thorsborne & Blood 2013). Finally, and perhaps of most importance, this critique is premised on the assumption that restorative justice necessarily involves the direct perpetrator and victim-survivor. Research on what victims want from justice (Herman 2005), specifically in the aftermath of institutional child sexual abuse (van Wormer & Berns 2004, Gavrielides 2013 and Gavrielides & Coker 2005), suggest that victim-survivors are just as likely to be interested in having a restorative conference with non-criminally liable parties such as institutional representatives. Particularly where a church has been involved and a victim-survivor has had their faith challenged, the potential of restorative justice is in the capacity to create a safe space for these conversations, rather than the meting out of formal justice for child sexual abuse, which is a serious, indictable offence.

Final words

There is no doubt that extending restorative justice to cases of institutional or other child sexual abuse would be challenging. However, emerging evidence suggests that restorative justice can be practised after sexual abuse, safely and with a range of benefits for victim-survivors, offenders and communities. If achieving justice for victim-survivors of sexual violence is contingent on accepting that a one-size-fits-all approach simply will not work, then we must consider that a menu of options within and perhaps independent of criminal justice systems is necessary (Centre for Innovative Justice 2014, Daly 2011). Restorative justice, as an innovative and imaginative response, then becomes one option on this menu. In the introduction to this review it was noted that the potential benefits of restorative justice must be weighed carefully against the potential risks – where traumatisation has occurred, interventions need to be considered before implementation to ensure there is no further harm. However, the weighing up of these benefits and risks must be done within the context of alternatives, which means the conventional system. It is proper to be highly sceptical of justice innovations that are different to traditional avenues to justice. However, scepticism can be fuelled by an incomplete knowledge of existing practices and evidence bases. By increasing the knowledge base of what restorative justice is and where, why and how practices are already working, it is hoped that this report will prompt further reflection and debate on the potential of restorative justice in this sphere.

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Appendix B: Further information on method

Search issues

Preliminary searches revealed high volumes of 'hits' to the broad search criteria. In addition, differences between database search criteria required the use of a variety of search strategies to restrict studies to the relevant topic area. For example, an initial search of Web of Science using all keywords and Boolean operators yielded more than 4,000 hits. The search was altered to restrict the field of research to studies in criminology, psychology, sociology, social work, social science law and psychiatry. This reduced the number of hits by several thousand, but it was still voluminous. Further restrictions were required, including deleting terms that were general in nature, including 'circle' and 'child'. The final search of Web of Science yielded 262 hits. Similarly, the number of keywords used in initial interrogation of CINCH and AGIS Plus Text exceeded the database capacity. The use of wildcards (*) for 'restorative', 'conference', 'circle', 'sexual' and 'violence' yielded 176 hits. The researchers conducted an initial search in LexisNexis and LexisNexis Australia, returning an excessive number of hits (more than 5,000), predominantly for erroneous studies. No further interrogation of this database was conducted, given the inability to restrict the search to the relevant criteria.

The results of the searches of each database were combined to identify duplicate records. Once duplicates were eliminated, each study identified as a 'hit' was examined to ascertain if it met the study criteria of an empirical study of restorative justice or restorative practice related to child sexual abuse, sexual assault, personal violence or family violence. Given the time constraints, this assessment was made based on the title and abstract or executive summary of the paper, and required a degree of discretion.

In addition, empirical studies examining the effectiveness of restorative justice in general were excluded from the review if it was clear they included property offences only, or offences of a less serious nature only (e.g. non-indictable offences). Empirical studies of treatment programs providing services exclusively for sex offenders were also excluded from the final review unless they specifically referred to restorative practice. A review of this targeted list of literature identified studies reporting on restorative practices undertaken in relation to family court, child custody and child protection matters. Studies falling into these categories were also excluded from the review unless they primarily related to sexual abuse.

Appendix C: Reviews and commentary

This is a list of pieces relating to restorative justice and institutional child sexual abuse (or comparable harms) that were captured as part of the search strategy but not included.

Table 14: Papers excluded based on being reviews, commentary & stakeholder interviews.

Relevance	Study	Description
Institutional child sexual abuse	Gleeson, K. (2015).	Examines Towards Healing, a restorative justice program for addressing abuse in the Catholic Church, from the perspective of restorative justice standards. The author argues that the Catholic Church's use of reparations in Towards Healing to resolve liability is incompatible with restorative justice ideals and best practice
	Noll, D.E., & Harvey, L. (2008).	Presents the restorative justice model and examines whether the model and philosophy can be applied to clergy-perpetrated sexual abuse. A case study is used to compare civil, criminal and restorative justice approaches to matters of clergy-perpetrated sexual abuse using a <i>hypothetical</i> case. It argues that restorative justice is a holistic approach to criminal, civil and church law violations, allowing all aspects of an offence to be addressed in one process
	Parkinson, P. (2009).	Not sourced.
	van Wormer, K., & Berns, L. (2004).	Design: in-depth structured interviews with adults who were sexually abused by priests as girls and young women. N=9. The results revealed the following themes: the loss of innocence, a period of self-blame, the loss of religious faith, immense pressure to maintain silence, recognition of the imbalance of power, and healing through outside help. The author cites an example of restorative justice used in a case of clergy child sexual assault as a potential model for addressing healing
Child sexual abuse	Cossins, A. (2008)	Qualitative re-analysis of data and critique of findings (Daly, 2006 and Daly & Curtis-Fawley 2004). The author challenges some of the conclusions drawn from empirical evidence from the South Australian study about the beneficial outcomes of restorative justice. It concludes that there is insufficient evidence to support the view that there are inherent benefits in the restorative justice process that give victims of sexual assault a superior form of justice

	Daly, K. (2008)	The author replies to the criticism made by Cossins (2008) of the conclusions drawn from the South Australian Archival Study of young sex offenders. Argues that the way forward should not be limited to legal reform, but should include restorative justice, and more broadly, alternative justice practices
	Cossins, A. (2010)	Examines and considers the appropriateness of specialist approaches to prosecuting child sex offenders, including both adversarial and inquisitorial approaches. The author concludes there is insufficient evidence to support the view that restorative justice gives the victim with a greater degree of justice than court
	Wager, N. M. (2013)	Reports on a scoping study to examine evidence (empirical and non-empirical) available in the literature, to substantiate arguments for and against using restorative justice in cases of sexual offences. The author concludes that, within certain parameters, restorative justice may assist the healing process in some cases of sexual assault. Essential criteria for using restorative justice are identified as sufficient resources to allow for the adequate preparation of all participants; that the process be managed by the victim as opposed to offender-led; and that the timing is determined by the victim and not the constraints of the criminal justice system
Sexual abuse	McAlinden, A-M. (2016)	Essay examining the origins and uses of restorative justice for sexual offending, and the contemporary challenges and controversies surrounding this
	McAlinden, A-M. (2014)	Explores some of the complexities and tensions surrounding constructions of victim/offender within the specific context of sexual offending against children
	McAlinden, A-M. (2005)	Conceptual article exploring the applicability of restorative justice after sexual offences. Argues that with care, practices might be more beneficial in terms of reducing reoffending than the conventional criminal justice system
	Julich, S., McGregor, K., Annan, J., Landon, F., McCarrison, D., & McPhillips, K. (2011)	Describes the conference process. Argues for the need for a specialist service to provide restorative justice in the context of sexual assault
	Koss, M. P. (2010)	A book chapter outlining the development and implementation of the RESTORE program
	Koss, M. & Achilles, M. (2008)	Reviews the use of restorative justice programs in the context of sexual assault or violence. It includes descriptive and outcome information on Project Restore, RESTORE, South Australian family conferencing, and sentencing circles in Canada

	Hopkins, C. Q., & Koss, M. P. (2005)	Discussion paper on RESTORE, Arizona
	Uotila, E., & Sambou, S. (2010)	Examines the ideals, attitudes and practices of Victim Offender Mediation in relation to intimate relationship violence in Finland. The aims and ideals stipulated in the Act on mediation are presented and later compared to actual practices of VOM, the information on which was obtained through the review of documented agreements
	Hudson, B. (2002)	Conceptual article on the applicability of restorative justice to gendered harms
	Coker, D. (2006)	Discusses Navajo peacemaking circles used for domestic violence
	Dickson-Gilmore, J. (2014)	Draws upon years of work with Cree communities. Explores the realities of intimate violence and restorative responses, arguing that there is additional work to be done before restorative processes can be applied to intimate violence in these communities
	Morris, A., & Gelsthorpe, L. (2000)	Reviews concerns about, and evidence relating to, the criminal justice response to domestic violence, and advocates restorative justice as a process to increase women's choices
Family violence	Hayden A., Gelsthorpe, L., Kingi, V., & Morris, A. (2014)	Book dedicated to exploring many kinds of family violence. Five chapters report on empirical studies
Stakeholder perspectives	Paige, J., & Thornton, J. (in press)	This paper reports on the views of 35 adult survivors of familial child sexual abuse. There were seven themes identified: desire for closure, desire for acknowledgement, desire for empowerment, fear of offender's response, fear of own response, concern for family members and concern for parental figure that perpetrated against them. It also reports on how speaking with the offending parent about the abuse (n=17) affected their recovery. It is noted that the findings confirm Jülich's work (2001), though the emphases differed for some respondents. Overall, the finding was that there was potential for substantial benefit
	Julich, S. (2006)	Interviews with 18 women and three men in the aftermath of sexual abuse. Focuses on the impact of the crime and perceptions of potential justice responses. Though restorative justice principles were used, the notion of restorative justice per se was not advocated.
	Curtis-Fawley, S., & Daly, K. (2005)	Interviews with victim advocates in two Australian states about their views on using restorative justice for gendered violence
	Nancarrow, H. (2006)	Interviews. N=20. Although restorative justice was the preferred response to domestic and family violence for

		<p>the majority of Australian Indigenous women, respondents said that the criminal justice system must be applied in cases such as domestic homicide, serious assault and the sexual abuse of children by adults. Non-Indigenous women argued that restorative justice represented leniency for offenders and risk for victims of domestic violence, but recognised that the criminal justice system is largely ineffective in achieving its key objectives. Both groups of women agreed that only restorative justice could be effective in restoring relationships</p>
Other	<p>Kaspiew, R., De Maio, J., Deblaquiere, J., & Horsfall, B. (2012).</p>	<p>Interviews with professionals and parents. Survey of parents. The case file data from some dispute resolution cases were compared with non-matched control group. Provides assistance to separated parents where there has been a history of violence for resolving parenting disputes.</p>

