

1-1-2010

The Implementation of Restorative Justice in Iceland: A Comparison of Police- and Expert-led Conferencing

Hafsteinn Gunnar Hafsteinsson
University of Denver

Follow this and additional works at: <https://digitalcommons.du.edu/etd>

Recommended Citation

Hafsteinsson, Hafsteinn Gunnar, "The Implementation of Restorative Justice in Iceland: A Comparison of Police- and Expert-led Conferencing" (2010). *Electronic Theses and Dissertations*. 818.
<https://digitalcommons.du.edu/etd/818>

This Thesis is brought to you for free and open access by the Graduate Studies at Digital Commons @ DU. It has been accepted for inclusion in Electronic Theses and Dissertations by an authorized administrator of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.

The Implementation of Restorative Justice in Iceland:
A Comparison of Police- and Expert-led Conferencing

A Thesis

Presented to

The Faculty of the University of Denver

University of Denver

In Partial Fulfillment

of the Requirements for the Degree

Masters of Arts

by

Hafsteinn Gunnar Hafsteinsson

June 2010

Advisor: Tamra Pearson d'Estrée

©Copyright by Hafsteinn G. Hafsteinsson 2010
All rights reserved

Abstract

Author: Hafsteinn G. Hafsteinsson

Title: The Implementation of Restorative Justice in Iceland: A Comparison of Police- and Expert-led Conferencing

Advisor: Tamra Pearson d'Estrée

Degree Date: June 2010

On first of October 2006 the Ministry of Justice in Iceland launch a restorative justice pilot project. Building on the pilot project data, this thesis evaluates the implementation of restorative justice into the criminal justice system in Iceland by asking victims, offenders and other participants in police- and expert-led conferencing to answer questionnaires' relating to these two types of restorative justice practices to crime. The thesis compares its results with findings from a review conducted by Paul McCold (1998) who more than a decade ago challenged concerns on police facilitated conferencing. The data examined in the present thesis support Paul McCold's findings that police officers are capable of conducting conferences in a highly restorative manner when dealing with minor degree offences and that conferencing is an effective restorative justice practice that should be encouraged when conducted by police officers or trained professionals.

Acknowledgments

I am immensely grateful for having met Paul McCold in 2005 when this project began, as it was he who informed me about police conferencing, introduced me to the most important literature and later helped me to acquire deeper insight into the restorative justice philosophy. I also want to deeply thank Dr. Tamra Pearson d'Estrée my thesis advisor and teacher at DU for introducing me to restorative justice, her highly qualified teachings and all-around professionalism. I also want to graciously thank Unnur, Kristján and Kristín for opening up their house to me and all a round support after my own house burned down in January 2009. A strong love and support has also poured from family and friends while finding my way to start and work on this project after my loving sister Sonja past away last fall. I would like to thank my loving sister Linda and her husband Ægir for always being there and my loving friend and nephew Andri for reminding me of what I can and have accomplished. My dear friend Elvar deserves more than a note as he is always willing and able to help when I ask. Last but not least I would like to thank Jonathan for his help on the thesis, Gabriella for her time spent proofreading my paper and Laura for allowing me to live in her house, use her car and even eat her food while working on my thesis in Denver, she is a true friend.

Table of Contents

ABSTRACT	I
ACKNOWLEDGMENT	II
TABLE OF CONTENT	III
INTRODUCTION	1
REVIEW OF RELEVANT LITERATURE	3
THE MEANING OR DEFINITION OF RESTORATIVE JUSTICE	5
<i>THE ENCOUNTER CONCEPTION</i>	7
<i>THE REPARATIVE CONCEPTION</i>	9
<i>THE TRANSFORMATIVE CONCEPTION OF RESTORATIVE JUSTICE</i>	12
<i>VALUES OF RESTORATIVE JUSTICE</i>	15
<i>THE DICHOTOMY OF RESTORATIVE JUSTICE VS. RETRIBUTIVE JUSTICE</i>	17
<i>IS THE MEANING OF RESTORATIVE JUSTICE DISTORTED BY THE RESTORATIVE VS. RETRIBUTIVE DICHOTOMY?</i>	22
THE ROOTS OF RESTORATIVE JUSTICE	33
RESTORATIVE JUSTICE PROCESSES AND PRACTICES	38
<i>VICTIM-OFFENDER MEDIATION (VOM)</i>	38
<i>NEW ZEALAND STYLE FAMILY GROUP CONFERENCING (FGC)</i>	40
<i>AUSTRALIAN STYLE POLICE CONFERENCING</i>	41
THE DIFFERENCES BETWEEN VICTIM-OFFENDER MEDIATION AND CONFERENCING	47
<i>TYPICALLY LARGER CIRCLES OF STAKEHOLDERS IN CONFERENCING</i>	48
<i>NEUTRALITY, IMPARTIALITY AND FAIRNESS</i>	48
<i>THE PREPARATION DIFFERENCES</i>	52
<i>THE CONFERENCING SCRIPT</i>	53
<i>RESTORATIVE JUSTICE PROGRAMS TYPOLOGY</i>	56
EVALUATION OF RESTORATIVE JUSTICE PROGRAMS	61
<i>REPORT ON RESTORATIVE JUSTICE EFFECTIVENESS AND QUALITY</i>	61
<i>MEASURES OF PARTICIPANT’S SATISFACTION</i>	62
<i>MEASURES OF PARTICIPANT’S PERCEPTION OF FAIRNESS</i>	65
<i>THE PROBABILITY OF GENERATING AND COMPLETION OF RESTITUTION AGREEMENTS</i>	66
<i>APOLOGIES AND REVENGE</i>	67
<i>VICTIMS BEFORE AND AFTER FEELINGS OF FEAR, ANGER AND SYMPATHY</i>	68
<i>POSTTRAUMATIC STRESS SYMPTOMS</i>	71
<i>DIVERSION: THE EFFECT OF RESTORATIVE JUSTICE IN CRIME PREVENTION</i>	72

<i>RECIDIVISM AFTER PROPERTY CRIME</i>	78
<i>EVIDENCE SUMMARY ON RECIDIVISM</i>	80
MCCOLD’S EVALUATION OF POLICE-LED CONFERENCES	84
INFORMATION ABOUT ICELAND, CRIME AND CRIMINAL PROCEDURES IN ICELAND	95
<i>BACKGROUND INFORMATION</i>	95
<i>CRIME STATISTICS</i>	97
<i>THE CONVENTIONAL CRIMINAL JUSTICE PROCEDURE IN ICELAND</i>	98
THE IMPLEMENTATION OF RESTORATIVE JUSTICE AND CONFERENCING IN ICELAND	100
<i>HOW RESTORATIVE JUSTICE DEVELOPED IN ICELAND</i>	100
<i>WHY ICELAND APPLIED POLICE-LED CONFERENCING</i>	103
EVALUATION OF POLICE- AND EXPERT-LED CONFERENCING	113
<i>SUMMARY OF PRESENT RESEARCH</i>	113
<i>RESEARCH QUESTIONS</i>	114
<i>THE PILOT PROJECT</i>	116
METHOD	120
<i>EXPLANATIONS AND DEFINITIONS OF CONCEPTS</i>	120
<i>PARTICIPANTS</i>	121
<i>RECRUITMENT PROCEDURES AND VOLUNTARINESS</i>	121
<i>PRIVACY OF THE SUBJECTS AND CONFIDENTIALITY OF DATA</i>	123
<i>MEASURES</i>	123
RESULTS	125
<i>MEASURE OF PARTICIPANT’S SENSE SATISFACTION</i>	129
<i>MEASURE OF PARTICIPANT’S PERCEPTION OF FAIRNESS</i>	135
<i>FACILITATORS’ NEUTRALITY</i>	141
<i>MORE GENERAL QUESTIONS RELATED TO SATISFACTION AND FAIRNESS</i>	144
<i>POLICE RELATED QUESTIONS: CONFERENCING LOCATION AND POLICE UNIFORM</i>	150
DISCUSSION AND CONCLUSION	155
<i>ARE VICTIMS SATISFIED WITH CONFERENCING AND WITH POLICE OFFICERS AS FACILITATORS?</i>	156
<i>ARE OFFENDERS SATISFIED WITH CONFERENCING AND WITH POLICE OFFICERS AS FACILITATORS?</i>	158
<i>DO VICTIMS AND OFFENDERS FIND POLICE-LED CONFERENCES NEUTRAL?</i>	161
<i>WAS THE PREPARATION ADEQUATE AND THE PROCESS IN LINE WITH RESTORATIVE JUSTICE VALUES?</i>	167
<i>CONCLUSION SUMMARY</i>	171
<i>LIMITATION OF THE CURRENT STUDY AND FUTURE RESEARCH</i>	178
<i>SUMMARY</i>	194
REFERENCES	195
APPENDICES	199
APPENDIX A	199
APPENDIX B	203

Introduction

In this thesis, data from a two year pilot project of implementing restorative justice and police-led conferencing into the criminal justice system in Iceland will be evaluated. The main purpose of the present thesis is to assess the ability of police officers as conference facilitators. This is done by comparing evaluation results with past studies and by comparing police-led conferences with conferences conducted by a restorative justice expert within this pilot project. This study evaluates if the implementation of restorative justice and conferencing into the criminal justice system in Iceland was in accordance with some of the best restorative practice standards. In particular, the present thesis will seek to compare its results with the outcome of the *Bethlehem Pennsylvania police family group conferencing experiment* (Bethlehem experiment) and other data illustrated in a review written by Paul McCold (1998) called: "*Police-facilitated restorative conferencing; What the data show*". The review explores findings on police-led conferencing and compares the data with earlier evaluations of criminal mediation programs. Paul McCold's reason for gathering and comparing this information was that developments of police officers conducting conferencing were receiving rather negative criticism by restorative justice advocates. In particular, the review scrutinizes criticism or concerns articulated by two distinguished restorative justice advocates Mark Umbreit and Howard Zehr (1996). Mainly their concerns

are related to (1) the issue of using police officers as conferencing facilitators and (2) applying conferences instead of victim-offender mediation where volunteers or trained professionals conduct the restorative justice process.

Paul McCold's (1998) theory and findings are that conferencing, whether it is facilitated by a police officer or an expert (trained professional), is highly restorative and even more restorative than mediation practices conducted by volunteers. He called for future program evaluations to see if some of his findings could be replicated. This thesis will evaluate in an Icelandic setting four of six concerns discussed in McCold's review.

Research questions addressed in the present thesis are the following: Firstly it is asked if Icelandic police officer can conduct conferences consistent with accepted restorative justice evaluative standards as measure by for instance participant's sense of satisfaction and perception of fairness and how police-led conferencing compares to conferences facilitated by an expert. Secondly it is asked to what degree police- and expert-led conferencing in Iceland achieves positive or negative results when compared to empirical evaluations of different restorative justice practices found in Paul McCold's review.

Review of Relevant Literature

The context for this thesis is set around police facilitated conferencing as the Icelandic way of practicing restorative justice and how restorative justice theory is implemented into the criminal justice system in Iceland. The goal of this literature review is to explain what restorative justice is and means to people and to illustrate the relationship between the theory of the concept and how it could and should be applied. We will begin by looking at how the global restorative justice movement, with all its internal diversity, has tackled the difficult problem of defining restorative justice while in its quest of trying to transform the way contemporary societies view and respond to crime and related forms of troublesome behavior. Then it will be demonstrated how both the theory and practice has developed through the decades when it has been clashed and compared with existing highly professionalized retributive systems of doing justice. In understanding what restorative justice is and how it should be practiced it is important to look at the roots of its social movement or in other words, where it originally came from, and from there begin to explain different restorative justice processes that are practiced almost all around the world to day. Restorative justice processes and practices are sometimes quite diverse but all have many important values, principles in common that in the end seems to rather unify different models than separate them. The two most important restorative justice

processes today, Victim-offender mediation and Conferencing are explained and compared for the purpose of both showing how restorative justice practice has evolved and to give insight into the unity and similarity of the restorative justice concept when put in practice. From there Paul McCold's evaluation of police-led conferencing is discussed and his examination of concerns about police facilitation and conferencing. After having reviewed and challenged the concerns, explored how restorative justice processes and outcomes have been evaluated and its success is weighted against other criminal justice practices, we turn back to Iceland and the main analysis of the present thesis; the survey of the implementation of restorative justice into the criminal justice system in Iceland where police- and expert-led conferencing as restorative practices are at the forefront.

The Meaning or Definition of Restorative Justice

The term “restorative justice” is used in a range of ways in both professional and academic circles. The capacious character of the term makes it very difficult to find one clear and established meaning. There are enormous differences of opinion of what is meant by the term “restorative justice” and there are also many definitions of the concept (McCold, 1998). Howard Zehr (2002) an early and leading proponent of restorative justice offers one often applied working description:

Restorative justice is a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs, and obligations, in order to heal and put things as right as possible. (p. 37)

Since there is no one agreed upon definition in the field, Johnstone and Van Ness (2007) have proposed that for a program or practice to be credibly described as restorative justice it should have one or more of the following ingredients to meet the standards of the idea:

First, there will be some relatively informal process which aims to involve victims, offenders and others closely connected to them or to the crime in a discussion of matters such as what happened, what harm has resulted and what should be done to repair that harm and perhaps, to prevent further wrongdoing or conflict.

Secondly, there will be an emphasis on empowering (in a number of senses) ordinary people whose lives are affected by a crime or other wrongful act.

Thirdly, Some effort will be made by decision-makers or those facilitating decision making processes to promote a response which is geared less towards stigmatizing and punishing the wrongdoer and more towards ensuring that wrongdoers recognize and meet a responsibility to make amends for the harm they have caused in a manner which directly benefits those harmed, as a first step towards their reintegration into the community of law-abiding citizens.

Fourth, Decision-makers or those facilitating decision-making will be concerned to ensure that the decision-making process and its outcome will be guided by certain principles or values which, in contemporary society, are widely regarded as desirable in any interaction between people, such as: respect should be shown for others; violence and coercion are to be avoided if possible and minimized if not; and inclusion is to be preferred to exclusion.

Fifth, Decision-makers or those facilitating decision-making will devote significant attention to the injury done to the victims and to the needs that result from that, and to tangible ways in which those needs can be addressed.

Sixth, there will be some emphasis on strengthening or repairing relationships between people, and using the power of healthy relationships to resolve difficult situations. (p. 7)

These ingredients are not presented in any particular order of importance and often programs and processes will only have some of the above ingredients to offer. However, the problem is more complicated than this, for instance, there are those that regard the first two ingredients as essential to restorative justice and are reluctant to apply the restorative justice concept to the process or program in question if those two ingredients are absent even if the other four are clearly present.

In the discussion by Johnstone and Van Ness (2007), where they address the meaning and definition of the concept, they regard restorative justice as a

global social movement with huge divergence of opinion of what is meant by the term and what the goals are. In fact, they think that there is not likely to ever be a single accepted conception of the concept and that everybody must acknowledge the differing and competing ideas about its nature. For them, the restorative justice movement is not as unified and coherent in its adherence and commitment to certain restorative justice principles and values as often as is suggested. To promote the movement as such will only present it as more limited and impoverished than it really is instead of appreciating its richness and promise that lie in its diversities. In an effort to avoid such shortcomings they propose three conceptions of restorative justice to further clarify its meaning and to ease the tension of disagreement. These are the encounter conception, the reparative conception and the transformative conception of restorative justice.

The Encounter Conception

The first conception is the *encounter* conception of restorative justice. Its central idea is ‘that victims, offenders and other ‘stakeholders’ in a criminal case should be allowed to encounter one another outside highly formal, professional-dominated settings such as the courtroom. Through the years certain processes have been developed to deal with wrongful behavior, processes that are supposed to guarantee all affected by crime an active role in the justice process. Rather than remaining passive while professionals discuss their problem and decide what to do about it, those affected meet face to face in safe and supportive situations and

play an active role in deciding what should be done about the offense with the assistance of a facilitator. In this supposedly safe and democratic environment the facilitator ensures that the participants speak openly and respectfully to each other about what happened, allow for the expression of everyone's feelings and enables people most affected by the crime to decide what should be done about the matter. Many believe this process which has various names but most often called victim-offender mediation, conferencing or circles, further outlined below, is restorative justice. This process is probably the most common way of putting the term restorative justice to practice and understanding its meaning.

Encounter processes are supposed to produce certain beneficial outcomes. Like the criminal justice system, the encounter processes should offer rehabilitation of the offender by changing his attitude and making him less likely to commit new crimes. Hence, deterrence is also part of the process as it is difficult for the offender to meet with the victim especially in front of family and friends. The encounter process also reinforces norms since the people involved stress the importance of the norms that the offender has violated. Proponents of the encounter process suggest other beneficial results that are not found in the criminal justice system, such as that victims are more likely to receive restitution, and the encounter gives them a central role in the decision making process. The encounter process should also contribute to reduced fear and an increased sense of safety and should help victims understand offenders' circumstances and why they committed the crime (Johnstone & Van Ness, 2007).

But a definition problem arises if encounter processes do not assure restorative results. Meetings of stakeholders may not turn out to be restorative. They can be conducted in non-restorative ways and arrive at non-restorative results such as a now infamous conference which ended with the decision that the young offender should publicly wear a T-shirt emblazoned with “I am a thief” (Johnstone & Van Ness, 2007). Recent efforts have been made to resolve this issue by focusing as much on restorative justice values as it does on its unique processes. Three sorts of values have been suggested by Braithwaite (2003). The first types of values constrain the process and prevent it from becoming oppressive. These are values of, for instance, non-domination, empowerment, respectful listening, and equal concern for all stakeholders. The second kind of values guide the process and may be used to measure the results of the process since they include restoration of emotion, property, dignity, compassion, social support and so on. Last but not least are values that describe certain outcomes of the process and may, but also may not, emerge from a successful restorative process. A few such preferred outcomes of restorative justice are remorse, apology, censure of the act, forgiveness and mercy (cited in Johnstone & Van Ness, 2007).

The Reparative Conception

An alternative set of values to those mentioned above have been proposed by others. Most adherents to the value based encounter conception will probably

continue to refine and define the values that must be present in the restorative justice encounter process. While adherents to the encounter process do agree that restorative values are important, the most crucial element of restorative justice to them is the meeting of key stakeholders to discuss what happened and to agree what should be done about it. This element is not as important for adherents of the *reparative* conception of restorative justice. They criticize criminal justice for dealing with crime in an improper way by simply imposing pain or suffering upon offenders in proportion to the seriousness of the offence. For them delivery of pain only occasionally provides us with a weak and short lived sense that justice has been done. Conversely, to deliver justice that is satisfactory and fair to all stakeholders the harm needs to be repaired, and some adherents even go so far as to state that reparation of harm is a sufficient ingredient of justice.

Reparation of harm is a complex process because victims are thought to lose their sense of personal power when crime is committed against them. Hence, to repair harm offenders must return to victims their belief in personal autonomy and power. From this perspective, the criminal justice system is thought to let victims down by neglecting them or expecting them to play a passive role while professionals make all the key decisions which further damages victims' sense of personal power rather than repairing it (Johnstone & Van Ness, 2007). According to Howard Zehr (1990) for repair to take place, victims need answers and information to at least six basic questions:

What happened? Why did it happen to me? Why did I act as I did at the time? Why have I acted as I have since that time? What if it happens

again? And what does this mean for me and my outlook, for instance my faith, my vision of the world and my future? (p. 26-27)

Victims also have the need to express anger, fear and pain and the opportunity to have these emotions validated and their stories heard. Often no one else but the offender can answer some of these questions and for some victims having the opportunity to talk to the offender himself is of great importance (Zehr, 1990).

Going back to the encounter vs. reparative conceptions of restorative justice it seems that a face to face meeting between the victim and the offender is absolutely essential if recovery of the victim and healing of harm is to be achieved. With repair of harm as one of their official goals the adherents to the reparative conception argue that even when people are unable or unwilling to meet, the justice system should respond in a way that repairs the harm by applying restitution, for instance, rather than using sentences options such as fine or imprisonment that actually add to the harm. While they express a preference for people to meet when possible, they also, unlike adherents to the encounter process, envision partially restorative solutions ordered and administered by the criminal justice system. Conversely, those strongly committed to the encounter process do not see how a process could be restorative if people don't meet, and they believe that such reparative interventions offered by the criminal justice system will only exploit the good name of restorative justice (Johnstone & Van Ness, 2007).

As the adherents to the encounter conception turned to restorative values in order to ensure a proper restorative justice process, adherents to the reparative conception in a similar vein turn to principles to increase the likelihood that what takes place in the process and justice structure is actually restorative. Johnstone and Van Ness (2007) cite Van Ness and Strong (2006) that suggest three principles to guide the reparative conception of restorative justice and to inform the government's role in restorative justice.

First, justice requires that we work to heal victims, offenders and communities that have been injured by crime.

Second, victims, offenders and communities should have the opportunity for active involvement in the justice process as early and as fully as possible.

Third, we must rethink the relative roles and responsibilities of government and community: in promoting justice, government is responsible for preserving just order, and community for establishing a just peace. (p. 14-15)

The Transformative Conception of Restorative Justice

The third conception of restorative justice to further clarify its meaning and to ease the tension of disagreement is the transformative conception. One of the main priorities of the restorative justice movement has been to change or reform the criminal justice system of which the restorative justice vs. retributive justice dichotomy is a very clear example. Considerable effort is put into revolutionizing societal responses to wrongdoing with restorative interventions by criminal justice agencies such as police and correctional institutions. Although the

main focus of the restorative justice movement has been on changing interventions when crime is committed, the theory and practice has also focused on misconduct, defined as non criminal rule-breaking such as misbehavior in schools and workplaces. Proponents of the transformative conception, the third conception of restorative justice, want to go much further and suggest that both the initial and the ultimate goal of the restorative justice movement should be to transform the way in which we understand ourselves and relate to others in our everyday lives. The argument seems to be that efforts to change our response to crime are unlikely to succeed and can even have effects quite different from those intended if the transformative aspect is absent. And even if we can change specific practices such as our social responses to crime without the transformative aspect it will make only a peripheral contribution to the goal of achieving a just society. To change our social behavior in a fundamental way requires a much deeper and more far-reaching transformation of our selves and of the self which entails a conception of restorative justice that is conceived as a way of life people should lead. Proponents of the transformative view hold the idea that individuals are not ontologically separate from each other or even from their physical environment. To live the lifestyle of restorative justice, individuals must understand themselves as inextricably connected to and identifiable with other beings and the external world. The idea of the self as it is conventionally understood in contemporary society is rejected and must be abolished. From the transformative standpoint other people, the environment and the way we allocate

resources should be treated on the basis of need rather than right or just desserts and with the recognition that the needs of all are equally important. Restorative justice conducted in a transformative way is supposed to invoke dramatic changes in attitude where stakeholders recognize within each other a common humanity and where empathy develops and inner resolution takes place. Offenders and victims and other stakeholders do not simply understand the transformation that takes place in others, they equally importantly acknowledge and appreciate the transformation that they begin to experience inside themselves (Johnstone & Van Ness, 2007). Quinney (1991) believes that one should come to see restorative justice as a way of life and recognizes that the most profound changes in the world require inner transformation. He observes:

All of this is to say, to us as criminologists, that crime is suffering and that the ending of crime is possible only with the ending of suffering. And the ending both of suffering and of crime, which is the establishing of justice, can come only out of peace, out of a peace that is spiritually grounded in our very being. To eliminate crime – to end the construction and perpetuation of an existence that makes crime possible – requires a transformation of our human being ...When our hearts are filled with love and our minds with willingness to serve, we will know what has to be done and how it is to be done. (p. 16, cited in Johnstone & Van Ness, 2007)

The transformation vision of restorative justice has an attraction for adherents to the encounter and reparative conception. For them they may apply what they learn from restorative justice to other dimensions of their lives but they are more likely to explain this in terms of new skills or growing spiritual insight than as necessary elements of doing restorative justice. In other words, for

adherents to the encounter and reparative perspective restorative justice is not an all-encompassing way of looking at life and relationships and should be considered more limited in application than for adherents of the transformative conception claim.

The three conceptions of justice described above are not so diverse and profound that they do not all adhere to the same restorative justice movement. There is on the contrary sufficient common ground to regard advocates of each conception as members of the same social movement. The difference between them is where the emphasis is placed and work to acquire one common definition or understanding of the meaning of restorative justice should not revolve around resolution of these differences, especially since the differences are the consequence of the complex nature of the restorative justice concept itself. The goal should be to deepen the appreciation of the richness of the concept and therefore make it more likely to find new and better ways to apply restorative justice (Johnstone & Van Ness, 2007, p. 5 - 19).

Values of Restorative Justice

As there seems to be no one true definition of the meaning of restorative justice, maybe it is better for the restorative justice movement to clarify the unifying values behind the concept. The unifying values need to be flexible enough to encompass new restorative practice possibilities and concepts, and clear enough to preclude that which is not restorative. It can be rather difficult to

clearly separate values from principles, ideals and beliefs or assumptions, but in Pranis (2007) words: “values are those things that feel deeply important to the essence of the restorative justice impulse and are carried in the spirit of what we do and how we do it.” (p. 60). Pranis (2007) divides restorative justice values into process values and individual values. Process values guide the restorative justice process but individual values reflect the qualities that the process should nurture in individuals taking part in the restorative justice process. After exploring the literature she asserts that respect is the most constantly used term and that other key process values are maintaining individual dignity, inclusion, responsibility, humility, mutual care, reparation and non-domination. Individual values are values that the restorative justice process hopes the participants will act as their best self. The process values representing the restorative justice process are supposed to create the environment in which participants are more likely to access the best within themselves and show such individual values as respect, honesty, taking responsibility, compassion and patience. Individual values are a vision of direction in the restorative justice process and their expression varies but they always include respect and always describe qualities that promote good relationships with others and one’s self.

In an exercise to cause people to reflect on who they want to be when they are at their best, Pranis (2007) asked people a simple question of what they would hope for in their own behavior during a difficult family conflict. The results of a value list across cultures, religion, age, socioeconomic status, education

geography was in essence the same and included that people wanted to be responsible, fair, open-minded, patient, creative, considerate of others needs, compassionate, loving, respectful, a good listener, and able to express their own needs. These apparently universal core values that support good relationships are acknowledged as not the ones that they typically show, especially in conflict or difficult situations. It seems that emotional, physical, mental and spiritual safety is paramount if people are supposed to act on their better values. Safety seems to be important because participants are afraid of showing values that support good relationships with others and especially youth report danger of being taken advantage of, abused or ridiculed. It appears that awareness of and desire for the values that support healthy relationships are profoundly embedded in human nature, but to bring them to the surface, restorative justice needs well-established process values that guide and create safe space for people to act on these core individual values to show their true self.

The Dichotomy of Restorative Justice vs. Retributive Justice

This tension and disagreement over the definition and meaning of restorative justice has been kept ongoing by the dichotomy between criminal justice or retributive justice and restorative justice. Retributive justice has from the beginning played an important role in defining restorative justice. To the present day, whether one wants to promote restorative justice or criticize the

concept it is most commonly defined as an alternative to retribution (Roche, 2007).

Howard Zehr first defined restorative justice as an alternative to retributive justice and this dichotomy became the standard approach for explaining the meaning of the concept. In his book *Changing Lenses* (1990), one of the key texts on the subject, Zehr criticizes the modern approach to criminal justice and retributive theory of justice and states that ‘crime involves injuries which need healing. Those injuries represent four basic dimensions of harm:

1. To the victim
2. To interpersonal relationships
3. To the offender
4. To the community

Zehr (1990) believes that the retributive justice approach defines the state as victim, wrongful behavior as violations of rules, and sees the relationship between victim and offender as irrelevant, when restorative justice identifies people as victims and recognizes the centrality of the interpersonal dimensions where crime is defined by harm to people and relationships.

The principle of retributive justice that crime is a violation of legal rules instead of a violation of a person by another person ignores the affect that crime has on individuals and why they should be a central part of the process. When the breaking of legal rules and regulations are at the heart of the subject, the state is

seen as the victim of crime rather than those directly affected by crime. The primary role in the delivery of justice is therefore played by the state with its emphasis on court trials followed by a judicial punishment of the offender (Zehr, 2002).

Advocates of restorative justice think that crime creates needs and human harms to which the present justice system does not attend. Restorative justice is concerned with these needs and intends to meet them by reorienting how society responds to illegal behavior and applies justice to wrongdoing (Zehr, 2002). Restorative justice's main purpose is to repair the harm done when crime is committed and hence seeks healing for all concerned by restoring as much as possible the damage that has been done instead of focusing on punishing offenders or inflicting more harm (McCold, 2004).

The outcome of restorative justice is not a just infliction of a proportionate amount of pain but a socially constructive, or restorative, solution to the problem caused by crime. Restorative justice therefore places little value on "just desserts"; that is making sure offenders get what they deserve. It is a demand of restorative justice that treatment of offenders be related to the harm inflicted or justice has little chance of being fully realized. Administering punishment or harm for harm does not necessarily restore the actual harm inflicted. In short, restorative justice theory does not believe that pain will vindicate and that it is on the contrary counterproductive for both victim and offender. It believes that justice values personal change above compliant behavior (Zehr, 2002).

Even though the restorative justice approach focuses on healing and repairing harm, the process itself is often painful. It can hardly be easy for offenders to meet with their victims, acknowledge their wrongdoing and follow up on their agreed compensation, which sometimes requires high payments in hard cash and/or doing public work in the community where the crime was committed, and where the shame of the crime is felt most strongly. Restorative meetings can be charged with powerful emotions of anger, resentment and even hate, or on the other hand heart rendering moments where feelings of deep sorrow, remorse and guilt are confronted. These obligations are at the very least difficult for the offenders but they are not intended to harm the offender or anyone else (Zehr, 1990). In this sense many restorative justice advocates think restorative justice is an alternative to punishment.

Justice in criminal justice is defined “objectively” based on legality, while justice in restorative justice is seen mainly as a subjective-moral experience (Walgrave, 2007). The justice process should not be taken over by those lawfully appointed by the state or others prepared to do things to or for the primary stakeholders or those considered directly affected by crime. Victims and offenders, as primary stakeholders, “own the conflict” but the immediate community of care and the society at large are also stakeholders and should on the whole be allowed to take part in the justice process. The practice of taking criminal acts out of context and focusing solely on the offender’s illegal activity robs key stakeholders of their role, and this neglect is a serious matter for the

purpose of acquiring justice for all. Primary stakeholders should be in as much control of the process as possible and the outcome should be mostly determined by them. Replacing the primary stakeholder, with for example professionals that are lawfully appointed, is not a favorable option however willing the representatives are to restore (McCold, 2004). The involvement of those directly affected by crime is the critical component for healing, restoration, responsibility and prevention in the restorative justice process (Walgrave, 2007).

Even though the focus is solely on the offender in criminal justice, leaving the victim and the community mostly excluded, the offender only receives fair treatment to a certain extent. The “what happened”, “who did it”, and “what should be done to them” approach of the current criminal court system ignores why offenders committed the crime and how the harm should be restored. As a matter of fact, the criminal court system restricts certain behaviors of the offender that might actually restore or help to heal the harm done to those directly affected by crime. What is being suggested is that the standard process of formal criminal trial and judicial punishment might be an act of hindering real justice by neglecting primary stakeholders and having a passive affect on offenders (Zehr, 2002).

The restorative justice process is designed to give victims a chance to redress the wrongful act in the presence of the offender which in turn offers offenders the choice of accepting responsibility and, thus becoming accountable. The legal system defines accountability as making sure offenders are punished. If

crime is essentially about harm, as restorative justice defines it, however, accountability means offenders must be encouraged to understand that harm and comprehend the consequences of their behavior. Moreover, it means they have a responsibility to make things right as much as possible, both concretely and symbolically (Zehr, 2002).

When victims, offenders and others that preferably should participate in the restorative justice process are properly involved, they acquire a sense of control over themselves, their properties and their future. In other words, when victim, offender and others affected by the crime receive the opportunity to participate directly in the justice decision making process they become empowered (McCold, 2004). Restorative justice is deemed successful when all the direct stakeholders, especially the victims, report that they are satisfied that justice was done in their case. That kind of success is only thought viable when key stakeholders have engaged in the process in an active and responsive way. Restorative justice therefore looks to expand the circle of stakeholders beyond the government and the offender (Zehr, 2002).

Is the Meaning of Restorative Justice Distorted by the Restorative vs. Retributive dichotomy?

The restorative justice contrast to retributive justice is an elegant and catchy exposition of a certain approach to criminal justice that helped the philosophy and practice of restorative justice to be transformed into a global social movement. In a quest to further understand the meaning of restorative

justice it is important to recognize how restorative justice advocates, stuck in the restorative/retributive contrast, failed in many ways to represent fairly the retributive justice theory and hindered critical thinking about restorative justice which distorted its meaning.

People may disagree with and criticize retributive theories of justice but it is inaccurate to reduce them to mere revenge and the law of the jungle. Retributive justice is rooted in the idea that punishment is reasonable and just, as the offender has taken an unfair advantage in committing a crime which has to be corrected by administering punishment according to strict limits. Nobody but the guilty deserve to be punished and punishment is only justified if it inflicts suffering they deserve. The “just dessert” model was promoted by liberal retributive reformers to reduce punishment which was on a steady increase. Their argument was that offenders should receive their “just dessert”: “that they should suffer fair and determinate punishment proportionate to the seriousness of the crime.” (Roche, 2007, p. 78). Advocates of restorative justice in a quest for promoting restorative ideas, however, associated retributive justice and “just dessert” with a campaign to increase sentencing, an understanding that was backward. One reason for this misunderstanding could be that politicians, and other conservative forces, that imposed new and stiff mandatory sentences frequently stated that they would give offenders “their just desserts” and therefore misused the original “just dessert” model by confusing it with the idea of increasing levels of punishment.

The meaning of retributive justice is as well increasingly used not just as a synonym for punishment generally, but in the hands of critics as a type of shorthand for all the numerous faults and failings of punishment practices. The original meaning of retributive justice is obscured by the tendency to use the terms “vengeance”, “revenge” and “retaliation” interchangeably with “retributive justice”. In South Africa, the Truth and Reconciliation Committee offered choices between humane restorative justice on the one hand or vengeance, as the South African legislation put it: “there is a need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for humanity to others (abuntu) but not for victimization” (Roche, 2007, p. 78). As such, retributive justice is a dirty word, not a theory of punishment (Roche, 2007).

Daly (1999) asserts that punishment actually has a strong role in restorative justice and challenges some oppositional contrasts concerning punishment that many advocates of restorative justice make between retributive justice and restorative justice. She believes that one way of defining punishment is to see it as anything that is unpleasant or something that is of a burden of some sort. The source of Daly’s critique come from what she observed in restorative conferences in Australia and what participants think about its nature and the place of punishment in it. In Australia and New Zealand, conferencing is legislated as a means to apply restorative justice. The process mainly, but not exclusively, gives juveniles that have admitted to an offence the possibility to divert from the court system and solve their problems without being prosecuted and possibly sent to

jail. The conference is typically attended by the offender and his closest family, or members of society that provide him with support, and victims and their supporters in addition to a police officer and a facilitator. After an introductory phase, the offence and its consequences are discussed and what the penalty should be. In theory, at least the penalty is supposed to be decided by “consensus,” which implies that no one person or an authority with self serving intentions can decide what should be the penalty for the offence.

A majority of the participants, both young offenders and their victims, see the conference process and its outcome as a punishment to the offender that causes pain. The participants, however, had different opinions on what punishment means and the majority did not explicitly tie the term to things that are punitive or necessarily something that implies pain. In many cases punishment was thought of as a “consequence” of wrongful behavior or as “paying back” or “making up” for behavior considered. On the surface, these definitions of punishment can be seen as neutral rather than something that is unpleasant or something that causes pain. Still, sanctions in the conference process were understood by many of the participants to be something that ranged from having neutral affects on offenders, to something that is unpleasant and even something that causes pain (Daly, 1999).

Advocates of restorative justice see a strong contrast in how their system treats offenders to that of the criminal justice system in relation to punishment. They insist that by focusing on repairing the harm caused by crime instead of

focusing on pain inflicting methods, punishment is excluded from the restorative justice process. However, it seems that this distinction is not as absolute as many advocates of restorative justice may think. Agreements made in the above mentioned conferencing requires offenders to make up for a harm in a direct way to a victim by paying compensations, doing work for them or others, having a curfew or having to seek special education or counseling. Some would say that restrictions on the offender's behavior and forced compliance with the agreement should be seen as punishment. About 90 percent of the participants thought that the work that offenders approved to do for victims is a type of punishment because it was a deprivation of liberties (Daly, 1999). Or in other words, it is affecting what the offender really wants to do and outlines what the offender is forced to do to repair the harm instead of what he/she wants.

As mentioned above, most restorative justice advocates would concede that meetings can be a very painful experience for offenders and victims alike. In Roche's (2007) review about retribution and restorative justice Duffs (2003) arguments on punishment and restorative justice are well analyzed. Duff argues that restoration requires retribution as it is only retributive punishment that can help bring about restoration. From this point of view restorative justice is not an alternative to punishment but an alternative form of punishment. The argument depends on the definition of punishment and according to Duff, punishment is associated with pain but can only be understood as a communicative act. Censure or criticism, which is communicated as part of restorative justice meetings,

transforms the simple administration of pain into punishment. Censure in the form of recognizing and then condemning the harm a victim has suffered is important as it shows it was wrong. Society reaffirms standards with impositions of pain or burden with the aim of persuading offenders not to reoffend and to commit other citizens to the standard of not offending at all. Daly (2000) as cited in Roche's review concludes that restoration and retribution are complementary, not contrary, principles. She underlines Duff's argument by pointing to the similarity between his accounts of the elements of punishment and theoretical accounts of the processes in a restorative justice conferences, in particular Braithwaite's theory of reintegrative shaming, which calls for the censuring of wrongdoing (but not of wrongdoers) before reintegrating offenders.

Walgrave (2007), one of the leading restorative justice writers today, agrees with and cites Von Hirsch (1993) when he states that punishment is composed of three elements and if one of the three is missing, such as hard treatment, the intention of inflicting pain or the link with the wrong committed, there is no punishment. This view is in accordance with Walgrave's (2002) own opinion cited in Roche (2007) that the retributive/restorative justice contrast is sound. Walgrave's idea is that if painful obligations are not imposed with the intention to cause suffering they do not constitute as punishments. Punishment is when pain is imposed for the sake of pain and can never be a coincidental side effect of an obligation. Unlike court imposed sanctions, restorative meetings are not intended to inflict pain and even though participants may find the experience

painful it does not constitute punishment since the intended infliction of pain is missing.

Walgrave (2007) acknowledges now, as do most advocates of restorative justice, that despite some retributive and restorative justice polar opposites, the two systems have some theoretical ideas in common. Nonetheless, these theoretical ideas are dealt with in different ways. Both retribution and restorative justice hold the offender responsible. The retributive justice system, however, imposes consequences to which the offender must submit, but restorative justice requires the offender to take active responsibility by contributing positively to repairing the negative consequences of his or her offence. The principle of “paying back” is also evident in restorative justice where the offender pays back himself by repairing, as much as possible, the harm. The punitive justice system restores the balance by paying back the offender for the harm he caused and therefore inflicting on the offender further harm. This adds to the total amount of harm in the world by doubling the amount of suffering. Instead of doubling the total amount of suffering restorative justice restores the balance by taking suffering away. Retribution is achieved, but in a constructive way. This kind of restorative retribution also contains the proportionality principle which is not based on “just dessert” but on the principle of “just due”, that is to say: “what the offender can reasonably be expected to repair or give in return for the losses he caused.” (Walgrave 2007, p. 570).

Zehr (2002) admits that the polarization between retributive and restorative justice may be somewhat misleading when he writes:

Both retributive and restorative theories of justice acknowledge a basic moral intuition that a balance has been thrown off by a wrongdoing. Consequently, the victim deserves something and the offender owes something. Both approaches argue that there must be a proportional relationship between the act and the response. (p. 58-59)

In Zehr's eyes however there remains a distinction between the two:

Retributive theory believes that pain will vindicate, but in practice that is often counterproductive for both victim and offender. Restorative justice theory, on the other hand, argues that what truly vindicates is acknowledging of victim's harms and needs, combined with an active effort to encourage offenders to take responsibility, make right the wrong, and address the causes of their behavior. (p. 59)

On this point, retributivists such as Duff argue that it is not possible to achieve the goals Zehr describes without some pain, even though restorativists do not see pain delivery as an end in itself nor as a crude form of deterrence. Acknowledgement, taking responsibility, reparation and rehabilitation are all painful experiences and as such pain is an essential component of a more constructive, educative and reintegrative process (Roche, 2007). According to Duff, if punishment is to function right, its style needs to be altered. He states that there needs to be less emphasis on, for example, imprisonment which is a highly coercive and exclusionary sanction and more on community-based communicative sanctions, involving reparation, of the kind which proponents of restorative justice recommend (Johnstone, 2002). Many proponents of restorative justice adopt the position that intentional infliction of pain upon offenders is to be

wiped out from the criminal justice system. The alternative is restorative justice where intentional imposition of pain is rejected. Hence, restorative justice is distinguished from Duff and other moderate retributivists who are only willing to inflict a minimal amount of pain upon offenders and to combine this with more positive educative and reintegrative measures (Roche, 2007).

Johnstone (2002) believes that rigorous scrutiny of restorative justice renders the idea that it eschews intentional imposition of pain at best as wishful thinking. He reminds that proponents of restorative justice are deeply committed to reassure politicians and the public that restorative justice is not a soft option and demonstrate examples that reveal offender's experience of restorative justice more arduous than a prison sentence. Johnstone further concludes that Walgrave may be on sound ground when he states that the imposition of pain is subordinate to the aim of restoration but that does not mean that pain is not deliberately inflicted, unless one adopts an extremely narrow interpretation of the term "deliberately". Pain seems to be highly probable, or even inevitable, consequence of restorative justice interventions and if someone purposely puts an offender through a restorative justice process, thereby with overwhelming probability will cause them pain, he deliberately inflicts pain on them. It is irrelevant if causing pain is not a primary intention or something that advocates of restorative justice do not desire, as according to Duff, causing pain is not the primary aim or something that most supporters of retributive punishment desire but the pain is still there.

According to one of the leading proponents of restorative justice, punishment cannot be abolished all together from restorative justice practices. The goal is however to marginalize punishment and leave it lurking in the background as a punitive consequence for unfulfilled arrangements of the restorative justice process. Braithwaite (2002) argues:

Retributive values are more a hindrance to our survival and flourishing than a help. Hence restorative justice should be explicitly about a values shift from the retributive/punitive to the restorative. Retributive emotions are natural, things we all experience and things that are easy to understand from a biological point of view. But, on this view, retribution is in the same category as greed or gluttony; biologically they once helped us to flourish, but today they are corrosive of human health and relationships. (Roche, 2007, p. 82)

Here Braithwaite does not admit that restorative justice meetings themselves may contain elements of retribution and is therefore not prepared to concede that retribution is part of restorative justice. This view is in line with the idea that restorative justice is not simply a variation on current punishment practices, but a whole new paradigm for doing justice or even a different view of society (Roche, 2007). What Braithwaite (1999), envisions, however, is not a future where punishment is abolished, but a future where punishment is marginalized. Braithwaite allows for punishment to be used where restorative justice repeatedly fails and states that it is important to the success of restorative justice that it takes place in the shadow of punishment, although the threat of punishment should never be direct or obvious, it should always lurk in the

background. This view blurs the distinction between restorative justice and retributive justice considerably (Johnstone, 2002).

To the extent that the distinction between retributive justice and restorative justice is drawn by reference to pain, the claim for a sharp contrast becomes blurry. In light of above cited facts, it seems that the restorative/retributive justice contrast needs to be at least redrawn, where possible shortcomings of restorative justice will be articulated, with the aim of further sharpening and understanding its meaning.

In the next section the roots of restorative justice will be analyzed with the aim of better understanding its meaning, from where it originally came from, how it developed and was originally practiced.

The Roots of Restorative Justice

There are three primary restorative practices or programs that meet the criteria and requirement of restorative justice theory. These are: victim-offender mediation (VOM), conferencing, and circles. However, for the sake of simplicity this thesis will only be looking at VOM and conferencing. Victim-offender mediation was the predecessor and its practices and practical standards were modified before theoretical work on restorative justice materialized in the 1970s and 80s. For example the Institute of Mediation and Conflict Resolution in Manhattan (IMCR) established the standard for mediation practice in 1971, well before theoretical work on restorative justice was established (McCold, 1999). It was actually because of mediation work with victims and offenders, called the Victim Offender Reconciliation Program (VORP) that scholars begin to construct the theory of restorative justice in conjunction with the ongoing practice. The VORP movement and hence, the origin of the contemporary restorative justice campaign, are conventionally traced to a Canadian experiment in Elmira, Ontario, in 1974 in what has been called the “Kitchener experiment” (McCold, 1999). As the story goes a probation officer Mark Yantzi (a member of the Christian sect, the Mennonites), who was frustrated with the usual justice process, came up with a new idea for dealing with offenders. He managed to convince a judge, in a case where two young men had plead guilty to vandalizing 22 properties, to order the

offenders to meet their victims with Yantzi and fellow Mennonite, Dave Worth. From this spontaneous, idealistic experiment Victim Offender Reconciliation Programs were born and from this effort and other similar case experiments in several Mennonite communities restorative justice theory was initially developed. An important claim about restorative justice is that it is an ancient way of dealing with crime, therefore, some would rather say that restorative justice was reborn in Elmira, Ontario (Johnstone, 2002).

According to its proponents, restorative justice was the normal way of handling crime in the earlier times. The roots of restorative justice are thought to be much wider and deeper than the Mennonite-led initiatives of the 1970s and some say as old as human history. The broad argument is that traditional restorative processes for resolving disputes was suppressed from the twelfth century on by the emerging central powers in society, i.e. the state, where old ideas of persuading offenders to make up for a wrong, through restitution to victims, became increasingly marginalized. By the nineteenth century, Western powers finalized the shift from communal restorative justice to state punitive justice by imposing their model of state punishment worldwide. Only distant societies survived this suppression of the native restorative justice traditions and social anthropologists believe that these pre-modern, pre-state restorative forms of sanctioning can still be found practiced in indigenous communities today (Johnstone, 2002).

The lesson advocates of restorative justice want to draw from indigenous justice systems can be adequately described by Navajo peacemaking (Johnstone, 2002) as it is, according to practitioners, a good example of the universal process found among nearly all aboriginal groups in all pre-modern societies. The implication is that Navajo peacemaking is the rejuvenation of the indigenous law and the legal process which preceded the modern state justice system. It represents a natural, authentic form of justice that was abandoned by modern western societies in favor of a more “artificial” system of state punitive justice. Briefly it is described as follows. The justice paradigm is based on a holistic philosophy and guided by the unwritten customary laws, traditions, and practices that are learned primarily by example and through the oral teachings and guidance of tribal elders, the *naat’aanii*-peacemaker. In disputes the injured party will demand that the wrongdoer makes things right, which means readjustment of the relationship, not just material compensation. The perpetrator must agree to make things right; imposing a decision on another or applying coercion is witchcraft for the Navajo. The *naat’aanii*-peacemaker gathers in a meeting, the victim and the perpetrator and their family and clan relations with the purpose of resolving the dispute between them. All meeting begins with a prayer and then the victim can state what happened and vent his/her feeling about it. Subsequently the accused person has an opportunity to speak and one of the purposes of the process appears to be to expose the weakness or unacceptability of the matter. The group, led by the peacemaker, will then seek to construct a reparative plan of action drawn upon

traditional teachings and decide themselves if they agree to the plan of action that often involves restitution. Making adequate material reparation is, however, not the main focus but rather making symbolic reparation. The holistic philosophy connects everyone involved with a problem or conflict, and the center of attention is the underlying issues that need to be resolved to attain peace and harmony for the individuals and the community. The entire process moves from disclosure of problems, to discussion and resolution, to making amends and restoring relationships. The methods used are based on old concepts of restorative and reparative justice and the principles of healing and living in harmony with all beings and with nature (Johnstone, 2002).

The movement owes a special debt to the colonized people in North America, Australia, New Zealand and elsewhere who struggled to revive their native justice traditions in the 1960s. The slow reversal of this long historical process led some Western legal theorists to suggest that indigenous people should be permitted to have their own justice system, based on native values and customs. Proponents of restorative justice think, however, that western cultures should embrace indigenous and tribal way of doing justice systems and recreate its own older conceptions of conflict resolution.

Kathleen Daly (2000b) has doubts that the dominant and normal way of doing justice throughout human history was invariably restorative in character. Daly notes that advocates of restorative justice have put forward claims which grossly oversimplify indigenous cultures and she suspects advocates of

romanticizing the past. In her view, sliding over or romanticizing indigenous traditions of dispute resolution, such as a variety of harsh physical punishment and banishment, are not in accordance with modern “civilized” way of thinking (as cited in Johnstone, 2002). Furthermore, according to Chris (2007) some indigenous laws and practices do not comply with generally recognized human rights standards. Johnstone (2002) thinks that indigenous societies were, and are, complex and their processes for dealing with crime and social disorder cover a range of possible responses from the restorative to the retributive. His view is that there is a significant historical truth, confirmed by professional historians:

That there was once a mode of life in which some part of the law belonged to the community and was theirs to enforce; in which justice was not wholly delegated or bureaucratized; and that there is much to lament in the decline of this mode of life. (p. 48)

Johnstone feels that Daly is right to criticize proponents of restorative justice for the tendency to romanticize indigenous laws and practice as purely restorative and their failure not to notice its more tyrannical aspects. However, such criticism is not reliable if it dismisses the whole story as a mere metaphor or origin myth (Johnstone, 2002).

Now we have briefly explored from where restorative justice originally came from and how it was practiced. The next section will discuss the most frequently used processes of restorative justice to day and each unique methods or style of implementing restorative justice.

Restorative Justice Processes and Practices

Victim-Offender Mediation (VOM)

Today restorative justice mediation programs throughout the world usually identify themselves as victim-offender mediation (VOM), originating from the victim-offender reconciliation programs (VORP) in the mid-1970s and 1980s. As the offspring of VORP, victim-offender mediation is the oldest form of restorative justice practice where face to face meetings between crime victim and offender are at the core of its application (Umbreit, Coates, & Vos, 2004). VOM is primarily dialogue driven where victim healing, offender accountability and restoration of losses are strongly emphasized. VOM distinguishes itself from civil mediation and the difference lies in reframing the role of the mediator from being settlement driven to dialogue driven (McCold, 1999). The responsibility of the mediator is mutual aid which is explained in Umbreit et al.'s (2004) words as:

Scheduling separate pre-mediation sessions with each party; connecting with the parties through building rapport and trust while not taking sides; identifying the strengths of each party; using a nondirective style of mediation that creates a safe space for dialogue and accessing the strength of participants; and recognizing and using the power of silence. (p. 280)

This is referred to as a humanistic model of mediation where most sessions, nevertheless, result in a signed restitution agreement which is always secondary to the initial dialogue driven approach between the parties (Umbreit, et

al., 2004). Establishing trust with the mediator and to build relationships between parties is an important part of the VOM approach. VOM recommends that only victim and offender participate since parents may restrain genuine expression from young offenders. VOM also seeks to improve people's problem-solving skills so future disputes can be solved through direct negotiations, if appropriate (McCold, 1999). Unlike VORP, which was rooted in the experimentation of Mennonite communities and therefore faith centered, VOM's main purpose is not reconciliation where forgiveness is at the forefront. VORP evolved as a faith based effort to repair relationships and in that effort restorative justice principles were elaborated which culminated in Howard Zehr's (1990) influential book *Changing Lenses*. The faith-based conception underlying VORP became secularized as attempts were made to combine other secular forms of mediation, influenced by humanistic social work practices, with VORP, and also because of VORP's dependency on a secular justice system for access to cases. The transition from VORP to VOM is described in McCold (1999) in an interesting and informing way by the following quote:

When we began there was no VOM. It was all VORP and we were all coming at the subject from a Christian faith perspective. It was actually a shock when at one yearly gathering there were several in attendance who were unaware of the spiritual foundation of VORP and even more disconcerting when the numbers of those grew and became vocal in the meetings saying that being Church-based was not acceptable. The annual VORP gatherings changed to VOM annual conferences. Our VORP continues to see as part of our mission to activate the Christian church to be involved in the ministry of reconciliation with victims and offenders of crime. (p. 7)

New Zealand Style Family Group Conferencing (FGC)

Conferencing programs are in many ways similar to VOM programs as they try to involve offenders and victims in an extended conversation about crime and its consequences. However, VOM is not conferencing. Conferencing began in 1989 in New Zealand to address both child welfare and youth justice matters and was the first in the form of Family Group Conferencing (FGC). The Children, Young Persons and Families Act that was implemented as a reform of the juvenile justice system by the New Zealand government was intended to empower the extended families of aboriginal peoples called Maori. The Maori population, who inhabited the country before the arrival of Europeans, criticized both the welfare and the justice system for utilizing an imposed, alien, colonial system where their children were over-represented. FGC is similar to traditional aboriginal problem-solving approaches and the process was designed to bring families of victims and offenders together to find their own solution to conflicts (Raye & Roberts, 2007). This was done with the assistance of a facilitator provided by the government. One of the goals of the process is to be culturally appropriate and the form of the conference is supposed to be adapted to the needs of those involved. To empower the families, the FGC are more inclusive than the VOM and VORP programs. While the community is not explicitly included, the family members of the offender are an essential part and play very important roles. Victims may also bring family members or victims advocates. A special attorney or youth advocate may be present and other caregivers may be as well. The police must also be

represented since they play the role of prosecutors in New Zealand. Family group conferences in New Zealand normally replace the court and hence must develop an entire plan for the offender that, in addition to reparation, includes elements of prevention and sometimes punishment. These conferences are therefore not designed simply to allow for the expression of facts and feeling and to develop restitution agreements. The actual charges may be negotiated but the final plan should be the consensus of everyone in the conference. This goal is ensured in the process since the outcome can be blocked by the victim, offender or the police if one of them is unsatisfied. The facilitator of FGC seeks to be impartial by balancing the concerns and interests of both sides. He or she, however, makes sure a plan is developed that addresses causes as well as reparation that holds the offender adequately accountable (Zehr, 2002).

Australian Style Police Conferencing

Conferencing migrated to Australia in 1991 and was initially revised and pioneered as a community policing technique in Wagga Wagga, New South Wales, Australia, when Sergeant Terry O'Connell considerably developed the FGC model. The police conferencing approach seeks to include the victim and the offender together with their families and supporters to decide how to respond to the offence. Furthermore, when appropriate the affected community members are encouraged to take part in conferencing as it enhances community involvement. Collectively this micro-community of citizens seeks resolution of the injuries,

which may include apology, reparation to the victim, and integration of the offender. Later non-police models would develop from the original Wagga model that is heavily influenced by Silvan Tomkins *affect theory* and Braithwaite's (1989) sociological *theory of reintegrative shaming* which together explained why restorative conferencing works so well, including that regularly occurring "transformative moment" that was of so much interest to early mediation proponents (McCold, 1999).

According to affect theory, inherent in every human being there are nine basic affects presented by Tomkins as hyphenated word pairs identifying a continuum between the least and the most intensive expression of that affect. Six of them are negative affects; that is disgust-dissmell (revulsion to offensive odor), anger-rage, distress-anguish, fear-terror and shame-humiliation. Surprise-startle are the neutral affects. The two positive affects are interest-excitement and enjoyment-joy. Conferencing encourages free expression of affect which leads to natural progression from negative affect to positive affect. If an offender accepts responsibility and victims feel acknowledged, negative affect can give way to interest and enjoyment. People recognize the affects displaying on each other's faces and tend to respond with the same affect. Tomkins called this "affective resonance" or empathy. Through affective resonance, conference participants make the emotional journey together, feeling each other's feelings as they travel from anger and distress and shame to interest and enjoyment. Tomkins' affect theory serves as the psychological explanation for the effectiveness of

conferencing while Braithwaite provides the sociological explanation (Wachtel, 1997).

The conference approach has given special attention to the dynamics of shame and actively uses shame in a positive way (McCold, 1999). The theory of reintegrative shaming was first proposed in a book, *Crime, Shame, and Reintegration* (1989) by John Braithwaite. In his book Braithwaite argues that the existing criminal justice system seek to punish offenders through “ceremonies” in which shame is experienced in a degrading and humiliating way. Braithwaite asserts that this way of doing justice only seeks to castigate and outcast offenders in a stigmatic and harmful way which makes reoffending more plausible. Braithwaite’s theory is about utilizing shame in a positive and constructive way that seeks to strengthen an offender’s links to his or her community. This is accomplished by clearly communicating the unacceptability of the inappropriate behavior, while at the same time acknowledging the intrinsic worth of the person. Reintegration or positive shaming fosters inclusion whereas stigmatization or negative shaming favors exclusion because it fails to differentiate between the act and the actor and both are therefore rejected. On this Braithwaite (1989) suggests, “reintegrative shaming is superior to stigmatization because it minimizes risks of pushing those shamed into criminal subcultures, and because social disapproval is more effective when embedded in relationships overwhelmingly characterized by social approval” (p. 68). The employment of reintegrative shaming in conferences opposes stigmatization but encourages offenders to experience shame for their

offending behavior. As conferencing relies on Braithwaite's theory of reintegrative shaming, it is thought important to approach crime and wrongdoing by involving representatives who are supportive of the parties or are affected by the dispute and its outcome. The representatives denounce the offender's conduct as unacceptable, therefore shaming the wrongdoer, while affirming their commitment to reintegrating the offender into society by upholding his or her personal dignity. This is how community participation results in norm and value clarification and supports the concept of reintegrative shaming (O'Connell, 2005).

Currently, public officials generally facilitate conferences, either as part of a full-time position or as consultant such as police or school resource officers, school counselors or social case workers. In police-led conferences, the trained police officer's role is to encourage participants to reach some collective agreement about how best to minimize the ongoing harm resulting from the offending behavior. While conferences generally achieve reconciliation between victim and offender, which is VORP's main goal, it is only one of several positive outcomes of conferencing. Conferences are rather guided by philosophies of restoration, where appropriate restitution and reparation are usual arrangements for agreement, and also community transformation (McCold, 1999).

The Australian conferencing model has three main goals. The first goal is to encourage offenders to achieve empathy toward their victims and take responsibility for their crimes. The second goal is to allow victims to move toward forgiveness and healing, and the third goal is to empower citizens to

appropriately address their own local problems. McCold (1999) cites Moore (1994) which shows that the program aims are several:

One is to give victims of offending behavior an opportunity to participate in the official response to that behavior. Another aim is to provide offenders with an opportunity to understand the consequences of their actions. Yet another is to involve the broader community of people who have been adversely affected by those actions. In practice, these three aims cannot be separated from one another. Involving a broader community of people encourages and supports the involvement of victims and both of these factors help young offenders to understand how far reaching the ramifications of their actions have been. (p. 17)

This approach, unlike most others, uses a standardized script for the facilitator to follow, evolved by O'Connell in accordance with restorative justice values. The script, which simplifies conducting a conference and helps to ensure reliable results, is intended to encourage officials representing the "authority" to actively facilitate the process but at the same time discourage them from intruding into the conference. Conference facilitators are not trained to use as many facilitating techniques as mediators are and are more restricted by the conference script which should constrain, for example, authoritarian police behavior (McCold, 1999). The founder of the script Terry O'Connell (1998) declares:

The conference protocols were basic: have the offender talk about what happened, what they were thinking and who was affected; followed by the victims and supporters; and finally, the offenders' family and supporters. Discussion then focused on what needed to happen to make things right. Refreshments are provided immediately after the conference to provide an informal opportunity for participants to talk while the facilitator prepared the written agreement. This sequence appeared to work and within a short period, conference processes and outcomes had certain predictability about them. Ultimately the conference protocols were converted into a script, with the key statements and questions written out for convenience of the facilitator. (p. 1)

As we have seen there are special techniques or methods that proponents of VOM use for implementing restorative justice that differ from the methods used by facilitators practicing conferencing. In the next section this difference explored in more detail with the purpose of acquiring a better understanding of restorative justice and its practices and to see if there isn't more that unites these processes than separates them.

The Differences between Victim-Offender Mediation and Conferencing

Since 1989, when prototypical VOM was essentially the only restorative process, there have emerged a variety of restorative justice approaches and many of them also calling themselves VOM. The prototypical VOM, where a victim, an offender and a mediator came together, is now the exception not the rule. Because of the development of family group conferences both VORP and VOM have been experimenting through the years with being multi-party and much more inclusive than the prototype. VOM will most often include more than one victim and one offender and also possible family members and supporters. This development makes it difficult to distinction between VOM models and conferencing models since VOM programs have in many aspects not retained their mediation orientation and some almost actually become conferences models (Ray & Roberts, 2007, see also McCold, 1999). Sherman and Strang (2007) state that:

Victim-offender mediation programs typically involve a mediator whose responsibility is to negotiate between the parties to achieve a satisfactory outcome. This may take place with both parties present or by the mediator shuttling between them. Conferencing programs typically involve a facilitator whose responsibility is to provide a forum in which the parties can negotiate directly with each other. The facilitator role is to ensure that the parties stay focused on the reasons for the meeting and remain civil in their communication. The facilitator is not expected to participate or lead the substance of the discussion. (p. 33)

Typically Larger Circles of Stakeholders in Conferencing

What is typically different between the diverse progeny of prototypical VOM and conferencing is that conferencing includes a larger circle of affected stakeholders, utilizing the normative effect of group process to regulate behavior, while in VOM community involvement is more likely to be limited to having trained volunteers serve as mediators and/or possibly other close family members or supporters as participants. By typically including larger circle of additional stakeholders and supporters, conferencing addresses power imbalances between the victim and offender. VOM programs on the other hand rely more often than conferencing models on the mediator to handle power imbalances and regulate communication in accordance with the definition that VOM is a facilitated dialogue between two parties (McCold, 1999).

Neutrality, Impartiality and Fairness

Differences between restorative justice models can also be found in the idea of how neutral or fair they aim to be. In relation to restorative justice, neutrality could be loosely defined as when a facilitator or a mediator avoids taking sides and has no opinion, neither a positive opinion nor a negative one, that is personal or related to his/her particular professional background about what takes place at a restorative justice meeting (personal communication, March 18, 2010). Neutrality is often pursued by practitioners of VOM, for example Umbreit and Zehr (1996) believe that:

The ability of public officials (such as police or probation officers) to serve in a more neutral and facilitative role could be a problem and needs to be closely monitored as FGC programs begin developing...If conference coordinators fall into more authoritarian leadership and communication patterns, the process could lead to offenders experiencing conferences as “shaming and blaming” or even as a process of “breaking down kids and then trying to build them up” rather than as “reintegrative shaming” in which criminal behavior is denounced but offenders are treated with respect and feel safe enough in the presence of so many adults to open up and express themselves. (p. 8)

According to McCold (personal communication, March 18, 2010) restorative justice is not supposed to be neutral. The philosophy of restorative justice assumes that we all agree a “wrong-doing” is wrong and should not have occurred and should not occur again. Because of this stance, there is an obligation upon the offender to make things right and in McCold’s opinion that is not a neutral stance. Hence, this theoretical stance means that facilitators and supposedly restorative justice advocates cannot be neutral. Instead of seeking neutrality, restorative justice theory separates the deed from the doer and then is able to engage the offender in a way that is fair. This is done by focusing on the deed as a bad thing instead of seeing the person as bad, and in so doing supposedly they treat both offender and victim equally fair by recognizing the needs of both simultaneously. Furthermore, and this ties into the difference of a facilitator being impartial instead of being neutral, a good facilitator treats everyone with full respect and regard for who they are as a person. That is why for example restorative justice Real Justice conferencing facilitators are taught not to speak of offenders or victims at conferences but instead use their names.

Conferencing facilitators must also give everyone at a conference an equal opportunity to speak and be heard. Thus, the Real Justice conferencing program trains facilitators to be impartial, not neutral, in regard to conferencing participants and how they treat individuals. Hence, conferencing facilitators are fair and impartial but not neutral (McCold, personal communication, April 18, 2010).

This stance is a clear break from the values of VOM practices, which emphasize the need for an absolutely neutral mediator who has developed a trusting relationship with the parties involved. VOM mediators worry more about power imbalances between the parties so they can negotiate without coercion. Otherwise to mediate is to remain strictly neutral. This is where most conferencing advocates disagree with proponents of VOM. Adherents of conferencing state that VOM proponents confuse restorative justice practices, for instance conferencing and VOM, with mediation. In mediation two parties of equal moral standing come together to resolve their differences with a mediator who avoids taking sides. On the other hand, conferencing and all VOM programs involve situations where someone commits a wrong against another. That means that the parties are not of equal moral standing, which makes neutral facilitation impossible. Given that the offender has admitted the offense, which is most often the prerequisite for holding a conference or VOM, then the victim has been wronged. For that reason, advocates of conferencing think that neither facilitators nor mediators can be neutral (Wachtel, 1997). Neutrality may even be misleading

and often offensive in many cases. Victims of rapes or even burglaries do not want to be known as “disputants” and may often be struggling to overcome a tendency to blame themselves (Zehr, 2002). In mediations or when disputes parties meet they often have responsibilities that may need to be shared on all sides which demands a neutral third party to facilitate a just process. However, in most restorative justice practices, such as VOM or conferencing, wrongdoers must admit to some level of responsibility or name and acknowledge the wrongdoing which demands not a neutral third party but a fair one. A fair facilitator treats all parties, including the offender, in a respectful manner but the facilitator is normally on the side of the victim in holding the offender accountable and assuming the offender has an obligation to repair the harm done (McCold, personal communication, October 12, 2005).

Advocates of conferencing think that direct inclusion of a large circle of affected community members supports their idea of fairness over neutrality. They suggest that community involvement is one of the mechanisms to even out imbalance between victims and offenders and help the facilitator to be fair and make the restorative justice process fair. In VOM, however, community involvement is often limited to having trained volunteers and possibly a volunteer co-mediator serve as facilitators who have the obligation to protect the VOM principle of neutrality (McCold, 1999).

The Preparation Differences

Preparation for VOM involves considerable communication before the actual meeting takes place. The parties are contacted separately and interviewed. Usually the mediator will call and later meet separately with the victim and the offender and this caucusing with participants prior to the joint session is believed to be essential for the mediator in building trust and rapport with both parties as well as for collecting information that can contribute to later conflict resolution (McCold, 1999).

This process is not thought to be as necessary in conferencing, especially when offences of minor degree are being handled. A conferencing facilitator usually meet participants just prior to entering the conferencing session but then it is optional to meet with each group separately to shortly review the conference process, answer concerns and remind participants of how everything has been organized. Facilitators must speak with all participants before the conference takes place and usually facilitators send information about restorative justice and conferencing via email or letter to participants after contacting them by telephone where discussions about the conference process and concerns about the case have been addressed. Conference facilitators may also follow up on the letter or email whenever possible. Meeting with each participant, case screening and development is therefore not as prevalent and mandated in the preparation for the conferencing process as it is with the victim-offender mediation approach.

Telephone contact is in many cases sufficient to explain the process and build rapport.

However, conference facilitators will also often prefer to meet with participants face to face prior to the conference. Although not always feasible and often very time consuming, a preparation face to face meeting may raise participants trust in the facilitator, improve the quality of the conference and more fully meet victims' needs. An in-person meeting may also increase the likelihood that offenders will take full responsibility for the incident and all stakeholders will participate (O'Connell, 1999). The preparation between two models is therefore often not so different especially when facilitators in conferencing are dealing with serious offences and when victims of minor offences are particularly upset than meeting face to face is thought necessary in conferencing. This, for instance, blurs the preparation difference between the two models.

The Conferencing Script

While the specific mechanisms for dialogue in the two models are somewhat different, dialogue in both models is oriented at storytelling, aimed at discussing issues and at coming to a common understanding or agreement. Nowadays mediation techniques such as paraphrasing, reframing and summarizing are not typically part of victim-offender mediation. The focus has become more on uninterrupted narrative, storytelling format and ensuring context for meaningful communication between parties which further faints the difference

between conferencing and VOM. In VOM a third neutral party interacts with those in disputes in a way that draws attention to areas of agreement, looks for underlying issues and helps the two parties reach a compromise solution (Ray & Roberts, 2007). But in conferencing the facilitator is not supposed to steer the dialogue into working towards a compromise, searching for common ground or exploration of the underlying issues. As before mentioned the facilitator is more likely to use a script while conducting a conference which restricts all those behaviors. The script is the heart of the conference, at least in the Wagga Wagga police-led conferences. It is a simple reliable tool that allows a facilitator to run a conference successfully without extensive mediation or counseling training (O'Connell, 1999). In the Conferencing handbook it is stated that:

First the script prescribes a series of open-ended questions that encourage people to respond “affectively,” that is, to express how they were affected by the issue that brought them together. Next the script provides participants an opportunity to exchange ideas, develop a plan to address the conflict or wrongdoing, and repair the harm that resulted. Finally the script invites participants to an informal, post conference social gathering, when refreshments are served and participants mingle and talk. (O'Connell, 1999, p. 17)

Silvan Tomkins' affect theory explains and the script reflects the human need to move beyond negative feelings. Fostered by open ended scripted questions the conference is a natural progression from negative emotions to positive ones. Even in highly emotional situations the script helps the facilitator to stay anchored and focused (O'Connell, 1999).

Because of the script, the Wagga Wagga Australian style conferences are thought to be much more consistent when compared with other VOM or conferencing models that do not apply a script. A UK restorative justice conference looks just like those in Australia, Canada, South Africa, and the Netherlands or Bethlehem conference. Based on the experience of thousand of conferences and supported by the sound psychological affect theory and Braithwaite's theory of reintergrative shaming, the script is considered a very reliable tool. The script used in the Icelandic pilot project and the one most often utilized is supported by research studies, which have consistently demonstrated high rates of participants' satisfaction, perception of fairness and offender compliance with conference agreements. It is uncommon that a new process has been so thoroughly evaluated (O'Connell, 1999).

The script is a simple model that can be adapted easily to a broad range of offences, conflicts and situations. It is most often used in conferences where offenders have admitted responsibility for the act and when there is an identifiable victim. On the other hand, the script can be modified to address truancy, drug possession and other "victimless" offences, probation and parole violations, and interpersonal conflicts. Furthermore, conferences scripts can sometimes be used when responsibility for an offence is not clear, but parties affected are willing to participate (O'Connell, 1999).

Restorative Justice Programs Typology

As discussed earlier, VOM has changed from its original prototype as initially a one-to-one meeting where a victim and offender sat around a table with one mediator who mediated their discussion. While that format continues today, it is more the exception than the rule. The changes made in most cases include adding guardians if appropriate or other supporters or relevant parties to participate and allowing multiple victims and/or offenders to take part in the same meeting using perhaps co-mediators. While conferences will not typically operate with a single victim, single offender and a single facilitator they nevertheless often do. This blurs the line between conferencing and the latest VOM hybrid. The fact is that sometimes it is not possible to involve participants for many different reasons to take part in a restorative justice meeting. That means that the important rule of additional stakeholders will have to be broken in conferencing (Raye & Roberts, 2007).

Paul McCold and Ted Wachtel, president of the International Institute for Restorative Practices (IIRP), a nonprofit educational organization founded in 1999 to take over the ongoing Real Justice program, proposed a restorative practice typology based on three direct stakeholder groups: victims, offenders and their communities of care. The extent to which all three are involved in meaningful emotional exchange and decision-making is the degree to which any program can be termed fully restorative. The restorative practice typology asserts that outcomes from partly, mostly and fully restorative practices should be

progressively better, on average, in an ascending order, as they become more restorative. They also conclude that all restorative practices should produce better outcomes than non-restorative practices. According to McCold and Wachtel, this typology states that VOM is just mostly restorative as it usually only involves two above mentioned stakeholders, that is the victim and the offender, but conferencing models such as family group conferencing and police conferencing are defined as fully restorative (McCold & Wachtel, 2003).

In practical use and as conferencing was originally designed, victims were to be a part of conferencing, but they were not required to be. This exemption is important because when FGC replaced court in New Zealand, many victims were unable or unwilling to participate even though the conference took place. Conferences are therefore still frequently used when there are no victims to take part in the process. This practice has continued as conferences have expanded and now a victim's presence is considered valuable but not essential which means that some conferences are fully restorative, everything else being equal, but not nearly all of them. On the other hand, the participation of an identified victim or victims is essential if the original prototypical VOM is to take place, and the reason is the emphasis on a meaningful dialogue between the victim and the offender (Raye & Roberts, 2007). In an e-mail to the author of this thesis, Paul McCold wrote:

In some jurisdictions, conferences are held with the offender and his family groups even if the victim does not want to participate. In other jurisdictions, no conference can be held unless the victim agrees. Others encourage non-attending victims to nominate a surrogate to represent them or to write a letter to be read at the conference to have their point of view heard. (McCold, personal communication, October 12, 2005)

That means, according to the restorative practice typology presented above, that VOM (at least prototypical VOM) is in many cases just as or even more restorative than conferences as the victim is a more vital component for the process and outcome of restorative justice than other stakeholders (Bazemore & Elis, 2007). A quote from Howard Zehr (2002) is in line here:

Like mediation programs, many restorative justice programs are designed around the possibility of a facilitated meeting or an encounter between victims, offenders, and perhaps community members. However, an encounter is not always chosen or appropriate. Moreover, restorative approaches are important even when an offender has not been apprehended or when a party is unwilling or unable to meet. So restorative approaches are not limited to an encounter. (p. 9)

The outcome of the evolution of the two primary restorative justice models is that one cannot tell what the precise process is by looking at its name, as multi-party VOM can run in ways that are quite similar to conferences and vice versa. For example Raye and Roberts (2007) think that Marshall's (1996) frequently used definition of restorative justice fits both models comfortably: "Restorative justice is a process whereby all parties with a stake in an offence come together to resolve collectively how to deal with the aftermath of the offence and its implication for the future" (p. 216). Furthermore, repairing harm, direct involvement of stakeholders and having the community as the first responder, with the government occupying a safeguard position, are three basic principles of restorative justice that both models incorporate. Additionally, restorative justice values such as respect, collaboration, empowerment and voluntariness are all

integrated in both of the models even though each offers flexibility in how these values should be demonstrated in specific settings or communities.

If the spirit of restorative justice, that is its values and principles, are experienced by all the participants the specific model, process or variations used are not of particular importance. What has to be kept in mind is that restorative justice processes can be changed in multiple ways around the needs of the parties while pursuing restorative justice goals and values and achieving restorative justice outcomes. Without these values and goals even the most restorative process will be damaging rather than restoring in outcome. The idea is that the purpose of the process is to facilitate restorative justice dialogue among the participant's needs and wishes and therefore to adjust the process to fit the participants and the context. As a result of experience many practitioners find it more useful to think in terms of a single model with many variations where the dynamic of the model is restorative justice dialogue. Then there would not be mutually exclusive models: if one would use one model he or she should be allowed to transition to another one when the needs and interests of the participants call for a shift. This dialogue oriented model has three characteristics:

- 1) it is inclusive, in that it invites all stakeholders to participate, and is willing to adjust its processes to meet their needs and interest;
- 2) it is grounded in restorative principles and values;
- 3) facilitation is conducted in such a way that participants are free to communicate as fully as they wish with each other by sharing experience, perceptions, emotions and perspectives. (Raye & Roberts, 2007, p. 218)

The above section has some relevance to the research questions set forth in this thesis. For instance, if there is hardly any difference between VOM and conferences than it all comes down to who facilitates these processes. Then, the question is, are police officers able to adhere to the spirit of restorative justice by incorporating its goals and values while facilitating conferences and thereby adjusting the process to fit participant's needs and wishes. Umbreit and Zehr (1996) thought not since many of their criticisms related directly to the issue of using police officers as conferencing facilitators. According to Paul McCold (1998) overall participant's satisfaction is a good indicator of whether participants' needs are being addressed. Hence, to assess police facilitation, victim and offender satisfaction and fairness were for example selected to measure if and to what degree restorative values were present in the Icelandic police- and expert-led conferences.

Many studies show the positive impact of restorative justice practices at multiple levels. This thesis next section summarizes some of the most recent valuable evaluation research found in the restorative justice literature. The information relies heavily on Sherman and Strang (2007) extensive review that can not be disregarded when look at the various process and outcome variables researchers explored when evaluating the effectiveness of restorative justice? An insight into this area should make it easier to evaluate the present thesis results.

Evaluation of Restorative Justice Programs

Report on Restorative Justice Effectiveness and Quality

Sherman and Strang (2007) conducted an independent report with the purpose of examining the evidence on restorative justice from around the world. The assessment brings together results of many of the most valuable restorative justice trials in order to set out a definitive statement of what constitutes good quality restorative justice, as well as to draw conclusions to its effectiveness with particular reference to reoffending and what future role restorative justice might play in the criminal justice system. They conclude that much of the available and reasonable unbiased evidence of restorative justice effects are based largely on police-led face to face conferences. Other studies analyzed involved court-ordered restitution and direct or indirect mediation. Hence their report employs a broad definition of restorative justice. Most of these restorative meetings were tested in comparison with conventional criminal justice at several stages of the criminal justice system for a few different types and seriousness of offences. The comparison was therefore not only at the diversionary from prosecution stage as in the Icelandic pilot project discussed below, although many of studies in the review were (Sherman and Strang, 2007). This section will be based in part on their review and also other research that evaluates the effectiveness and outcome of restorative justice.

As in the present thesis research, restorative justice assessment research typically surveys participant's perceptions of justice, their satisfaction with the process and their perceptions of the agreement reached. According to Paul McCold (2003) there is no accepted standard for measuring restorative justice processes and outcomes. The primary questions asked of participants include variations of the following:

Satisfaction with the way their case was handled, satisfaction with the outcome of their case, satisfaction with the facilitator, fairness of the process, fairness of the outcome, neutrality of the facilitator, are they glad they participated?, would they recommend this program to others?, would they participate again under similar circumstances? (p. 110)

Same or similar survey questions were asked of participants in the Icelandic conferencing pilot project discussed below, data that is analyzed in the present thesis. But to begin with it is important to take a quick look at what constitutes appropriate outcome of restorative justice so it is possible to adequately identify and set standards for effective restorative justice practices.

Measures of Participant's Satisfaction.

Proponents of restorative justice often see the theory and practice of restorative justice as ways of humanizing the justice system. Their belief was that victims were not offered to take part in the justice system and neither victims nor offenders had the opportunity to tell their stories and be heard. Instead the state stood in for the victim which seldom gave the offender the feeling that his or her actions had an impact on real, live people. At the same time victims were left with

stereotypes to fill their thoughts about offenders. Restorative justice proponents believed that VOM and other restorative practices offered opportunities for both participants to meet face to face in a controlled setting to share their experience of victimization and to answer questions of why and how it occurred. This personalizing of the consequences of crime was believed to enhance satisfaction levels with the entire justice process (Umbreit et al., 2004).

One way to assess the quality of restorative justice programs is to measure participant's satisfaction after participating in the process. It seems that different types of restorative justice programs have all found high levels of satisfaction (McCold, 1998; see also Umbreit et al., 2004). Across sites, cultures and most types of participants and seriousness of offence, normally eight or nine participants out of every ten report being satisfied with the process and its results. Using a step-wise multiple regression procedure Umbreit et al. (2004) found three variables that might explain over 40 percent of the variance of participant's satisfaction. The key variables in each study associated with victim satisfaction were that "(1) the victim felt good about the mediator, (2) the victim perceived the resulting restitution agreement as fair, and (3) the victim, for whatever reason, had a strong initial desire to meet the offender" (p. 289).

A meta- analysis conducted by Latimer et al. (2005) showed that participation in a restorative justice programs resulted in higher victim satisfaction ratings when compared to victims who participated in the traditional justice

system in all but one of the 13 programs examined. These same programs had however only moderate to weak positive impact on offender satisfaction.

Sherman and Strang (2007) report a study conducted by McGarrell et al. (2000) of seven to 14 years old first-time property and minor assault offenders and their victims. McGarrell found markedly higher levels of satisfaction among victims whose cases were randomly assigned to a conference compared to victims who participated in array of other options in the traditional justice system. Furthermore, 97% of victims said they felt involved with the way their case was dealt with, compared with 38% of victims in the control group, and 95% felt they had been able to express their views, compare with 56% of the control group.

Sherman and Strang (2007) report on their own studies on victims where cases were randomly assigned and found that there is a statistically significant difference between the court-assigned and the restorative justice-assigned victims when asked whether they were satisfied with how their case was dealt with by the justice system. Significantly more of victims who experienced conferencing (70%) were satisfied compared to those who went to court (42%) and here there was no difference between property and violence victims. A further indicator of overall treatment satisfaction is evident when victims are asked whether they were pleased with the way their case had been dealt with or whether they would have preferred the alternative treatment. When the only options are between court and conferences, significantly more conference victims (69%) than court victims (48%) thought that they were pleased to have been treated they way they were.

Property victims were slightly more pleased than violence victims. Also, Umbreit et al.'s (2004) report on a study by Davis, Tichane, and Grayson (1980) that showed that high levels of satisfaction with VOM translate into relatively high levels of satisfaction with the general criminal justice system. This was apparent when those that went through traditional court prosecution were compared to those that took part in mediation. The experience led participants of mediation to be more satisfied with the overall criminal justice system.

Measures of Participant's Perception of Fairness

Another way to assess the quality of restorative justice programs is to measure participant's perceptions of fairness after experiencing the restorative justice approach that was applied. The question of fairness is therefore related to how satisfied participants are (Umbreit et al., 2004). In Umbreit's et al.'s (2004) review most studies analyzed make assessments across settings, cultures and types of offences and participants. Together these study results demonstrate that the vast majority of VOM participants, or in general over 80%, thought the process was fair to both parties and that the agreement made was fair. When comparison groups were employed, those individuals exposed to mediation came away more likely to feel that they had been treated fairly than those going through the traditional court proceedings. In a study of burglary victims in Minneapolis, Umbreit et al. found that 80% who went through VOM indicated that they experienced the criminal justice system as fair compared with only 37% of

burglary victims who did not participate in VOM. These positive fairness (and satisfaction) experiences have generated support for VOM as a criminal justice option (Umbreit et al., 2004).

The Probability of Generating and Completion of Restitution Agreements

In the beginning restitution was seen as an important by-product of bringing offenders and victims together in a face to face meeting. Today however, restitution is inextricably linked to VOM effectiveness, success and quality and restorative justice programs are regarded as a promising major vehicle for achieving restitution for the victims. Restitutions are typically in the form of direct compensation to victims, community service, some kind of work for the victim and sometimes unusual paybacks devised between parties. Before the VOM meetings are held most victims report that restitution is the primary motivator for them to participate. Again one of the main factors that are most strongly associated with victim satisfaction is that victims perceived the resulting restitution agreement as fair. At the same time victims frequently reported, as cited from Coates and Cehm (1985) by Umbreit et al. (2004) that what victims appreciated most about the encounter was the opportunity to talk with the offender.

According to Latimer et al. (2005) one of the potential advantages of restorative justice is that it could be more effective in ensuring offender compliance with restitution agreements. In their review eight studies examined

the impact of restorative justice programming on restitution compliance. The results indicated that offenders who participated in restorative justice programs tended to have substantially higher compliance rates with agreements than offenders exposed to other arrangements. This would be a significant contribution to the justice process as victims would have a greater likelihood of receiving compensation for the harm caused by the criminal activity and the offenders would be actively accepting responsibility. According to Umbreit et al. (2004) typically 90 percent or more of VOM meetings generated agreements that are completed in 80 to 90 percent of the cases. It can be interpreted from Umbreit et al.'s (2004) and Latimer et al.'s (2005) that restitution should no longer be seen by restorative justice advocates as somewhat secondary to the actual meeting and this aspect of restorative justice could contribute heavily to victim satisfaction and the quality of the overall justice process.

Apologies and Revenge

Apologies from offenders are important for victims in bringing about for them emotional restoration. Sherman and Strang's (2007) findings demonstrate that a large majority or ninety percent of all victims, whether assigned to court or to conference, feel they should receive an apology but research shows that prevalence of apologies for each group is very different. For those victims who experienced a conference, 86% said their offender had apologized compared with only 19% of those assigned to court. Furthermore, more conference-assigned

victims (77%) than court-assigned victims (41%) said they felt the apologies they received were sincere.

The differences between the conference-assigned and court-assigned victims on desire for revenge might be related to findings on apologies and how sincere they are. Overall, 20% of court victims said they would harm their offenders if they had the chance, compared with 7% of conference victims. Nearly half of victims of violent crime that were dealt with in court wanted to harm their offenders compared with 9% of those who went to a conference. When Sherman et al. (2005) analyzed this data further, the pattern across tests of the revenge-reduction hypothesis was supported as statistically significant and substantial. On average, there was two-thirds less desire for revenge across groups receiving restorative justice than their comparison victim receiving criminal justice (Sherman & Strang, 2007).

Victims Before and After Feelings of Fear, Anger and Sympathy.

Strang, Sherman, Angel, Woods, Bennett, Birch, and Inkpen (2006) asked victims who had participated in restorative justice conferences a series of questions after the conference had taken place about how they felt both before and after the conference. When victims reported on their before-conference and after-conference feelings, there were large consistent and statistically significant differences at four test locations on all of the following dimensions; 1) fear of the offender, 2) perceived likelihood of revictimization, 3) sense of security, 4) anger

towards the offender, 5) sympathy for the offender and the offender's supporters, 6) feelings of trust in others, 7) feelings of self-confidence and 8) anxiety. Despite substantial variations in offence types, social contexts and nation and race, retrospective comparison in all three trials measured qualitatively and quantitatively are all in the same beneficial direction.

Concerning fear, the results showed dramatic reduction in victim's fear of their offenders after the restorative justice conference compared to their report level of fear before the conference. Victims are therefore dramatically more afraid of their offender before restorative justice intervention than after the intervention has taken place. In London a 100 percent drop occurred (from 31 to 0), not one robbery or burglary victim felt afraid of their offender after the conference had taken place. In Canberra, Australia, 20 victims were afraid of their offender before the conference but only 9 after the conferences. Similarly, in Northumbria (UK) 15 victims feared their offender before but only 3 victims after the conference and in Thames Valley (UK) 32 victims reported that they feared their offender before the intervention but only 12 after it had taken place. The baseline fear levels varied across test sites and were most probably connected to the seriousness of the offence that the victims experienced. For instance, the London and Thames Valley experiments dealt with crimes with enough violence to result in term of imprisonment and showed fear levels before the restorative justice intervention that exceeded 30 percent. On the other hand, Canberra and Northumbria offences in the sample almost never resulted in imprisonment and

their fear baseline was only half as high as in London and Thames Valley (Strang et al., 2006).

When levels of anger were analyzed similar results are detected, victims report substantial reduction in their level of anger after the restorative justice intervention in comparison to their level of anger before the intervention. Before the conference 87% of victims were angry but only 17% of them were angry after the restorative justice conference had taken place. The Thames Valley victims were less angry than their counterparts in the other sites even though they had suffered some of the most serious crimes. It seems that in the more serious cases fear was much more relevant to the victims than anger, and hence it appears that the feeling of anger is not directly related to the seriousness of the offending. The reduction in anger at the offender extends to victims admitting they have less desire for physical revenge against the offender after a restorative intervention than before. Tests results confirm far higher levels of desire for vengeance among victims assigned to control groups than those assigned to restorative justice conference (Sherman & Strang, 2007).

Compared to feelings of decreased fear and anger after a restorative justice intervention had taken place, victims report an almost three fold average increase in their feelings of sympathy towards offenders at this point in the intervention. This was particularly striking in the cases of the very serious offences being dealt with in London, although it was evident in less serious cases to. Sympathy is seen as the precursor for a victim to be able to forgive an offender and since there is

evidence to suggest that this might have real benefits for victims' welfare in the long run, increase in sympathy is a positive element of the restorative justice process (Strang et al., 2006).

These results support the findings that restorative justice processes should be expanded to serious offences by adults including robbery, burglary and assaults and the modern most frequent use of restorative justice that focuses primarily on youth and minor offences such as shoplifting and vandalism is not the best and most effective way to use the theory and its programs (Sherman & Strang, 2007).

Posttraumatic Stress Symptoms

Angel (2005) conducted a randomized control trial (RCT) to determine the effects of restorative justice on posttraumatic stress symptoms (PTSS) experienced by burglary and robbery victims. The trial demonstrated that if victims voluntarily meet offenders face to face they will obtain short-term benefits for their mental health by reduced post-traumatic stress symptoms (PTSS) which may, in turn, reduce their lifetime risk of coronary disease (which PTSS causes in military veterans), as well as reducing health costs paid by taxpayers. In her study a total of 137 individuals were randomly assigned either to court only or to court plus restorative justice and assessed using a standardized psychological instrument to measure PTSS. Only few of the crime victims could be clinically diagnosable but their symptoms were nonetheless substantial. Victims who had experienced restorative justice consistently scored lower than

control participants, both immediately after their cases were finalized and also six months later. The results suggest that robbery and burglary victims take 50% longer to return to work without restorative justice than if they had received it (Sherman & Strang, 2007). Similarly Sherman and Strang (2007) report that the effect of restorative justice on victims of burglary and robberies include large reductions in their post-traumatic stress symptoms. These victims reported greater ability to return to work, to resume normal daily activities, to sleep better at night and to stop their “racing thoughts.”

Diversion: the Effect of Restorative Justice in Crime Prevention

Restorative justice advocates argue that restorative justice processes should provide better crime prevention and reduction than do standard criminal justice approaches. Findings suggest that restorative programs may better reduce reoffences and their seriousness than do standard criminal justice processes with at least certain kind of offences and types of offenders (Yeager, 2002). To measure the long term impact of VOM programs Umbreit et al. (2004) cites Nugent, Umbreit, Wiinamaki, and Paddock study (1999) that uses ordinary logistical regression procedures to re-analyze recidivism data. The authors reported in four studies involving 488 VOM youth and 527 non-VOM youth that participants of VOM recidivated at a statistically significant lower rate than youth who did not participate in VOM. Furthermore, when the VOM youth did reoffend, they did so for less serious offences than non-VOM youths. It did not

say in Umbreit's et al review if these studies were equalized for level of seriousness of offences, that is if less serious offending youth were prone to participate in this restorative justice option because they were likelier to be qualified than more serious offending youth. In his overview of recidivism studies Umbreit reports only two studies that do not particularly focus on youths and their recidivism rates after participating in restorative justice programs. The participants in these restorative justice programs recidivated 21 to 105 percent less when compared to participants who did not participate in a restorative program.

Results from an experiment in Australia where about 1,300 cases were randomly assigned to either restorative justice conferences or to court showed no difference in recidivism for juvenile property offenders or shoplifters and a very small increase in reoffending for drunk drivers. Conversely, the same research found a large reduction in reoffending by violent offenders assigned to conferencing or 38 fewer violent offences per 100 offenders per year compared to participants assigned to courts. Although these results are mixed but at the same time promising they must be taken as provisional since the number of offenders was inadequate, their history of violence was only modest and there was only a one year follow up period (Yeager, 2002).

Latimer, Dowden and Muise (2005) state that recidivism is one of the most important outcome variables for any form of criminal justice intervention. A large meta-analysis conducted for the Canadian Department of Justice by Latimer

et al. (2005) found rather promising results. When eight conferencing and twenty-seven victim-offender mediation programs were reviewed the results showed that there is a reduction in recidivism in favor of restorative justice programs when compared with non-restorative approaches. Restorative justice programs, on average, yielded reductions in recidivism that are statistically significant compared to traditional criminal approaches.

The largest restorative justice effect on repeat offending in a randomized experiment has been found in the Canberra RISE project. In a two year before, two year after comparison, among white participants under 30 years of age, the frequency of arrest dropped by 84 per 100 offenders more with those assigned to restorative justice than those assigned to the control group. A relatively similar result was found among females less than 18 years of age in Northumbria whose parents joined in their consent to a restorative justice conference as part of a final warning for an assault. The participants were randomly assigned to either conference or a standard meeting where the police officer talked to the offender and her parents. In a year before and year after comparison those assigned to conference had 118 fewer arrests compared to the criminal justice group who only had 47 fewer arrests. According to these results the effect of restorative justice is therefore twice as great a reduction in arrests per 100 offenders. Relative to criminal justice the estimation is that restorative justice among predominantly poor, violent white girls in this location prevented 71 crimes leading to arrest per 100 offenders (Sherman & Strang, 2007).

Sherman and Strang (2007) state that similar effects were found in a study conducted by McGarrell et al. (2000) in Indianapolis. Children aged seven to 14 accused of violent crime were randomly assigned to conferences or other programs as diversion from prosecution that did not involve a meeting with victims. The group assigned to conferences was reported to have 28% prevalence of rearrest at six months compared with 34% for the control group. Furthermore, the main effects showed that restorative justice conferences cut in half the percentage of juveniles who had any new arrest after random assignment (15%), relative to the control group that was not given restorative justice (27%).

The first reported randomized experiment on Police-led conferencing in diversion from prosecution to restorative justice was conducted by McCold and Wachtel (1998). Findings showed clear differences in the recidivism rates of restorative justice participants (20%) versus individual who refused participation in the program (48%) versus the comparison group (35%). However, the authors argued that there was no treatment effect on recidivism from participation in restorative justice beyond a self-selection effect (Latimer et al., 2005). According to McCold and Wachtel (1998) the design did not allow for the disentanglement of the selection of participants variable and program effect variable since factors associated with the decision to participate were related to factors associated with the outcome variables. Hence the Bethlehem experiment did not find that the police-led conferences (the restorative justice intervention or treatment itself) produced higher participant satisfaction or lower recidivism than the traditional

system. It found that participants in conferencing had higher satisfaction and lower recidivism than those that took part in the traditional justice system. The danger of explaining the results by saying that conferencing produced the results comes from the fact that it is not known if it was the intervention that produced the positive results as opposed to how participants just happened to be selected into conferencing. Because of a self-selection bias there could be a third underlying cause that is the reason for the effect rather than the effect of the intervention itself (McCold & Wachtel, 1998). The cause for this self-selection bias is that random assignment in the Bethlehem experiment was done prior to seeking offender's consent which guaranteed a high refusal rate. If the purpose of the experiment had been to discover differences on reoffending rates, the ideal experimental design would have been to seek consent first and then randomize cases to restorative justice or control group. Since about half of offenders in the Bethlehem experiment that had been assigned to conferences refused the intervention it was and is difficult for the researcher to draw any conclusions about the effect of the restorative justice intervention (in this case conferencing) on recidivism. The reason is that offenders who accepted the intervention may be substantially different from those who refused the intervention in ways that may predict their risk of repeat offending regardless of the intervention. That is, if participants with lower risk of repeat offending are more likely to be offered, accept or complete restorative intervention than participants with higher risks of repeat offending, then the reason why those that took part in the intervention had

less repeat offending would not be the result of the intervention. This kind of a self-selection bias is what statisticians view as a spurious association and reflects some third underlying cause that is the reason for the effect rather than the effect of the intervention (Sherman & Strang, 2007).

According to Sherman and Strang (2007) the Brooklyn, New York, experiment conducted by Davis et al. (1981) is similarly flawed by the same self-selection bias as 44% of the cases assigned to restorative justice intervention never undertook it and 72% of offenders prosecuted in court had their cases dismissed. In the end the comparison was only between those 27% prosecuted and that resulted in criminal convictions to those 56% of that undertook the restorative intervention. The study of these two groups yielded no difference in recidivism.

Sherman and Strang (2007) review a Canadian restorative justice program conducted by Pennell and Burford (2000) which offered family group conferences to some violent families but not to other violent families that made up the control group. The results showed that emergency visits to the home dropped from the before to the after period by over half in the conferencing group, compared with 50% increase in the control group. Almost identical differences were found in reports of child abuse or neglect.

Now let's take a look at evidence on recidivism after property crime and then summarize these two sections.

Recidivism after Property Crime

The best results of restorative justice for property crime in the UK so far were found among white male youth in poverty areas of Northumbria. Randomly assigned to either a meeting with a police officer who gave final warnings or conferences, the before and after comparison of arrest rates in the conference group showed 88 fewer arrests per 100 offenders while final warning group showed only 32 fewer arrests per 100 offenders. The restorative justice conferencing group had therefore twice the size of the reduction in offending measured by arrest compared to the criminal justice control group (Sherman & Strang, 2007).

The good results of conferencing on Northumbrian youth stand in sharp contrast to the Canberra results for a small sample of Aboriginal property crime youth under 18 years of age. Conventional juvenile prosecution caused a reduction of 66 arrests per year per 100 offenders when restorative justice intervention caused an increase of 228 arrests per 100 offenders per year. This means that the restorative intervention roughly tripled the detected offending rates. These results are the only clear evidence of criminogenic effects of restorative justice and limited to 23 Australian Aboriginal youth charged with property offences. The findings are from what statisticians call a subgroup analysis, or the analysis of interaction effects within a stratum of the larger experiment. The very large magnitude of the effect, however, meant that the effect was clearly not due to chance, even though the sample size was small. The

capacity to generalize from these results to other population remains unclear. It is impossible to ethically know whether this finding applies even in another sample of Aboriginal youth in Canberra. There could be a criminogenic reaction whenever minority offender of color meets with white victims but not when such offenders meet with victims of their own race or in a specific context of property offending in a wealthy and highly educated community of Australia capital. Maybe this finding is predictive of restorative justice effects in all cities and so forth, but without further evidence there is no way to answer these and other questions without further evidence. The question of minority group effects remains a mystery in the evidence on restorative justice around the world (Sherman & Strang, 2007).

Another RISE experiment concerned a sample of shoplifters under 18 that were caught by security staff in large department stores. These crimes were treated as non-victim crime since security employees who did not suffer from the offender's conduct were sometimes representatives of the stores. No difference in repeat offending was found between the restorative intervention and criminal justice intervention (Sherman & Strang, 2007).

According to Sherman and Strang (2007) the best results for a restorative justice intervention after randomized control trials of non-victim offences have been reported by McGarrell et al. (2000). The study concerned offences and violations such as making noise, drinking under age and youth curfew. The youth aged seven to 14 were assigned to conference without a victim present or other

traditional diversion programs. The prevalence of arrest of those assigned to other diversion programs than conferences was 45% compared to only 28% of those that undertook conferencing six months after disposition. Whether this effect can only be achieved among very young offenders is a question the evidence cannot yet answer.

Evidence Summary on Recidivism

Key findings in Sherman and Strang's (2007) comprehensive report many of which are reviewed above are that restorative justice may work better with serious crimes rather than minor offences. More precisely, restorative justice works most consistently to reduce repeat offending with violent crime and there is no doubt that restorative justice does not at least increase repeat offending with this type of criminal behavior. The effects of restorative justice interventions are less predictable, even sometimes counterproductive, for property crime and the evidence on crime where victims are not part of the restorative justice process is least compelling. The reason why restorative justice interventions work better with more serious offences may be consistent with the emotional basis of restorative justice theory and practice. Restorative justice interventions are thought to be effective because of offender remorse for having harmed a victim and that remorse for instance is supposed to drive any reduction in repeat offending that follows a restorative conference. Remorse and hence the effect of restorative justice could be stronger if victims relate to offenders socially or for

instance in class, race and income. Beyond the above mentioned conclusions the evidence gathered so far does not allow for accurate predictions of the kinds of offences or offenders for whom restorative justice is more likely to be effective. One only needs to look at inconsistency concerning race and gender to understand the depth of the gap in research that needs to be filled. For example, white male youths in Northumbria showed no reduction in offending after a restorative justice intervention but in the same experiment, as discussed above, a strong effect of restorative justice on recidivism was found among violent white girls (Sherman & Strang, 2007).

Based on available evidence, Sherman and Strang (2007) are willing to predict that except in rare circumstances restorative justice is unlikely to cause more repeat offending than criminal justice. This knowledge and clear and consistent information about average benefits for victims states that restorative justice could proceed on a much larger scale as long as 1) criminogenic effects of restorative justice are not more widespread than is apparent and 2) if researchers can tackle the remaining questions about the effects of restorative justice on crime or more clearly put: how does restorative justice affect general deterrence.

Evaluating program success in relation to above mentioned outcome variables is important and necessary to test the truth and falsity of restorative justice as a credible response to crime. To succeed and be preferred as an effective criminal justice response restorative justice does not have to be perfect, it only needs to demonstrate superiority on average to other traditional

adjudicatory approaches (McCold, 2004). According to Paul McCold (2004) research available today shows overall that restorative practices are a very effective alternative form of responding to criminal and civil conflict.

By reviewing the evidence above and exploring the range of outcomes achieved the reader of the present thesis should be more acquainted with what constitutes normal results in the restorative justice literature. It has to be kept in mind, however, that limiting program success to for instance recidivism, participation and satisfaction rates is insufficient to evaluate restorative justice programs. There are also other worthy accomplishments such as providing offenders in diversionary programs with the option to be held accountable without official court records and offering victims and other stakeholders the option of playing a central role in determining the resolution of the case. Those affected by crime should be encouraged to resolve the matter to their own satisfaction if they are voluntarily willing to do so (McCold, 2004).

After this short evaluation review it should be easier to put the findings of the present thesis in a proper perspective. Furthermore, this evaluation review is a good reminder of the fact that if a criminal justice program is thought to be effective it should be possible to measure these effects. That is precisely what Paul McCold (1998) did when challenged by Umbreit and Zehr (1996) concerns towards police facilitated conferences. Paul McCold's effort of putting the concerns to the test will be reviewed in the next section and his call for future

evaluation on police-led conferencing will be answered to a certain extent in the remainder of the present thesis.

McCold's Evaluation of Police-led Conferences

In the research mentioned above and evaluated by Umbreit et al. (2004), it was reported that conferencing models tend to yield lower levels of victim's satisfaction than victim-offender mediation models when both are compared to non-restorative approaches. The authors suggest the difference may for example be explained by conferencing having more participants and therefore it may be more difficult to find as much satisfaction with an agreement. Umbreit and Zehr (1996) have raised concerns about both the conference process in itself and the issue of using police officers as conference facilitators. Whether police conferencing is any more or less constructive or restorative than other restorative practices is an empirical question (Braithwaite 1994, cited in McCold, 1998).

McCold's (1998) review challenged Umbreit and Zehr's concerns about restorative police-led conferences. He put this empirical question to the test by compared available research on police-led conferencing to results from other well-established criminal mediation programs with comparable survey questions. One research study on police-led conferences reported in the review was the so-called 'Bethlehem experiment' where Paul McCold and Ben Wachtel (1998) randomly assigned juvenile offenders to either formal adjudication or to a diversionary police facilitated conference. The juveniles were moderately serious offenders that had not committed a crime before, and participation in the process

and the survey was voluntary for all participants. The experiment had three objectives: 1) to evaluate the implementation of conferencing as a restorative policing practice in the United States, 2) to study the effects of restorative justice and conferencing practice on police and the community, and 3) to compare the results to equivalent data on formal adjudication and other restorative justice approaches. These objectives put Umbreit and Zehr's (1996) six main concerns about police facilitation and conferencing to the test by comparing results from police-led conferencing with results from victim-offender mediation conducted by volunteers or trained professionals. Although types of participants and cases involved in the VOM and conferencing programs were not entirely comparable the author believes it is appropriate to make some general conclusions about Umbreit and Zehr's concerns and about the effectiveness of restorative police facilitated programs.

Umbreit and Zehr's (1996) six main concerns about police facilitated conferencing were each examined and answered in Paul McCold (1998) review and are as follows. The first concern is that:

Inadequate preparation could significantly limit the impact of FGC in humanizing the process in such a manner that parties feel safe and prepared to attend and participate freely in a genuine dialogue.

As McCold (1998) points out there are multiple concerns raised in this one sentence. Number one, is a participant's preparation sufficient. Number two, is the process humanizing. Number three, is there a "genuine" dialogue. Number

four, do participants feel safe, and number five, are participants prepared to attend.

When the Bethlehem experiment was compared to seven other mediation programs, its participation rate was 42%, or second highest, even though it did not make use of preparatory face to face meetings in this case. Most participants in the Bethlehem experiment were contacted by phone prior to the meeting and had only a brief explanation of the process. It may therefore be concluded that participants must have perceived the police-led conference setting and structure as safe since the participation was among the highest. The participation rate demonstrates that participants were obviously also prepared to attend and the participation appears voluntary and not to be coercive. If police officers were coercive in pressuring participants to take part in the conference process, the Bethlehem program should have had an artificially high participation rate, which it did not. Moreover, offenders believed in 92% of cases that their participation was voluntary and that they would recommend conferencing to others.

VOM programs that instructed mediators to have preparatory meetings with victims and offenders prior to when parties met face to face, did not necessarily have higher participation rates than the Bethlehem experiment where preparation was much more limited. For example, the Canadian Langley VOM preparatory meeting program had 44% participation rate, while other VOM preparatory programs reviewed by McCold (1998) had only 34% average participation rate. It appears that preparation for the Bethlehem program was

sufficient, otherwise the participation rate for the conferencing approach would have been lower.

In the Austin VOM program reviewed by McCold, professional mediators did not have special face to face preparatory meetings yet they produced higher victim satisfaction rates than all the other criminal mediation programs in the review. The study had the second lowest participation rate (29%) hence, the extensive preparation of participants suggested by many advocates of VOM may not be as necessary as they believe. The data may on the contrary indicate that extensive preparation of participants in minor to moderately serious juvenile offences may be unnecessary and counter-productive. The concern is that it may be possible to over-prepare participants to the extent that emotions have been overly expressed before the actual face to face meeting takes place. This could minimize the healthy expression of emotion and thereby limit the transformative capacity of the actual meeting. The experience of the Bethlehem experiment was that the more emotion expressed at the conference, the more transformative the process was (McCold, 1998).

Participants overall satisfaction was also compared. This time the Wagga Wagga, New South Wales, Australia study on police conferencing was also included. Participant overall satisfaction is a good indicator of whether their needs are being addressed. The results show that victims expressed higher satisfaction in the Bethlehem experiment (96%) and in the Wagga study (90%) than in any of the other eight victim-offender mediation programs (57 – 88%). Offender satisfaction

was also highest in the Bethlehem experiment (97%). Although the Austin study, where professional mediators conducted the VOM process, was rated the second highest (92%) the other volunteer VOM studies had only average satisfaction rate of 73% for offender satisfaction (McCold, 1998). According to these results the concern raised do not apply as much to the Bethlehem police-led conference program as it did apply to the other criminal mediation programs compared, which were either conducted by volunteers or professional mediators.

As mentioned above, Umbreit et al. (2004) has reported that conferencing models tend to yield lower levels of victim satisfaction than victim-offender models. The second concerns that Zehr and Umbreit (1996) raised is that:

Conferencing and conference facilitators may be insensitive to victims' needs and coercive in encouraging their participation in the process.

Paul McCold's evidence however strongly refutes this concern. Overall victim satisfaction is a good indicator of whether victims' needs are being addressed (McCold, 1998). As the satisfaction results show, victims' and offenders' needs in the Bethlehem experiment conducted by police officers were being appropriately met and it seems in a more satisfactory way than the other VOM programs that conferencing was compared to. Furthermore, the results show that victims were more satisfied with how their case was handled, had higher perception of fairness, and were more likely to feel the offender was held accountable than victims whose cases went through the formal criminal justice system. Victims felt that their participation was voluntary in 96% of instances and

94% felt that their opinion had been adequately considered at the face to face meeting. When victims were asked if they would participate again 94% said they would do so and 92% would recommend face to face police led conferencing to others. Those few victims who felt that they were being pressured to participate confirmed again that families were the source of that pressure, not the police (McCold, 1998).

The third concern is that:

Young offenders may be intimidated by adults and uniformed police officers; they may not feel safe or comfortable enough to share thoughts and feelings and to genuinely “own up” to the criminal behavior.

Again this concern was not supported by the data in McCold review. The evidence shows that, in a greater proportion of cases than in any other criminal mediation programs compared, offenders were most satisfied with face to face police-led conferencing. As mentioned above this satisfaction rate was close to 100%, or 97%, when average satisfaction rate for other VOM programs was about 73% to 75%. Offenders thought in 92% of cases that conferences were more responsive to their needs as human beings, 94% would choose conferencing over court again and 92% would recommend conferencing to others which is all a strong indication that offenders felt safe and comfortable enough to share their feelings and that they were not intimidated by adults and uniformed police officers. Both parents of offenders and victims thought in 93% of cases on average that offenders had been held adequately accountable which indicates that offenders do “own up” to their criminal behavior (McCold, 1998).

The fourth concern is that:

The police may be incapable of being neutral facilitators, falling into authoritarian behavior pattern and undermining the process of reintegrative shaming.

Some evidence was found in support of this concern. Police officers are not all equally capable of being neutral facilitators and in empowering participants. Compliance with restorative protocols was above 90% among those police officers facilitating two or more conferences, hence the majorities were very appropriate although supportive management oversight and performance feedback was necessary. When perception of fairness was evaluated, four out of five of the highest rated programs on offender perception of fairness were police programs (94 – 97%) and two highest rated programs of ten on victim perception of fairness were both police programs (96%). Although victim perception of fairness for one of the police conducted program was only 74% (RISE violent), by comparison the average perception of victim fairness for all the VOM programs was 76%. The results indicate therefore that the restorative nature of the process was not undermined by having a police officer conducting the process and the data suggest that the process requires not so much a neutral facilitator as a facilitator who is perceived as fair.

Issues of fairness and neutrality can be evaluated by comparing bivariate relationships between victim and offender perception of different programs. Fairness parity or when victims and offenders rate programs as equally fair could be an indicator that the program in question is more neutral than programs in

which the offenders for instance felt the process fairer than victims. The data shows that two police-led programs had the highest rating of fairness parity when compared to the other VOM programs. Only three of nine criminal mediation programs had acceptable fairness parity rates. Similarly, satisfaction parity indicates that the process is well balanced and shows that both offenders and victims feel that they have been treated equally well. The programs differed dramatically in satisfaction parity. Five VOM studies out of nine had either the offender more satisfied than the victim or the victim more satisfied than the offender, which can be viewed as evidence of biased programs as judged by the participants themselves. The four remaining programs, of which one was a police facilitated program, had very similar ratings of satisfaction between victims and offenders and hence showed evidence of being more balanced or neutral (McCold, 1998).

The fifth concern is that:

The scripted conferencing process may be too rigid and insensitive to cultural needs and preferences within a community.

McCold's (1998) findings proved otherwise. The script is designed to be culturally universal where participants work through strong emotions with open ended questions asked in a specific order to increase the possibility of an agreement. The script is easily adaptable to other situation such as school and workplace settings and also cultures that are very different. When scripted police conferencing was tested for participation rate or satisfaction between people of different origin, such as between Anglo and Latinos, no difference could be

found. Conferences are known to go well whether the offender is 3, 11 or 17 years of age. However, wording of the scripted questions may have to be simplified for very young children and informal use of the script have been reported helpful with children as young as three years old (McCold, 1998).

The sixth concern is that:

Police-based conferencing may lead to net-widening.

If a new program results in sanctions imposed on people who would have simply been left alone or who would have not received as a demanding process of accountability if the new program did not exist than net-widening has taken place. That means that less serious or very low risk offenders are drawn too deep into the criminal justice system compared to what was before thought necessary (O'Mahony & Doak, 2004). The fear is that restorative justice programs may widen the net of social control by receiving cases that the formal court-system would not have received before, or by imposing sanctions not utilized by the formal justice system until the new program was established. Another change that can lead to net-widening is the danger in using informal processes and community service sanctions as they can give rise to a new professionalism. This new professionalism often expands the sphere of social intervention, adding new organizations and additional recourses to process criminal cases. Furthermore, achieving high success rates is sometimes the cause of net-widening. Program administrators then often turn away tough cases but instead seek low-risk offenders who are taken into restorative programs. This tendency leads many low-

risk offenders, who would without these programs never have been prosecuted in a formal proceeding, into imposed sanctions and justice process that they did not have to go through before the new program was implemented (Christopher Bright, 1997, see also McCold, 1998).

Evidence has not supported the concern that police-based conferencing may lead to net-widening. When police facilitated conferences are implemented dramatically fewer cases are as a consequence referred to court. Moreover, since police conferences make use of existing police resources and infrastructure, and therefore require only a small amount of additional funding, the effect is not greater system capacity development or huge increases in expenses. Criminal mediation programs may however be more sensitive to net-widening in view of the fact that they are more likely to implement a new organization and infrastructure or other kinds of additional recourses to process criminal cases (McCold, 1998).

Paul McCold's evaluation of the six concerns shows a strong support was found for all of them except the fourth concern which relates to the neutrality of police officers when facilitating restorative conferences. The findings in the present thesis are only partially supportive of the fourth concern, this matter will be discussed in relevant sections below.

As has been mentioned, the author of this thesis met Paul McCold at an IIRP (Real Justice) restorative justice seminar in November 2005, attending as a recently hired restorative justice pilot project manager for the Ministry of Justice

in Iceland. There McCold gave a lecture on his and Ben Wachtel's ideas about restorative justice practice typology discussed earlier in the current thesis. Furthermore, at the seminars he informed the thesis author about police conferencing, his past writings and pointed out research that was for example discussed in this section of the thesis. Iceland was in the process of developing restorative justice at the time and this research turned out to be important. As the restorative justice pilot project manager the thesis author wrote a report, for the Ministry of Justice in Iceland, about what he thought would be the most fruitful, efficient and practical way to implement restorative justice into the criminal justice system. In short the suggestion was that police officers should be used to facilitate restorative meetings, not volunteer or social workers, and that the restorative approach should be conferencing not mediation. The report was mostly built on McCold's research, the Real Justice program experience and knowledge of police conferencing and other collected data on both conferencing and VOM. The suggestions in the report were approved a month later. This development provided an opportunity to monitor the new program as it was implemented and hence contribute to the debate in the field about how well different conferencing options work.

Information about Iceland, Crime and Criminal Procedures in Iceland

Background Information

In order to explore the development of restorative justice in Iceland one must first understand something about Iceland and its criminal justice system. This section begins with a short description of Iceland, its criminal justice system administration and crime statistics. Next follows a short presentation of the conventional criminal justice procedure in Iceland.

Iceland is an island in the North Atlantic which is part of Europe. It is fairly large or about 103,000 square km or about one-fifth of France. Iceland habitation is mostly restricted to the coast since its interior is high mountained. The population is about 320,000 people and before the economic depression which hit Iceland badly in October 2008, the average income was among the highest in Europe, at US\$ 38,000 in 2004. The rate of unemployment was very low or about 3 percent, and has been low until October 2008 when a local and international financial crisis hit the country. About 71% of the workforce works in service jobs and only 6 percent in production, which is a huge shift from 60 years ago when Iceland was more a country of farmers and fishermen. Only 3.6 percent of the population is foreign nationals. Iceland is a kind of city-state since about

63% of the nation's population resides in Reykjavik, the capital of Iceland, and in the neighboring communities.

The institutions of power, such as the parliament, cabinet and Supreme Court are located in Reykjavik. Iceland is a republic that directly elects a president but executive power lies with the legislature, usually a coalition of two or more parties. The parliament, which operates in a single chamber, holds legislative power. There are 26 police districts, of which the Reykjavik district is by far the largest. In 2004, the number of police officers was 231 per 100,000 inhabitants, which is similar to those found in other Scandinavian countries but lower than in other European countries. Chiefs of police have the authority to prosecute for a few common offences against the criminal code. These offences are thefts and related offences and physical minor assaults. They also have the authority to prosecute for all violations of the special criminal statutes covering minor offences. Under the current law, the prosecuting attorney and chiefs of police, including the National Commissioner of Police, have the power to indict.

There are two levels of courts in Iceland, the district courts and the Supreme Court which is the highest court in the nation. The judges of the district courts judge both in civil and criminal cases and their verdicts may be appealed to the Supreme Court. The models for the criminal code come from Danish law and from laws of other Scandinavian countries. Furthermore, international cooperation and membership in international treaties have created a need for change in legislation and resources. One pressure for change is the implementation of

restorative justice which is not today a well established procedure and resource option in Iceland (Ólafsdóttir & Bragadóttir, 2006).

Crime Statistics

Iceland is classified as a nation where crime is rare and this classification has been supported by analysis of the society, limited studies and comparison of criminal statistics between countries. Among the Nordic countries in 2000, the rate for total offences per 100.000 inhabitants was lowest in Iceland. Sweden has the highest rate with 13,693 offences compared to Iceland with only 7234 offences which was a little lower than in previous years, indicating that crime in Iceland is not on the increase. The main explanation for difference in crime rate between Iceland and other Nordic countries is that the rate of theft is remarkably lower in Iceland. A survey of the general population carried out in 2004 showed that 22 percent of respondents had been victims of mostly minor crime of property. Respondents report almost 7 percent victimization of violence, in the past year, and about 2 percent had been victims of sexual offences.

Most people report what happens to them to the police. When asked about their experience over the past five years about 73 percent had reported burglary, 67 percent theft from motor vehicles, 63 percent motorcycle theft, and 54 percent bicycle theft. The nature of the offence is decisive in determining whether victims decide to report an offence or not. Consequently, reports for violence (16 percent) and sexual offences (6 percent) were considerably lower than the above

mentioned minor offences. Recorded offences are considerable fewer in the rural districts (97 – 164 per 10.000 inhabitants) compared to the Reykjavik police district (444 per.000 inhabitants) and the greatest difference is seen in theft and related offences but smallest difference is seen for violent offences. People reported for punishable offences was 122 per 10.000 inhabitants and 80 percent were men and 20 percent women. Most were between the ages of 15 and 19 (Ólafsdóttir & Bragadóttir, 2006).

The Conventional Criminal Justice Procedure in Iceland

A separate juvenile justice system in Iceland does not exist in the conventional criminal justice system in Iceland. When an offender is 15 years or older he has reached the age of criminal liability. If an offender that has reached the age of criminal liability is caught at the crime scene in Iceland or has been reported to the police, a preliminary report is completed. Depending on the seriousness of the crime the offender could also be arrested and transferred to the police station. If only a preliminary report is made the offender is called in to give a full report of the offence later on. It does not matter if the individual charged with the offense admits to the crime or not, the report must be investigated further by the police department that handles the case in question. After receiving a letter or being called up by the Police the victim comes to the police station to give a report. There the victim describes the offence and files a criminal claim against the offender. Victims usually have to charge the offender, if not the police officer

is often forced to close the case. For a case to be strong witnesses are usually needed and must be willing to give their statements. At this stage the offender sometimes admits to the offence and is prepared, in exchange for the victim's willingness to dismiss the case, to offer the victim financial compensation. Then the police either help with the transactions of the compensation or the parties themselves make it happen between themselves without the assistance of the police. Serious cases are not eligible to be dismissed by the victim and must be transferred to the prosecutor for further assessment (Stefán, personal communication, November 15, 2006).

When the case has been fully investigated the investigator forwards it to the public prosecutor who will either prosecute the offender or dismiss the case because of lack of good evidence, for instance. The decision concerning whether the case will be prosecuted depends also on how serious the crime is, and whether prosecution is considered to be of public interest. This latter evaluation may well vary with political fluctuations. If the case is thought to be eligible for conviction, the offender is prosecuted and committed to the courts. Diversions can take different forms: a waiver of prosecution, being fined, suspended indictment, and just until recently the possibility of referring a case to conferencing (Stefán, personal communication, November 15, 2006).

The Implementation of Restorative Justice and Conferencing in Iceland

As mentioned above, Real Justice, a non-profit organization was established in 1995 to foster the use of restorative justice by promoting practices based on the Wagga Wagga conferencing model. The Real Justice police conferencing program was activated in Iceland on first of October 2006 when the first Icelandic restorative justice practice was available for criminal cases and formally located in the criminal justice system. Since then instructors from the Real Justice organization have educated in almost all jurisdictions around Iceland around forty police officers in applying police-led conferencing and the theory of restorative justice. The first conference was held on 24 of October 2006 which marks the start of this study as the first questionnaires was than filled out. The next chapters will shortly explain why the two year pilot project began, its preparation and implementation and set the context for the evaluation of police-led conferencing and hence the implementation of restorative justice in Iceland.

How Restorative Justice Developed in Iceland

The notion of restorative justice is new in Iceland. The approach was introduced to the public in 2001 when one sector of the municipality of Reykjavik and the Reykjavik Police started working together with young offenders, i.e.,

children under the age of criminal liability which is fifteen in Iceland. A pilot project, known as The Circle (*Hringurinn*) was established as a forum for the work. The project started formally on 1 September 2001 and its duration was initially set for one year. When the results were evaluated after one year in terms of victim and offender satisfaction they exceeded all expectations; as a result the project was extended. The offences dealt with in the project were for the most part vandalism and theft.

In 2003 the Minister of Justice appointed a committee to monitor and evaluate the Circle project. The committee was also to consider whether a similar system of restorative justice should be established involving offenders who have reached the age of criminal liability and whether such a system would require legislative amendments. The Committee's conclusion, in its 2004 report, was that the Circle project should continue. It furthermore recommended that a restorative justice pilot project be established in criminal cases for offenders who have reached the age of criminal liability. No legislative amendments were necessary for such a pilot project. The legal basis existed in Art. 213 of the Code of Criminal Procedure, No.19/1991 (*Skýrsla nefndar um tilraunverkefnið Hringinn og ný úrræði vegna afbrota ungmenna 2004*).

On the basis of this report, the Minister of Justice decided to launch such a pilot project. In the beginning of August 2005 a project manager (the author of the present study) was employed and a supervision committee was appointed which included the project manager. The project manager's main assignment was firstly

to gather information for best practices and recommend the most appropriate way to implement restorative justice and lastly to implement the approach after it had been approved by the Minister of Justice.

In October 2005 the project manager went for an inspection of the restorative justice system in Norway and also gathered information on a short visit in Sweden. In November the project manager met Paul McCold, Terry O'Connell and Ted Wachtel at a restorative justice convention in Manchester. After taking part in a Real Justice conference training in Manchester and reading Paul McCold's research and evaluating other collected data on both conferencing and victim-offender mediation, the decision was that the Real Justice police conference approach would best suit Icelandic conditions and culture and was in many ways practical and theoretically well established. The project manager handed in a report on 16 of January 2006 about what he thought would be the most fruitful, efficient and practical way to implement restorative justice into the criminal justice system. The suggestions were all approved by the Minister of Justice a month later. The main changes made from what was originally recommended by the Circle committee were that conferencing should be the practice model, not VOM, and that police officers should conduct the conferences, not social workers or volunteers. In addition it was decided that the project manager (the thesis author) should also conduct conferences until police officers were properly prepared to take over the implementation process. This arrangement would also mitigate the effect of new workload that the restorative

justice process would cause for the police organization. Furthermore, the project manager would be able to gain extensive conferencing experience and hence be capable later on to train and transfer his knowledge to police facilitators. This hands-on experience was also meant to provide the project manager with valuable information about restorative justice process and procedures and grant him better understanding and insight on how to enhance its quality.

Why Iceland Applied Police-led Conferencing

The reasons and claimed benefits for choosing police-led conferencing over VOM conducted by either trained experts (social workers) or trained volunteers were a few: 1) it was simple in use, 2) it was considered less expensive, 3) it had produced very good results in the countries where practiced, 4) because volunteering is not strong in Iceland as it has an effective social service, and 5) it was ideal for the Icelandic context since the police institution is the second most respected in the country after the national university.

There is a certain amount of trust and respect that comes with the police uniform (McCold, 1998) and that seems to be a fact in Iceland. For example, the general public in Iceland rates the police as 72% trust worthy, second after the University (81%) and compared to the parliament (29%) this trust towards the police is quite high (Capacent, 2009). Research shows that victims and offenders feel that it brings a sense of seriousness and gravity to the restorative process when a police officer is in uniform or when the conference is held at a police

station. Participants consider a police station a safer place for a face to face meeting compared to for example a community center were for instance the victim would have to have developed a great deal of trust in the mediator to participate in such a meeting (McCold, 1998).

There were also other potential benefits of police based conferencing over especially victim-offender mediation led by volunteers. According to McCold's and Wachtel's (1998) Bethlehem experiment, one of the advantages is that victims perceive police officers to be "on their side" and therefore feel safer. This is theoretically acceptable because unlike VOM the objective of conferencing is to secure fairness not neutrality since what was done to the victim was wrong and the offender therefore owes something to the victim. Starting a conference from the position that offenders owe an obligation to the victims is hardly a neutral position but still a fact that cannot be ignored. Facilitators are taught to use the script in a flexible way, for example to guard the safety of individuals, remind participants of the purpose of the conference and to bring the process to a halt if people cannot be respectful or if offenders fail to accept responsibility. A conference facilitator actively guards the process but leaves the details to the participants. This facilitation behavior is neither neutral nor passive, which is of no surprise since facilitators are taught to be fair and impartial, not neutral (McCold, 1998).

Another argument that supports participants' stronger feeling of fairness and trust in police-led conferencing is that it is perceived to be more "serious"

than many other programs. Victim and offender are more inclined to feel that it is part of mainstream criminal justice process instead of being seen as an offender focused welfare intervention or as a restitution collection mechanism for the victim. The seriousness that participants feel might explain in part why conferencing agreements are more likely to be fulfilled when facilitated by police than welfare authorities or programs carried out or controlled by volunteers. It is also thought more likely that the public's belief in conferencing and the police would be greater if the police conducts and supervises the conferencing process. Furthermore, it has been shown that offenders acquire more respect for the police and the law after taking part in police-led conferencing than if they went through the criminal justice system (Daly, 1999, see also McCold, 1998).

In the Reykjavik Metropolitan Police report about strategy and purpose of the police it is declared that the role of the police is to “serve the public in the best and most efficient way and in that manner work towards the public's welfare” (Reykjavik Metropolitan Police, p. 5). Also it is stated in the first article of the police law number 90/1996 that the “police should work against offences and prevent conduct that will put the safety of the citizens and the state at risk” (First article of the police law number 90/1996). In the Reykjavik Metropolitan Police report it is further written:

It is important for the incumbency and its employees to follow up on society's developments and seek at all times to adjust the service and its operation fast and steadily to the demands of the society and its citizens, within the frame of law and regulations, while looking after the safety of all citizens and to ensure highest success in all areas in question. (p. 8)

The restorative justice philosophy and conferencing practices should be able to help the police to reach their goals. When police officers attend to the role of a facilitator they will acquire insight into the causes and consequences of crime. They will also acquire and practice certain problem solving skills and behavior that is not easy to obtain without being part of the program and the solution. In the criminal justice system police officers are more likely than any other personnel to define if the situation is a criminal offence and then to arrest and refer cases if appropriate and necessary to formal processing. In many (simple and not very serious) cases the police could offer diversions without delay if the offender admits responsibility, attends a conference, agrees to terms and fulfills them. If the charges are withdrawn as a result the case will be diverted from court, probation officers, youth counselors, lawyers and other state officials which should lead to less stigmatization. Seen from this point of view the police are best to identify appropriate cases for a restorative justice process and also, if allowed, well suited to deal with them in a fast and efficient manner (McCold, 1998). As McCold (1998) describes it: “police are the gatekeepers to the criminal justice system.” (p. 12).

It should most probably greatly benefit the police and its customers if restorative problem solving skills were added to the ideology of the police force. The police have the knowledge and are in the position to influence people’s decision to file charges, keep their charge active or explain and explore possibilities for reconciliation. At the same time the conference training and the

conference experience should benefit police officers in their line of duty. Furthermore, in learning and fulfilling their duties in community policing, police officers have in many ways acquired skills as facilitators. The daily job of police officers is to solve problems and police based conferencing and training gives them the means to constructively engage people that ask for their service in restorative practices and behaviors (O'Connell, 2005, see also McCold, 1998). What is also of importance is that the knowledge that comes from the training and experience of police facilitators will not be distributed unsystematically amongst the public as in volunteer mediation but rather will be kept inside the criminal justice system which should further enhance its respect.

According to McCold (1998) perhaps the biggest difference between police-led conferencing and a private or stand-alone VOM program is the operational cost. The cost of police-led conferencing is much lower than stand-alone VOM programs, at least volunteer VOM programs. The infrastructure for police to provide restorative justice is already in place. It would cost additional millions and take years before a community based restorative justice organization is fully functional and available to more than a small percentage of juvenile cases in the United States. With total annual expenditures exceeding \$28 billion and approximately 20,000 individual police departments existing in nearly every town and city the justice system resources are readily available to implement and establish restorative justice on a national scale. The estimated operational cost for police-led conferences in Bethlehem in the United States was less than 6000

kronur, or 60\$, if the exchange currency of the dollar is 100 kronur. In Norway where they mostly apply VOM which are conducted by volunteers the cost of each conference is 44,736 kronur or \$447 (Siri, 1999).

Returning again to the cost, police officers can conduct conferences on duty or as part of their community policing routines. The program operational expenses are therefore a part of the normal department budget except for the initial training cost (McCold, 1998). The cost of training could also be lower than other models of restorative justice, including criminal mediation and New Zealand family group conferencing, since the police-led conferencing is carefully scripted to ensure both the restorative quality and the consistency of the process. This makes training much more straightforward and quicker to apply. The facilitator literally reads a script and does not have to learn many of the techniques that VOM mediators need to gain knowledge of and become skilled at. The conference facilitator passivity in moderating the exchange, defining the issues and searching for common ground makes the whole process less difficult to learn and hence more cost effective. As the Bethlehem experiment and other police-led scripted conferencing studies have demonstrated, this “less skilled” approach is more often rated higher in satisfaction and fairness by participants than programs that do not use scripted restorative justice approaches when dealing with lower level criminal offences (McCold, 1998).

Time is of huge scarcity in the criminal justice system and furthermore, as everyone knows, time is money. Real Justice police-led conferences also seems to

take less time or on average 33 minutes and 5 minutes in exchange after each conference and facilitators spend on average less than an hour in preparing a conference (McCold, 1998). This information is mostly supported by the result from the Icelandic pilot project where the average conference lasted 1.18 hours including social time after each conference and 1.35 hours arranging and preparing for the average conference or in total 2 hours and 53 minutes per conference. It has to be considered that most probably more serious cases or demanding cases were handled in the Icelandic pilot project than in the Bethlehem experiment. According to Karen Kristin Paus, senior adviser at The Mediation Service in Oslo, in the year 2009 Norway ran 227 conferences which were facilitated by volunteers. On average 16.5 hours were spent on pre-meetings with the parties and other facilitator's preparation and conferences took on average 3.3 hours. There are always two facilitators conducting conferences in Norway. However, in 2009 average time spent on mediation in Norway was only 1.5 hours on pre-meetings and 1.5 hours on the volunteer mediation itself, therefore in total on average three hours per case (Paus, personal communication, Mars 28, 2010). Volunteer conferencing seems therefore to take more time than police conducted conferencing in the US and in Iceland, this information support the decision made in Iceland to use police officers not volunteers as facilitators.

Another reason for choosing police-led conferencing, is that mediators in Norway complain about being alone in their work and that work related support is inadequate. Mediators work is always confidential and mediators may only

discuss what goes on in mediations with other volunteers. Many mediator volunteers in Norway do their work in isolation from other volunteers. The Norwegian mediation volunteer program therefore needs to hold seminars and events regularly to keep the volunteers satisfied, up to date and to break the isolation and confidentiality that characterizes mediation work. Seminars may include going abroad with the whole group which may be very expensive. On the other hand, police officers are allowed to discuss all matters arising in conferences with other police officers if they need to. As part of routine police work police officers can share concerns, experiences and knowledge but would still be able to keep the confidentiality that is so required. Therefore the isolation problems of facilitators should not be as imminent if police officers conduct the conferencing process (Thorunn Bolstad & Terrie Eimot, personal communication, October, 2005).

In Norway mediation staff spends a lot of time and capital convincing prosecutors and police officers of the qualities of mediation and reminding them to refer cases to the mediation agencies. In some towns this process is not so much of a problem as in others (Thorunn Bolstad & Terrie Eimot, personal communication, October, 2005). According to Paul McCold (1998), program marginalization has always been a problem for criminal mediation programs, and the more remotely connected to the criminal justice decision-maker the auspices of the program, the more likely only trivial cases will be referred. Since police officers and prosecutors work closely together in Iceland it is was regarded as

highly probable that prosecutors will be more in tune with what has to happen, better informed about the process and automatically have the conferencing option in mind when they decide to refer cases. Although both volunteer mediation and police conferencing are probably only appropriate for lower-level criminal offences (McCold, 1998), the current author believes that it is more likely that restorative justice approaches will be used in the future in more serious cases if the police come to believe in its values and principles and if restorative practices are from the start a part of the criminal justice system.

This author's experience and belief is that the problem of net-widening is also less likely to take place. One of the reasons is that cases which are referred to restorative program agencies or departments inside an organization, as opposed to a program outside of the organization, are more likely to be real cases or cases that could not be dropped. Furthermore, cases that could be dropped are more likely to be dropped since the caseload is shared by the same organization with sometimes clear orders from administrators to cut cases as possible as was the reality within the Metropolitan Police in Reykjavik. The organizational and staff tendency of PPE or "putting the problem elsewhere" is less likely to take place. Staff members would not want to burden colleagues with unqualified trivial cases when both of them know it is not considered necessary to keep those cases going.

One of the objectives of restorative justice is to change police culture so that it is more restorative on the street. A good way to change the retributive system is to engage that system in restorative justice practices, and police-led

diversionary conferences are an ideal approach (McCold, 1998). Umbreit and Zehr (1996) state that: “No other restorative justice approach has so quickly brought such numbers of law enforcement officials ‘to the table’ as active stakeholders in the restorative justice movement” (p. 1). The hope is that large segments of policing shift from a punishment justice to a restorative justice paradigm. Transformation of the entire justice system begins to become a real possibility if police officers begin championing the restorative justice vision, as numbers of individual police officers have done after being involved in police conferencing. Howard Zehr (1990) described the process well when he said: “that the objective was not to change the system but rather how people think and the system will change as a result” (cited in McCold, 1998, p. 14) This idea about how to successfully change the criminal justice system as quickly as possible was one of the main reasons why a police-led program was favored for Iceland over either volunteer- or professionally-led programs.

Evaluation of Police- and Expert-led Conferencing

Summary of Present Research

As discussed above all the different types of restorative justice processes that have developed over the last four decades have found high levels of satisfaction and fairness among partakers across sites, cultures and types of participants. Normally eight or nine out of every ten participants report being satisfied with the process and its results. According to Paul McCold's (1998) review, when dealing with minor offences police conferencing is as consistent with restorative justice principles as the best run mediation programs conducted by for instance trained volunteers or professionals. McCold's review on minor degree criminal offences demonstrates that victims and offender are highly satisfied with conferencing and with police officers as facilitators, and that juvenile offenders and victims find police offenders equally highly fair, which suggests according to McCold that police officers are also sufficiently neutral. Furthermore, McCold found that the likelihood that victims and offenders will participate in police-conferencing is as high as in any other restorative justice mediation programs, whether these programs were run by court services, as independent not-for-profit, or using professionals or volunteers mediators. Therefore, according to available research evidence, it seems that participants

trust the police at a higher rate than is generally assumed, even by some advocates of restorative justice, and that the concerns raised by Umbreit and Zehr (1996) have not been supported.

The remaining questions are if McCold's review on police-led conferences can be replicated in Iceland and if concerns stated by critics of police-led conferencing stated in McCold's review will be again refuted in another setting. The thesis research questions are: do participants experience appropriate rates of satisfaction and fairness in police- and expert-led conferences in Iceland? How do outcomes from police-led conferences in Iceland compare to restorative justice process conducted by an expert (professional) or trained volunteers, and how do police-led conferences in other countries (especially in the Bethlehem experiment) compare to police conferences in Iceland? The Icelandic pilot project data documented and analyzed in this thesis should give a good opportunity to examine these unsettled questions further.

Research Questions

This thesis will seek to investigate in part questions from a review conducted by Paul McCold (1998), called: "*Police-Facilitated Restorative Conferencing; What the Data Show*". In his review, Paul McCold's apprehension was that developments of police officers conducting community conferencing were receiving rather negative criticism by restorative justice advocates. Many of the criticism is related to the issue of using police officers as conference

facilitators and the danger that police-based conferencing will allow the conventional criminal justice system to deflate restorative justice practices and principles where restorative justice will be in the end co-opted by “the system.”

The most important concerns revised and in a different order from McCold’s review are as follows:

1. Police officers as conferencing facilitators and the conferencing process may be insensitive to victims’ needs when compared to mediation programs.
2. Particularly young offenders may be intimidated by uniformed police officers and other participating adults in a way that may make offenders feel unsafe or too uncomfortable to share thoughts and feelings in the conferencing process and genuinely take responsibility for their criminal behavior.
3. Police officers may be incapable of being neutral facilitators, falling into authoritarian behavior patterns and undermining the process of reintegrative shaming.
4. Inadequate preparation of police-led conferences could limit the impact of the conferencing program in such a manner that it will make the restorative justice process less humanizing and therefore less likely that participants will attend, will take part in a “genuine” dialogue and will feel safe.

Although the main aim of the current thesis is the evaluation of police-led conferencing in Iceland, an additional evaluation was added. Firstly, in view of the fact that the project manager had to assist the implementation process by working as a facilitator it was decided to also analyze answers from surveys handed out after he alone as a restorative justice expert had facilitated conferences. This added analysis provides for a comparison group where police-led conferences are compared to expert-led conferences, which should offer

additional information about findings concerning the restorativeness and quality of police facilitated conferences. Secondly, the present thesis will evaluate the above discuss concerns in an Icelandic setting. McCold's theory and findings are that police facilitated conferencing is highly restorative and called for future program evaluations to confirm his conclusions. It was therefore interesting to see if a replication of McCold's findings could be found in the Icelandic pilot project data.

The Pilot Project

From May 2006 until the pilot project began on 1 of October that same year the supervision committee met weekly on average to prepare for the launch of the project. The committee published a special handbook for conferencing facilitators, in part a revised translation of the Norwegian mediation handbook, where conferencing rules are declared and regulations concerning the procedure are stated in an Icelandic setting. The committee also prepared and published a special information booklet about conferencing for both the general public and for victims and offenders when the process was first explained to them. This information was followed with an introduction in the media and detailed information about the theory and process was put on the ministry of justice internet homepage. Other projects that the committee took on were for example deciding the structural process inside justice system organization for conferences and recommendations on how to change the police file system when conferencing

cases are filed. Finally, the project manager as a member of the committee prepared three conferencing training programs, two Real Justice conferencing trainings and one Face to Face mediation training, for police officers over the two year pilot period. The committee itself also prepared and trained police officers and prosecutors stationed in police posts around the country, districts that had on later stages been allowed to join the project. Than two members from the committee compose the training team, one of the two was always the project manager who gave lectures on the theoretical and practical aspects of restorative justice and conferencing, but as a lawyer the other committee member explained the legal aspect of the new approach to crime. Some police officers that took part in this training had also taken part in earlier trainings prepared by the project manager but others had not.

In September 2006 two trainers from the Real Justice Program arrived in Iceland. Fifteen police officers in the Reykjavik and adjacent police districts where trained in conferencing techniques and were involved in the project. The trainers were Les Davey and Beth Rodman, the wife of Paul McCold. Les Davey began his involvement as the inspector responsible for the development and delivery of restorative justice training for the Thames Valley Police. Les Davey is now and has been for many years the UK office manager for Real Justice and the International Institute for Restorative Practices (IIRP). Beth Rodman was the Executive Director of the International Institute for Restorative Practices and was their lead trainer. Beth was responsible for the world-wide training and consulting

business of the IIRP, and became one of the founding faculties of the IIRP Graduate School before she and McCold resigned from the IIRP in 2008.

The pilot project was then launched in Reykjavik on 1 October 2006 and one year later other police districts around Iceland joined the project. Before the pilot project was launched, the Prosecutor General issued instructions for referral of criminal cases to conferencing, specifying the categories of offence that were eligible for the conferencing process. Offences were to be of minor degree, and eligible categories included theft, break-ins, threats, vandalism, assaults and offences against the authorities. The conferencing process was only available for those who had confessed to their crime, did not have a long criminal record and have not previously been convicted of a serious crime. The instructions did not state that the offender should be a first-timer. Neither was there an upper age limit. In 2006 the instructions were sent to all deputies in Iceland and stated that criminal cases available for conferences should be referred by the prosecutor at the police level. Conferencing has since 2006 been included in the professional responsibilities of the Ministry of Justice and is introduced as an alternative response to a fine, a conditional sentence, or a decision not to bring criminal charges. Conferencing is therefore solely a diversionary measure and is in that sense a real alternative to the traditional penal sanctions like a suspended sentence, suspended indictment or a fine in above mentioned minor criminal cases.

As discussed above, the Ministry of Justice supervision committee proposed in 2004 that a restorative justice pilot project be established to handle criminal cases for offenders who have reached the age of criminal liability. In 2006 when the pilot project was launched it was decided that conferencing instead of mediation should be the basis for the restorative justice approach and that police officers should be the facilitators, not trained volunteers or professionals. The remainder of this thesis examines the above mentioned concerns that were first stated by Umbreit and Zehr (1996) and the quality of police-led conferencing in light of available research examined in Paul McCold's (1998) review and data from the Icelandic police- and expert-led conferencing pilot project. Some of the concerns focus on the conferencing process itself but many of the criticism relate directly to the issue of using police officers as conference facilitators.

Method

Explanations and Definitions of Concepts

For the purposes of making the present thesis more accessible and understandable, explanations of some fundamental concepts are in line. According to personal communications with Paul McCold, undermentioned restorative justice concepts are applied in his review and the Bethlehem experiment as follows:

A “restorative justice program” means any program that uses restorative processes and seeks to achieve restorative outcomes. A “restorative process” means any process in which the victim and the offender and, where appropriate, any other individuals or community members affected by a crime, participate together actively in the resolution of matters arising from the crime, generally with the help of a facilitator. Restorative processes may include mediation, conciliation, conferencing and sentencing circles. A “Restorative outcome” means an agreement reached as a result of a restorative process. Restorative outcomes include responses and programs such as reparation, restitution and community service, aimed at meeting the individual and collective needs and responsibilities of the parties and achieving the reintegration of the victim and the offender. (McCold, personal communication, April 5, 2010).

Furthermore, according to McCold high participant fairness and satisfaction ratings are good evidence of a restorative process and a restorative outcome. Paul McCold’s definition and understanding of “restorativeness” is when both victim and offender have a high and also equally high rating on satisfaction and fairness. However, his opinion is that ultimately, restorativeness

(and therefore fairness and satisfaction) is subjective and a concept constructed in the eye of the beholder, that is the victim, offender and their supporters (McCold, personal communication, April 5, 2010). The same understanding of the above mentioned concepts is applied in the present thesis.

Participants

All subjects who were offered to take part in conferencing and who decided to participate were asked after the conference had taken place if they would be willing to answer a questionnaire about their experience of the conference. Approximately 98% of those asked to answer the questionnaire were willing to participate. The study ran for two years and 295 participants took part of which 183 were males and 112 were females. The subject's ages varied between 15 and 51 or older. Ethnic background could be from the pool of all nationalities that live in Iceland but 95% of participants were Caucasians.

Recruitment Procedures and Voluntariness

Conferencing is used as an alternative to a possible indictment and hence a potential conviction for minor offences. Cases can therefore be diverted by a prosecutor to the conferencing process if they meet requirements of the Prosecutor General of Iceland. The Prosecutor General instructions state that cases cannot be assigned to the conferencing process unless the parties involved, or their custodian, have agreed to take part. It also states that conferencing is only available for those who have confessed to their offence, do not have a long

criminal record and have not previously been convicted of a serious offence. If conferencing is successful, it will replace possible further actions against the offender such as prosecution and hence a sentencing if found guilty. Therefore an offender that completes the conferencing agreement has his criminal charges withdrawn and is not registered on criminal records.

Information about people's right to deny participation is explained initially by a police officer who introduces the conferencing program to people that meet the prerequisites to take part in the conferencing process. Only those offenders that took part in the conferencing process, as an option to close their case instead of a possible prosecution, answered the questionnaires. Their decision to take part had to be voluntary according to the instructions issued by the Prosecutor General of Iceland. The same instructions applied to victims and all participants supporters. The facilitator who later takes on the conferencing case must inform the participants that their participation in the conference is voluntary. Furthermore, information about voluntariness of the conferencing process was stated on the front page of the conferencing script which was read aloud by the conferencing facilitator, and instructions about the voluntariness of the survey were on the front page of the questionnaire. All participants that took part in the survey did so right after the conference had taken place. After filling out the survey participants were instructed to put their questionnaire in a closed envelope and hand it in to the reception on their way out.

Privacy of the Subjects and Confidentiality of Data

No identifying information was collected that would allow for the identification of participants. The participants were asked not to write their name on the questionnaire or any other identifiable information. The participants answered multiple choice questions that concerned the conference, their role in the conference, age range and gender but no other personal information. When the participants had finished answering the questionnaire they were instructed to put the questionnaire into an enclosed envelope and close it. Then they were asked to hand in the questionnaires to the police reception on their way out. The reception staff later mailed the questionnaires to the Ministry of Justice. The questionnaires were later opened by a committee that supervises the survey. This procedure was followed to protect the privacy and maintain the anonymity of the participants and data.

Measures

The Restorative Conference Participant Questionnaire was produced by Real Justice to evaluate all kinds of formal restorative justice conferences. The questionnaire is a self-report instrument with originally 11 questions but translated and adapted to the needs of the Icelandic pilot program with the total of 22 questions (see Appendix). For instance the questionnaire measured on an ordinal scale participants' satisfaction and their perception of fairness with the conferencing process, if they thought the facilitator was neutral, if their opinion

where considered at the conference, if those responsible had been held accountable and if they would participate again or recommend the option two others. Participants were also asked police related questions such as what effect it had on them that the conference took part at a police station, what effect the police uniform had on them and if they felt uncomfortable that a police officer facilitated the conference. Pivot tables and statistical analyses were produced in Excel.

Results

The implementation of restorative justice and police-led conferencing pilot project was formally started on 1 of October 2006 and lasted for precisely two years. Gathering information with questionnaires lasted almost as long as the pilot project itself or from 24 of October 2006, when the first conference took place, until 30 of September 2008 when the last conference within the pilot project was finished. Over the two year pilot period 95 conferencing cases were processed. In the first year only 24 cases resulted in conferencing but 71 cases the year after. Of all 95 cases, assaults are the majority of cases or 51, cases of vandalism are 23, cases concerning assaults against police officers on duty eight (conducted only by the project manager which is the author of the present thesis), theft eight, threats four and one break-in.

The cases are distributed over different police posts around the country (see table 1). The largest post after the capital city Reykjavik is Akureyri with population of about 16 thousand. There only five cases were processed. Most conferences, or 75 of total cases, were processed by the Metropolitan police in Reykjavik. The difference in case loads is explained mostly by how much larger the Reykjavik police post is. The quantity of case loads processed is further explained by the fact that the police districts in the countryside did not take part in the pilot project until the second year of the program. All the 95 conferences

processed on the pilot project period were concluded with an agreement. Only two agreements were not fulfilled and were therefore conventionally handled by the criminal justice system.¹

Table 1. Number of cases at a city or town where police- and expert-led conferencing took place.

Places	Number of cases
Akureyri	5
Akranes	1
Eskifjörður	1
Keflavík	3
Reykjavík	75
Selfoss	1
Seyðisfjörður	2
Sauðárkrókur	2
Vestfirðir	5
Total	95

Table 2 shows the gender and age distribution for offenders, victims, and supporters who participated. In the Icelandic pilot the majority of participants are offenders and most of them are males between 15 to 18 years of age which is the largest age group in the pilot program. Participants between 41 to 50 years of age were the second largest age group in the pilot program and most of them are supporters. The majority of all female participants are supporters between 41 to 50 years of age. The smallest age group is the 19 to 21 demographic. The majority of victims are between 22 to 30 years of age and most of them (18) are males. The

¹ In one of the two cases the offender was convicted and sentenced to pay compensation. Instead of paying roughly \$1500, as agreed between the victim and offender in the conference agreement, the offender was sentenced to pay almost \$2500, received one month suspended sentence and was registered on criminal record which would not have been the case if the offender had fulfilled the conference agreement. In comparison, mediation in Denmark, whether successful or not, does not replace either prosecution or sentencing as in Iceland and all offenders that agree to mediation in Denmark will be registered on criminal record.

second largest age group was victims between 41 to 50 years of age with almost as many females as males.

Table 2. Age of participants, their role and gender and how many in each group participated in the conferencing.

Age classified	Offenders			Supporter			Victim			Total	
	Male	Female	Total	Male	Female	Total	Male	Female	Total	N	%
15-18	47	16	63	1	1	2	10	7	17	82	28%
19-21	11	1	12	1	0	1	4	1	5	18	6%
22-30	11	3	14	3	4	7	18	5	23	44	15%
31-40	7	3	10	8	14	22	11	9	20	52	18%
41-50	5	1	6	19	28	48	2	7	9	63	22%
51+	1	1	2	10	5	17	10	1	11	30	10%
Total	82	25	107	42	52	97	55	30	85	289	100%

Although the main purpose of the present thesis is to assess police conferencing the evaluation of expert-led conferences was thought to add additional information to the results of police-led conferences. The idea is that expert-led conferences may provide a good comparison to evaluate the quality and/or standard of police facilitated conferences and therefore support the main purpose of the thesis. Hence findings from these two types of facilitators are shown in most tables demonstrated in this section of the thesis.

Table 3 shows who facilitated the conference. In 47 of 95 cases the project manager (restorative justice expert), who is not a police officer, conducted the conference. In 14 cases a police officer facilitates the conference with the assistance of the project manager as a co-facilitator. In 34 occasions police officers facilitates the conferences by themselves with a total attendance of 177 participants. Although the project manager facilitated more conferences by himself he conducted conferences with fewer people than the police officers. This

difference is mostly attributed to one large conference facilitated by police officers where six offenders, their supporters and three victims took part. It however also seems that police officers more often conferenced larger groups.

Table 3. Was the facilitator an expert (E) or a police officer (P).

	Who facilitated the conference			Total
	Expert (E)	Both	Police officer (P)	
Cases	47	14	34	95
Participants	99	22	177	299

As mentioned before, at the end of each conference all participants were asked to answer a questionnaire. From the feedback provided from these questionnaires it was possible to evaluate the Icelandic pilot project. Most answers to the questions have been laid out in tables and analyzed according to participant's particular role as victims, offenders or support persons in relations to type of facilitator conducting the conference, that is for police (P) and for expert (E). However, although answers are specially laid out in these table for types of facilitators, these same tables also add opinions of all participants combined (C) across facilitator type. When calculations are combined, then all 299 participant are used in the calculations, be it participants who took part in police-led, expert-led or co-facilitated conferences. In some tables (see table 4) there is no differentiation at all made between type of facilitators and therefore all 299 participants are behind the calculations, also those 22 participants that were facilitated by both the police and the project manager (expert) as a co-facilitator.

Differences between tables are a few. Firstly you have tables that are only calculated with answers combined across all facilitators type, be it police officer

or the expert or a co-facilitation where both the police officer and the expert are facilitating (see table 4). Secondly, you have tables that compare results between facilitator's types on the one hand and than also the combined results without differentiating between facilitator's types (see table 5). What is important to take notice of here is that the number of participants behind the results when a comparison is made between the two types of facilitators (police officer and the expert) is short by 22 participants and 14 cases because those are the cases when both facilitator types were working together as co-facilitators. Thirdly, some questions only answered by participants who have been facilitated by police officers since these questions are particularly about police facilitation.

The primary interest of the present thesis analysis is the general level of satisfaction with conferencing and particularly with whether or not satisfaction with police-led conferencing is adequate. More detailed comparisons are included for more refined understanding, but differences are not explored for statistical significance.

Measure of Participant's Sense Satisfaction

Participant satisfaction is a good indicator of whether participants' needs are being addressed and if the conferencing process and the facilitator are sensitive to the concerns of those participating. In general, if conferences are rated high in satisfaction it is thought that facilitators have managed to a certain extent to adhere to principles of restorative justice and ensured a due process (McCold,

1998). In the Icelandic pilot project, participants were offered to take part in a survey which measured for instance their sense of satisfaction and perception of fairness. In this section of the present thesis, results are presented about how satisfied participants were with different aspects of the restorative justice conferencing approach. Although many questions on the questionnaire measure in some sense participant satisfaction, four questions on the questionnaire were particularly about how satisfied participants felt.

Firstly, the participants were asked how satisfied they were overall with the way the justice system handled their case. It was not defined beforehand for the participants what was meant by “justice system” so the question was quite open ended. The intention was to measure participant’s satisfaction with the criminal justice system or how people felt about the process from their first dealings with the criminal justice system to the end of the conference. Some of the cases referred to conferencing had been stuck in the system for six months or even longer and often victims and offenders had to seek information about their case instead of being informed about it beforehand and notified about its status. Table 4 shows that on average 77.5% of all the participants were satisfied or very satisfied with the overall justice system service. As can be seen, these results were not broken down in terms of the type of facilitator conducting the conference. Offenders and victims had similar opinions of the service they received. More supporters (79.2%) than victims (77.4%) and offenders (76.2%) were very satisfied with the overall service. This difference could be explained by the fact that

most of the supporters had no direct dealings with the system until they took part in the conference. Averaging across offenders, supporters and victims about 11.3% of all participants, whether offenders, supporter or victims were dissatisfied or very dissatisfied with how the conference was conducted.

Table 4. Participants overall satisfaction with how the justice system handled their case.

Role	Very dissatisfied	Dissatisfied	Neutral	Satisfied	Very satisfied
Offender	7.6	5.7	10.5	40.0	36.2
Supporter	7.3	2.1	11.5	27.1	52.1
Victim	7.1	3.6	11.9	39.3	38.1
Average n=299	7.4	3.9	11.2	35.4	42.1

(*Answers in percentage from all 299 participants that took part in the pilot project are used for this calculation, combined across facilitator type)

Table 5 shows level of satisfaction with the facilitation of conferences. On average 92.3% of all the participants, whether offender, supporter or victim, were satisfied or very satisfied with how the conference was conducted when combined across facilitator type. The results show that 89.5% of offenders and 94.1% victims were either satisfied or very satisfied with how conferences were conducted. Only about 2.7% on average of all participants, whether offenders, supporter or victims were dissatisfied or very dissatisfied with how the conference was conducted.

Table 5. Participants satisfaction with how the facilitator conducted the conference dependent on if the facilitator was a police officer (P) or an expert (E) and if the calculation is combined (I) across facilitator type.

Role	Very dissatisfied			Dissatisfied			Neutral			Satisfied			Very satisfied		
	P	E	C	P	E	C	P	E	C	P	E	C	P	E	C
Facilitator															
Offender	2	3	2.9	2	0	1.9	8	0	5.7	33	43	38.1	55	54	51.4
Supporter	3	0	2.1	0	0	0.0	5	5	4.1	30	23	27.8	63	73	66.0
Victim	0	0	0.0	0	3	1.2	7	3	4.7	37	43	38.8	56	51	55.3
Average	2	1	1.7	1	1	1.0	7	2	4.9	33	38	34.8	58	57	57.5

(*Answers from 99 participants are behind results about the expert, answers from 177 participants are behind results about police officers and all 299 participants are behind answers calculated combined across facilitator type. Importantly, for instance even fewer participants are behind results calculated for only the expert and his relations with only victims).

Although scores are high for both types of facilitators, offenders are not as satisfied with the police-led conferences (88%) as with conferences conducted by an expert (97%). Victims on the other hand, seem not to mind if it is an expert (94%) or a police officers (93%) who facilitates their conference. None of the victims are dissatisfied or very dissatisfied with the police-led conferences but almost 3% of victims are dissatisfied with the expert. Therefore, it seems that police-led conferences are better liked by victims than offenders. The notion that victims seem to be more satisfied with police-led conferences than offenders is acceptable since restorative justice is first of all a victim-oriented approaches where concern for victims and their needs should be at the forefront. Ratings are very high for both types of facilitators which implies that it hardly matters which type conducts the conference in the end for any of the participants.

As can be seen from Table 6, on average 86% of all offenders, support persons and victims were either satisfied or very satisfied with the results of the conference combined across facilitator type, and only 4.5% of all participants

were either dissatisfied or very dissatisfied with the result. Victims were slightly more satisfied on average with the results of the conference (87.1%) than offenders (85.8%). Victims had hardly any preference over a conference conducted by an expert (92%) when compared to a police-led conference (91%) and similarly offenders did not make any distinction between a police-led conference (89%) and a conference led by an expert (89%). Considerably fewer victims (1.2%) were dissatisfied or very dissatisfied on average with the results of the conference compared to offenders (5.7%) and supporters (3.1%) when combined across facilitator type.

Table 6. Participants satisfaction with the results of the conference.

Role	Very dissatisfied			Dissatisfied			Neutral			Satisfied			Very satisfied		
	P	E	C	P	E	C	P	E	C	P	E	C	P	E	C
Facilitator															
Offender	2	0	2.9	5	3	5.7	5	9	5.7	51	26	41.0	38	63	44.8
Support	1	5	2.1	1	0	1.0	12	9	10.3	24	18	24.7	61	68	61.9
Victim	0	0	1.2	0	0	0.0	9	8	11.8	35	41	36.5	56	51	50.6
Average	1	1	2.1	2	1	2.4	9	9	9.1	36	30	34.1	51	60	52.3

The overall satisfaction with the results is quite high for all participants. There is also little difference in average satisfaction between all offenders (89%) and all victims (90.1%) when combined across facilitators. However, offenders seem to be likelier to be very satisfied with the results when the conference is led by an expert (63%) compared to when led by a police officer (38%). Offenders are therefore more decisive in how satisfied they are with the results when an expert conducts the conference.² Victims rate both types of facilitators the same.

² Police officers that facilitate conferences never have any contact with the offenders before or when offenders are offered and later decide to take part in the conference process. For instance, never was a police facilitator also the arresting officer.

Supporters have similar satisfaction opinions of both types of facilitators but they are however not quite as satisfied (85.5%) on average with the results of the conference as offenders and victims. All these findings imply that offenders are a bit more skeptical of police facilitation than victims but that they are still highly satisfied with the results of a police-led conference.

There is quite a difference on average between how satisfied participants are with the overall justice system (77%; see table 4) compared to how satisfied they are with how the conference was facilitated (92%; see table 5) and the results of the conference (86%; see table 6) across facilitator types. What is more interesting is that victims and offenders are much more dissatisfied with the overall justice system than with any other question on the questionnaire. On average 7.5% of all offenders and victims are very dissatisfied with the overall justice system. The percentage of those offenders and victims that are very dissatisfied with either the facilitator or the result of the conference does not however reach 3%. Victims are also much more decisive in how very satisfied they are with the facilitator and the outcome of the conference than how the justice system handled their case. All this seems to indicate that offenders and victims may have been unhappy with the justice system service before they took part in conferencing.

In table 7, the overall grade that the participants gave the conference is shown. Grading was on a scale from 1 to 10, where 1 represents that the participant is very unsatisfied with the conference and 10 represents that

participants are very satisfied with the conference. The participants gave the conference an average grade of 8.7 where victims are again slightly more satisfied with the conferencing process than offenders.

Table 7. How satisfied were the participants with the conference?

Role	Grade
Offender	8.4
Supporter	9
Victim	8.6
Average	8.7

Measurement of satisfaction seems to indicate that participants had high overall satisfaction ratings of both police-led conferences and expert-led conferences. Therefore, both victims and offenders felt that their case was handled in a manner that satisfied them. These results are consistent with earlier satisfaction evaluations of police conferencing analyzed in McCold's (1998) review and lend support to the police-based Bethlehem experiment conducted in the United States by McCold and Wachtel (1998).

Measure of Participant's Perception of Fairness

It is possible that while participants feel that their case was handled in a manner that satisfied them, they may feel that something about the process was unfair. The first question asked about fairness was if participants thought that everything that took place at the conference was fair. Almost 25% on average of all participants thought the conference was somewhat fair and 71% fair or collectively 96% of all participants consider that everything that took place at the conference had been fair or somewhat fair (see table 8).

Table 8. Participant's belief that everything that happened at the conference was fair.

Role	No			Not very			Somewhat			Yes		
	P	E	C	P	E	C	P	E	C	P	E	C
Facilitator	5	3	5.6	3	3	2.8	30	16	24.3	62	78	67.3
Offender	2	0	1.1	0	0	0.0	26	19	25.5	72	81	73.4
Supporter	0	3	2.4	0	0	0.0	22	26	25.0	78	71	72.6
Average	2	2	3.2	1	1	1.1	26	21	24.9	70	75	70.9

Similarly a clear majority of participants were satisfied with the issues captured in the three remaining more specific questions of fairness. About 98% of all participants think that the conferencing process had been fair or somewhat fair, 98% that the facilitator had been fair or somewhat fair and last but not least 96% of all participants think that the agreement was fair or somewhat fair (see tables 9, 10 and 11). The average fairness rating on all four questions is 97% combined across facilitator type. These results are higher than any of the mediation programs evaluated (67 to 89%) in McCold's (1998) review and in line with and even more positive than the results from Paul McCold's experiment (1998) where police-led conferencing showed ratings of 95% to 97% for offender perceived fairness and 96% perceived fairness for victims.

Table 9. Participants belief that the conferencing process was fair.

Role	No			Not very			Somewhat			Yes		
	P	E	C	P	E	C	P	E	C	P	E	C
Facilitator	0	0	0.0	3	3	4.8	18	14	17.1	79	83	78.1
Offender	0	0	0.0	0	0	0.0	6	10	7.5	94	90	92.5
Supporter	0	0	0.0	0	0	0.0	10	19	14.8	90	81	85.2
Average	0	0	0.0	1	1	1.8	11	15	13.3	87	84	84.9

Table 10. Participants belief that the facilitator was fair.

Role	No			Not very			Somewhat			Yes		
	P	E	C	P	E	C	P	E	C	P	E	C
Facilitator	0	0	1	3	0	3.8	18	8	14.3	79	92	81.0
Offender	0	0	0.0	0	0	0	5	10	6.5	95	90	93.5
Victim	0	0	0.0	2	0	1.2	7	11	8.5	90	89	90.2
Average	0	0	0.4	1	0	1.8	10	10	10	88	84	87.9

Table 11. Participants belief that the agreement was fair.

Role	No			Not very			Somewhat			Yes		
	P	E	C	P	E	C	P	E	C	P	E	C
Facilitator	2	3	3.0	3	6	5.1	18	9	16.2	77	82	75.8
Offender	0	0	0.0	0	5	1.1	7	11	8.0	93	84	90.8
Victim	0	0	0.0	3	3	2.5	18	22	21.3	80	75	76.3
Average	1	1	1.1	2	5	3.0	14	15	15.0	84	80	80.8

Participants seem to be more decisive in how much fairer the conference was when the last three more specific fairness questions are analyzed (tables 9, 10, 11). For clarification, decisiveness is measured in how many more participants answer a question with a straight forward “yes” about what is being asked as compared to being only “somewhat” sure about what is being asked. Only about 13% on average think that the conferencing process, the facilitator and the agreement was somewhat fair but about 84,5% answer straight forward yes when asked the same questions (tables 9,10 and 11). That shows that participants are very decisive in how fair they find these aspects of the conference. However, 25% of participants thought that everything that happened at the conference was somewhat fair, which is the first and most unspecified fairness question on the questionnaire (table 8). For example, both offenders (62%) and victims (78%) are not as decisive in how fair the police-led conference is when asked if everything

that happened in the conference was fair (table 8) compared to the other three more specific fairness questions on the questionnaire (tables 9, 10, 11). Therefore, it might be inferred, because of how more clearly police facilitators are seen as fair (see table 10) by both offenders (79%) and victims (90%), that police facilitators are not the main reason why rating on the first and more unspecific fairness question was not as decisive. Further research is necessary to understand these variations in fairness perceptions.

If the responses fair and somewhat fair are combined, the results for the four questions rating offender fairness for police-led conferences were; was everything fair (92%), conferencing process fair (97%), facilitator fair (97%), and was the agreement fair (95%). When all these four fairness questions are added together then on average 95.3% of offenders think that police officers are somewhat fair or fair. When the same fairness questions are calculated for offenders on expert-led conferences than on average 95.5% of offenders think that experts are somewhat fair or fair. The results therefore indicate that offenders perceive police facilitators on average as fair as a trained expert.

The analysis further indicates that victims also seem to think that police officers are capable of being fair. Related to the question of satisfaction is the question of fairness and both of these questions are related to restorative justice principals. Fairness is assured through provision of necessary support and opportunities to all parties and avoidance of discrimination based on ethnicity, class and sex (Zehr, 2002). If victims, who have been harmed and are therefore in

need of restoration, don't see police facilitated conferences as fair, than obviously the restorative nature of the approach is undermined. This is not the case, again, when combining the responses fair and somewhat fair, the results for the four questions where victims rate fairness for police-led conferences were: was everything fair (100%), conferencing process fair (100%), facilitator fair (97%), and was the agreement fair (98%). On all fairness questions, police-led conferences are rated on average by victims 98.8% and therefore as fair on average as conferences conducted by an expert (98.5%). Therefore victims see hardly, if any difference in fairness between police-led conferences and expert-led conferences and also seem to think that both police facilitators and experts are exceptionally fair.

There are some interesting differences between victims and offenders in their opinion of police-led conferences. Victims rate the questions, was everything that happened fair, the process fair and was the agreement fair, higher than offenders when the conference is led by a police officer (see table 8, 9, 11). In relation to the question: is the facilitator fair, victims and offenders rate police facilitators equally. However on this question 90% of victims are more decisive than offenders and answer straightforwardly yes but only 79% of offenders (see table 10). Therefore, victims seem to find police-led conference in all instances fairer, in both the sense that if they don't rate them overall higher in fairness than when scores are even, victims are more decisive in their opinion than offenders and hence find them fairer. Furthermore, as mentioned above, victims believe that

there is no difference in fairness on average between police- and expert-led conferences that they have participated in. Since restorative justice is a victim oriented approach these results are positive for police-led conferencing programs. For instance, one of the three central concepts or pillars of restorative justice is harm. Focusing on harm done to people is central in restorative justice, which implies an inherent first concern for victims' needs. If victims' fairness rating of police officers is high and even equal to facilitation of a trained professional than victims' needs are being met to a certain extent. That demonstrates that police officers are capable of adhering to basic principals of restorative justice which are for example to put victims' needs in first place.

In the police facilitated Bethlehem experiment conducted by McCold and Wachtel (1998) victims rated police-led conferences as 96% fair which is higher than in any of the six volunteer mediation programs (67 to 89%) and the Austin professionally-led mediation program (88%) evaluated in McCold's review (1998). Offenders in the Bethlehem experiment rated the police-based conferencing process as fair in 97% of the cases which is higher than any of the seven volunteer mediation programs (43 to 89%) evaluated in McCold's review. These results are in line with findings in the Icelandic pilot project where victims rate on average police-led conferences 98.8% fair or somewhat fair and 95.5% of offenders. This replication of police-based conferencing results across different settings further supports the believe that victims, offenders and supporters

consistently perceive police-led conferencing as adequately fair and even fairer than volunteer and professionally conducted mediation programs.

Facilitators' Neutrality

According to Umbreit and Zehr (1996) police officers may be incapable of being neutral facilitators and thereby falling into authoritarian behavior patterns. In his review, Paul McCold (1998) challenges this concern and finds out that the restorative nature of conferencing process was not undermined by police facilitators. Although his findings demonstrate that police conferences are neutral, as measured by both victim and offender fairness parity (explained below), he does not agree that police officers should be neutral. According to McCold restorative justice should and does only expect facilitators to be fair not neutral and his data suggests that the conferencing process requires not so much a neutral facilitator as a facilitator who is perceived as fair. In the current thesis it was however thought important to measure facilitator neutrality separately from fairness ratings to see if participants judge fairness and neutrality in a different way.

Table 12 shows that combined across facilitator types 93.6% of all participants think that the facilitator was neutral or somewhat neutral. Approximately 87% of offenders thought that police facilitators were somewhat or completely neutral compared to 97% of victims. About 13% of offenders felt that the facilitator was not particularly neutral or not neutral at all across

facilitators types compared to only 3.5% of victims. Offenders are also more decisive about how neutral the expert is (83%) compared to a police officer (57%). Furthermore, offenders are much less decisive (57%) than victims (95%) in how neutral police facilitation is. The difference in how more offenders feel that police officers are biased compared to the expert is considerable and could be explained by the fact that offenders are in a position where they have harmed someone and are more sensitive to police officers when they hold them accountable for their wrongdoing. Or perhaps police officers are too harsh when holding offenders accountable compared to the expert. This difference in experience between victims and offenders and also the difference in how offenders perceive police- versus expert-led conferences raises concerns about the restorative quality of police-led conferences in relation to offenders and underscores that police officers should improve their skills in being neutral towards offenders.³

Table 12. Did the participants feel that the facilitator was neutral?

Role	No			Not particularly			Somewhat			Yes			
	P	E	C	P	E	C	P	E	C	P	E	C	
Facilitator													
Offender	4	3	4.0	9	8	8.9	30	6	20.8	57	83	66.3	
Supporter	0	0	0.0	3	0	2.1	6	14	7.2	91	86	90.7	
Victim	2	3	2.3	0	3	1.2	2	8	5.8	95	87	90.7	
Average	2	2	2.1	4	4	4.2	13	8	11.6	81	85	82.0	

³ Police officers in Iceland do not have the power to prosecute only prosecutors working as lawyers at the police station have this power. Police officers that have the role of facilitators have no other connection with the case but to facilitate it. Offender satisfaction or neutrality ratings with police-led conferences can therefore not be explained by any additional power roles other than just being police officers.

Support persons are strictly speaking neither victims nor offenders and therefore should be more neutral themselves toward everything that takes place at a conference. They find police officers to be 97% neutral and the expert to be 100% neutral and therefore both types of facilitators, combined across facilitator type, to be on average 98% neutral. It is interesting that victims believe that police officers are highly neutral (97%) and more so by 2% than the expert. These results suggest that police officers are capable of being neutral conferencing facilitators. Although the conferencing training only teaches police officers to be fair, participants seem to perceive them as neutral, especially victims and supporters. This outcome is in line with Paul McCold's findings that the process requires not so much a neutral facilitator but rather a facilitator who is fair.

What seems to be the case and could be concluded is that although police facilitators are trained to be fair they are perceived as highly neutral by victims and supporters but somewhere between tolerably and sufficiently neutral by offenders. However, although police officers could or maybe should improve their skills in being neutral towards offenders the theory of restorative justice does not require them to be neutral only fair as taught by most conferencing advocates. The alternative conclusion could therefore be that police officers are only facilitating conferences in accordance with how they have been trained as conferencing facilitators. For instance, Real Justice conferencing facilitators are trained to be impartial and fair, not neutral. This conferencing stance is a clear break from VOM practices which emphasize the need for an absolutely neutral facilitator.

Adherents of conferencing state however that VOM proponents, such as Mark Umbreit and Howard Zehr confuse restorative practice with civil mediation where two parties of equal moral standing come together to resolve their differences with a mediator who avoids taking sides. Since someone usually commits a wrong against another in restorative justice, proponents of restorative conferencing, such as Paul McCold think that parties can not be of equal moral standing and therefore believe that neither conferencing facilitators nor VOM mediators can be neutral only fair and impartial. Further research is necessary to settle these two alternative conclusions and shed light on the difference between neutrality, fairness and impartiality of mediators and facilitators conducting restorative practices.

More General Questions Related to Satisfaction and Fairness

To gain further insight into how satisfied participants are with the conferencing process additional questions were added. The general satisfaction and fairness questions discussed below give a better understanding of if participants' needs in police- and expert-led conferences were met.

It is important to prepare people adequately for a conference otherwise they may not trust the process or the facilitator who conducts the process. Umbreit and Zehr's (1996) concern was that inadequate preparation could limit the impact of conferencing and make participants feel unsafe, less prepared to attend and less likely to participate freely in a genuine dialogue. The question is what constitutes

adequate preparation? In conferencing there is less emphasis on preparation than in VOM which involve people in substantial preparatory work before victim and offender come face to face for the actual mediation session. According to Paul McCold (1998) results have shown that extensive preparation of participants may not be as necessary as many VOM proponents suggest and that it may actually be counter-productive when dealing with minor to moderately serious juvenile offences. In the pilot project under question preparation of participants was moderate, where a phone call was followed up by an email to participants with a brief explanation of the conferencing process, its purpose and practical information. This was the rule, but sometimes participants were also contacted separately and interviewed.

Table 13 shows that approximately 93% of the participants were satisfied or somewhat satisfied with the preparation they received from the facilitator before the conference took place. Only about 1% of the participants thought that the preparation was not good at all. Offenders however don't think that police facilitators (89%) prepare them as well for the conference as the expert (97%) and offenders are also surer of how satisfied they are when the expert prepared them (91%) than when the police facilitator prepared them (53%). Victims also find the preparation by the expert (93%) more satisfying than when the police facilitator (90%) prepares them for the conference but the difference is small. The difference is however larger in how sure victims are of either the expert (82%) or the police facilitator (74%) preparation. It turns out that the expert does better in preparing

all participants for the conferences but on average both the expert (96%) and the police facilitators (91%) are preparing all participants sufficiently for the conference. These findings further indicate that crime victims and offenders trust police officers enough to participate in conferencing even though the preparation before the conference was most often limited to just a phone call, followed up by email with information about the process.

Table 13. Were the participants satisfied with the facilitator's preparation for the conference?

Role	No			Not Very			Somewhat			Yes		
	P	E	C	P	E	C	P	E	C	P	E	C
Facilitator												
Offender	0	3	1.0	10	0	7.7	36	6	26.0	53	91	65.4
Supporter	2	0	1.1	6	0	4.3	20	14	20.2	72	86	74.5
Victim	0	3	1.2	9	5	7.0	16	11	15.1	74	82	76.7
Average	1	2	1.1	8	2	6.3	25	10	20.8	66	86	71.8

Participants are key stakeholders in restorative justice and the restorative justice process should maximize their input in the search for restoration, healing, responsibility and prevention (Zehr, 2002). Table 14 shows that 96.6% of the participants think that their opinions were mostly or wholly considered at the conference. Just 3% of all participants thought that their opinion had been considered little or not at all. However, none of victims or supporters thought that their opinion was not considered at all. Again the results show that victims don't mind if the conference is facilitated by a police officer (98%) or an expert (97%) as they think both types conduct the conference in such a way that their opinions are adequately considered. Offenders as before prefer a professional (100%) over police officers (93%) but since both ratings are very high it hardly matters which type of facilitators offenders will get as they will be satisfied.

Table 14. Participant's belief that their opinion was adequately considered in the conference.

Role	No			Not Very			Somewhat			Yes		
	P	E	C	P	E	C	P	E	C	P	E	C
Facilitator	0	0	1.9	7	0	4.8	27	24	26.7	66	76	66.7
Offender	0	0	0.0	1	0	1.0	13	5	11.5	85	95	87.5
Supporter	0	0	0.0	2	3	2.3	21	26	25.6	77	71	72.1
Victim	0	0	0.0	4	1	2.8	20	21	21.3	76	78	75.3
Average	0	0	0.7	4	1	2.8	20	21	21.3	76	78	75.3

One of the fundamental principles of restorative justice is that crime creates obligations. The restorative justice process should empower victims to effectively participate in defining obligations and also provide offenders with the opportunity to understand the harm they have caused and develop plans for taking appropriate responsibility. As can be seen from table 15, on average 97% of all participants think that the offender had been somewhat or fully held accountable at the conference. Victims think that police officers (98%) do a better job of holding the offender adequately responsible than the expert (92%). Offenders however find the expert (100%) more skilled than the police officers (97%) and they are so sure that 94% have no doubts about the expert compared to only 72% when police officers conduct the conference. However, since there is no difference between victims and offenders on how they rate police officers, 98% and 97% respectively, and since both victims and offenders rate the situation that they are in highly satisfying it almost does not matter which type of facilitator conducts the conference when it comes to this aspect of the conference.

Table 15. Participant's belief that those responsible were adequately held accountable at the conference.

Role	No			Not Very			Somewhat			Yes		
	P	E	C	P	E	C	P	E	C	P	E	C
Facilitator	0	0	0.0	4	0	3.0	25	6	16.8	72	94	80.2
Offender	0	0	0.0	2	0	1.0	23	27	26.0	76	73	72.9
Supporter	2	3	2.4	0	6	2.4	24	25	27.7	74	67	67.5
Victim	1	1	0.7	2	2	2.1	24	18	23.2	74	78	73.9
Average												

If participants are willing to participate again in a conferencing if faced with similar circumstances than that should support the belief that the process is sufficiently satisfying and is meeting participants' needs. Table 16 shows that on average 88% of all participants, combined across facilitator type, would take part in a conference again if faced with similar circumstances. Supporters (92.8%) were particularly willing to participate again. No victim was wholly against participating again, but it seems that offenders (85.6%) and victims (85.9%) are almost equally as sure that they would like to take part in a conference again when combined across facilitator type. Victims are if anything more willing to participate again after taking part in a police-led conference when compared to an expert-led conference and also slightly more willing than offenders to take part in a police-led conference.

Table 16. If participants were faced with similar circumstances, would they participate in a conference again?

Role	No			Yes			Not sure		
	P	E	C	P	E	C	P	E	C
Facilitator	2	0	1.9	83	89	85.6	15	11	12.5
Offender	2	0	1.0	93	96	92.8	6	5	6.2
Supporter	0	0	0.0	88	84	85.9	12	16	14.1
Victim	1	0	1.0	88	88	88.1	11	12	10.8
Average									

If participants are willing to recommend conferencing to others in their circumstances than that should support the belief that the process is sufficiently satisfying and has met participants' needs. Table 17 shows that approximately 93% of all participants would on average recommend conferencing to others if they were in similar circumstances. Supporters (97.9%) are particularly sure that they would do so. Victims (81.1%) are not as sure as other participants that they would recommend conferencing to others as an option to solve their case inside the criminal justice system. All victims would recommend to some degree conferencing to other people would it be offered to these people. Victims also do not have a different opinion in relation to this question after being either facilitated by police officers or the expert. Offenders are particularly sure that they would recommend conferencing to others after being facilitated by an expert (100%) compared to a police-led conference (88%). Again offenders seem to be more satisfied with a professional conducting the conference.

What is interesting, although not of much importance here, is that all participants are on average likelier to recommend conferencing to others (93%) than being willing to take part themselves (88%; see table 15 and 16).

Table 17. Would participants recommend a conference to others in their circumstances?

Role	No			Yes			Not sure		
	P	E	C	P	E	C	P	E	C
Facilitator	2	0	1.9	88	100	91.4	10	0	6.7
Offender	0	0	0	99	96	97.9	2	5	2.1
Victim	0	0	0	88	89	88.1	12	11	11.9
Average	1	0	0.7	92	95	92.7	7	5	6.6

It could be inferred from all the ratings related to satisfaction and fairness discussed above that offenders and victims find police-led and expert-led conferencing reasonably and sufficiently fair and satisfying.

Police Related Questions: Conferencing Location and Police Uniform

In the restorative justice literature there is a debate about the venue of conferences, if police officers should wear police uniforms and of course if police officers should at all facilitate conferences. Questions related to this debate are analyzed below.

According to the conferencing fact sheet filled out by the facilitator after each meeting, the average conference lasted 1 hour and 18 minutes, including social time which was on average 5 to 10 minutes. The facilitator also spent 1 hour and 35 minutes arranging and preparing for the average conference. Thus, the average number of department hours was just under 3 hours or 2 hours and 53 minutes per conference. In the Bethlehem experiment conducted by McCold and Wachtel (1998) average number of department man-hours was 2.3 hours per conference.

As can be seen from table 18, there were ten conferences held somewhere other than at a police station, but 85 of the 95 conferences were held at a police station. Of the ten conferences that were held elsewhere, one was held at a school, five at the magistrate office and four at a library. Exactly 42 participants

took part in conferences held elsewhere than at a police station, leaving 257 participants who participated at a police station.

Table 18. Where did the conference take place?

	Location		Total
	Somewhere else	Police station	
Conferences	10	85	95
Total	42 participants	257 participants	299

Table 19 shows that 42% of all participants thought that hosting the conference at a police station had no affect on them, but 52.2% thought it affected them positively or in total 94.5% of the participants were on average content about this venue. When the victim's (50.1%) opinions are compared with that of offenders (44.7%) it is apparent that victims think that it has more positive effect on them that the conference took place at a police station. If victims' positive opinion is added to those victims that were neutral than 98.7% of victims were satisfied with the venue compared to 90.6% of offenders. Only about 1.4% of the victims thought it had a negative effect on them that the conference took place at a police station compared to 9.5% of offenders. Supporters (62.7%) thought the police venue had more a positive than a neutral effect on them.

Table 19. If the conference took place at a police station what kind of an effect did it have on you? (may check more than one answer).

Role	Uncomfortab.	Pressured	No effect	Comfortable	Not pressured	Save
Offender	7.1	2.4	45.9	23.5	11.8	9.4
Supporter	5.3	0.0	32.0	26.7	20.0	16.0
Victim	1.4	0.0	48.6	28.4	14.9	6.8
Average n = 257	4.7	0.9	42.3	26.1	15.4	10.7

What the findings seem to suggest is that there is little or no stigma associated with going to a police station in Iceland when attending a conference or it might be inferred that the police station venue is at least neutral to all the participants. Yet again we can see the trend of victims being more positive towards the police than offenders.

Table 20 shows that 30 of 48 police officers were in uniform while conducting a conference. Overall 171 participants took part during those 30 conferences led by a police officer in uniform.

Table 20. Was the police officer wearing a police uniform at the conference?

	Suit		Total
	Yes	No	
Number of cases	30	18	48
Number of participants	171	73	244

(*Only participants in police-led conferences had the option to answer this question)

Participants could check more than one answer when asked what kind of an effect it had on them when the police officer was facilitating the conference in a police uniform. On the negative side they could mark that they found it uncomfortable, they felt pressured and also that they felt unsafe. Table 21 shows that it had no negative effect on victims or the supporters to take part in a police-led conference where the police officer was in uniform. To the contrary about 43.8% of victims thought it had positive effect. Offenders perceive the uniform mostly in a neutral way but 27% of offenders thought it had positive effect on them and only about 2.7% of offenders felt that it had a constraining effect on them. Victims show again a more favorable attitude towards the police compared to offenders.

Table 21. What effect did it have on the participants if the police officer was in uniform? (may check more than one answer).

Role	Effect of police suit				
	Felt pressured	No effect	Comfortable	Not pressured	Safe
Offender	2.7	70.3	10.8	5.4	10.8
Supporter	0.0	57.4	19.1	14.9	8.5
Victim	0.0	56.3	21.9	9.4	12.5
Average n = 244	0.9	61.2	17.2	10.3	10.3

(*Only participants in police-led conferences had the option to answer this question)

Only participants that took part in a police-led conference had the option to answer the question if they found it uncomfortable that a police officer facilitated the conference, therefore, Table 22 does not offer calculations for different types of facilitators. The table shows that on average 86.2% of participants felt that a conference led by a police officer was not uncomfortable and about 12.2% thought it was not particularly uncomfortable. Therefore on average 98.4% did not find it uncomfortable or particularly uncomfortable that their conference was facilitated by a police officer. Just about 1.7% of the participants thought it was on average somewhat uncomfortable or uncomfortable and none of them were victims. If more than 98% of participants think that it is little or not at all uncomfortable to have a police officer as a facilitator and none of the few who find it uncomfortable were victims, than it is apparent that all the participants have accepted police-based restorative justice conferencing as appropriate.

Table 22. Did the participant find it uncomfortable that a police officer facilitated the conference? With young offenders specially analyzed.

Role	No	Not particularly	Somewhat uncomfortable	Yes
Offender	81.8%	15.2%	1.5%	1.5%
Offender age 15 to 18	83%	15%	0%	2%
Supporter	94.1%	4.4%	0%	1.5%
Victim	80.9%	19.1%	0%	0%
Average n = 177	86.2%	12.2%	0.6%	1.1%

(*Only participants in police-led conferences had the option to answer this question)

The pilot study does not support the idea that police officers shouldn't wear police uniforms while facilitating conferencing and the results show that it even has positive effects on many participants that the conference was held at a police station. Furthermore, since almost none of the participants found it uncomfortable that a police officer conducted the conference, than it seems that the restorative nature of the process was not undermined by the fact that police officers was wear a uniform or facilitated the conferences at police station.

Discussion and Conclusion

This research evaluates in an Icelandic setting some of the concerns regarding police-led conferencing that Paul McCold's (1998) review put to the test more than a decade ago. McCold compared police facilitated conferencing with other restorative justice mediation programs conducted by volunteers or trained professionals. In the present research, however, police-led conferences are compared to expert-led conferences. The so-called expert is a trained professional who was the manager of the implementation of restorative justice and conferencing in the Icelandic pilot project that took place from October 2006 till October 2008. However, the main purpose of the thesis was to evaluate the quality of police-led conferencing that took place in the Icelandic pilot program. As a secondary analysis, the thesis explores comparison between police-led and expert-led conferences which should add additional information to effectiveness of police-led conferencing. Hence, in short the thesis analyzes conferencing as a restorative police practice in an Icelandic setting and compares the results with findings on similar restorative practices abroad. The effects of the Icelandic pilot program were measured through surveys of victims, offenders and their supporters. This section will summarize the insights gained from the Icelandic pilot survey for answering questions about the effectiveness of police- and expert-led conferencing.

The First Concern: Are Victims Satisfied With Conferencing and With Police Officers as Facilitators?

One of the concerns, challenged by McCold (1998) and now under analysis in the present study as a result of the Icelandic pilot survey, is as follows: *conferencing and police facilitators may be insensitive to victims' needs and coercive in encouraging their participation in the process* (McCold, 1998).

Both the McCold review and the Icelandic pilot survey found no evidence to support this concern. Overall victim satisfaction is according to McCold a good indicator of whether victim's needs are being addressed. Victims in the pilot survey who participated in either police-led conferences or conferences conducted by an expert were highly satisfied with the conference and how it was handled. When asked how satisfied they were with the facilitation skills, victims were almost equally satisfied with police facilitators (93%) as the expert (94%) and the rating is as well very high for both types of facilitators. In the pilot survey the average victim satisfaction for the two questions of how a police officer conducted the conference and the results of a police-led conference, is 92% (see table 5 and 6). This satisfaction rating is in line with victim satisfaction found in the police conferenced Bethlehem experiment (96%) and the Wagga Wagga study (90%) assessed in McCold's review. The comparison shows that police-led conferences are sensitive to victims needs and consistent in victim satisfaction ratings over time and between culturally different settings and participants. Furthermore, there is no sign of Icelandic police officers being coercive in encouraging victims to participate in the process. Exactly 90% of victims were

satisfied with how the police facilitator prepared them for the conference and 88% would recommend police conferencing or if faced with similar circumstances participate again in conferencing.

The results in McCold's review indicate that there is a relationship between victim satisfaction and type of facilitator conducting the restorative justice program. It turned out that the seven volunteer VOM programs, analyzed by McCold, scored the lowest (57 to 86%) compared to the police facilitated Bethlehem and Wagga Wagga conferencing programs mentioned above that had the two highest ratings. Here it is uncertain if it is the program (VOM) or the type of conductor (volunteer or professional mediator) that the victims are unsatisfied with but according to these results the combination of using both mediation and volunteers should be avoided. However, since there was one mediation program conducted by a trained professional included in McCold review which had the third highest rating (88%) it might be concluded after also observing the results of the current Icelandic pilot program that it was the type of conductor (volunteer) not the type of program (VOM) that made the difference. Although a volunteer mediation program was not compared to police-led conferencing program in the Icelandic pilot it should be safe to say that the Icelandic pilot further supports McCold's findings that police-led conferences score higher than volunteer mediation programs when victim satisfaction is analyzed. Since it was originally the idea to apply volunteer mediation to practice restorative justice in Iceland this

information also further supports the decision made not to use at least volunteers as conductors of either mediation or conferencing.

The Second Concern: Are Offenders Satisfied With Conferencing and With Police Officers as Facilitators?

Similar to findings reported in McCold's (1998) review, the Icelandic pilot data found no evidence to support the concern; *that young offenders may be intimidated by uniformed police officers and that offenders may not feel safe or comfortable enough to share thoughts and feelings and to genuinely "own up" to their criminal behavior.*

Although offenders in the pilot project are more satisfied with expert-led conferences (97%) than with police-led conferences (88%) by 9% the difference lies in how much more neutral offenders are towards police officers (8%) compared to the expert (0%). The bottom line is that almost all offenders are satisfied with the police facilitation but a few are neutral in their perception towards them compared to when an expert leads the conference. In McCold's and Wachtel (1998) Bethlehem experiment the average offender satisfaction rating for police-led conferences was very high or 97% compared to the other seven volunteer mediation programs examined in McCold's review which had offender satisfaction scores from 29% to 85%. Although the average offender satisfaction in the Icelandic pilot for police-led conferences was a bit lower, 88.5%, than in the Bethlehem experiment it is still higher than all the mediation volunteer programs scrutinized in McCold's review. That further supports the decision

made not to use volunteers as conductors of either mediation or conferences in the Icelandic pilot program.

Only participants that took part in a police-led conference were asked if they found it uncomfortable that a police officer facilitated the conference (see table 22). As the Icelandic pilot data shows, only about 3% of all offenders found it uncomfortable or somewhat uncomfortable, therefore 97% found it not at all uncomfortable or not particularly uncomfortable.

The concerns presently investigated in this section include that it is stated that young offenders will be intimidated by police officers especially in uniform. Therefore a special analysis was conducted for offenders between 15 to 18 years of age on the question if they found it uncomfortable that police officers facilitated their conference. The majority of young offenders in Iceland or 83% did not find it uncomfortable that a police officer facilitated the conference and 15% did not find it particularly uncomfortable. Together 98% of young offenders did not find police facilitators uncomfortable which suggest that they felt safe and comfortable at police-led conferences.

In addition uniformed police officers do not seem to intimidate offenders since the uniform had no effect on 70% of them and even 27% felt that they were comfortable, not pressured and safe when a police facilitator was in uniform. Offenders were also asked if they believed that their opinion had been adequately considered at the conference and 66% thought that was the case and 24% were somewhat sure that their opinion had been considered or altogether 90% were

fairly satisfied with how their opinion was considered. Most offenders or 83% would participate again in a police-led conference and 88% would recommend such conferencing to others, suggesting that offenders felt safe and comfortable enough to share thoughts and feelings. Furthermore, 98% of victims and 99% of supporters felt that the offender had been held adequately accountable at police facilitated conferences and the offender himself felt that a police officer held him adequately accountable (97%), which in all suggests that offenders did in fact own up to their criminal behavior. If such a great majority of offenders are in favor of police-led conferences, for instance 97% experience a police facilitator as fair or somewhat fair, than it is very improbable that the conferencing process is undermined by the fact that it was conducted by a police officer.

The evidence suggests that most offenders genuinely own up to their criminal behavior in police facilitated conferences and some offenders stated that they felt safe and comfortable enough to share thoughts and feelings at the conference even when the police officer was in uniform. According to these results, offenders seem to perceive conferences as a very satisfactory restorative justice programs when facilitated by trained police officers or professionals. The above reported results from the Icelandic pilot further support McCold's findings that police-led conferences score sufficiently high when rated by offenders and again higher than volunteer mediation programs analyzed in McCold's review.

The Third Concern: Do Victims and Offenders Find Police-led Conferences Neutral?

The third concern is that; *police may be incapable of being neutral facilitators, falling into authoritarian behavior patterns and undermining the process of reintegrative shaming.*

The question is if victims and offenders find police-led conferences neutral, or more specifically, if police officers are capable of being neutral facilitators and neutral in a way that diverts them from behaving in an authoritarian way. Victims and offenders in the Icelandic pilot rate their experience in police-led conferences as fair. At first glance therefore the conferencing process seems not to have been undermined by police facilitation, since 97% of both victims and offenders believed police officers as facilitators were fair. In addition, participants' perception of fairness averaged across all fairness questions asked were very high (97%) for police-led conferences.

In McCold's (1998) review the issue of fairness and neutrality was evaluated by comparing bivariate relationships between victims and offenders perception of the various programs. Programs rated equally fair by both victims and offenders (fairness parity) could be said to be more neutral than programs in which offenders felt the process fairer than victims or the other way around. McCold's data showed that the two police facilitated programs in his review had the highest fairness parity rating for both victims and offenders. In the Icelandic pilot survey fairness parity was not calculated but the percentage average for all the four fairness questions shows that offenders rate police-led conferences highly

or about 95% and as high as conferences conducted by an expert. The same is true for victims although they believe that police- and expert-led conferences are almost 99% fair on average. From these numbers it could be inferred that offenders rate conferences only 3 to 4% lower in fairness than victims do on average. This difference is small which means that the Icelandic pilot conferencing program, either police- or expert-led, was most probably rated on average equally fair by both victims and offenders and therefore shows strong fairness parity. As a result it could be further inferred that police officers and experts facilitate sufficiently neutral conferences.

When victims and offenders were asked about how neutral police officers and the expert are, 92% thought they were neutral on average which at first glance seems to indicate that police officers are doing a good job of being neutral facilitators. However, when police-led conferences are especially considered it seems that offenders (87%) have more doubts than victims (97%) and supporters (97%) that police officers are neutral enough. Not only do police officers score lower when offenders rate them on neutrality compared to other participants but offenders are also much less decisive in how neutral they think police officers are, only 57% of offenders are sure that police officers are neutral facilitators but 30% are somewhat sure. At the same time victims are 95% sure that police officers are neutral and only 2% somewhat sure. Furthermore, offender's indecisiveness is not only apparent with police-led conferences but they are also more decisive when rating the expert and are 83% sure that he is neutral. These results indicate that

police officers may be perceived as biased by offenders and that they might be treating offenders in a less neutral way than victims and supporters. Although offenders are reasonably sure of how fair they find police officers as facilitators, they do seem to make a distinction between fairness and neutrality. Therefore it could be concluded that in the Bethlehem experiment there should have been a special questions about neutrality. It seems that fairness parity is not a good enough measure of neutrality since offenders seem to define or see fairness and neutrality in a different way. However, the distinction between fairness and neutrality that offender seem to be making should not have implication for restorative conferencing practice and theory. The reason is that police officers, in accordance with restorative justice theory, are trained to be fair not neutral since the offender has harmed the victim and therefore offenders must be held accountable for what they did by the facilitator. This position is strongly held by both Wachtel (1997) and McCold (1998) and even Zehr (2002) believes that the neutral language of civil mediation may be misleading and even offensive in many cases since shared blame is rare in criminal cases. Therefore, most victims don't want to be known as disputants that are on equal moral stand with their offenders.

Despite guiding principles of restorative justice theory, one of many explanations for this perceived offender difference in neutrality between police officers and the expert could be that police officers are not as skilled in informing offenders of their accountability in a neutral way as the expert (see results, table

15). Or, perhaps offenders just perceive police officers as more biased than the expert just because they know he or she is a police officer. A study could be conducted to solve this issue where offenders do not know if the facilitator is a police officer or an expert. What could explain some of the difference is that a number of police officers were in uniform which maybe makes them less neutral. However, when offenders were asked if they found it uncomfortable that the police officer was in uniform only 2.7% felt pressured while it had no effect on 70% of offenders and actually 21.6% perceived it as comfortable and safe. The rest or 5.4% believed they were not pressured by a police officer wearing a uniform. However, when offender ratings on police-led conferences are scrutinized it seems that offenders find police officers not nearly as neutral as victims and supporters and also when they compare police facilitation to the expert facilitation. Nevertheless, 87% offenders seem to find police officers' neutral enough and it appears that police officers are rated by offenders as being somewhere between tolerably or sufficiently neutral.

Police- and expert-led restorative justice conferences are adequate in meeting neutrality and fairness needs of crime victims since victims rate them on average highly and higher than offenders. Both police-led and expert-led conferences seem to be putting victims at the center of the process which is in line with the theory of restorative justice. Police officers are trained to be fair, not neutral, and these results further imply that police officers are capable of conducting fair conferences, empowering this group of participants and reaching

agreements that are fair and favorable to all parties. In the end it is not fair to police facilitators to train them to be fair not neutral and then be surprised or disappointed when they follow restorative protocols. Comparing police facilitators with the expert on neutrality is unfair. The expert has a B.A in psychology, acquiring an M.A in conflict resolution and has been working with families and children in the social sphere for the last twenty years. Although the expert knows he is not supposed to be neutral when conducting conferences he probably has a difficulty leaving his acquired neutrality and communication skills out of the conferencing room. Maybe the expert's ability to prepare offenders (97%) better for the conference than the police facilitator (89%) and also because he is more skilled in making offender accountable than the police facilitator, as can be seen from how much more sure offenders are about the expert ability (94%) compared to the police facilitators' ability (72%), that when all of this adds up the expert is seen as more neutral. What it is that actually makes police officers less neutral than the expert is not known and difficult to find out from the Icelandic pilot project data. Future research must try to resolve that question.

The Icelandic pilot project manager had some concerns that police officers would show authoritarian behavior patterns and that some police officers would have trouble being neutral. When observing police officers facilitating conferences these behaviors were not detectable but police officers were however not all equally capable of conducting conferences and some needed more guidance than others. The problem was more related to their lack of self-esteem

and confidence to conduct a conference successfully and maybe disbelief in the process and the script. Clearly, supportive guidance and performance feedback is very important when police officers are facilitating their first one or two conferences and regular quality inspections after that are compulsory.

In the Icelandic pilot all police officers had been specially selected for the program because of their interest, experience and personal qualities by their senior officer and most of them had worked their way up to being detectives having had extensive experience working on the streets. Hence, this thesis is not stating that any police officer randomly chosen should be trained as a restorative justice facilitator although there is still no evidence that it could or should not be appropriate. As in all professions, be it engineering, psychology or just volunteer mediation for example in Norway, those that have the interest, personal qualities or any valuable experience in or outside of their occupation in question should be preferred as good candidates by those that train or are administering the program in question, that is just logical. All programs, whether volunteer mediation programs or police conducted conferencing programs must have some kind of screening process. First of all, it is not possible to order someone that does not want to facilitate conferences to do so. Therefore, all police officers in the Icelandic pilot survey were first asked if they were interested and if so than they were offered to participate in the training program. Facilitation was therefore considered a job that must be voluntary in the sense that people must be interested in the idea. There is a saying in Iceland that; “interest drags you half the way.”

Being interested was therefore the main screening criteria and sufficient in and of itself for qualifying for the conferencing training. Probably almost anybody could be trained to be a fairly good facilitator or a mediator, but if he or she is not interested then all training is without prevail.

It is important to mention that none of the police officers, whether detectives or on duty police officers, that had been trained quit the program or were suspended because they were not capable of conducting conferences. However, some never gave real life conferencing a chance and quit before ever conducting a conference. Furthermore, what has to be remembered is that police-led conferences, as were undertaken in the Icelandic pilot project and the Bethlehem experiment, are only limited to minor or lower level criminal offences not serious crimes.

The Fourth Concern: Was the Preparation Adequate and the Process in Line With Restorative Justice Values?

It is very likely that a participation rate for a program will be low if participants perceive the setting or structure as unsafe, or if they feel unprepared to attend. One of the concerns that McCold challenged in his (1998) review was that; *inadequate preparation by conference facilitators could limit the impact of the conferencing program in such a manner that it makes the restorative justice process less humanizing and therefore less likely that participants will attend, take part in a “genuine” dialogue and feel safe.*

What is important to note is that most often police officers initially introduced the option of conferencing to people. If they agreed to take part or agreed to give conferencing a chance, as they could at any time opt out of the program, their case was referred to a prosecutor and from there to the project manager. The project manager contacted people by phone and also prepared them via email or invited people to meet for caucusing maybe a few days or even up to two weeks prior to the joint conference session. Sometimes offenders and victims were not sure if they wanted to participate at this point, and some decided in the end not to. In other instances the case was referred from a prosecutor or the project manager to a police officer who had been trained as a conferencing facilitator. The police facilitator would most often just call people up and briefly explain conferencing followed by an email about the process. Over the two year pilot period there was no one way of preparing parties for all the conferences that took place but the main rule for preparation was merely to contact participants by phone and follow up with an email. However, if the facilitator felt that closer contact was needed because of, for instance, difficult participants or the seriousness of the offense, then the facilitator would meet with some or all the parties beforehand.

In a certain sense it is not clear what the conferencing participation rate was in the Icelandic pilot since there are no records of how many possible cases or candidates for conferencing were actually offered to take part, both by the investigating police officer or sometimes the prosecutors who found cases on their

desks that did apply to conferences but neither the victim nor the offender had been introduced to the option by the investigating officer. Sometimes prosecutors would then call people up and ask if they wanted to participate in conferencing, and in these instances it was not documented how many denied the restorative justice option. Furthermore, it was not documented how many instances police investigators were turned down when they were checking if people wanted to participate or not. In the Icelandic pilot program the percentage of cases referred to the project that were actually conferenced is the baseline and measure of whether the fourth concern challenged in McCold review is an issue in the pilot program or not.

As the results show, a large majority on average of those that agreed to conferencing and later attended the conference believed that the facilitator prepared them well enough for the conference (93%) and further believed that their opinions were somewhat or wholly considered at the conference (97%). This belief and for instance other satisfaction and fairness ratings shown and discussed indicate that a genuine dialogue had taken place and that participants felt safe. A further indicator of good preparation, participant's sense of safety and no attendance avoidance is that the participation rate was 95% for those referred to conferencing after only giving their preliminary consent and not being introduced adequately to the option. It was not until the project manager or police facilitator contacted them that they were given adequate information.

The results suggest that extensive preparation of participants such as in-person visits or face to face preparation meetings prior to the joint conferencing session may not be necessary, at least when low level offences are being conferenced. However, adequate screening and case assessment by phone or face to face meeting prior to the conferencing session is important for especially inexperienced facilitators to avoid the risk of conducting a victim and offender confrontation that should not take place at all and to avoid conferences that the facilitator will not be prepared to handle. Therefore, sometimes police officers and the expert in the pilot study asked participants to meet them to talk about the conferences and what could be expected. The data is therefore contaminated with separate preparation meetings between the facilitator and participants prior to the actual conference. These preparation meetings were however the exception not the rule but since these preparation meeting took place it is not safe to generalize from the pilot project data about how extensive the preparation should be or is adequate for these types and serious level of offences and participants.

McCold's (1998) review concludes that crime victims and offenders trust police officers enough to participate in conferencing at a rate as high as other criminal mediation programs. It also seems that participants trust police officers in Iceland enough to participate. When victims and offenders were asked if they would take part in a police facilitated conference again if faced with similar circumstances almost 86% on average thought they would do so. Here offenders make little difference between who facilitated their conference, be it either police

officer (83%) or an expert (89%). Victims, also, make little difference between police officers (88%) and expert (84%) but victims if anything are more in favor of police-led conferences. Furthermore, approximately 88% of victims and offenders would on average recommend police conducted conferencing to others if they were in similar circumstances. Offenders are particularly sure that they would recommend conferencing to others after being facilitated by an expert (100%) compared to a police-led conference (88%). Victims make no distinction between police facilitated (88%) and expert facilitated (89%) conferences when asked if they would recommend conferencing to others in similar circumstances. It therefore seems that participants in the Icelandic pilot project trust police officers and the expert but the preparation was perhaps also more extensive than in the Bethlehem experiment and maybe that explains the trust that participants showed both types of conferencing facilitators. The authors experience from the pilot project influences him to suggest that perhaps more extensive level of preparation is more desirable in minor offences if possible.

Conclusion Summary: Victims and Offenders Perceived Restorativeness of Police- and Expert-led Conferences

Restorative justice is a balanced approach to crime where victim participation and healing is a significant goal of the process. Hence, victim satisfaction is a critical dimension in evaluating the success of these programs. One purpose of restorative justice is to help offenders to learn from their behavior, and to reach that goal it is important that they participate voluntarily and are

treated with respect. Offender satisfaction is therefore also an important measure of a successful restorative justice program (McCold and Wachtel, 1998).

Combined averaged offender ratings for on how the conferences were conducted and the results of the conference, for both police facilitation (88.5%) and expert facilitation (93%) are sufficiently high. The average combined victim rating for the same two satisfaction questions, for both police officers (92%) and the expert (93%), suggests that conferences are slightly more satisfactory in general to victims than offenders but that difference is mostly related to how much less satisfied offenders are with police officers than victims are.

The average of these average satisfaction ratings of police-led conferencing by offenders (88.5%) and victims (92%) is therefore 90%. Such a high average satisfaction ratings from victims and offenders in the Icelandic pilot project seem to demonstrate that Icelandic police officers are showing competitive facilitation skills when compared to the same average ratings on expert-led conference (93%) in the Icelandic pilot and also when the same averages are compared to scores on police-led conferences (94%) and volunteer mediation (75%) in McCold's review.

One of the most important findings is that victims really do not care if conferences are facilitated by police officers (92%) or an expert (93%) and that victims perceive conferences slightly more satisfactory than offenders. That is in line with the victim-oriented approach declared by the restorative justice movement where justice must begin to show concern for victims and their needs.

There is no sign that victims perceive police officers as insensitive to their needs since 88% of victims would both participate again and recommend conferencing to others and about 98% felt that their opinion had been adequately considered at the conference. Given that police officers as facilitators are no less or more preferred by victims than a trained expert the results suggest that police officers can run conferences for victims that are just as likely to be in accord with restorative principles as conferences facilitated by professionals.

Victim's perceptions of fairness also note very highly, which implies that conferencing and the conference facilitators are sensitive to victims' needs. Victims' average fairness ratings across all the four fairness questions rated in the Icelandic pilot program support the conclusion that police facilitators (98.8%) are not any less or more preferred than a trained expert (98.5%). What further supports the findings that victims don't mind who facilitates their conference is that when asked if their opinion was adequately considered at the conference they rate both police officers (98%) and the expert (97%) very highly and also as highly. One question actually supports the idea that victims might actually prefer police facilitation over expert facilitation. When asked if the offender was held adequately accountable, victims thought that police officers (98%) did a better job than the expert (92%) of holding the offender accountable.

The data also suggest that offenders are more satisfied with the facilitation of a trained professional (97%) than a police facilitator (88%) but still offenders seem to be highly satisfied with police officers as facilitators and even more so

than in any of the seven volunteer mediation programs cited in McCold's review (29% to 85%). Only 8% of offenders were on average neutral when asked how satisfied they were with police officers in the Icelandic pilot and no more than 3% on average were dissatisfied or very dissatisfied with police-led conferences. Since young offenders are a large percent of the entire offender sample it is very likely that they are also equally content with police officers as facilitators. At least 83% of young offenders do not find police facilitators uncomfortable and those who do are only 2% of that group.

Offender average fairness ratings across all the four fairness questions rated in the Icelandic pilot program however do not support the conclusion that police facilitator (95.3%) are any less preferred than a trained expert (95.5%). However, when participants in the Icelandic pilot program are asked about how neutral facilitators are, offenders find police facilitators less neutral than victims and supporters do and also rate police officers less neutral than the expert. One reason for this difference could be that offenders experience police facilitators as less adequate in holding them accountable than the expert. This explanation is probable since offenders are 94% sure that the expert holds them adequately accountable but only 74% sure that the police officer can hold them adequately accountable. They therefore experience the expert as more skilled or less harsh in holding them accountable. But that does not necessarily mean that offenders found police officers authoritarian. When offenders were asked if their opinion was adequately considered in the conference they rated police officers (93%)

highly although not as highly as the expert (100%). These ratings raise concerns about the nature of the relationship between police facilitators and offenders which must be analyzed further.

There are a few reason way neutrality was measured in the Icelandic pilot. Firstly, because of Umbreit's and Zehr's concern that police may be incapable of being neutral facilitators, secondly, because Paul McCold does not particularly measure neutrality in the Bethlehem experiment but instead evaluates neutrality by comparing bivariate relationships between victims and offender perceptions of fairness (see discussion above of the third concern about fairness parity) and therefore seems to assume that participants see or define fairness and neutrality in the same way, and thirdly, because neutrality has traditionally been heavily emphasized in victim-offender mediation where it is believed that mediators should be not only fair but also neutral. Although restorative justice conferencing theory does not expect facilitators to be neutral and does not train them to be neutral it was interesting to see if they really are neutral, and if so how neutral participants in conferencing perceive them to be. Then it would be later possible to compare the results with victim-offender mediation results on neutrality where mediators are actually trained to be neutral. That is something that Paul McCold is not able to do since he did not measure neutrality in the Bethlehem experiment, measurement that is probably not of interest to him since he believes that conferencing begins with the assumption that a wrong has been done and that the offender has an obligation to repair that wrong as much as possible and that is,

according to him, hardly a neutral position for a facilitator or a VOM mediator to have (McCold, 2000, cited in Bazemore & Elis, 2007). The purpose of asking about neutrality in the Icelandic pilot project and evaluate it further in the present thesis was mainly done to raise the issue that this philosophical discussion presents but not to answer any fundamental question related to the debate. Further elaboration of the question of fairness and neutrality is beyond the scope of this thesis since the project was not specifically designed to answer this particular question. However, what this thesis might be contributing to the discussion is that victims find police officers highly neutral (97% and they are 92% sure). This is good news for Umbreit and Zehr who must believe that restorative justice is first of all a victim oriented approach. Therefore, if victim's perceive facilitators, who are only trained to be fair, as neutral than at least Umbreit and Zehr don't have to worry about victims who take part in police-led conferencing. McCold should also be satisfied since police officers are not perceived to be nearly as neutral (87% but only 57% sure) as they are perceived as fair (98% and they are 79% sure) by offenders. Umbreit and Zehr should also not worry to much about offenders in police-led conferences since police officer are quite neutral after all, but the theoretical question of; if they are neutral enough and how neutral they should be, is a debate that is beyond the scope of this thesis.

The generalizability and comparability of the Icelandic pilot study to the US Bethlehem experiment is satisfactory even though the two cultures are in many ways different. Iceland has a homogeneous population but the US does not,

police culture in these two countries are probably in some ways not alike and the offenders and the types of cases involved in these two programs may not be entirely comparable; it seems that there were on average younger offenders in the Bethlehem experiment and therefore not as serious cases. However, both programs were police diversionary programs using police officers as facilitator that were trained by the same organization in conferencing. Also similar measures were used to assess the intervention. Despite differences mentioned above one of the main aim of the Icelandic pilot survey was to evaluate its results against results from a similar study abroad to have some frame of reference of what constitutes success and to see if similar results would appear in Iceland that is in many ways different to those nations that have implemented police conferencing with good results. What best answers the question of generalizability is that the same project was implemented and almost the same results appeared, hence the assumption could easily be made that restorative intervention is generalizable to other countries; the test to see if the results from the US Bethlehem experiment are applicable to Iceland turned out to be very positive. This fact is one of the major findings of the Icelandic pilot program and the primary contribution that the thesis makes to the restorative justice field. It was before know that police-led conferencing in Australia, the UK and in the US worked well and had similar results. Now it is also known, thanks to the Icelandic pilot, that this specific restorative intervention works as well in a Nordic country which should have

implications for maybe Norway as they have primarily applied volunteer victim-offender mediation which does not work as well, at least not in North America.

Limitation of the Current Study and Future Research

The Icelandic pilot project and findings are subject to caveats and limitations and the most important ones are discussed down below.

First, there is the problem of the relatively small sample size on which the analysis is based, because of the small number of participants behind each type of facilitator appropriate caution should be exercised in attributing the differences in type of facilitator's performance or program outcome to any single factor. Despite these differences it ought to be valid to make some general conclusions from the Icelandic pilot program data about the relative restorativeness of police- and expert-led conferences.

Second, the design of the Icelandic pilot project was a descriptive research, not a random experimental design which means that the Icelandic pilot did not randomly assign offenders to either formal adjudication or diversionary police- or expert-led conferences after obtaining consent from those allegeable to participate in conferencing. This leads to interpretative and assumptions difficulty as those that were selected to take part in expert-led conferences might be in some way different from those participants that were selected to take part in police-led conferences. This difference between participants may explain the difference found between expert- and police-led conferences instead of the difference in

performance by these two types of facilitators. What also may lead to interpretative and assumption difficulty is that the restorative justice by its very nature is a voluntary process which may by itself produce a strong self-selection bias. For example, the high levels of satisfaction found in the present thesis may have something to do with the opportunity to choose. Perhaps those that choose to take part or simply are able to choose among justice options are more satisfied with their experience than those that do not choose to participate after being offered to do so (Umbreit, 2004, p. 287). This creates a group of participants who had a choice to participate or have chosen to participate in the program and may, therefore, be more motivated than those people that were never offered to participate or selected for participation but declined to do so. Not only may those that do not agree to participate be less motivated but in general they could be a totally different group from those that do agree to participate.

Randomized controlled trials (RCTs) provide the best opportunity to control selection bias and other possible biases because they usually first obtain consent and then assign treatment to some but not all of those agreeing to participate (Sherman and Strang, 2007). The voluntary nature of participating in restorative justice programs is a self-selection factor overlaying the findings reported in restorative justice studies and hence the positive results of the Icelandic pilot project may be mitigated by these self-selection biases. However self-selection bias is an inherent problem in all restorative justice research as it is not possible to truly randomly assign participants to treatment and control

conditions. The reason is that if an individual is forced to participate in a restorative justice program, most would argue that the program is no longer truly restorative (Latimer et al, 2005). All experimental design studies that randomize only those willing to participate, except maybe very large sample studies as number of cases need to be large to detect statistical significance, can therefore only determine how the program affects those individuals that are predisposed to be cooperative and willing to participate.

Future research should attempt to identify factors that distinguish the sample of the willing from the sample of the unwilling and since uncooperative cases are less likely to participate, future experimental studies should have a large enough sample so that some of the self-selection factors can be used as control variables in a multivariate approach (McCold & Wachtel, 1998). Given all the above, to determining the effectiveness of restorative justice an alternative method may be necessary. The solution might be administering questionnaires designed to measure participant's motivation prior to program participation. This would allow researchers to examine the motivation of the control group, restorative justice participants, and those who refused participation. This type of research design would provide a comparison of highly motivated, moderately motivated, and unmotivated individuals in each group. If the satisfaction, for example, were improved in the restorative justice group, and motivation was controlled for in the analysis, we would be more convinced that there is a

treatment effect from participation in restorative justice processes (Latimer et al, 2005).

Third, there were some differences between police-based conferencing and expert-led conferencing traceable to administrative self-selection bias in the Icelandic pilot project and this point is closely related to the selection bias mentioned above. The expert was also the administrator of the project and could most often select the type of cases in question that best suited his own and police officers' ability to facilitate. This arrangement was considered practical for the project and its participants, but of course not the theoretical underpinnings of the present study, since all the police facilitators had initially little or no conferencing experience or theoretical knowledge of restorative justice compared to the expert. Therefore, it is not unlikely that participants and cases handled by the two different types of facilitators are not entirely comparable. Although the project manager had no say in what kind of cases were facilitated by police facilitators in different districts around the country he distributed cases in the larger Reykjavik area to police facilitators according to the seriousness and difficulty of the case and how experienced, able and enthusiastic police facilitators were. If a case was thought to be complicated, stronger feelings involved and more serious than usual than the project manager would generally facilitate that case by himself or as a co-facilitator with a police officer leading the facilitation. This selection bias, where cases are not distributed randomly to different types of facilitators, could have caused performance differences between police officer who on average facilitated

less serious conferencing cases and the expert who possibly dealt more often with more serious or difficult cases. However, most cases handled or about 90% were not more serious than the average case or a very difficult case and some difficult or more serious conferences were in fact facilitated by police officers without any help of the project manager. Moreover, some case that seemed not to be difficult and then likelier to be facilitated by police officers, actually turned out to be quite difficult and more serious than the average case. Therefore the bias should be small but the nature and magnitude of it is actually unknown in the present study and could account for some of the differences in comparisons by perhaps showing police officers as better facilitators than they actually are compared to the expert. However, the expert was much more experienced and knowledgeable of restorative justice and conferencing than police officers and his education was also well suited to this kind of work, one might therefore conclude that the difference between the two types of facilitators is relatively small compared to that.

Fourth, according to McCold and Wachtel (1998) the effect of conferencing could be quite different for violent cases than for instance property cases and researchers should block their survey designs by at least this minimum distinction. This disaggregation of the data was not considered practical in the present study since the participation size was too small.

When assessing what future research on restorative justice should strive for McCold (2004) recommendations are appropriate:

The future development of restorative justice should be accompanied by carefully controlled scientific assessments using standardized measures across a variety of settings and practices. If research on restorative justice practices is to evolve, findings need to be comparable across programs. Assessments need to report conditions for program eligibility, the number of cases referred, the number of cases participating, reason for nonparticipation, number and nature of agreements reached and the rate of compliance with agreements. Results need to be disaggregated by offence type and disputant relationship... Referred but nonparticipating cases need to be included in follow up surveys and incorporated into the analysis of program outcomes. Participant satisfaction/fairness findings reported should allow for computing percentages positive responses. Without concerted governmental guidance, program assessments are likely to continue to reconfirm already well established findings while contributing little to the cumulative understanding of the practices of restorative justice. (p. 7)

And Mark Umbreit's (2004) suggestions are also in line:

The need for longitudinal studies to test the strength and durability of victims and offenders satisfaction, perception of fairness and recidivism is obvious. Also there is a need to go much deeper on the issues of satisfaction and fairness. What are the contributing variables that cause this, and how can programs continue to refine their procedures to maximize the possibility of high levels of fairness and satisfaction. Finally, there is a clear need for more rigorous designs to be employed, including random assignment into different treatment groups. (p. 297)

Both McCold's and Umbreit's suggestions for future research remain important criticism to the current pilot study and a good advice for future research in Iceland.

There are a few other interesting findings in the current thesis that also deserve future research. Firstly, overall satisfaction with the results is quite high for all participants. However, offenders seem to be likelier to be very satisfied with the results when the conference is led by an expert (63%) than a police

officer (38%). Offenders are therefore more decisive in how satisfied they are with the results when an expert conducts the conference. In contrast victims rate both types of facilitators the same. These findings imply that offenders are a bit more skeptical of police facilitation than victims. The reason for this difference is not clear and calls for future research to settle.

Further, victims and offenders show greater satisfaction with how the conference was facilitated (92%) and the results of the conference (86%) across facilitator types compared how satisfied these same participants are with the overall justice system (77%). What is more interesting is that victims and offenders are on average much more dissatisfied with the overall justice system (7.5%) than with any other question on the pilot survey questionnaire. To compare those offenders and victims that are very dissatisfied with either the facilitator or the result of the conference does not however reach 3%. Victims are also much more decisive in how very satisfied they are with the facilitator and the results of the conference than how the justice system handled their case. All this seems to indicate that offenders and victims may have been unhappy with the justice system service before they took part in conferencing. Future research should include survey questions that may explain the reasons for these findings.

There is a debate in the restorative justice literature if facilitators should be neutral or fair in conducting conferences as can be seen from the concerns discussed in the current study that Umbreit and Zehr (2004) have put forward. When the data from the present study are examined it appears that police officers

are not doing such a good job of being neutral when rated by offenders (87%) compared to victims (97%) and supporters (97%). Furthermore, only 57% of offenders are sure that police officers are neutral facilitators when at the same time victims are 95% sure that police officers are neutral. Offender's indecisiveness is not only apparent with police-led conferences but they are also more decisive when rating the expert and are 83% sure that he is neutral. These results indicate that police officers may be biased or not skilled enough to come across as neutral and hence may be affecting offenders or treating them in a less neutral way than victims and supporters. Conversely, perhaps police officers are only achieving what restorative conferencing theory suggests. However, it seems that fairness parity, used in the Bethlehem experiment to cast light on neutrality of police conferencing, is not a good enough measure of neutrality since offenders seem to define fairness and neutrality in a different way or at least have different opinions of these two conceptions. Future research should therefore pay a special attention to this different offender opinion of neutrality and fairness when facilitated by police officers. What further examination of this alleged offender opinion or perception of neutrality and fairness might find is that offenders just perceive police officers as more biased than the expert because they know he or she is a police officer. A study could be conducted to solve this issue where offenders do not know if the facilitator is a police officer or an expert.

Since factors associated with the decision to participate could be related to factors associated with the outcome variable the present thesis may not have

found that police- or expert-based conferencing in the Icelandic pilot project produced high or higher participant satisfaction compared to mediation programs. Rather it most surely found that participants in these conferences had high and even higher satisfaction than participants in mediation programs. This present thesis design allowed only for the demonstration of the outcome but not the disentanglement of the selection of cases and participants and the program effect.

More questions need to be pursued and broadened, but given the empirical evidence generated over the past twenty five years or so and across many countries, it seems reasonable to say that conferencing does contribute to increased victim involvement and healing, to offenders taking responsibility for their behavior and learning from this experience, and to community members participating in shaping a just response to law violation.

These satisfaction and fairness results look promising for police conferencing and the future of restorative justice in Iceland. But still it might be important to go beyond satisfaction and fairness ratings as the primary measure of whether a process is “highly restorative” or to measure its strength in restorativeness. When analyzing Johnstone and Van Ness (2007) discussion of the meaning and definition of restorative justice, addressed in the literary review of the current thesis, proponents of the movement should take some notice of the three conceptions of restorative justice; the *encounter*, *reparative*, and *transformative* conception, when deciding how to measure its effectiveness. It seems from the point of view of the encounter conception that a restorative

process can only be highly restorative if people meet face to face. It is a prerequisite for the process to be highly restorative, everything less is only somewhat restorative no matter how high satisfaction or fairness scores are. Although it is a prerequisite for primary stakeholders to participate in a face to face meeting, it is not sufficient for a meeting to produce highly restorative results. Face to face meetings can be conducted in a non-restorative way and therefore arrive at non-restorative results. Howard Zehr (2002) believes that restorative justice is built upon three simple elements. Firstly, an offense produces harm which in turn generates needs of all affected. Secondly, the harm creates obligations from offenders and also the community and thirdly, that harm give rise to engagement of those who have a legitimate interest or stake in the offense and its resolution and their victims are essential. Zehr is therefore pointing out that restorative justice understands crime first of all as harm done to people and communities. According to this point of view the reparative conception is vital for a restorative justice process to be highly restorative. If harm is not repaired the face to face meeting of stakeholders cannot be restorative and just. Conversely, repairing harm cannot be a sufficient ingredient of a restorative justice meeting since if people do not meet there is a vital element missing. For the sake of simplicity the transformative conception will not be looked at further than already has been done in the literature review of the current thesis.

To make sure that both the encounter conception and the reparative conception are taking place in a highly restorative manner we must know what

should be expected of a highly restorative encounter and reparative intervention and understand why and how it leads to restorative outcomes such as reoffending, victim satisfaction and other indicators. What is required, according to Bazemore and Elis (2007), is a more precise identification of what is distinctively restorative within the process, understanding of the strength and integrity of restorative elements and development of measures which test the effectiveness of those specifically restorative elements.

Bazemore and Elis propose an approach called the principle-based approach which provides a highly sophisticated guide to the issues confronting those who wish to study the effectiveness of restorative justice interventions. Bazemore and Elis identify principles that are general commitments that reflect core values and ideal standards and they choose three broad principles to build their approach on; the principle of repair, stakeholder involvement and community/government role transformation. Accordingly then:

Restorative practices are therefore guided by a priority to repair the harm caused by crime, involve stakeholders in a decision-making process to determine how to repair the harm and transform the relationships between communities and justice system while empowering the former in response to crime. (Bazemore & Elis, 2007, p. 404)

Each of the three core principle has outcome and process dimensions that drives evaluations aimed at understanding whether or not, and why, restorative practice intervention works. The priority of repairing harm is addressed by two broad but interrelated dimension of reparative activity described as *making amends* and *relationship building*. Since crime creates imbalance and inequity

between people the offender is required to make up for what he or she has done. The failure to make amends will result in a sense of imbalance and repairing harm is therefore a necessary first step in meeting the material and emotional needs of victims and communities as well as changing the images of the offender in the eyes of all participants, including the offender him or her self. To document the strength and integrity of making amends researcher will have to measure the extent the conference process has clearly presented the purpose of the conference as repairing harm, allowed for the opportunity and devoted considerable time to stories of the harm, assess the nature and quantity of harm to stakeholders and define clear roles for participants in repairing the harm. To document the strength and integrity of relationship building researchers will need to measure the extent to which the process includes support people which are important to the lives of offender and victim, that bring special resources or can provide affective social support, that encourage and build upon supportive comments about the offender or victim and that are ready to be assigned a specific role to work with and support the offender and others in carrying out and monitoring the reparative agreement.

Stakeholder involvement, the second of the three core principle, is addressed by three dimension described as *victim-offender exchange*, *respectful disapproval* and *mutual transformation*. The victim-offender exchange underscore the need for open expression and dialogue of these primary stakeholders and the focus of this exchange as a primary priority has particularly been evident in

victim-offender mediation practice where just having the victim and the offender meeting face to face is thought to be a success, regardless of the outcome. To document the strength and integrity of victim-offender exchange, researchers will need to measure the extent to which the restorative process has ensured a free flow of victim-offender communication, open expression, positioned the conductor of the process in a relatively impartial role with minimal interruptions, that silences are effectively used and that rush to agreement and manipulation of dialogue is avoided.

A primary conferencing objective, as opposed to primary VOM objective, is respectful disapproval of the offence where it is generally insisted that that a family member or a support person emotionally connected to the offender participate in the conference, because of the importance attached to the family group or those that matter most to the offender. This approach is based on the reintegrative shaming theory. To document the strength and integrity of respectful disapproval, researchers will need to measure the extent to which the conference process has included opinion of those who matter to the offender, has encourage and built upon disapproving comments about the behavior combined with positive comments about supporting the offender and victim, has prompted emotional expression or openness from all parties and built upon these as transition points in the conference.

Advocates of mutual transformation seek large group of participants in conferences or as large as the environment in which the harm or conflict has

occurred. A careful distinction is made between harmful behavior, the public and self-image of the offender and much attention paid to emotion in the conference and the strategic management of dialogue. Additionally, in the quest of building on shared understanding between victims, offenders, their supporters and other participants, more attention is devoted to discovering overlapping or collective interests to build toward a more holistic and possibly complex, yet sustainable, skill building to enhance resolution of conflict and harm. To document the strength and integrity of mutual transformation, researchers will need to measure the extent to which the conference process has built upon bridging statements, emotional expression and points of common agreement, gained increased understanding of the victim and offender perspective, attended to stakeholders mutual acknowledgement as a sign to move to the next phase of the conference, reframed and clarified issues as necessary and moved towards the agreement only when the group shows signs of some shared ownership of the conflict.

Community and/or government role transformation, the third of the three core principle, is addressed by three dimension described as *norm affirmation and value clarification, collective ownership and skill building*. Norm affirmation and values clarification allow for the discovery of shared interest in upholding group behavior standards in for instance neighborhoods, schools and workplaces. Clarification of shared values should reinforce the validity of the conference process and the agreements and develop a collective understanding of what behaviors are off limits. To document the strength and integrity of norm

affirmation or value clarification, researchers will need to measure the extent to which the conference process has had discussions of values and respectfully encouraged debate about tolerance limits, has made maximum use of neighborhood volunteers in the conferencing process, has linked dialogue on norms and values to tasks and program mission, and has allowed for non-threatening dialogue about shared values and encouraged network building and future meetings.

Those who share a strong sense of responsibility are likely to go to great lengths and effort to see their ideas succeed and will therefore share a strong sense of investment in the outcome. Hence, meaningful involvement in decision-making may promote collective ownership. To document the strength and integrity of collective ownership, researchers will need to measure the extent to which the conference process has incorporated input of stakeholders in the agreement, has included participants who provide alternative perspectives to the dilemma and serve as resources to offenders and victims, and has provided for direct input of community members and promoted for shared leadership.

Skill building is the third and last dimension in Bazemore and Elis principle-based approach. Skill building is aimed at gaining competencies in the exercise of informal social control where conferences include voices beyond those of victim, offender and their immediate supporters. Practitioners have argued that building skills and transferring responsibilities for decision making should become a strategic goal of restorative conferencing programs. The reason for this

stance is that the formal justice system have essentially deprived people of the opportunity to practice skills of apology and forgiveness, or reconciliation, restitution and reparation. To document the strength and integrity of skill building, researchers will need to measure the extent to which the conference process has permitted discussions about social justice issues beyond the needs of primary stakeholders, built a bridge to the larger community by incorporating wider participation of community members that identify community building tasks and collective action remedies, encouraged skill building efforts in other neighborhoods and initiated an ongoing focus on one or more neighborhood to maximize skill building impact.

Beyond many kind of rather unreliable assessments through the decades, such as surveys of participants satisfaction, that might not be testing the effectiveness of restorative justice but rather some other theory that is perhaps unknown to us or based on philosophies grounded in other values, there are several defensible standards for gauging the extent to which a process is restorative. The above discussed practice dimensions derived from general normative principles, that in turn are link to desired outcomes, provide us with the possibility of measuring more reliably and credibly the restorativeness of the intervention in restorative conferencing. Bazemore and Elis explain best why it is importance create and apply a new and more analytic assessment approach:

We need to begin with the simple acknowledgement that an intervention may be very high in ‘restorativeness’ on one principle domain, yet weak in another; most importantly, we should be willing to see how a strength on one dimension along with a weakness on another effects specific

outcomes. Finally, we suggest that the principle-based approach to evaluations of restorative interventions allow for the broadest possible generalization to theory, and provides the best opportunity for replication of effective practice and policy in multiple contexts. (Bazemore & Elis, 2007, p. 419)

Summary

The evidence from the Icelandic pilot project does not support the concerns raised by Umbreit and Zehr (1996) about police facilitated conferencing, instead the data replicates many of the positive results about police-led conferencing found in the Bethlehem experiment and suggests that this type of restorative meeting may be producing, even despite self selection bias, higher victim and offender sense of satisfaction and perception of fairness than well regarded volunteer mediation programs reported in McCold (1998) review and represent an effective and useful restorative justice practice that should be encouraged as a resolution process limited to lower level juvenile and adult criminal offences.

References

- Angel, C. (2005). *Victims meet their offenders: Testing the impact of restorative justice conferences on victims' post-traumatic stress symptoms*. (Unpublished doctoral dissertation, University of Pennsylvania).
- Braithwaite, J. (1989). *Crime, shame and reintegration*. New York: Cambridge University Press.
- Bazemore, G., & Elis, L. (2007). Evaluation of restorative justice. In G. Johnstone & D. Van Ness (Eds.), *Handbook of Restorative Justice* (p. 397-425). Cullompton: Willan Publishing.
- Capacent. (2009). Retrived 12. Desember. 2009 from <http://www2.capacent.is/?PageID=762&NewsID=493>
- Chris, C. (2007). Reviving restorative justice traditions? In G. Johnstone & D. Van Ness (Eds.), *Handbook of Restorative Justice* (p. 113-131). Cullompton: Willan Publishing.
- Christopher Bright. (1997). Net widening. *Restorative justice online*. Retrieved October, 9, 2009, from <http://www.restorativejustice.org/university-classroom/01introduction/tutorial-introduction-to-restorative-justice/systemic/net>
- Daly, K. (1999). *Does punishment have a place in restorative justice?* Paper presented to the Australia and New Zealand Society of Criminology Annual Conference, Perth, 28-30 September.
- Johnstone, G. (2002). *Restorative justice: Ideas, values, debates*. Cullompton: Willian Publishing.
- Johnstone, G. & Van Ness, D. (2007). The meaning of restorative justice. Cullompton: Willan Publishing. In G. Johnstone and D. Van Ness (Eds.), *Handbook of restorative justice* (p. 5-23). Cullompton: Willan Publishing.
- Latimer, J., Dowden, C., & Muise, D. (2005). The effectiveness of restorative justice practices: A meta-analysis. *The prison journal*, 85 (2) 127-144.

- McCold, P. (2004). A summary of “A survey of assessment research on mediation and restorative justice”. Interview by Laura Mirsky. Retrieved August 29, 2005, from <http://www.realjustice.org/library/rjsurvey.html>
- McCold, P. (2003). A survey assessment research on mediation and conferencing. In Lode Walgrave (Ed.), *Repositioning Restorative Justice* (p. 67-120). Devon: Willan Publishing.
- McCold, P. (1998). Police-facilitated restorative conferencing: What the data show. Paper presented to the second annual international conference on restorative justice. November 7-9. Retrieved November 15, 2005, from <http://www.restorativejustice.org/articlesdb/articles/370>
- McCold, P. (1999). Restorative justice practice: The state of the field. *International institute for restorative practices Bethlehem, Pa.* Paper presented to the Building Strong Partnerships For Restorative Practices Conferences, Burlington, Vermont, August, 1999. Retrieved August, 22, 2005, from http://www.realjustice.org/Pages/vt99papers/vt_mccold.html
- McCold, P., & Wachtel, B. (1998). *Restorative policing experiment: The Bethlehem Pennsylvania police family group conferencing project.* Pipersville, U.S. Dept. of Justice, National Institute of Justice. Washington DC: U.S. Govt. Printing Office. Retrieved March, 4, 2010, from <http://www.iirp.org/pdf/BPD.pdf>
- O’Connell. (2005). *Police & restorative justice.* Charles Stuart University Wagga Wagga. First draft. (Unpublished, sent from the author).
- O’Connell, T. (1998). From Wagga Wagga to Minnestoa. Proceedings of the first North American conference on conferencing. Bethlehem PA: Real Justice. Retrieved Desember, 10, 2010 from http://www.iirp.org/library/nacc/nacc_oco.html
- O’Connell, T., Wachtel, B., & Wachtel, T. (1999). *Conferencing handbook: The new real justice training manual.* Pipersville, PA: The Piper’s Press.
- O’Mahony, D., & Doak, J. (2004). Restorative justice – Is more Better? The experience of police-led restorative cautioning pilots in Northern Ireland. *The Howard Journal*, 43 (5) 484-505

- Ólafsdóttir, H., & Bragadóttir, R. (2006). Crime and criminal policy in Iceland: criminology on the margins of Europe. *European Journal of Criminology*, 3, 221-252.
- Pause, Karen Kristin. Personal communication, Mars 28, 2010. Senior adviser at the National mediation service.
- Pranis, K. (2007). Restorative values. In G. Johnstone & D. Van Ness (Eds.), *Handbook of Restorative Justice* (p. 59-74). Cullompton: Willan Publishing.
- First article of the police law number 90/1996 (1. gr lögreglulaganna nr. 90/1996. Sjá Á blaðsíðu 41) Retrieved October 2, 2005 from <http://www.althingi.is/lagas/137/1996090.html>
- Raye., E. B., & Roberts., W. A. (2007). Restorative processes. In G. Johnstone & D. Van Ness (Eds.), *Handbook of Restorative Justice* (p. 211-227). Cullompton: Willan Publishing.
- Reykjavik Metropolitan Police. Strategic planning; Objectives for the year 2005. (Lögreglan í Reykjavík. Stefnumótun; Markmið ársins 2005.
- Roche, D. (2007) Retribution and restorative justice. In G. Johnstone and D. Van Ness (Eds.), *Handbook of Restorative Justice* (p.75-90). Cullompton: Willan Publishing.
- Stefán Alfreðsson, personal communication, November 15, 2006. Police detective at the Reykjavik Metropolitan Police.
- Siri, K. (1999). *Victim-offender mediation in Norway*. Presentation written to the first conference of the European Forum for victim-offender mediation and restorative justice.
- Skýrsla nefndar um tilraunverkefnið Hringinn og ný úrræði vegna afbrota ungmenna (2004). [*Committee report on the experimental project The Circle and new solutions to youth crime*]. Reykjavik: Dóms- og Kirkjumálaráðuneytið. 21. April 2004. Not published or available.
- Strang, H., Sherman, L., Angel, C, M., Woods, D, J., Sarah B., Birch D, N., & Inkpen, N. (2006). Victim evaluation of face-to-face restorative justice conferences: A quasi-experimental analysis. *Journal of Social Issues*, 62(2), 281-306.

- Torunn Bolstad. Personal communication, October 15, 2005. Project coordinator in the Ministry of justice and Terje Eimot project supervisor of mediation in Østfold in Norway.
- Umbreit, M.S., Coates, R.B., & Vos, B. (2004). Victim-Offender Mediation: Three Decades of Practice and Research. *Conflict Resolution Quarterly*, 22, 279-303.
- Umbreit, M. & Zehr, H. (1996a). Family group conferences: A challenge to victim- offender mediation? *VOMA Quarterly*. 7(1): 4-8.
- Wachtel, T. (1997). *Real Justice; How we can revolutionize our responses to wrongdoing*. Pipersville. The Piper's press.
- Walgrave, L. (2007). Integrating criminal justice and restorative justice. In G. Johnstone & D. Van Ness (Eds.), *Handbook of Restorative Justice* (p. 559-579). Cullompton: Willan Publishing.
- Yeager, P., C. (2002). Law versus justice: From adversarialism to communitarianism. John Braithwaite. *Restorative justice and responsive regulation*. New York: Oxford University Press, 2002. p. 891-915.
- Zehr, H. (1990). *Changing Lenses: A new focus for crime and justice*, Scottsdale, PA: Herald Press.
- Zehr, H. (2002). *The little book of restorative justice*. Intercourse, PA: Good Books.

Appendices

Appendix A

Survey about conferencing in public cases

To the one that receives this questionnaire

This questionnaire is handed to everyone that takes part in conferencing, whether they are offenders, victims or supporters.

Your participation in this survey is voluntary and you can choose to stop at any time, and/or not to answer particular questions. A high response ration is on the other hand crucial when the study results are evaluate and a decision is made about if conferencing should be a permanent resort in the criminal justice system. Therefore, your answers are important.

You are not supposed to write your name on the questionnaire. When you have finished answering the questionnaire you should put it in an enclosed envelope, close it, and hand it in at the police station reception where it will be put in a locked box. The box is emptied by a committee that supervises the survey. Those that process the questionnaire are obligated to provide anonymity. A report will be written on the basis of the results and probably also a research paper. By filling out this questionnaire you consent for your responses to be used for the report and/or the research paper. It will not be possible to trace the answers from the questionnaire to those that answered them.

In the questionnaire you only have to answer multiple choice questions but at the end of the questionnaire you can make comments about your experience if you want to write something that the questionnaire does not ask about.

Thank you for your participation

With kind regards,

Dís Sigurgeirsdóttir,

Chairman of a committee that supervises conferencing in civil cases.

Survey about conferencing in public cases

1. What is your age?

15-18 years 19-21 years 22-30 years 31-40 years 41-50 years 51 years or older.

2. What is your gender?

male female

3. What is your relationship to the incident?

offender victim
 parent of offender parent of offender
 relative of the offender relative of the offender
 a friend or supporter of the offender a friend or the supporter of the victim
 other (explain) _____

4. How satisfied are you overall with the way the justice system handled this case?

very dissatisfied dissatisfied neutral satisfied very satisfied

5. Do you believe that the facilitator prepared you well enough for the conference?

no not very somewhat yes

The rest of the questions apply only to the part of this case involving the conference

6. How satisfied are you with the way the conference was conducted?

very dissatisfied dissatisfied neutral satisfied very satisfied

7. How satisfied are you with the outcome of the conference?

very dissatisfied dissatisfied neutral satisfied very satisfied

8. Do you believe that your opinion was adequately considered in the conference?

no not very somewhat yes

9. Do you believe those responsible were adequately held accountable in the conference?

no not very somewhat yes

18. If the answer to question 17 is yes, than what kind of effect did it have on you (here you may check with more than one answer)

no effect
 I found it uncomfortable I found it comfortable
 I felt pressured (constrained) because of it I felt unpressured because of it.
 I felt unsafe I felt save
 other: _____

19. do you feel that the facilitator was impartial?

no not particularly for the most part yes

20. If faced with similar circumstances, would you participate in a conference again? no yes not sure

21. Would you recommend a conference to others in your circumstances?

no yes not sure

On the scale from 1 to 10, where 1=very satisfied but 10= unsatisfied.
How satisfied are you with the conference?

Very Satisfied Very Unsatisfied
1----2----3----4----5----6----7----8----9----10

23. Any comments you want to make?

-Thank you for providing this information-
Dís Sigurgeirsdóttir
Ministry of Justice, Skuggasund 101 Reykjavik
Phone: 5459000 email: dis.sigurgeirsdottir@dkm.stjr.is

Appendix B

Spurningalisti vegna tilraunaverkefnis um sáttamiðlun í opinberum málum.

Þessi spurningalisti er lagður fyrir alla sem taka þátt í sáttamiðlun, hvort sem þeir eru gerendur, þolendur eða stuðningsmenn.

Þátttaka þín í þessari könnun er valkvæði. Þú getur ákveðið hvenær sem er að hætta við að fylla út spurningalistann og/eða sleppt því að svara tilteknum spurningum. Hátt svarhlutfall er hins vegar lykilatriði þegar árangur verður metinn af tilraunaverkefninu og tekin ákvörðun um sáttamiðlun skuli verða varanlegt úrræði í refsivörslukerfinu. Því skipta svör þín máli.

Þú átt ekki að skrifa nafnið þitt á spurningalistann. Þegar þú hefur lokið við að fylla hann út setur þú hann í meðfylgjandi umslag og lokar því og afhendir það starfsmanni í afgreiðslu lögreglustöðvarinnar á leið þinni út úr húsi. Þar mun því vera komið fyrir í læstum kassa. Kassinn er svo tæmdur af nefnd á vegum dómsmálaráðuneytisins sem hefur eftirlit með tilraunaverkefninu. Þeir sem vinna úr spurningalistunum eru bundnir þagnarheiti og farið er með allar upplýsingar sem trúnaðarmál. Gerð verður skýrsla á grundvelli svaranna og hugsanlega skrifaðar greinar. Með þátttöku þinni þá gefur þú sjálfkrafa leyfi fyrir því að svör þín verði notuð við skýrslugerð eða greinarskrif. Ekki verður hægt að rekja svör á spurningalistanum til þess sem þau skrifar.

Einungis er um krossaspurningar að ræða en í lok spurningalistans getur þú skrifað athugasemdir ef þú vilt koma einhverju á framfæri sem spurningalistinn tekur ekki til.

Þakka þér fyrir þátttökuna

Með kveðju,
Dís Sigurgeirsdóttir,
formaður nefndar um eftirlit með tilraunaverkefni um sáttamiðlun í opinberum málum.

Spurningalisti vegna tilraunaverkefnis um sáttamiðlun í opinberum málum

1. Hver er aldur þinn?

15-18 ára 19-21 árs 22-30 ára 31-40 ára 41-50 ára 51 árs eða eldri.

2. Hvert er kyn þitt?

karl kona

3. Hvert var hlutverk þitt í því máli sem sætti sáttameðferð?

<input type="checkbox"/> Gerandi (kærði)	<input type="checkbox"/> Þolandi (kærandi)
<input type="checkbox"/> Foreldri geranda	<input type="checkbox"/> Foreldri þolanda
<input type="checkbox"/> Skyldmenni geranda	<input type="checkbox"/> Skyldmenni þolanda
<input type="checkbox"/> Vinur eða stuðningsaðili geranda	<input type="checkbox"/> Vinur eða stuðningsaðili þolanda
<input type="checkbox"/> Annað (útskýrðu) _____	<input type="checkbox"/> Annað (útskýrðu) _____

4. Hversu sátt/ur ertu við þá málsmeðferð sem þetta mál hefur hlotið í heild í réttarkerfinu?

Mjög ósátt/ur Ósátt/ur Hvorki sátt/ur né ósátt/ur Sátt/ur Mjög sátt/ur

5. Finnst þér að sáttamaður hafi undirbúið þig nægilega vel fyrir sáttafundinn?

Nei Ekki sérstaklega Að mestu leyti Já

Næstu spurningar fjalla einungis um sáttafundinn sjálfan.

6. Hversu sátt/ur ertu við hvernig sáttafundinum var stýrt?

Mjög ósátt/ur Ósátt/ur Hvorki sátt/ur né ósátt/ur Sátt/ur Mjög sátt/ur

7. Hversu sátt/ur ertu við niðurstöðu sáttafundarins?

Mjög ósátt/ur Ósátt/ur Hvorki sátt/ur né ósátt/ur Sátt/ur Mjög sátt/ur

8. Finnst þér að mark hafi verið tekið á skoðunum þínum á fundinum?

Nei Ekki sérstaklega Að mestu leyti Já

9. Finnst þér að geranda hafi nægilega verið gerð grein fyrir broti sínu og afleiðingum þess á fundinum?

Nei Ekki sérstaklega Að mestu leyti Já

10. Upplifðirðu sanngirni á fundinum?

Var allt sem fram fór á fundinum sanngjarnt?

Nei Ekki sérstaklega Að mestu leyti Já

Var sáttaaðferðin sanngjörn?

Nei Ekki sérstaklega Að mestu leyti Já

Var sáttamaðurinn sanngjarn?

Nei Ekki sérstaklega Að mestu leyti Já

Var sáttasamningurinn sanngjarn?

Nei Ekki sérstaklega Að mestu leyti Já

11. Baðst gerandi afsökunar? Nei Já

12. Ef svarið við spurningu nr. 11 er já, þá:

Var afsökunarbeiðnin einlæg? Nei Ekki sérstaklega Að mestu leyti Já

Var geranda fyrirgefið? Nei Ekki sérstaklega Að mestu leyti Já

13. Hvar fór sáttafundur fram?

Á lögreglustöð Annars staðar.

Ef annars staðar þá hvar? _____

14. Hvaða áhrif hafði staðsetning sáttafundarins á þig? (Hér má setja fleiri en einn kross)

Engin áhrif

Mér fannst það óþægilegt Mér fannst það þægilegt

Mér fannst ég þvinguð/þvingaður Mér fannst ég óþvinguð/óþvingaður

Ég fann til öryggis Ég fann til óryggis

Annað: _____

15. Hver stýrði sáttafundi?

Lögreglumaður Annar

Ef svarið við spurningu nr. 15 er lögreglumaður, þá vinsamlegast svaraðu spurningum nr. 16-18.

16. Fannst þér óþægilegt að lögreglumaður stýrði sáttafundinum?

Nei Ekki sérstaklega Frekar óþægilegt Já

17. Var lögreglumaður í lögreglubúningi á sáttafundi? Nei Já

18. Ef svarið við spurningu nr. 17 er já, þá hvaða áhrif hafði það á þig? (Hér má setja fleiri en einn kross).

___ Engin áhrif

___ Mér fannst það óþægilegt

___ Mér fannst það þægilegt

___ Mér fannst ég þvinguð/þvingaður

___ Mér fannst ég óþvinguð/óþvingaður

___ Ég fann til óryggis

___ Ég fann til öryggis

___ Annað: _____

19. Fannst þér sáttamaðurinn gæta hlutleysis?

___ Nei

___ Ekki sérstaklega

___ Að mestu leyti

___ Já

20. Myndir þú taka þátt í sáttamiðlun aftur ef tilefni væri til?

___ Nei

___ Já

___ Ekki viss

21. Myndir þú mæla með sáttamiðlun við aðra í sömu sporum og þú?

___ Nei

___ Já

___ Ekki viss

22. Á skalanum 1 til 10 þar sem 1= mjög Óánægð/ur en 10=mjög Ánægð/ur. Hversu ánægð/ur ert þú með sáttafundinn?

Mjög Óánægður

Mjög Ánægður

1----2----3----4----5----6----7----8----9----10

23. Er eitthvað sem þú vilt taka fram að lokum?

-Þakkir fyrir veita þessar upplýsingar-

Dís Sigurgeirsdóttir

Dóms og kirkjumálaráðuneytið

Skuggasund 101 Reykjavík

Sími: 5459000 netfang: dis.sigurgeirsdottir@dkm.stjr.is