

————— Special Report —————

**Research on Existing Approaches to Raising Offender Awareness
of the Impact of their Crimes on their Victims**

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**Research on Existing Approaches to Raising Offender Awareness
of the Impact of their Crimes on their Victim**

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Correctional Service of Canada

Preamble by the Correctional Service of Canada

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CSC's correctional programs are developed to address criminogenic factors on the basis of research that demonstrates effective reduction of recidivism. However, identifying existing research on the effectiveness of victim empathy programs turned out to be a significant challenge for CSC.

This research was, therefore, undertaken with a view to gaining a better understanding of how increasing offender awareness about how victims are impacted by crime fits within the criminal justice system. The research encompasses a review of the extant research literature.

The main findings of the literature review can be summarized as follow:

- Although there is some evidence that restorative justice programs yield positive effects in the area of victim satisfaction and restitution compliance, the effects are less pronounced in the realm of recidivism reduction.
- While the extant empirical evidence suggests that victim empathy is not a promising criminogenic treatment target in and of itself, this conclusion must be tempered given the absence of a gold standard empathy measure. It may be, however, that increasing victim empathy *indirectly* translates into reductions in criminal recidivism.
- There is an absence of agreed upon empathy-assessment strategies as well as jurisdictions that regularly utilize empathy-focused treatment plans. Basic research that addresses both theoretical and measurement debates is needed before applied research questions can be adequately answered.
- Paroling agencies continue to incorporate victim awareness into decision-making. Thus, somewhat paradoxically, the extent to which offenders demonstrate victim awareness continues to play a significant role in the release decision making process as well as the release supervision process.
- While there are a number of ways that victim impact awareness is being addressed across Canada, the goals of each of these activities are the same: to increase an offender's understanding of victim impact (i.e., education), to ultimately reduce their chances of re-offending, and to increase the involvement of victims in the legal process.

On the basis of these findings, CSC will undertake further internal consultation in order to determine how to move forward to address the issue of victim empathy within CSC's interventions with offenders. In particular, CSC will explore how offenders' awareness of the impact of their crimes on their victims can be raised throughout the management of the offenders' sentences.

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LITERATURE REVIEW

INTRODUCTION

In the general population, empathic individuals are more pro-social than those considered less empathic (Zelazo & Paus, 2010). Similarly, less empathic individuals are also more likely to be aggressive than their empathic counterparts (Blair, 2010). The extent to which this pattern translates to offender populations is particularly salient for correctional and paroling agencies. Additionally, victim advocacy groups, offender treatment providers as well as offenders themselves often believe that awareness, and by inference, improved empathy, are important treatment targets that will invariably enhance public safety. This notion of awareness however becomes easily blurred with the related constructs of accountability and remorse. Nonetheless, the belief is that offenders who accept responsibility for their crimes (i.e., victimization of others) and who demonstrate remorse and increased empathy are more suitable candidates for release due to reduced risk to the community, improved rehabilitation, or both. Importantly, survey data suggests that parole boards place considerable stock in remorse and victim representation when making decisions (APAI, 2011; Kinnevy & Caplan, 2008), suggesting that a correctional agency that ignores these issues may unwittingly attenuate release grant rates.

Undoubtedly, the criminal justice system as a whole emphasizes the importance of victim awareness, empathy and remorse, and offender accountability. Unfortunately, the extent to which targeting these specific factors translates into reduced criminal reoffending and hence, increased public safety has not been thoroughly investigated in the research literature. Consequently, our objective is to describe what the relevant theoretical and empirical literature has concluded in this domain. Primarily, the issue of offender awareness of the impact of their crimes on their victims comes from an understanding of the role and relevance of empathy in the assessment and treatment of offenders. Moreover, much of the work conducted on empathy with offenders comes specifically from the sex offender literature, although recent work has begun to reflect all offender groups such that empathy is conceptualized within the broader context of antisocial behavior (Marshall & Marshall, 2011).

ORGANIZATION of LITERATURE REVIEW

In the first section—*Theory and Measurement*, we discuss the construct of empathy itself from both a theoretical and measurement stance. In the second section—*Correctional Applications* we review the extant research that has specifically examined empathy in a correctional context. Specifically, this section reviews 1) how offenders and non-offenders differ in regards to empathy, 2) the extent to which empathy deficits predicts sexual recidivism among known sex offenders, 3) how empathy fits within the broader *Risk-Need-Responsivity* model of offender rehabilitation, and lastly, 4) the newly emerging crime desistance literature. Finally, in the last section—*Parole Applications and Restorative Justice* we discuss what is currently known about how paroling agencies incorporate victim awareness into decision making. Research germane to restorative justice is also reviewed.

LITERATURE REVIEW SEARCH PARAMETERS

To isolate relevant studies to be included, documents were gathered from journals, books, theses, and government publications. Computer-based searches of both PsycINFO and research reports published by Correctional Service of Canada and Public Safety were conducted using the following keywords: *empathy*, *victim*, *victim impact*, *victim empathy*, *victim awareness*, *victim training*, *victim impact training*, *cognitive*

change, sex offender, domestic violence, programming, treatment, rehabilitation, restorative justice, chaplaincy, prison chaplaincy, parole decision making, parole, probation, institutional adjustment, recidivism, parole violation. Reference lists and citations were analyzed for additional documents. Additionally, unpublished manuscripts from recognized scholarly experts in the field were also used when available.

SECTION 1: THEORY AND MEASUREMENT

Models of Empathy

Various authors have expressed concern regarding the “fuzziness” of the concept of empathy (Mann & Barnett, 2012; Marshall & Marshall, 2011), noting that it is often used interchangeably with and linked to the concepts of awareness and remorse. A common definition however incorporates both cognitive and emotional components. For example, Cohen (1996, p.988 as cited in Jolliffe & Farrington, 2005) defines empathy as “the ability to understand and share in another’s emotional state of context”. Similarly, Hilton (1993, p.290) states “the cognitive aspect requires being able to state what another person might feel, while the emotional element involves automatically feeling what the person feels”. A slightly more detailed definition by Mann and Barnett (2011) is “a cognitive and emotional understanding of another’s experience, resulting in an emotional response that is congruent with a view that others are worthy of compassion and respect and have intrinsic worth”. Marshall, Hudson, Jones and Fernandez (1995) had proposed a behavioural aspect to empathy but this has generally not been accepted by other authors (Barnett & Mann, 2012; Polaschek, 2003). Nonetheless, it has informed Barnett and Mann’s (2012) recently proposed multidimensional model. They hypothesize that the following five factors are required to enable an empathic experience: 1) perspective taking, 2) the ability to experience emotion, 3) a belief that others are worthy of compassion and respect, 4) the absence of situational factors which could impair cognitive functioning or introduce competing demands, and 5) an ability to manage the feelings or personal distress arising from an understanding of others’ distress.

The issue of an agreed upon definition of empathy is important because it informs both assessment and intervention. For instance, based on these definitions, an empathy measure should include *both* a cognitive and emotional component. However, most empathy measures assess primarily cognitive *or* emotional factors, rarely both. Further, there are no contemporary measures that reflect the refinements of Barnett and Mann’s model. Consequently, conclusions from meta-analyses of empathy assessment with offenders or non-offenders for that matter may be somewhat misleading.

Marshall and Marshall’s (2011) model

In their earlier influential model, Marshall, Hudson, Jones and Fernandez (1995), proposed a staged model of empathy where each step precedes subsequent stages (Stage 1 – recognition of other’s emotional stage; Stage 2 – able to see things from the other’s perspective; Stage 3 – emotional or compassionate response; Stage 4 – take steps to ameliorate other’s distress). This model has important measurement and intervention implications. In terms of assessment, it means that all stages must be measured, whereas for intervention it means that skills are incremental and earlier skills are prerequisites or the foundation for more advanced skills. This model has received empirical support from numerous studies with sex offenders

(Fernandez & Marshall, 2003). Following this work, Marshall and Marshall (2011) revised this model to incorporate all offenders.

Marshall and Marshall's (2011) revised model incorporates pathways to explain both aggressive (non-empathic), and empathic behavior. Their definition of empathic behavior includes both empathic accuracy (through a caring or benign relationship with the person and an ability to take the perspective of this person) as well as sympathy (through generation of a compassionate feeling of the other person and an attempt to ameliorate the person's suffering). An element of this model is that it delineates treatment for different types of offenders. Those who demonstrate no capacity to deal with the distress if they were to acknowledge the harm done might warrant strengthening of emotional resilience, whereas those whose responses appear callous and indifferent might be better served if they were directed to personalize the victim. They further note that attachment (Bartholomew & Horowitz, 1991), self-esteem (Baumeister, 1993), shame/guilt (Tangney & Dearing, 1991), and empathy (Moore, 1990) are inter-correlated, asserting that they are mutually influential. Marshall and Marshall (2011) emphasize that their model only has indirect empirical support at the moment but offers testable hypotheses. Notably, Marshall and Marshall have expanded the early work on sex offenders to reflect the critical role of empathy among offenders in general.

Empathy models of offender change

Following from this model of empathy and offending behaviour, Mann and Barnett (2012) nicely incorporate models of offender change to elucidate why empathy is considered important in correctional intervention. The first model they describe is referred to as a common-sense model. In the absence of a theoretical model, Salter (1988) strongly recommended a variety of strategies (i.e., meeting adult survivors, assigned readings, having the offender write an apology) all intended to increase a (sex) offender's understanding of the experience of victims. Other more psycho-educational activities (i.e., exposure to media) have also been used to meet this goal with sex offenders. Pithers (1999) proposed a second model where victim empathy training was intended to increase motivation to desist from offending. A third model (Curwen, 2003), posits that empathy inhibits aggression. Most recently, Mann, Daniels and Marshall (2005) proposed that victim empathy role-plays might enable the offender to reassess the extent to which their beliefs were mistaken, which leads to alternative behavioural options.

All of these models propose that empathy deficits might reasonably be a legitimate treatment target, although Mann and Barnett (2012) appropriately caution that the argument to address (victim) empathy in treatment is dependent on evidence that addressing (victim) empathy reduces recidivism. Regarding approaches to address (victim) empathy, intervention that is mainly psycho-educational may develop cognitive empathy but more experiential approaches are likely required for offenders to develop an emotional understanding of the victim(s) experience (Mann & Barnett, 2012).

In a related theme, and one relevant to change models, Ware and Mann (2012) review the requirement of "acceptance of responsibility", as it relates to sex offender programming. As noted above, various authors proposed strategies for reducing denial and minimization which are presumed to impede acceptance of responsibility, and by extension, empathy. Ware and Mann cogently review the therapeutic reasons why offenders might legitimately not be able to fully "confess" their prior sexual offending behaviour and assert that there is perhaps greater need for them to take responsibility for their future behaviour. This position challenges the field to consider if the preoccupation on acceptance of responsibility of prior offending may in fact be punitive.

In sum, the academic community agrees that any definition of empathy should at the very least include both cognitive and emotional elements. However, very recently scholars have proposed corrections-specific models of empathy that are considerably more complex. These models require empirical validation which in turn requires the development of measures that adequately capture this complexity. These measures have yet to be developed. Thus, it follows that in the absence of sound empathy measures it is challenging to discern to what extent 'empathy-specific' program efforts translate into reductions in recidivism.

Measuring Empathy

Within the sex offender literature in particular, in addition to considering both emotional and cognitive aspects of empathy, researchers have also distinguished between "victim empathy" and "general empathy". The former obviously attends to the extent to which an offender appreciates the degree of harm inflicted on his/her victim. Sometimes in restorative justice approaches, the issue is more generalized, where the emphasis is on people who have been victimized in general, rather than on the offender's specific victim(s).

Historically, researchers have operationalized empathy using self-report questionnaires. Researchers typically validate empathy questionnaires by examining to what extent a given empathy measure correlates with a related construct such as remorse. This is known as convergent validity. Additionally, researchers may correlate an untested measure of empathy with a pre-existing measure of empathy considered the 'gold standard'. This method would be testing for concurrent validity. It is also important to know how reliable a questionnaire is—to what extent would the same results consistently emerge over time.

Three of the most common empathy measures are:

- 1) Hogan Empathy Scale (Hogan, 1969). It is a 64 item true-false scale with strong test-retest reliability (correlation coefficient = .84), and some convergent validity. The Hogan scale was designed to measure cognitive empathy ("the intellectual or imaginative apprehension of another's condition or state of mind without actually experiencing that person's feelings").
- 2) Questionnaire Measure of Emotional Empathy (Mehrabian & Epstein, 1972). It is a 33-item Likert scale with strong test-retest reliability (correlation coefficient = .83). The Mehrabian and Epstein scale was designed to measure emotional empathy ("a vicarious emotional response to the perceived emotional experience of others").
- 3) Interpersonal Reactivity Index (Davis, 1980). It is a 28-item Likert scale, with test-retest reliabilities ranging from .62 to .71. The Davis scale was designed to measure both cognitive and affective empathy ("reactions of one individual to the observed experiences of another").

Various critiques (Jolliffe & Farrington, 2004) and comments by colleagues (Mann, 2012, Marshall, 2012, personal communication) raise serious concerns regarding the utility of these measures for discriminating between offenders and non-offenders, for distinguishing among offenders, and for reflecting reliable change through offender programming. It is somewhat disconcerting that these measures are more than 30 years old and have yet to demonstrate predictive validity. Indeed, Jolliffe and Farrington were so disenchanted

with existing empathy measures at the time of their meta-analysis that they developed a new empathy scale, albeit for youth (Jolliffe & Farrington, 2006).

It is noteworthy that other work has proceeded in terms of the operationalization of empathy. For instance, researchers have developed picture story approaches (Enz et al., 2010), videotapes for facial recognition (Strayer & Roberts, 1997), and computer simulation (Enz et al., 2010) approaches to measures empathy. While intriguing, none have these have been used with offender samples and to date are likely too esoteric for mainstream correctional practice. Emotional intelligence measures have also been developed and considered in corrections, albeit with staff (Stys & Brown, 2004).

One related area that has received relatively greater attention is nonverbal emotional processing in criminal psychopaths (Kosson, Suchy, Mayer & Libby, 2002) and antisocial populations (Marsh & Blair, 2007). The Marsh and Blair meta-analysis of 20 studies showed a robust link between antisocial behavior and specific deficits in recognizing fearful expressions. In addition, psychopaths, based on scores from the Psychopathy Checklist-Revised (Hare, 2003) have been shown to be less accurate than nonpsychopaths at classifying facial affect under certain conditions (Kosson, Suchy, Mayer & Libby, 2002), although replication of these findings have been problematic (Glass & Newman, 2006). From a research perspective, such work is important and potentially applicable but the methodology is too cumbersome and the findings are not sufficiently robust for inclusion in correctional clinical practice to date.

Another strategy that has been considered involves the utilization of vignettes (Serin, Gobeil & Preston, 2003). For this methodology, hypothetical situations are presented that require the offender to indicate how they would respond; their responses are then coded according to empathy skills (perspective taking, affect and coping with distress). Importantly, summed scores aggregated across vignettes were modestly but significantly correlated with independent clinician ratings of offenders' empathy. In contrast, correlations with the Interpersonal Reactivity Index (one of the self-report questionnaire described above) were negatively correlated with vignette scores. In short, offender self-appraisals were incongruent with clinician ratings, but performance based scores were congruent with clinician ratings. This methodology holds promise and has been recommended by a key researcher in the area (Marshall, personal communication, 2012).

At present, three conclusions are apparent regarding assessment: 1) correctional researchers and clinicians are skeptical regarding the psychometric merits of current questionnaires, in part due to the apparent poor face validity of many items, 2) reliance solely on self-report questionnaires is problematic as there is no clear "favourite" among correctional researchers, and 3) as in other areas, a multi-method assessment seems preferred but requires improved self-report questionnaires, and a concerted program of research to advance clinical rating scales and vignette assessment methodology is required.

SECTION II: CORRECTIONAL APPLICATIONS

A key service provided to incarcerated offenders is that of rehabilitative or correctional programs. Those provided by CSC reflect an evidence-based model (i.e., curriculum is designed to reflect risk and needs of offenders with the demonstration that program completers have better release outcomes than offenders who do not complete these correctional programs). Accordingly, treatment developers review the empirical and clinical literature when creating correctional program curricula. For more than two decades the

inclusion of empathy training for offenders, especially sex offenders has been fundamental to programming curricula in Canada and internationally.

In a related vein, an increased emphasis on the need for efficient and effective programming, program administrators are increasingly concerned with ensuring all aspects of programming (e.g., referral criteria, duration, curricula, assessment of change) yield improved offender outcomes. Some correctional jurisdictions continue to utilize program accreditation reviews to provide quality assurance for existing programs. Consequently, at this stage it is necessary to understand how empathy deficits relate to offending behavior and how empathy, either general or offence-specific, might mitigate future offending.

Empathy: Offenders vs. Non-offenders

To date, two meta-analytic reviews (distinct from sex offenders) have addressed the role that poor empathy may play in aggressive/externalizing behavior. Miller and Eisenberg conducted the first meta-analytic review in 1988. They reviewed 43 studies that operationalized empathy as an affective (emotional) response. Aggression/externalizing behaviour was defined broadly to include self-report measures of aggression, peer/teacher ratings of aggression and administration of a shock in an experimental setting. Only one study (Hoppe & Singer, 1976 as cited in Miller and Eisenberg) compared the relationship between empathy and offending in an offender sample—violent vs. non-violent psychiatric patients. Overall, they did find that externalizing behaviour and affective empathy (measured using self-report questionnaires) were negatively related—lower empathy scores were correlated with higher degrees of acting out (-.06 to -.46). However, again only one study included in their review was comprised of offenders. Notably, the offender sample was a forensic psychiatric sample.

More recently, Jolliffe and Farrington (2004) conducted a meta-analytic review of the relationship between empathy and criminal offending. The researchers included 21 cognitive empathy and 14 affective empathy studies that collectively compared 3,168 offenders with 2,253 non-offenders. Thirteen studies used adult samples; 11 used juveniles. The designation of type of empathy was determined by the type of measures used in the studies.

In sum, Jolliffe and Farrington reported that two-thirds of the time deficits in cognitive empathy significantly differentiate offenders from non-offenders (i.e., 14/21 observed effect sizes were either large (i.e., Cohen's $d > .76$) or medium (Cohen's $d > .50; < .76$) and in the expected direction. This was not the case for affective empathy. Specifically, only one-third of affect empathy effect sizes (i.e., 5/14) were in the medium range and in the expected direction. The remaining effect sizes were either in the opposite direction (i.e., offenders had higher levels of empathy than non-offenders) or the magnitude of the effect was small.

Jolliffe and Farrington also demonstrated that violent offenders tended to display somewhat lower levels of empathy than non-violent offenders, but that sex offenders and non-sex offenders displayed similar degrees of empathy. Importantly, the authors demonstrated that the differences between offenders and non-offenders disappeared once SES and intelligence were controlled. The authors also demonstrated that measurement strategy counts as certain measures (e.g., Hogan Empathy Scale and Questionnaire; Measure for Emotional Empathy) produced stronger effect sizes than other measures (e.g., the Interpersonal Reactivity Index).

It is important to note that Jolliffe and Farrington's meta-analysis merely summarized the extent to which offenders and non-offenders differ on the degree of empathy. The meta-analysis did not examine whether or not increased victim empathy/awareness leads to greater reductions in criminal recidivism (i.e., empathy is a risk factor for future crime).

Sex Offenders, Victim Empathy and the Prediction of Sexual Re-offending

Targeting victim empathy is common practice in sex offender treatment programs. However, there is no evidence that supports poor victim empathy as a predictor of future sexual offending. Specifically, Hanson and Morton-Bourgon's (2005) meta-analytic review of recidivism studies (1,620 findings from 29,450 sexual offenders) identified deviant sexual preferences and antisocial orientation as the major predictors of sexual recidivism for both adult and adolescent sexual offenders. The review also identified some dynamic risk factors that have the potential of being useful treatment targets (e.g., sexual preoccupations, general self-regulation problems). Many of the variables commonly addressed in sex offender treatment programs (e.g., psychological distress, denial of sex crime, victim empathy, stated motivation for treatment) had little or no relationship with sexual or violent recidivism.

Victim Empathy Treatment Targets and Reductions in Recidivism

To date a considerable amount of evidence-based practice (i.e., correctional practices guided by accumulated research knowledge synthesized by meta-analyses) has amassed delineating how correctional interventions should be delivered (the responsivity principle), who they should be delivered to (the risk principle), and what they should target (the need principle) (see Andrews and Bonta, 2010 for a review). The need principle stipulates that correctional interventions should target the following seven treatment targets: antisocial associates, antisocial attitudes, antisocial personality pattern (arguably lack of victim empathy would be one component characteristic of an antisocial personality pattern), family factors, school/work, leisure/recreation and substance abuse. These need domains are considered criminogenic because research shows that changes in these factors are linked to reductions in criminal recidivism.

To date, we have located one meta-analytic review (i.e., Landenberger & Lipsey, 2005) that specifically examined the extent to which targeting victim impact—activities aimed at getting offenders to consider the impact of their behaviour on their victims (as defined by the authors) impacts criminal recidivism. In sum, Landenberger and Lipsey (2005) set out to identify exactly which elements of cognitive-behavioural programs are linked to reductions in crime. A review of 58 studies involving primarily adult male offenders revealed that yes—cognitive behavioural programs do reduce recidivism and that program modules targeting anger and interpersonal problem solving were most strongly associated with positive treatment effects. However, program modules targeting victim impact were actually negatively associated with treatment effects—meaning targeting victim empathy actually increased recidivism. Notably, the direction of the effect was small and non-significant.

Desistance and Reintegration

Desistance is the process of abstaining from crime among those who previously had engaged in a sustained pattern of offending. It is generally presumed this process is more gradual than instantaneous

and that it involves cognitive or attitudinal and behavior change (Serin, Lloyd & Hanby, 2011). Desistance, then, seems to be related to both external/social aspects of a person's life (such as the supportiveness of those around them, employment opportunities, abstinence) as well as to internal/psychological factors (such as what they believe in and what they want from life). It is clear that empathy fits within these internal factors.

Reintegration is a critical period when some offenders build strengths to reduce risk and desist from crime, while other offenders follow a pathway that returns them relatively quickly to reoffending and incarceration (Bowles & Florackis, 2007; Kurlychek et al., 2012; Langan & Levin, 2002). Offenders who stay crime-free experience evolving personal change, attempt new skills learned during correctional programming, and re-engage with supportive relationships and experiences in the community (Bahr et al., 2010; Duwe, 2012). On the other hand, offenders who recidivate experience increasing difficulty living in the community and these difficulties are accompanied by an elevated risk to reoffend (Brown, Zamble & St. Amand, 2009; Bucklen & Zajac, 2009; Zamble & Quinsey, 1997).

The psychology of criminal behaviour, crime control and criminal rehabilitation has placed the life course of the offender under scrutiny in an effort to find appropriate and useful solutions for preventing, managing and terminating crime. The research endeavors of the preceding decades have been fruitful; a detailed understanding of the origins and composition of the offender population has provided us with risk assessment tools of unprecedented accuracy (Andrews, Bonta, & Wormith, 2006) and more effective rehabilitation interventions than ever before (Aos, Miller & Drake, 2006; Smith, Gendreau, & Swartz, 2009).

Most recently, a revitalized interest in the nature of desistance has sparked healthy research momentum toward an understanding of the variables that define the offender who has given up crime and developed a propensity for prosocial habits. These two research areas (crime acquisition and crime desistance) currently drive our understanding of the psychology of crime. Broadly viewing criminal careers as a continuum allows us to track offenders' progression from crime acquisition to crime desistance. Importantly, in the context of this review, perhaps empathy is best conceptualized as a genuine protective factor that promotes desistance rather than as a risk factor (when absent) that increases recidivism.

Maruna (2010) has summarized correlates of desistance (older age, absence of substance abuse, strengthened bonds with institutions endorsed by society (i.e., marriage, employment), prosocial peer relations, rearrangement of the costs and benefits of crime, and changes in identity (agency, self-concept, redemption, internal explanatory style). It appears the notion of awareness and improved empathy nicely fits within the rubric of identity change but the empirical evidence, using accepted measures of empathy remains unavailable. However, it is clear that crime desistance (i.e., improved reintegration) might be enhanced by expanded research on offender identity, including acceptance of responsibility and awareness of the impact of their offending behaviour. Such work would complement current research regarding "What Works" that focuses on risk, need and responsivity.

The common sense position is that offenders commit violent crimes due to lack of empathy but the empirical data is less compelling. Certainly, while there may be associations (correlations) between scores on empathy scales and offending, there is no evidence that change on such measures (i.e., reductions due to intervention) is related to lowered recidivism. In fairness, this could simply reflect the impoverished state of assessment. Importantly, perhaps future empathy research conducted through a desistance-focused lens may yield more promising results.

SECTION III: PAROLE APPLICATIONS and RESORTATIVE JUSTICE

Empathy, Parole and Victims

As noted earlier, there is survey research examining what factors parole board members report as being important in making release decisions. The Association of Paroling Authorities International has sponsored two such surveys (APAI 2011; Kinnevy & Caplan, 2008). In the 2008 survey, only criminal record information was rated as more important than victim information. This led to a 2011 survey that revealed that greater than 90% of parole authority respondents had staff specifically designated to assist victims, greater than 94% include information about victim rights and services on their websites, and 95% notify victims about parole hearings.

Caplan (2007, 2010a, 2010b) summarized the empirical research regarding the importance of victim information on parole release decisions (Morgan & Smith, 2005; Parsonage, Bernat & Helfgott, 1994; Proctor, 1999; Smith, Watkins & Morgan, 1997). Four variables were found to be highly significant in explaining the board's actions to refuse parole, with victim input having the greatest effect (Parsonage et al., 1994). Overall, the findings revealed that victim input has a significant impact on parole release decisions, despite controlling for the influences of victim characteristics, offender characteristics, and parole predictions based on the parole board's guideline scores.

Serin and Mausser (2012) report similar findings regarding the importance of victim information and consideration in the assignment of parole conditions by paroling authorities. The victim impact statement was the second most important factor, after prison adjustment reports, when considering the parole conditions the offender must follow if released.

Roberts (2011) offers a convincing, alternative viewpoint in a comprehensive review of victim representation. In short, he argues that the appropriate place for victim representation is at sentencing where both sides have legal representation and there is due process through the rules of law. Once the sentence is set, which considers the victim information, he asserts that further inclusion of victim concerns is problematic. Specifically, he argues the following: there are no clear guidelines regarding emphasis of importance, the offender cannot rebut information (it is not evidence), it perhaps falsely raises victims' expectations that their views can override and prevent release, and lastly, it re-traumatizes victims as they recount their experience.

Research clearly demonstrates that paroling authorities place considerable weight on empathy and victim issues in parole decision making. In contrast, some respected scholars (i.e., Roberts, 2011) argue against the inclusion of victim concerns in the parole decision making process. Rather, he argues that victim concerns should be addressed at the sentencing stage.

Restorative Justice

Although a universally accepted definition has yet to be established, a major tenet of Restorative Justice (RJ) is the view that 'crime is a wound justice should be healing' (Braithwaite, 1999; Zehr, 1990). Restorative justice is but one way to respond to a criminal act but it puts the emphasis on the wrong done to a person as well as on the wrong done to the community. It has been strongly embraced by Chaplaincy in CSC and underlies the Circles of Support work. It recognizes that crime is both a violation of

relationships between specific people and an offence against everyone—the state. In this manner, it is not simply that crime is a violation of law (Zehr, 1990). As such, RJ is a systematic response to wrongdoing that emphasizes healing the wounds of victims, offenders and communities caused or revealed by criminal behaviour. Victim groups find appeal in RJ in that it provides them a voice in the justice system. Moreover, RJ is seen as a viable third alternative to the traditional offender rehabilitation versus punishment debate (Zehr, 1990).

Not surprisingly, proponents of Restorative Justice, many with affiliations with such groups as the Mennonites, argue for a path for healing that attends to the needs of both victims and offenders. As well, RJ is not simply an approach to “be soft on crime”, rather it emphasizes accountability by the offender and recognition of the harm he/she has caused. Notably, Maruna’s (2001) research also highlights this transformation by the offender as a critical component in their eventual desistance from crime.

RJ programs involve the voluntary participation of the victim, the offender and ideally, members of the community. The goal is to “restore” the relationship or to fix the damage that has been done and prevent further crimes from occurring. Restorative justice requires wrongdoers to recognize the harm they have caused, to accept responsibility for their actions, and to be actively involved in improving the situation. Wrongdoers must make reparation to victims, themselves and the community. It is of interest that RJ initiatives can occur at different entry points and by different agents: police at pre-charge; the Crown at post-charge; the courts at pre-sentence; corrections at post-sentence; and parole at pre-revocation (Latimer, Dowden & Muise, 2005).

RJ initiatives originated within the Mennonite Church during the early 1970s in both Canada and the United States (Bonta, Wallace-Capretta & Rooney, 1998). They have since expanded to include over 1300 different programs currently in existence worldwide—Europe, Canada, the United States, New Zealand, and Australia (Umbreit, Coates, & Vos, 2001). While restorative justice can take many forms including restitution and community service programs, victim offender mediation programs (VOMP) are among the most prominent. The ultimate goal of VOMP’s is to repair the harm done to victims by bringing the victim and offender together in a face-to-face setting to seek solutions and reparations that satisfy all parties. Thus, restorative justice initiatives stand in stark contrast to *state-owned* criminal justice processes. Under state-owned criminal justice processes the assumption is that crime is committed against the state rather than the individual. Thus, reparation must be made to the State (e.g., prison time) rather than to individual victims and the community (Zehr, 1990).

Does Restorative Justice Work?

To answer this question, it is necessary to clarify the meaning of ‘work’. The gold standard of effectiveness is the reduction of future crime, as evidenced by lowered recidivism rates for offenders who participate in RJ initiatives. Not all RJ approaches are comparable and most of the evaluation research has restricted itself to victim offender mediation approaches. As well, one wonders how realistic it may be for a pre-trial intervention to reduce re-offending post-release, if the RJ approach has not been reinforced over the time of the offender’s incarceration or period of community supervision. Fortunately, RJ evaluation research (e.g., Latimer et al., 2005) typically incorporates multiple indices of success, including victim satisfaction, offender satisfaction, restitution compliance, and recidivism.

There are predominantly two approaches to evaluation research in restorative justice. One involves the evaluation of a specific program (see Bonta, Wallace-Capretta, & Rooney, 1998; Rugge, Bonta, Wallace-

Capretta, 2005) or a few distinct programs, as in studies from the United Kingdom (Shapland, et al., 2008). Another preferred strategy is to summarize the results across all identified studies using a statistical technique known as a meta-analysis (e.g., Latimer et al., 2005).

In the study by Bonta, Wallace-Capretta, and Rooney (1998), despite lower recidivism rates for those offenders who completed the restorative program, only 10.3% of victims agreed to meet the offender, although 78.6% of victims submitted victim impact statements. Restitution was ordered by the courts in just over half of the cases. In a later study, Rugge, Bonta, Wallace-Capretta (2005) reported that client satisfaction increased for those who participated in the Collaborative Justice Project. As well, there was a small reduction in recidivism, over a three-year follow-up.

The United Kingdom study conducted by Shapland and colleagues compared indirect mediation (information is passed by the mediator between the victim and offender), direct mediation (a meeting between victim and offender with a mediator present), and conferencing (a meeting with a mediator, the victim, the offender and the friends and/or family of both the victim and the offender). Based on a two-year follow-up, summed over all three restorative justice schemes, those offenders who participated in restorative justice projects committed statistically fewer offences compared to a control group. Importantly, additional qualitative analyses from this work suggested that re-offending was diminished among those offenders 1) who felt the conference had made them realize the harm done and 2) who had reflected on their active involvement. The authors made an attempt at determining the cost benefits of mediation-type RJ programs, implying they are cost-effective.

Evaluations of restorative justice initiatives are growing (e.g., Mestitz & Ghetti, 2005). In particular, there have been a number of meta-analyses directly aimed at determining whether or not restorative justice 'works'. For example, Bradshaw, Roseborough, and Umbreit, (2006) recently meta-analyzed 15 studies involving 9, 172 youth and concluded that victim offender mediation (VOM) can reduce juvenile recidivism by 34%. Similarly, Latimer et al., (2005) also conducted a recent meta-analytic review of restorative justice initiatives and concluded that while restorative justice initiatives are linked to small reductions in recidivism these reductions are most likely attributed to a self-selection bias. Their study evaluated 22 unique studies for 35 individual programs (8 conferencing, 27 victim offender mediation), generating 66 effect sizes (see specific results in Table 1). The programs generally targeted male (94%), young (74%) offenders.

Table 1

Effectiveness of Restorative Justice Programs

Dependent Measure	Mean Effect Size (number)	95% Confidence Interval
Victim Satisfaction	.19 (13)	.08 to .30
Offender Satisfaction	.17* (12)	not reported
Restitution Compliance	.33 (not reported)	not reported
Recidivism	.07 (32)	.02 to .12

Note. Effect size = phi coefficient; *Outlier removed; *Source:* Latimer, Dowden, & Muise (2005)

As Table 1 illustrates, the greatest effect relates to restitution compliance and the weakest effect relates to recidivism. The findings are encouraging and suggest that in some cases, RJ approaches may be an effective alternative to incarceration. However, the effects on recidivism were quite small, albeit the confidence interval did not contain zero. Latimer et al., (2005) conclude that RJ programs may *complement* rehabilitation programs and when utilized in conjunction, may further reduce re-offending. However, these researchers appropriately point out that restorative justice initiatives are voluntary—hence, only offenders who want to be part of a restorative justice initiative are studied thus making it impossible to know to what extent pre-existing characteristics of the offender (e.g., already motivated to seek restoration/change) are accounting for the observed reductions in recidivism rather than the actual program itself. Similar criticisms have been noted previously (see Bonta et al., 1998). It is also important to note that the vast majority of restorative justice evaluations have been conducted using adolescent offender samples. Restorative justice evaluations with adult offenders are limited (see Petrellis (2008) for a recent exception).

Lastly, and most importantly, it is virtually impossible to know to what extent any of the given restorative justice initiatives actually increased the degree of victim empathy experienced by the offenders themselves. More importantly, the extent to which changes in victim empathy (if observed) in the context of restorative justice programs are actually linked to reductions in criminal recidivism has not been formally investigated. Also noteworthy, the Iowa Department of Corrections recently reported that ‘victim empathy classes’ did not reduce recidivism among offenders convicted of driving while intoxicated (Lettie Prell, Director of Research, Iowa Department of Corrections, personal communication, June 26th, 2012). Hence at this stage, the extant restorative justice literature cannot speak to whether or not victim empathy in and of itself should be treated as a criminogenic need factor.

In sum, it would appear that restorative justice programs yield positive effects across a range of dependent measures—offender satisfaction, victim satisfaction, restitution compliance, and to some extent, recidivism reductions. However, methodological limitations (e.g., absence of random assignment) preclude conclusions that can speak to the causal impact of restorative justice initiatives on the various outcomes examined. As well, the extent to which restorative justice initiatives actually increase victim awareness/empathy among offenders and whether this change (if present) translates directly into reductions in criminal recidivism requires investigation. Lastly, more research is needed with adult offender samples.

SUMMARY and CONCLUSIONS

Victim empathy/awareness and the related constructs of remorse and accountability have garnered considerable attention from both the academic community and the criminal justice system. Parole agencies and victim advocacy groups understandably seek concrete evidence that offenders experience remorse for their crimes and they can perspective take and truly understand how crime exacts both tangible and intangible costs to victims and society.

Empirically, the evidence is less compelling. Although there is some evidence that restorative justice programs yield positive effects in the area of victim satisfaction and restitution compliance, the effects are less pronounced in the realm of recidivism reduction. Relatedly, quantitative summaries attempting to identify which modules within cognitive behavioural programs are actually driving recidivism reductions have underscored the importance of targeting anger and interpersonal problem solving, not victim empathy.

Moreover, victim empathy does not predict sexual recidivism among known sex offenders, but rather the most potent predictors of sexual recidivism are antisocial orientation and deviant sexual arousal.

It is strikingly clear from this review that basic research that addresses both theoretical and measurement debates surrounding the construct of empathy is gravely needed before applied research questions can be adequately answered. Although the extant empirical evidence suggests that victim empathy is not a promising criminogenic treatment target in and of itself, this conclusion must be tempered given the absence of a gold standard empathy measure. More importantly, it may be that increasing victim empathy *indirectly* translates into reductions in criminal recidivism. Perhaps, it leads to enhanced treatment motivation and treatment completion which in turn leads to reductions in recidivism or alternatively, an accelerated path to desistance. Alternatively, it could be that targeting victim empathy in conjunction with other established criminogenic treatment targets such as criminal attitudes may actually have a synergistic effect on recidivism—the joint effect of treating victim empathy as well as other factors may yield multiplicative rather than additive benefits. These research questions must be addressed to inform policy and practice.

Paroling agencies will continue to incorporate victim awareness into decision-making. Stand-alone victim awareness programs will continue to flourish (see for example the '*Victim Impact: Listen and Learn Curriculum*' available for free from the Office for Victims of Crime (OVC), Training and Technical Assistance Program, U.S. Department of Justice at <https://www.ovcttac.gov/victimimpact/>). Victims, their families, and victim advocacy groups will continue to demand (and rightly so) a voice in the process. Thus, more research—better research is obligatory to meet the existing demand.

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