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**SCIENCE, ART AND ALCHEMY: BEST  
PRACTICE IN FACILITATING RESTORATIVE  
JUSTICE**

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**Science, Art and Alchemy:  
Best Practice in Facilitating Restorative Justice**

Jane Bolitho<sup>1</sup> & Jasmine Bruce<sup>2</sup>

**Abstract:**

This paper explores the role and process of facilitation in restorative justice (RJ). Drawing from a victim offender conferencing program used after serious crime in New South Wales Australia, 84 interviews with restorative facilitators were thematically analysed. The skills, techniques and strategies used to prepare, conduct and de-brief cases are considered including managing complex cases where participants present with intense anger and grief, poor insight into offending and cognitive and mental health issues. While good facilitation is in part the result of knowledge, training and experience, the art of *great* facilitation relates to the interplay of the facilitator's inherent characteristics, capacities and world-views alongside this knowledge, skill and experience. While facilitating well is premised on an appreciation of the alchemy that exists within restorative justice, advanced facilitators use the alchemy to shape the process. Good practice is further enabled through workplace structures that support a team approach where there is open deliberation around needs, risk and harm. Because good facilitation is paramount to the best practice of restorative justice this paper has implications for current policy debates concerning RJ standards and the training and accreditation of RJ practitioners.

**Key words:** restorative justice; victim-offender conferencing; violent crime; facilitation; best practice

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## **Introduction**

Restorative justice approaches are increasingly used to address crime (whether pre sentencing, as an adjunct to sentencing or post-sentencing) as well as following conflict in civil (such as schools and workplaces) and transitional justice settings. Defined as ‘an ethos with practical goals among which is to restore harm by including affected parties in a (direct or indirect) encounter and a process of understanding through voluntary and honest dialogue’ (Gavrielides, 2007, p.139) restorative justice has to date been used primarily for young offenders and minor crime within criminal justice systems (Bolitho, Bruce & Mason 2012). The use of restorative justice processes following violent crimes such as murder, manslaughter, sexual assault and armed robbery is the subject of ongoing debate.

Underpinning the debate is an assumption that the seriousness of the offence is an insurmountable barrier; for the victim because the impact may have been traumatic, for the offender because of a presumably greater complexity around their offending history. Yet some advocates of restorative justice argue that because of the transformative and healing potential that restorative justice is claimed to have, these types of cases are precisely the ones that could be of most benefit to victims and offenders (Miller, 2011). The greater the impact of crime, the greater potential for transformation, or so the theory goes.

In support of this argument there is an emerging evidence base for restorative justice as effective for adult offenders after serious and/or violent crime (Bolitho, 2015; Walters, 2015; Angel, 2014; Strang et al., 2013; Umbreit & Armour, 2010; Shapland et al. 2008; Sherman & Strang, 2007; Umbreit et al. 2006; Sherman et al. 2005). However, while there is the potential for greater transformation, there is also greater risk because any additional harm (or even re-traumatisation) will be felt intensely. It would seem paramount then that these cases are managed skillfully.

The starting point for this paper is that best practice in facilitation is a critical, but often taken for granted, component for ensuring effective RJ practice. There is little research on the requisite skills, competencies and characteristics of facilitators<sup>3</sup> when it comes to facilitating restorative justice, let alone in the aftermath of complex cases and/or violent crime. This paper addresses this gap by drawing from an empirical study into 74 of the 76 victim offender conferences completed by the Restorative Justice Unit over 15 years

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<sup>3</sup> Depending on the program variously called convenors, mediators, circle leaders or keepers of the circle.

(between 1999-2014) in New South Wales (NSW) Australia. In this research which explored many components of practice, a range of data sources (case file analysis, interviews with victims and offenders, observation) were used (Bolitho, 2015). The focus of this paper will be on the findings from 84 in-depth interviews with facilitators concerning their completed cases, beliefs about and understanding of their role, and experiences in this work.

The article is presented in five parts. Part 1 provides an overview of the extant literature on RJ facilitation. Part 2 presents the methodology for the study of victim-offender conferencing and the specific approach for the analysis undertaken in this paper. Part 3 presents the findings on the key characteristics of RJ facilitators drawn from the thematic analysis of interviews. Part 4 considers the nature of RJ facilitation as a type of work. Part 5 considers the implications of these findings for restorative justice and criminal justice practitioners concerning standards, best practice and accreditation. The article concludes that good RJ facilitation is shaped by three main factors: (i) a set of core beliefs that form a particular worldview, (ii) specific knowledge and skills that develop with experience, and (iii) 'synthesis' which merges art with science so that facilitators can intuitively, consistently and knowingly shape the alchemy of RJ in real-time to successfully meet the needs of participants. Restorative justice programs are proliferating, yet it may be that few people have the requisite combination of traits and skills. Acknowledging that facilitation is work that may be complex and difficult brings credibility to this profession which is deserving of more status. But if ability to do this work resides on a spectrum that develops with learning and experience, then working within teams to enable progression from beginner to intermediate to advanced facilitator, peer mentoring and support, and commensurate resources for training and development are all necessary components of best practice.

## **1. Restorative justice facilitation**

According to the United Nations, the facilitator in restorative justice broadly refers to 'a person whose role is to facilitate, in a fair and impartial manner, the participation of the parties in a restorative process' (Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters, 2002). If, as Barton (2003, p.3) argues 'it is the quality of

facilitation which impacts most directly on the participants' then one of the important ways to achieve best practice in restorative justice is to ensure the competency of practitioners.

So what then is good facilitation? While programs may develop their own guidelines, some countries are taking a more coordinated approach and documenting best practice principles at the national level. For example in New Zealand best practice principles specify that facilitators are expected to have specific skills, knowledge and personal qualities including: 'skills of: communication, the ability to manage emotion and conflict, and work with diversity (class, culture and gender), knowledge that: relates to a good understanding of: local cultures and communities, the criminal justice system, restorative justice processes, and knowledge of victim and offender issues, and personal qualities including: honesty, openness and accountability, integrity, respect for diversity, the ability to be objective, independent, professional and self-aware' (Ministry of Justice New Zealand 2004, p.23-24).

Similarly in the United Kingdom, facilitators competency rests on: knowledge and understanding of practice (this encompasses 'knowledge of restorative practice, knowledge of RJC principles and standards and understanding of different contexts, cases and practice environments'), effective practitioner skills (this encompasses 'respectful practice, preparation, effective communication, reflective practice and building and maintaining relationships'), and the ability to deliver the program successfully (this encompasses 'risk and safety assessment, overcoming barriers and evaluating practice and service') (Restorative Justice Council, 2015, p10). In Canada, an additional skill recently identified was the ability of facilitators to balance the goals of restorative justice within the 'multiple and competing goals' of mainstream criminal justice systems (Crocker 2016, p.473).

In discussing the mediator's role in RJ in victim offender dialogue approaches Umbreit and Armour (2011, p.247-252) define nine key qualifications and qualities of a good victim-offender facilitator: a willingness to listen to all sides; an ability to remain victim centred and offender sensitive; confidentiality and discretion; capacity for intensity and deep listening; tolerance for uncertainty; respect for intuitive decision-making; understanding process; being non-directive and knowing what not to do. Similarly in the mediation

sphere<sup>4</sup> Mayer (2012, p.274) suggests that mediators bring five particular characteristics that will shape an intervention including: their presence (which brings a sense of security as well as a way to communicate); a particular approach (a model which structures the process, this (when explained in advance) adds predictability and again brings security to participants); a set of skills in communication, negotiation and problem solving (such as deep listening, reframing, analysing conflict, delivering difficult messages, encouraging creativity, managing the use of power, identifying areas of potential agreement, managing crises, maintaining neutrality, understanding cultural differences); personal commitment, vision and humanity (energy and optimism are important) and who they are (warmth, sense of humor, commitment to each person, ability to establish rapport); a set of values and ethics (their own standards which shape the process by modeling what good communication looks like - parties may not 'buy into them' but implicitly give them a go by taking part, for example, communicating honestly and openly about difficult issues and allowing each person to express concerns).

These characteristics suggest that facilitation is *more than* skill and knowledge. Indeed, for Mayer it is 'a skill, a vocation, a profession and a cause' (2012, p.vii). While some techniques, tactics and processes can be learned, ultimately it is about 'a way of thinking, a set of values, an array of analytical and interpersonal skills, and a clear focus' (ibid, p.vii). Similarly, in the victim offender mediation literature *practitioner presence* is seen as critical, where this is defined as: the ability to be centred, project calmness; being connected to values, beliefs and a higher purpose (such as being committed to restorative justice values); connecting with the humanity of participants (for example being aware of the capacity of good and bad behavior in everyone); and being congruent (for example projecting honesty and authenticity) (Umbreit & Armour, 2011, p. 246-247). In summary while facilitation is about knowledge and skill there is also recognition of particular personal characteristics that facilitators may bring to their role.

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<sup>4</sup> Mediation and RJ should be seen as separate but related spheres of work: while there are many important differences, they are both forms of alternative dispute resolution and non-adversarial justice approaches and arguably, should be drawing more from each other's evidence bases. A key difference between mediation and RJ is that in mediation the facts may still be in dispute whereas in restorative justice there is always an admission of harm (or guilt) before the meeting occurs. In RJ the focus is not on resolving the 'dispute' but addressing crime and developing a pathway forward. The distinction is particularly important in cases where significant harm has occurred as the behavior is not 'conflict' but legally defined *crime*.

The characteristics needed to facilitate well may vary depending on the case material, seriousness of the crime, purpose of the meeting and number of participants involved (Umbreit & Armour, 2011, p.239-240). The modest amount of literature on facilitating violent crime suggests that *in addition* to core competencies: facilitators need to have a good understanding of trauma and post-traumatic stress symptoms, the role and scope of health professionals such as psychologists and other support services and to be able to approach their work (even following heinous crimes) without judgment (Gustafson, 2005, Umbreit et al. 2001). In New Zealand, specific standards with additional facilitator competencies have been developed to guide family violence (Ministry of Justice New Zealand, 2013) and sexual violence (Ministry of Justice New Zealand, 2013). In both spheres it is expected that facilitators would have additional knowledge of the dynamics and impacts of family and/or sexual violence, knowledge of and commitment to using specialist services before, during and after restorative justice, the ability to complete risk assessments, devise safety plans for the restorative meeting itself and use professional supervision for de-briefing. A review of international literature and evidence on the use of restorative justice following sexual abuse (including child sexual abuse) found Project Restore in New Zealand to have the most explicitly developed guidelines for work in this sphere (Bolitho & Freeman, 2016, see also Jülich & Landon 2014, Jülich et al. 2011, Jülich et al. 2010, Jülich, 2016).

In the UK the Restorative Justice Council practitioner guidelines (2015 p. 29) acknowledge that additional skills and knowledge will be needed to facilitate ‘complex and sensitive cases’ meaning cases where there has been serious violent or sexual abuse and/or risk of ongoing harm. It also encompasses cases where there are numerous participants, ‘vulnerabilities’ or participant attributes such as being ‘manipulative, controlling or threatening’. In acknowledgement of the need for additional skills the competency framework outlines three levels of practice: entry level, intermediate and senior practitioner; entry level practitioners would refer on complex matters to intermediate practitioners that may do the work with support, or senior practitioners who would complete the work with or without support as necessary.

Thus, within the existing restorative justice literature there is agreement that higher level knowledge and skills are necessary for more complex cases. However, there is little (and somewhat contradictory) empirical evidence documenting how this skill develops in the

field: while Sherman et al. (2003, p.254) reported no difference in conference outcomes between new and experienced police facilitators other research has found that with experience some facilitators develop an individual style that in fact deviates from that which they had initially been taught (Bruce, 2008; Connolly, 2006). Furthermore, while it is recognised that the role of practitioner training is important as it perhaps the primary means through which skills and facilitation techniques are imparted, there is a lack of consensus as to what constitutes effective training (Bruce, 2012). No doubt this in part relates to current debates on what might constitute core versus advanced skill and whether this kind of distinction is helpful given the proliferation of RJ practices. In many cases training packages have been tailored to suit individual program needs, though more recently there has been a move towards greater coordination with some countries developing national training agendas (see for example in the United Kingdom or New Zealand). In Australia, Transformative Justice Australia (TJA) are the leaders in facilitator training and have trained many practitioners around the world (Bruce, 2012, p.84). Without doubt, training is an essential starting point for good facilitation. In Australia, TJA training is a three-four day course that focuses on learning a particular model of facilitated conferencing. As previous research on facilitators in a youth justice conferencing program found that practitioners developed competency through on the job experience as well as integrating skills and knowledge they had learnt previously in other occupations and roles (see Bruce 2008) it may be that accreditation needs to reflect both components with sequenced levels of accreditation.

If, as Barton suggests ‘practitioner competence in effective techniques of mediation and facilitation are crucial for consistently good, all-round satisfying processes and outcomes’ (Barton, 2003, p.31) then it is essential to better understand what these facilitation skills are for best practice. In the next section the research study designed to investigate these issues is described.

## **2. Background and Method**

Victim Offender Conferencing (VOC) in NSW Australia is a restorative justice process available to victims and adult offenders after sentencing. The aim of VOC is to meet the unmet needs of victims of crime; it is a voluntary, victim-focused and face-to-face practice that does not proceed unless both a direct (primary or secondary) victim and the actual

offender agree to attend. In this sense it is a fully or 'pure' restorative practice (McCold & Wachtel, 2003). In the vast majority of cases offenders are serving their prison sentence when they participate in VOC. VOC is offered through the Restorative Justice Unit which is a small team consisting of two facilitators, a manager and administrative staff that has operated within the NSW State's Justice (Corrective Services) Department since 1999<sup>5</sup> (Milner, 2012). Approximately ten VOC are facilitated each year with referrals coming from victims and offenders (or other parties on their behalf). While the RJU can accept referrals in the aftermath of any type of crime where an offender has been sentenced, participants are subject to a rigorous assessment and screening process; offenders are not eligible to attend a VOC if they have other pending court matters and are assessed for suitability based on their level of responsibility, insight and empathy around the crime.

Only a small proportion of referrals to VOC end up in a face-to-face restorative process: of the 924 referrals to VOC made to the RJU between 1999-2013, 76 VOC's were conducted (Bolitho, 2015). The most common reasons for a referral not continuing to a VOC (during this same time period) were an offender not being interested or contactable (27%), the victim not being contactable (21%), a victim not being interested (20%) or the offender been assessed as unsuitable (17%). Between 2009-2013 the offences taken to VOC were in the aftermath of death (murder, manslaughter, driving causing death) (40/76, 53%), armed robbery (13/74, 17%), sexual violence (5/74, 9%) and other offences including assault, fraud and break, enter and steal (16/76, 21%). In 44/76 (58%) cases, victims and offenders were known to each other including cases of intimate partner or intra-familial violence (17/76, 22%). The average length of time from sentencing to referral was 3.6 years (ranging from one month to fifteen years, the median was 23 months). The average length of time from referral to VOC was eleven months (with a range of one month to 43 months and a mode of ten months). In 67% of cases the VOC meeting itself took one to two hours to complete and the de-briefing (the average length of time from VOC to a case being 'closed') was six months.

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<sup>5</sup> VOC is only one part of the RJU's work; the Unit offers a range of restorative interventions including exchanges of letters, family group conferences and victim offender mediation. These practices can also be used in combination with a VOC (during the lead up or de-briefing stage). The work of the RJU also encompasses managing one of the state's victim's register's and mediating workplace conflict within Corrective Services NSW.

## ***Method***

In order to understand the role, characteristics and techniques of restorative facilitators this paper has drawn from a larger empirical study concerning many aspects of VOC in NSW (Bolitho, 2015). For the purposes of this paper two main sources of data were used. Firstly, ten in-depth, semi-structured ‘general’ interviews were conducted with each of the RJU staff who had conducted conferences between 1999-2013<sup>6</sup>. The general interviews lasted approximately one hour and respondents were asked to describe their motivations for working in the RJU, their work history, their understanding of the purpose of VOC, the skills they perceived as important for successful facilitation, the challenges of their work, and the strategies they used to personally cope with the traumatic nature of the cases. Secondly, 74 in-depth, semi-structured ‘case’ interviews (one for each case a facilitator completed) were conducted<sup>7</sup>. These were made up of 60 interviews concerning cases that had been completed between 1999- 2010, and 14 interviews concerning cases that were completed during the research period (2011- 2013)<sup>8</sup>. These interviews were one hour long on average and facilitators were asked to comment on why and how they decided a case was suitable for VOC, the perceived challenges of the case, the preparation they conducted including any special measures taken due to the particular characteristics of the case, and specific strategies used in the VOC to manage complex dynamics. In addition, a small amount of data relating to the views of participants (victims and offenders) was considered. These were drawn from in-depth, semi structured interviews conducted with victims, offenders and other parties collected as part of the broader project (there were 19 victims and 14 offenders interviewed relating to cases completed from 2010-2013, and 7 victims and 5 offenders who were interviewed regarding their case that had been completed five years previously). For this paper, the findings concerning whether they were satisfied with the facilitator and whether they were satisfied with how their case had been dealt with by the RJU were considered.

Both researchers analysed the interview transcripts manually with thematic codes being derived inductively and collaboratively with each other. To understand how facilitators

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<sup>6</sup> Nine out of ten interviews were conducted with staff employed in the RJU specifically in the role of facilitator (the tenth was a staff member employed as a Manager but who conducted a number of VOCs).

<sup>7</sup> Of the 76 cases completed by the RJU between 1999-2013, 74 were the subject of this study. There were two cases where no consent was given for the research team to collect data. Both related to cases of historical child sexual abuse within a family.

<sup>8</sup> There was one case where the original facilitator in a VOC was not contacted but the other member of the RJU staff sitting outside of the circle was interviewed instead.

developed their skills, where possible we contrasted the experiences of facilitators early in their employment to later on during their career in the RJU, and highlighted views from those facilitators with little experience versus those with extensive experience.

*Characteristics of the respondents: the facilitators of the RJU*

From 1999-2013 there were ten staff who facilitated VOC in the RJU, nine were employed primarily to facilitate conferences while one was a Manager who facilitated a small number of cases. A brief demographic profile is shown in Table 1.

**Table 1: Characteristics of respondents: facilitators of the NSW Restorative Justice Unit**

<b>Characteristics</b>	
<b>Age</b>	Average age at time of employment in RJU -early forties.
<b>Gender</b>	6/10 were male.
<b>Ethnicity</b>	Little cultural variance, none identified as Aboriginal or Torres Strait Islander.
<b>Education</b>	University trained (7/10 at postgraduate level, 1/10 at undergraduate level), technical/vocational training (2/10).
<b>Prior employment</b>	The median number of workplaces experienced before working in the RJU was four. While one facilitator began work directly after completing University, the remainder had worked in psychology, teaching, law and corrections.
<b>Prior experience working with offenders</b>	9/10 had experience working directly with offenders (including as correctional officers, lawyers, chaplains, probation and parole officers, prison drug and alcohol workers, and prison psychologists).
<b>Prior experience working with victims</b>	None
<b>Experience/ number of cases convened for the RJU</b>	The number of cases convened by each facilitator ranged from 1- 28, 6 facilitators convened a small number of cases (1-5), 1 facilitator a medium number of cases (6-10) and 3 facilitators convened a large number cases (11-28) and could be described as ‘experienced’ <sup>9</sup> .
<b>Professional development</b>	Restorative justice training (9/10), mediation training & national mediation accreditation (5/10).
<b>Motivation to work in the RJU</b>	Commonly it was a combination of being disheartened by previous workplaces whether in law, psychology or corrections, curiosity about restorative justice, and a desire to do work that had ‘value’ and that seemed to relate to a vision of ‘social justice’.

In summary, the facilitators came to the RJU motivated to work in restorative practice, in middle age with life experience, a diverse range of prior work experiences, specific experience in working with offenders and an interest in work that had ‘meaning’. The majority were tertiary educated and nearly all completed additional training in restorative justice. Interestingly, while this particular model of RJ is victim focused none of the

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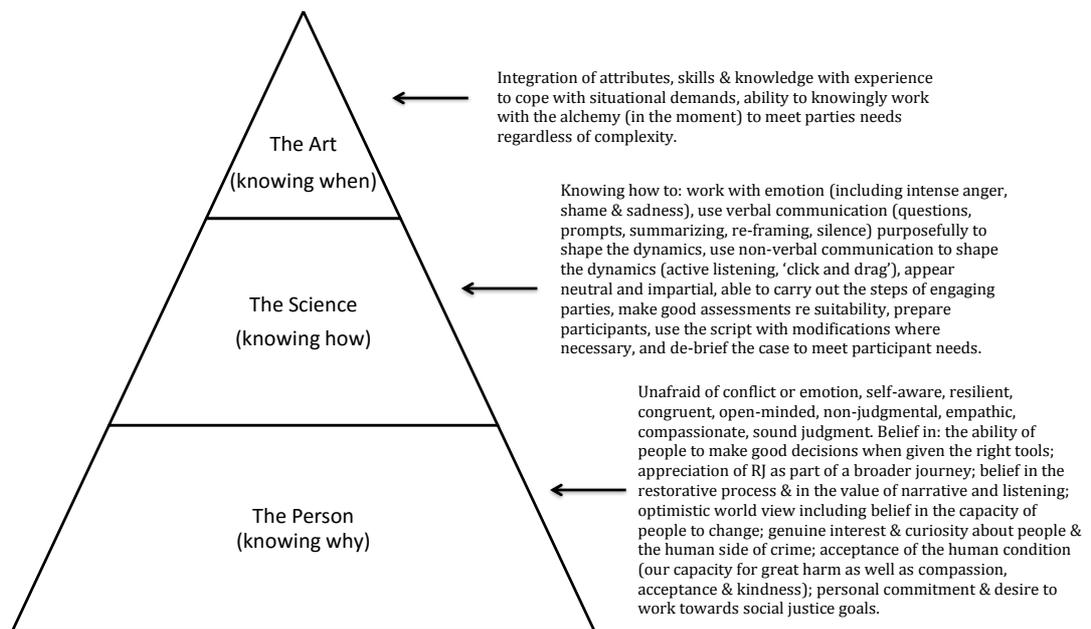
<sup>9</sup> There was one case where a co-facilitation model was used; this was counted separately for each staff member.

practitioners had previous experience working with victims of violent crime. How practitioners address this gap in knowledge and experience is discussed in the next section.

### 3. Findings: what makes a good RJ facilitator?

From the ten general interviews conducted with facilitators, three groups of characteristics were identified that together make someone not just able to facilitate RJ, but able to facilitate ‘successfully’. The 74 interviews concerning individual cases were then explored; as no additional characteristics were found these three groups of characteristics were substantiated (see Figure 1). The three sets of attributes consist of: (i) the person (knowing why); core beliefs, worldviews and ways of being (ii) the science (knowing how); knowledge, skills and experience and (iii) the art (knowing when); working with alchemy, advanced practice and complex cases.

Figure 1: Components of facilitation & the attributes of successful restorative justice facilitators



Taken together, we contend these characteristics work to: motivate individuals to undertake this kind of work, enable the successful completion of various tasks, and provide some buffer from the inherent challenges of working in this sphere particularly with violent offenders and traumatised victims. While the majority of characteristics can (and are) learnt and improved with experience, there are also characteristics that are innate. In this

paper we suggest that these particular characteristics are a predictor of capacity to do this work for long periods of time and to excel and consistently bring about ‘restorative’ outcomes. Each of the three sets of characteristics will be described in further detail.

***(i) The person (knowing why): core beliefs, worldviews and ways of being***

The first cluster of characteristics relates to those that are inherent, they exist prior to training or experience and form the basis of a facilitator’s outlook. This cluster of characteristics included a common set of core beliefs about how the world works, such as the inevitability of conflict and also that human nature encompasses both the capacity for enacting great harm as well as the capacity for great compassion. An optimistic worldview, epitomised by Facilitator 2 (an ‘experienced’ facilitator), was common: ‘If you believe that people can change or if you believe that people can’t change I think that’s going to impact how you engage with people and how you facilitate. If you are naturally optimistic or can kid yourself to be optimistic I think that’s really important’ (Facilitator 2). A core belief in the process and the potential for change was seen to be essential: ‘you’ve got to believe, you’ve got to have that passion. There’s I suppose no better word than passion and belief in the process’ (Facilitator 9).

There is also an inherent curiosity about people, a ‘genuine interest for everyone involved’ (Facilitator 1) and a desire for people to understand each other. Having a natural curiosity about people that is de-coupled from judgment entails the need for what in humanistic psychology is termed ‘unconditional positive regard’ (Rogers, 1959). In RJ this is the:

‘ability to listen and to draw out what people’s deep human needs are; empathy for everyone affected by the crime. ... You need to be able to sit with distress and trauma and sadness and horror. You need to be able to sit with that and keep it in perspective and be respectful toward the responses that people are having’  
(Facilitator 2)

For the facilitators a natural curiosity for others existed in tandem with a belief in people being able to resolve their own conflict. This means that the facilitator’s role is not perceived as prescriptive, but more akin to a guide, or ‘guardian’ of the process (Facilitator 1). One facilitator described this as being almost shamanistic:

‘a shaman is a person who takes you into the chaos and takes you out again. We go ‘look you don’t know what you’re about to face but you’re going to have to trust me to know that people have been there before’ ...’ (Facilitator 6).

There was a clear sense that guardianship of the process was predicated on a very strong and coherent sense of personal identity which would allow the practitioner to enter the process (which is often emotional) without becoming overwhelmed. Facilitators described the need for ‘a good understanding of people and to do that you’ve got to have a good understanding of yourself’ (Facilitator 7), ‘being grounded’ (Facilitator 2), having ‘good boundaries’ (Facilitator 10) and having ‘resilience’ (Facilitator 5). Additionally, the importance of not hiding behind a professional mask was identified (Facilitator 1) and described variously as having integrity, being honest and open. In the counseling sphere this is termed ‘congruence’ or being who you say you are. It is also about operating with transparency so that the limits of both the self (as practitioner) and the process are clear to participating parties. For example, one facilitator described how he makes sure not to ‘sugarcoat’ the experience for potential prisoners:

‘I basically said, right guys I know youse (sic) are all busy (but) this is Restorative Justice, this is what it’s about. It’s not about signing the sorry book and there’s going to be a lot of long hard looking at you and exactly why you want to get involved. Nothing in it for youse whatsoever. No free parole, no free classification, in fact it’s going to be fucking hard for you. If you’re interested come and see me after the muster. We got like 30 referrals’ (Facilitator 9).

Interestingly, this combination of ‘unconditional positive regard’ (accepting the person as they are, not who they might wish them to be), ‘empathy’ (which goes beyond being able to understand another’s experience in the here and now- to being able to enter a victim or offender’s perceptual world without fear of getting lost in the –quite possibly difficult - terrain) and ‘congruence’ (being authentic and genuine not hiding behind an overly professionalised /expert mask) is what Rogers (1959) (one of the founding fathers of counseling psychology and client centered therapy) identified as core conditions for enabling therapeutic growth. In fact, because the facilitators of the RJU describe these attributes as being present from the time that first contact with a victim or offender is made, we define the restorative process (or ‘intervention’) to be inclusive of everything from that moment of referral right through to the very last de-briefing interaction with participants.

While facilitators all had a deep respect for the RJ process, there was also pragmatism; a shared understanding about the scope and limits of a restorative justice encounter. RJ was described as an ‘opportunity’ for enabling a party ‘to face the world’ (Facilitator 10), ‘to be able to find a place for (the event) in their lives, that isn’t disabling them’ (Facilitator 1) and ‘to understand what happened and why it happened... (to be) heard, recognised, understood’ (Facilitator 4). Yet while RJ is often associated with ritual and transformation (Braithwaite, 2000; Rossner, 2012), Victim Offender Conferencing was not routinely understood as a panacea. Many encounters were simply described as ‘conversations that needed to happen’. Facilitator 2 recollected that:

‘what stands out is that this was a conference involving two knockabout young men who came together and had a knockabout conference and it was short and sweet and to the point. Hands were shaken, nods were given and it was kind of done and dusted... They saw it as a conversation that needed to happen between the two of them’ (Facilitator 2).

In another case, a facilitator recalled the RJU team deliberating extensively about whether a particular offender/victim meeting could theoretically and/or technically ‘be *restorative justice*’. After much reflection they realised that this debate was less about that particular victim’s needs and more about their own role perception as practitioners and working within an implicit sense of the boundaries of RJ. Ultimately, the case went ahead; the facilitator recalled ‘if you put yourself in the victim’s shoes, he just wanted to have a conversation with this bloke and tell him what was what. He didn’t care what we called it’ (Facilitator 5). This case became an important turning point in the RJU’s understanding of the role and scope of RJ after serious crime: while the Transformative Justice Australia training and standard texts on RJ would remain useful signposts for their practice, their work necessitated testing some of the boundaries of RJ theory and breaking new ground.

Other VOCs were described as being a ‘circuit breaker’, both for retaliatory and pre-emptive future violence. This was more prevalent in a small number of cases where victims were also embroiled in drug offences and/or had violent histories. As one facilitator recollected: ‘both (victim and offender) were fearful of what would happen when they met [after the offenders release from gaol] – a conversation needed to happen while the offender was in custody in a controlled environment, without drugs, alcohol or other

people' (Facilitator 2). In these cases, perhaps best described as 'conversations that need to happen', RJ works as a circuit breaker for future harm and crime prevention.

Over time the realism about cases that developed in the RJU created a shared understanding between facilitators of participant needs being prioritised over any particular RJ theory. The practice became less about prescriptively assessing whether the offence was eligible and suitable and more about developing a deepened understanding of whether the victim's needs *could be* addressed through the process. As Facilitator 3 noted 'a good conference is when the victims have their needs met, whatever those needs are'. The best example of this came through in the findings concerning family and sexual violence. While the restoration of relationships is a common goal of many RJ practices, in these cases the restoration of relationships was generally *not* a desired outcome, instead the VOC was perceived as an avenue to have other needs met, for example the opportunity for voice, deeper and more personal accountability. One facilitator described this as: 'They told the offender what they thought... that's what they got, and that mattered to them' (Faciliator 2). Thus, the practice of the RJU is founded on flexibility (rather than rigidity) in understanding and using the process to meet the various needs of diverse parties following very different crimes.

In summary, the facilitators interviewed described a coherent set of core beliefs about conflict, were optimistic about the potential for change, curious and interested in people regardless of their behaviour, and had a strong sense of personal identity, boundaries and their purpose and role as facilitators. Facilitation was seen as the gentle but firm guidance into and out of potentially difficult and emotional conversations that 'needed to happen'. While always hopeful for outcomes that improved wellbeing, a deep appreciation for the reality of violent and complex lives and a realism borne of experience, meant the overarching lens was pragmatic but optimistic.

***(ii) The science (knowing how): knowledge, skills and experience***

The second group of characteristics that were drawn from the facilitator interviews relate to *knowing how* to facilitate. These attributes related to: (a) theoretical knowledge bases that provided the foundation for the building (and then enhancing) of (b) specific skills which were needed to carry out the steps necessary to assess, prepare, run and de-brief a RJ process successfully; and then (c) gradual enhancement of knowledge and skills that comes *with experience*.

*(a) Theoretical knowledge:* A certain amount of theoretical knowledge concerning how the criminal justice systems works, restorative practice in general and the specific needs of victims and offenders following serious crime, were identified by facilitators as an important pre-requisite to beginning work as a RJ facilitator. In particular, given that all the facilitators had worked with offenders but none directly with victims, the majority of facilitators described an initial period of ‘skilling up’ where they learnt from reading literature and talking to more experienced practitioners about victim needs, the availability of victim services, the impact of crime and courts on wellbeing, and the evidence base on trauma. This knowledge was seen as a necessary precursor to successfully navigating RJ in cases of serious crime. The lack of prior work experience with victims was likely mitigated against by the particular model of practice and the collaborative culture that developed over time between the RJU and the main victim advocacy groups in NSW whereby the expertise of victim advocates were routinely drawn upon in the preparation and delivery of a VOC.

*(b) Specific skills and tasks (assessment, preparation, the meeting itself and de-briefing).*

There was a consensus amongst the facilitators interviewed about the key tasks and associated skills for completing a RJ case. The first practical component relates to making a good assessment of the suitability of a prospective participant for RJ. Facilitators generally begin with the referring party. For the RJU facilitators where many cases involved death (and therefore grief) this routinely meant:

‘sitting in people’s lounge room, having cups of tea, looking at photo albums of the deceased; talking about when the police knocked on the door at three in the morning; hearing about their immense suffering and how it destroyed a family and what they’ve been through; what the criminal justice system was like for them and what they’re hopeful of, why they would come into RJ’ (Facilitator 6).

With a sense of victim(s) needs, support and resilience, offenders are assessed. To make an accurate judgment about whether to put time and resources into preparing for RJ, facilitators described needing an accurate description of the offence by the offender. This was viewed as a key indicator of the offender’s capacity and willingness to take responsibility for the harm. In the first individual face-to-face meeting the facilitator questions the motivation for attending a VOC, the offender’s offence ‘story’, and their

current thoughts and feelings about the offence. The importance of eliciting a detailed account was seen as incredibly important and specific questions were used purposefully to draw this out:

‘alright at the conference the first thing we’re going to ask you is to give an account of what you did when you committed the crime. So tell me step-by-step what you did? Okay, you’re saying that you had taken drugs that day; mate what did you take, where did you take it and what did you do after that? How were you feeling?’ (Facilitator 7).

The offence narrative is cross-checked by the facilitator with sentencing notes from the court, as well as with reports from prison psychologists and correctional staff. An assessment of the offenders’ level of insight and empathy are gained. For this task to work facilitators reported needing to establish rapport, maintain a level of compassion (for the difficulty of talking about the behaviour) and a care for the offender’s wellbeing:

‘When you do an assessment with an offender and he’s got to talk about how he killed somebody ...you try and make them feel okay about it, about telling me about the worst thing they ever did in their life. Then of course you say to them go and talk to a staff member after I’ve left and I talk to someone on the way out, so they don’t go back to their cell and self-harm’ (Facilitator 3).

Many cases do not proceed past this stage because an offender displays little insight into the impact of their offending. For example, in the aftermath of a drink driving case where the victim was seriously injured, when asked who was affected by his offence an offender mentioned ‘myself and my family. So that interview stopped then’ (Facilitator 3). While in many cases suitability is clear-cut, many cases are more complex. Furthermore, it is not just one person’s capacity to participate that is being assessed, but that person matched to the particular victim; assessing suitability requires judgment. The findings suggest that the facilitator and RJU use an iterative process of moral reasoning akin to ‘ethical decision making’ (Cohen, 2004) to weigh up the victim’s needs against the offender’s presentation and capacity to meet these needs, the likely challenges and the overall potential benefit to both parties. For example, in one case a facilitator recollected concern about an offender who presented as: ‘a brooding, aggressive, overbearing character with links to an outlaw motorcycle club. A long history of violence and drug supply. He was really quite

aggressive in that interview and he had a very clear truth and that was his truth' (Facilitator 5). Though proceeding to VOC seemed unlikely, the victim presented with a very strong need for information, and the facilitator felt sure that without this information a sense of closure for the victim would be unlikely. Thus the RJU decided to employ specific strategies including a modified script and a space that was different to standard practice but safer for those particular participants. This ability to develop and deliver innovative pathways based on need is one of the unique features of restorative processes in general but is particularly important in cases of severe harm (Chan, Bolitho, & Bargen, 2016).

The importance of a good case assessment and analysis of the needs and interests of participants beforehand is highlighted in one of the few cases deemed less successful. On reflection, the facilitator who at the time of the case was relatively new to the work, describes not spending enough time exploring the detail of the offence narrative during the assessment stage. What happened during the RJ meeting was that '(the perpetrator) admitted he was there, and that he'd (done x), but he did not admit to (y)... which was the killing blow)' (Facilitator 8). As the victim had been motivated to attend the VOC to gain a more genuine sense of accountability, they were dismayed at what was perceived as a gross minimisation of harm by the offender. Afterward the facilitator recollected knowing immediately that the victim 'didn't get what they needed' (Facilitator 8) from the VOC.

By far the most important component of the RJ process described by the facilitators interviewed was the preparation done with offenders and victims in the lead up to the face-to-face meeting. Preparation was described by facilitators as 'intense and diligent' (Facilitator 6), 'aggressive, careful and precise' (Facilitator 9), and victim focused: 'if I had the slightest hint that the offender had a motive or even if he didn't have a motive but he wasn't right to put before the victims, he was gone' (Facilitator 9). Part of this relates to assisting participants to understand not just the structure of what will happen (who will be asked to speak, when and why), but what the discussion might include. Facilitators made clear that while their role during the preparation was not to 'coach' or 'manufacture' a participant on content, questions are routinely used strategically to help focus attention on core issues. For example, according to Facilitator 1, if a victim presents as furiously angry during the preparation, a facilitator would not say: 'the victim is furiously angry', but rather

‘have you thought about how you would react if the victim becomes angry?’, or, ‘how are you going to be if her dominant emotion is one of anger? How are you going to be if she calls you ever name under the sun and screams at you for four hours?’. In another instance where a victim’s mother really wanted to know what her son’s last words were before death the facilitator recalled preparing an offender with these questions:

‘When I was working with the offender I would say, so tell me what you did. *Well I was on drugs, I’d stolen a gun, I did an armed rob and the guy was standing in front of me and the gun went off and then I ran off.* I would ask him a whole lot more questions. I would ask him do you remember what you said to him? *Yeah I said get out of the fuckin’ way.* Do you remember what he said? *Oh yeah he said mate just take the money and go.* Then I would say oh okay so you said that and he said that. It might be important at the conference that you talk about what you said. It might be important at the conference that you talk about what other people said’  
(Facilitator 2)

In this way, questions are used purposefully and skillfully to subtly bring to the fore what is going to be important at the VOC and to focus the offender’s attention on these aspects. Similarly, in cases where a facilitator knows that a victim wants to honour a deceased party by bringing something symbolic to the meeting (such as a photograph), a gentle questioning technique is used to prompt them to think through exactly how and when they might incorporate this into the process, and how that might feel. Facilitator 4 recalled a case where a victim ‘very much wanted to represent him within the space visually, so we agreed that it was appropriate. It was a huge photograph, probably three foot by two foot sitting on a chair propped up between where (victim’s wife) was and the support person’. This very careful preparation before VOC works for the parties but also the facilitator who is not ‘surprised’ on the day.

This ‘reality testing’ was seen to be critical for both offenders and victims, who are at times even prompted to mentally rehearse a variety of scenarios. In a few cases facilitators described needing to prepare participants by role playing, for example to prepare an offender for a victim that is very angry a facilitator recalled testing this out: ‘do you realize what you’ve done to my husband? Do you realize what you’ve done to my career? Do you realize what it took for me to drag you out of that car -you bitch -and now, you want to talk to me?’ (Facilitator 9). This particular facilitator noted that they felt able to take this kind of

approach because of extensive previous experience working with offenders in prison and that this part of the preparation instilled confidence in knowing that an offender could meet a victims' need on the day.

In a similar way for victims it was not uncommon for a facilitator to actually do a pre RJ rehearsal. For example, if there was a fear of entering a prison (in addition to the fear of seeing the offender) the victim could be taken in the lead up to the VOC to see the room where the meeting would be held. Usually the victim's counselor would attend as well. This preparation often had the unintended effect of allaying concern about an offender 'putting their feet up and having a nice time' in prison (Facilitator 10). Victims reported to facilitators that seeing the 'sandstone blocks, iron bars and razor wire' were 'validating' and 'reassuring' (Facilitator 5). Sometimes victims even expressed feeling less 'pressure to punish' as they could now see that prison conditions were quite tough. All of this preparatory work supports the research of Bruce (2013) who found that the 'back stage' interactions that occur before restorative conferences are essential for preparing participants.

Another key component of the preparation described by facilitators is developing contingency plans. Facilitators described it as 'not uncommon' to have 'two-three mental scripts' to be used depending on what an offender actually said in the meeting (Facilitator 5). In cases of severe harm and sexual violence, facilitators that had undertaken these cases recalled a very particular preparation process done with the help of the victim's counselor. In one such case the victim's wellbeing was supported through the development of a series of plans including 'calling time out and getting the victim out of the room into a different space. Another room was set up for this purpose. As well there was a far more extensive and careful de-briefing process completed' (Facilitator 2).

Achieving an emotionally, physically and psychologically safe space is integral to good practice. While there is a standard VOC script (with set stages and questions) the script is modified to suit particular victims. For example, if in the aftermath of sexual violence a victim says they will be uncomfortable talking about the impact of the crime if asked the standard open-ended question 'tell us what happened to you', the facilitator will design a different question, in collaboration with the victim (and usually their counselor), in advance of the VOC. Alternative approaches described were that the facilitator read a short

description of the impact, and then asked the victim simply if they would like to ‘add anything’. This was seen as ‘empowering her to make the choice as to what level do I participate in the process’ (Facilitator 2). This facilitator noted that while the RJU routinely prepared these complex cases this way, in the face to face encounter the victim sometimes offered more than what had been planned for. It would seem likely, that at least in part, this participation reflected both the trust and rapport developed with the facilitator during the preparation phase and feeling supported during the process; findings from our interviews with victims confirmed to us that this was because they experienced the space as safe.

In other ways, during the preparation phase practical changes can be organized in terms of the physical space to ensure someone feels safe. For example, in one case after sexual abuse:

‘we felt that it was appropriate to incorporate tables into the actual conference, and they were positioned there to create a barrier which would enable the victim to feel physically safe and to feel psychologically safe and that she could not be further violated.

(Facilitator 2)

In extreme cases, the RJU might decide that physical safety cannot be guaranteed and in a rare instance, a decision was made to use ‘video link’ thus giving the victim the opportunity to participate (Facilitator 5). However, this decision was hotly debated among staff, as the RJU struggled with wanting to adhere to what they saw as ‘the basic principles and frameworks of restorative justice’ and the victim’s point of view that ‘he just wanted to have a conversation with the offender and tell him what was what’. This decision to deviate from the ‘usual face to face model’, would never have occurred ‘one year into the existence of our unit’, but ‘given the skills and knowledge that we built up over the years we had the scope to be more flexible’ (Facilitator 5). The unique ability of the RJU to consistently meet victim’s needs is a core feature of the success of the RJU (Bolitho, 2015).

A final but nonetheless important component (and skill) used in the preparation phase is the choice of support people for the offender and victim. During the preparation it is standard practice for the facilitator to meet with as many of the people as possible who have been affected by the offence to work out who needs to attend the VOC. While the support selection is done ‘sensitively’ and ‘in consultation with parties’ (Facilitator 5), facilitators make the final decision. For example, one facilitator describes their role as a ‘gatekeeper’

of the process which involves screening support people for their suitability. If a potential support person is ‘drinking daily, unreliable unpredictable...resisting counseling and support’ they may not be invited to participate (Facilitator 2). Though uncommon, it was at times deemed appropriate to have little or in a few cases no support; if a victim does not want to talk to a room filled with people about the details of what are considered to be a private grief, then ‘personal and very intimate’ conversations can be prepared instead (Facilitator 2).

During the VOC a variety of skills were drawn upon. Facilitators valued having a script for the meeting (with proscribed stages and prompts) describing it as a ‘bit of a safety blanket’ (Facilitator 4), making their role relatively ‘easy’ because with enough appropriate preparation the script seems to do the work by itself, ‘all I did was sit there and ask questions that were written on a bit of paper and they did all the work, so when it goes well it makes you look good’ (Facilitator 3). But regardless of having a script many of the facilitators described continuously ‘reading’ the room, ‘being alert to cues’ (Facilitator 1), and using non-verbal techniques to subtly shape the direction of the discussion. A common technique described by (Facilitator 4, 6 and 7) was the ‘click and drag’; here a facilitator shifts either their eye contact or head to another party (purposefully) to move someone’s attention to another participant in the circle. Another common technique mentioned was the strategic use of silence to deepen a point, or prompt a response.

During the VOC, it was uniformly seen as imperative to ‘manage’ personal reactions. The ‘golden rule’ taught during RJ training and recollected by a number of facilitators was that the facilitator needs to be the last to be visibly affected and the first to become composed again. The facilitator’s ability to fade into the background was described as being relatively ‘colourless’ (Facilitator 1), ‘beige’ (Facilitator 4), being an ‘ultimate poker-face and unshockable’ (Facilitator 6) and akin to being ‘in the eye of the storm’ (Facilitators 1, 2, 4). Strategies to deal with personal emotional responses varied between facilitators, from having internal reminders such as ‘honor their stuff, it's their stuff, it's their hurt, it's their emotion, it's their sorrow, let it be theirs’ (Facilitator 2) to ‘physically an old training tip, bite your tongue- you can't cry while you're biting your tongue’ (Facilitator 10). For others managing personal responses is part of the overall mindset needed to do this kind of work: ‘if they cry they cry, if they laugh they laugh, if they jump up they jump up. Nothing surprises me. Everything’s a surprise but nothing surprises me’ (Facilitator 6).

A final part of the delivery of a VOC is the de-briefing of participants. In the VOC model it is standard to check in with the victim and offender the next day (often by telephone), then in person to do a more formal de-brief two-three weeks later<sup>10</sup>. After this time the main parties are welcome to contact the facilitator any time to talk about how they are going. Facilitators described drawing from the same skills used during preparation for de-briefing. It involves a questioning technique to explore each participant's experience of the VOC and how they felt afterwards. A few facilitators noted that participants may be 'surprised' about their reactions during the VOC and afterwards might 'second guess' these reactions. Facilitators describe supporting participants by focusing on what happened as being 'right for that moment' and then by being 'future focused'. De-briefing is about remaining in contact until they are 'settled and reconnected with the people around them' and 'it's safe to say goodbye' (Facilitator 2).

In summary there are many skills needed in the preparation, management and de-briefing of a RJ meeting. One facilitator captured this well in their description of a mental check-list before, during and after the process:

'am I working with everyone to enable their full participation; am I supporting them to participate; am I making sure that they've got appropriate support networks. Then in the conference, am I making sure that their voices are heard, and that their safety and security is maximised? As long as you're doing those things it's okay' (Facilitator 2).

***(iii) The art (knowing when, working with alchemy, managing complex cases)***

While the techniques of facilitation are invaluable 'because it is what keeps you centered in that process', there is also 'an art to it...which is something more subtle' (Facilitator 4). The third group of characteristics that emerged from the facilitator interviews relate to the way that knowledge and skills create, what can appear to an outsider to be a relatively seamless process -supporting research that good facilitation is invisible (Bruce, 2008). Our findings suggest that the 'art' of facilitating well is more than just knowing the theory of when and

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<sup>10</sup> A practical challenge of working in NSW is that the RJU must cover a vast geographical distance, offenders and victims may live in separate and rural and remote parts of the State.

how, and more than having the competency to technically complete each task; it is the ability to consistently bring this about *in the moment*. This involves judgment, discretion and good timing.

Going beyond knowing ‘how’ to make good decisions about whether a case is suitable for VOC, to consistently making good judgements, is accepting that ‘just because people want to come together doesn’t mean that it’s going to be of benefit to either side’ (Facilitator 7). Deciding *when* the best time might be for the parties to come together after complex emotional presentations was described by Facilitator 2 as the ‘million dollar question’. While a prevaricating factor in some cases may be that an offender is near release from prison and a victim wants to meet before this occurs, there are no time limits within which RJ meetings must occur and facilitators have discretion over when is the best or ‘right’ time. In general, facilitators described the decision about ‘when’ as a process of exploring carefully a victim’s need, assessing this against the offender’s capacity to meet this need and once the support was in place to ‘know they are ready’ (Facilitator 2). In some cases a matter would be put on hold while an offender completed a therapeutic program in gaol, in other cases a case would be closed but re-opened some years later when the circumstances, support and readiness of parties had changed and it was safe to proceed. Knowing ‘when’ is also about knowing and deeply appreciating what would be necessary for the case to be completed without incurring any further harm.

Knowing ‘when’ also means consistently doing enough preparation so that there is only a ‘loose hold on the reins during the conference’ (Facilitator 10). It entails knowing when to use nonverbal cues like the power of silence to shift a dynamic in the process (Facilitator 4), and when: ‘to step in to be a mediator and knowing when to just be a listener and knowing when to be a facilitator and really, just knowing when to shift’ (Facilitator 10). Knowing when to shift was described in one case where the offender’s behavior (arguing the facts of the case) was deemed as potentially ‘fatal to the process’, the usual techniques of ‘click and drag’ were used and when that ‘fell flat’ the ‘mediators hat’ was put on, and this more direct intervention shifted the conversation (Facilitator 2). The characteristics of advanced practitioners are not just knowing how, but knowing ‘when’, across each of the tasks necessary for the successful completion of a VOC.

There was a consensus that being able to facilitate effectively even with complex cases involving violent offenders and traumatised victims came with experience. One facilitator explained: ‘I don’t know that anybody could do (the 3-4 day) training and step from there into the process’ (Facilitator 7), another: ‘it’s like any job, you come along and you’ve got to learn and make mistakes as you go along. I started just as a drug and alcohol worker. I got manipulated by the best of them to start with. These days I just respond differently to that stuff’ (Facilitator 3). This facilitator describes his prior experience in corrections as being invaluable for his role as a facilitator:

‘you’d get to ask the hard questions, you’d get to learn how to dig, you’d get to understand people’s emotions and what’s happening for them; when to dig further, maybe when to just leave it’.

Experienced facilitators uniformly described continually ‘scanning the room’ in order to actively keep pace with both what is being said, and the emotional dynamics: ‘if they’re not happy they’ll say so, and if they’re not happy and they can’t say so, you’ll tell by the look on their face. They’ll be fucking angry’ (Facilitator 3). However, even with experience, errors in judgement can be made. One very experienced facilitator recalled feeling disappointed about being ‘duped’ by an offender (though in this case the victim did not reportedly notice):

‘I really thought he wanted to make it good. (But, during the VOC) I thought, this is wrong. He was doing what people thought he should do and he hadn’t shifted at all, he was very convincing, he was very apologetic; he understood what he’d done. There was a bit of sense of gaol’s the best thing out because it stopped me- it’s known as Tape A<sup>11</sup> in the business’ (Facilitator 10).

The art of facilitating well also means being capable of, and adept at, responding to unexpected events on the day, that is the ‘alchemy’ of the moment. One facilitator described the work as ‘almost playing poker knowing the two hands’ (Facilitator 3); while there is a definite sense of what might happen there is also a level of uncertainty. Facilitators unanimously described needing to be able to cope with uncertainty, improvising where necessary in order to take myriad factors that combine in unexpected ways on the day in their stride. This level of expertise is highlighted when facilitators are

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<sup>11</sup> Correctional officer/departamental slang for an offender who says the ‘right thing’ without being genuine-almost like pressing ‘go’ on a pre-recorded tape.

comfortable enough with the model, knowledge base and experience to let small deviations in process stand, for example Facilitator 3 recalled a case with Lebanese and Turkish participants and being asked:

‘when the guy comes in, can I stand up and shake his hand? I said, well, we usually just sit down and start doing the conference, but if that’s what you feel like? So as soon as I walked in with him they both walked towards each other and put their hand out and shook hands. So that was quite a different start to a conference. And I spoke to them about that later and they said well, it’s just the way things are often done - and it shows empty hands’.

The ‘art’ of restorative justice facilitation was highlighted in the descriptions of the skills and processes drawn on to conduct complex cases. In the Restorative Justice Unit complex cases are not routinely excluded rather, the principle of ‘doing no harm’ shapes all decisions about how to practice. Risk assessment tools are not used to uniformly exclude participants, particular offences or circumstances, though they are used routinely to inform discussions about suitability. Instead a problem solving approach is used, and in manner akin to appreciative inquiry, strategies for managing complex issues are considered. Cases can be complex for reasons above and beyond offence type such as including displays of intense emotion in the preparation phase or during the actual meeting (particularly fear, anger and grief), offending within families or within small communities, and/or when participants have mental health disorders, cognitive impairments and/or drug/alcohol abuse. Complexity can also come from less expected areas, for example, a couple of facilitators described a small number of cases where strong religious beliefs shaped an internal narrative for a participant about what ‘should’ happen. For example, a facilitator recalled one case where ‘working within the parameters of a very strong faith that has a very clear set of norms and values’ there was tension because one victim had been unable to ‘forgive’. For her family that was problematic because she wasn't doing what Christ had taught’ (Facilitator 2). The facilitator remembered having to work hard in the assessment to decide whether a VOC would actually increase or decrease conflict. In the end, additional reality testing with the parties was completed in the preparation phase, and a heavy emphasis was placed on each person’s unique response to the trauma.

A common feature of complex cases seen in the RJU is the expression of intense emotion, the *art* of managing this is described here:

‘It was full on, insane, intense. The victim was head down, sobbing, almost hyper-ventilating at times, really distressed and the offender was head down, deeply ashamed and highly distressed as well...The fact that (name) could be so angry for so long, there was so much vitriol, I mean it was full on. I expected him to be angry but to see him on his feet pointing and shouting and abusing, as a facilitator I’m sitting there constantly asking myself is this still okay? So it was checking in with everyone and seeing that *it was* appropriate, this anger and abuse and carry on, *it was* okay’ (Facilitator 2).

In another case where anger was a key feature, Facilitator 2 described creating a space around the anger (during the VOC) so that sadness might follow. Specifically, ‘I just slowed it all down, just kind of that checking in with what’s been expressed on people’s faces and their body language there were moments of quite poignant silence (Facilitator 2). In leaving some space for the anger to resonate, people could appreciate what was going on for the participant and to allow that to be expressed in full. In a further case where an intense, uncontrollable rage was present the same facilitator describes ‘focusing’ the victim’s attention on what she needed to say and needed to ask in the VOC. There was a lengthy preparation phase during which a really good working rapport was established so that the facilitator had a good sense of where she was at and in addition, the victim was receiving the support from a counselor. The facilitator recalled that ‘brokering’ or collaborating with the psychologist during preparation was paramount to the success of that case (Facilitator 2).

Another area of complexity is in cases where a participant has a mental illness or cognitive impairment. While it is standard practice to delay a VOC if medication is being changed or symptoms are being floridly experienced, in many cases issues are ongoing and are being managed by other professionals. Rather than cognitive impairment or mental illness being seen as an impediment to full and active participation, the RJU work out how to accommodate difference and need. For example, a facilitator recalled working with a participant with Attention Deficit Hyperactivity Disorder: ‘He was non-stop chitchat, his mind racing a thousand thoughts at any one time. So there was quite a bit of work with him around stopping, taking your time, telling your story and then allowing the victim to tell his story and just being able to sit there and hear it’ (Facilitator 2). In cases where cognitive impairment or mental illness will make lengthy verbal articulations of thoughts or feelings

unlikely, and a victim has a particular need (for example a specific piece of information) the VOC can be designed to draw the pertinent facts out regardless. In all such cases, RJU facilitators described routinely drawing from other experts and professionals in the preparation, meeting and de-briefing of participants (Facilitator 10).

In other cases, an offender may have only a limited insight into their offending behavior. Because the focus in the RJU is on victim needs, rather than routinely excluding such offenders, thought is given to what might be achieved. Often, participation in VOC will be contingent on completion of relevant prison programs (such as the violent and/or sex offender program). A few cases have been completed with offenders that have presented with a limited innate ability to feel (psychopathy) or express (alexithymia) emotion. For example, Facilitator 10 recalled a case where there was little genuine insight but some remorse 'he really wanted to show the family that he was sorry and that he missed them' (Facilitator 10). In another case where there was some offender insight but little genuine empathy, Facilitator 2 recalled going ahead with the VOC because, although the offender was deeply disturbed, 'he could give a good account of why he offended, of what was happening in his life at the time' and he could answer the questions the victim needed answered. In addition, there was a senior prison psychologist who had worked with the offender over many years involved before, during and after the VOC. In these scenarios there is routinely more assessment and preparation for cases.

Other emotional issues can make a VOC more complex. For example, if an offender feels so remorseful and guilty that they will agree to almost anything that a victim may ask for, the art of facilitation will be working with that participant beforehand on what a reasonable 'outcome' might look like (Facilitator 2). In other cases, where there was drug and alcohol abuse and poor memory of the event, offenders may need help to 'join the dots', as 'umming and ahing about what had happened would be distressing or upsetting to the victim' (Facilitator 2). In many cases, facilitators noted that when offenders have been isolated in prison, have little support and trust no-one, it is very hard to prepare an offender to open up and tell their story. The art of good facilitation is about recognising where an offender is at emotionally, and slowly building rapport so that there is enough trust and confidence in the process to go ahead. When an offender does ultimately reach a point where they can talk really openly and honestly about what they did then it is 'the right moment' to go head (Facilitator 3).

A final complexity relates to cases where victims as well as offenders have (and are) living chaotic lifestyles, with drug and alcohol abuse, and criminal activity being the norm. Again, rather than necessarily excluding such cases, facilitators described the ‘art’ of managing these issues in order that the VOC could proceed (Facilitator 2). For example, there might be firm ‘ground rules’ made and additional security measures put in place.

In summary, while cases with complex features require facilitators with knowledge, skill and experience there is really an ‘art’ to being able to manage the myriad dynamics typical of such cases. Reflecting on more than thirty years of victim offender mediation practice in the USA, Umbreit, Bradshaw & Coates (2001) used the term ‘advanced’ practitioner to refer to someone with additional experience and additional skill, that is suited and able to undertake complex work. Similarly, in New Zealand there is recognition that facilitators need additional knowledge and skill to work in family violence or sexual abuse cases. Being an ‘advanced’ facilitator is not just about the length of time in the job, but the capacity for and ability to actually complete this kind of work, addressing complex needs, successfully.

#### **4. Being a facilitator: highlights, lowlights and the need for de-briefing**

Across all of the facilitators interviewed it was clear that a great deal of satisfaction and enjoyment was attached to the work of the RJU. Facilitator 1 said ‘it was on an emotional level profoundly satisfying to see someone who had been terrorised for years redress, shift the balance of power’. For Facilitator 9 ‘to actually be able to bring people together who are at war and have them at the end of the day having a cup of tea and having shifted and gone away happier and more peaceful within themselves, is an amazing rewarding occupation’ and for Facilitator 10 ‘it’s probably the most impactful job I’ve ever done’. Overall, there was a sense of this work being important, unique and deeply satisfying.

Yet the findings from the interviews also revealed that this work is not easy and can bring a personal toll. Typically, facilitators described a distinct rhythm in preparing, running and completing cases. One of the hardest components of work (and one which required consistent de-briefing according to Facilitator 1) was doing an initial assessment with

traumatised victims and then knowing that a VOC would not proceed because an offender was unsuitable (Facilitators 1, 2 and 9). The gap between knowing the potential of RJ, understanding that would not be realised for that particular victim, and then explaining that decision was felt keenly.

After a case was deemed suitable, facilitators described an ever present element of trepidation that ‘what you assessed and understood to be right won’t come out that way and people (could) get angry and it might actually become more harmful than good’ (Facilitator 4). This was not seen as problematic, more a reminder of the serious nature of the crimes. Indeed because of the complexity in cases facilitators described needing patience and persistence in the preparatory phase (as noted in the method this lasted on average a year):

‘On the emotional side it’s the layers and layers of complications...I felt like slugging through wet sand in the preparation for it because all these details and quite grave issues would be coming up and I would be thinking, right how do we deal with that? So it was quite tiring’ (Facilitator 1).

In addition, there are logistical challenges in running VOC within prisons located all over NSW (approximately 800,000km<sup>2</sup>) where practitioners need to build relationships with many prison staff and where it includes having perpetrators moved to different prisons (such as regional to city) in order that a victim can attend. Facilitators noted that having the RJU located within the Corrective Services Department meant that these relationships were developed more easily (than, for example if there were located in a non-government organisation) as there was a level of implicit trust between colleagues working within the same Justice Department.

The RJ process itself can be intense. According to the facilitators interviewed sometimes it is the display and sheer intensity of emotions that is taxing, as it is imperative that personal reactions are kept in check. Facilitator 2 describes one such case where:

‘for six hours it was just full on, the anger and the hatred. The sadness, the guilt and the little girl so hurt. Hearing about the trauma of the crime. Drinking, drug use, withdrawing from the world and hurting yourselves because you hurt so much. There was a lot of self-harm going on in the victim's family that was really upsetting to hear about...I had to work really hard internally to not get involved -that was about me and my anxiety to their stuff. So that was a hard conference, that was an exhausting

conference and that would be one of the ones that I was totally drained afterwards, empty' (Facilitator 2).

In other cases, it is not the display or intensity of emotion that is tiring but the mental effort needed to keep the different needs of participants constantly in mind, whilst simultaneously rehearsing and continually revising the ways the VOC might play out; being ready to respond to the unexpected. One very experienced facilitator recollected a case where they 'went back to thank the prison governor for letting us have it there and she said my god you're white [laughs] and then I suddenly realized- I was exhausted. So I must have been quite worried about what was going to happen. Actually I've never had someone (the victim) stand up before through the whole thing, and I was just worried' (Facilitator 10). While the unique features of crime cases can be prepared for, individual responses *in the* VOC are not always predictable. Knowing whether this matters (where and when deviations from standard RJ theory or practice) is the marker of an advanced practitioner.

Commonly, after an RJ meeting has been completed there was an intense and emotional 'high'. Facilitator 3 described it as 'often quite exciting to walk in the office the next day to tell everyone about it. You walk in with a big smile on your face and tell the story of the conference, even outside of the circle you feel that energy and that power sometimes'. But then routinely, facilitators described feeling quite exhausted and flat and getting 'back to everyday life' and requiring a short period of adjustment (Facilitator 3). For some this literally meant getting away from the work environment for a day and spending time outdoors in the natural environment where they could reflect on and process the experience.

The emotional toll of RJ work, particularly after complex and serious cases was clear. Facilitator 10 noted 'the risk of burnout is very, very strong', over time there was (for many) 'a traumatic effect' (Facilitator 10), that it was not uncommon to feel 'teary' during a VOC and one facilitator noted that he 'dreamt about cases for years' (Facilitator 9). Facilitators described a range of strategies for coping with their work. One Facilitator described the importance of acknowledging the successes by bringing positive participant feedback back to the team (particularly months or years later) and 'celebrating the little victories you have because you're exposed to so much trauma and so much horrendous crime, so trying to focus on those good outcomes -almost celebrating them and talking about the positive outcomes for a victim or for an offender' (Facilitator 2). A number of

facilitators described the importance of the informal support and learning that occurred in the small, open plan office where ideas and strategies were continually ‘bounced around’, almost ‘on demand’. One facilitator noted that, ‘the Unit’s really good at just dropping everything if someone looks like they need a bit of a whinge or a bit of a cry or a bit of a rant’ (Facilitator 1). One of the most experienced facilitators described a strategy employed purposefully where they would compartmentalise work from life by ‘locking away’ the case files both physically *and* mentally at the end of each day: ‘I just make a mental note that this stuff stays under lock and key where it belongs. I’m finished engaging with it for my day and I’m now choosing to go and do something else independent of that’ (Facilitator 2).

Facilitator 3 described informal mentoring from the other facilitator as invaluable: ‘we’d have a lot of discussions about previous situations and what happened here, what happened there. What’s the same, what’s different? What could happen, what won’t, what do we want to, where do we want to be at the end? What’s going to get in the way? He taught me all the avenues to go through and the process to think through’. The importance of this kind of support within the team was highlighted by the effect of *not* having such a team (which occurred sporadically across the years of the RJU’s operation). One facilitator recalled feeling isolated and angry about this:

‘so there wasn’t even someone to have a chat with afterwards to go how are you going, why don’t we sit down and have a cup of coffee. It was -no just do it on the phone as you’re driving down the highway. Have a phone conversation about a murderer and his victims, having a chat, driving down the highway? - it’s reprehensible that you actually suggest someone does that’ (Facilitator 6).

This is useful feedback for managers of restorative justice units; coping with this work may be contingent on a supportive, appropriately resourced and functional team.

To some extent the facilitators of the RJU were able to process the traumatic nature of much of the case material independently. Now, monthly group de-briefing sessions occur with a trained psychologist with expertise in prisons and trauma. Tellingly, of the facilitators that worked in the RJU before formal de-briefing was mandatory 100% (n=6) said the lack of professional de-briefing was problematic. Regardless of background, level of experience or passion for the work, the lack of consistently available, professional de-

briefing had shortened their time in the RJU. Thus professional de-briefing was seen as integral to the healthy functioning of each facilitator within the team as a whole. This finding is in keeping with current literature on vicarious trauma and the need for professional de-briefing (van Dernoot, 2009, Campbell, 2002).

In summary the findings from this study suggest that while RJ work is rewarding and deeply satisfying, it is also emotionally taxing. Facilitators that do this work successfully use a range of formal and informal strategies to process the material, in addition to having attributes that suit the work such as inner resilience and a strong sense of identity.

## **5. Discussion**

The foregoing views of RJ facilitators address an important gap in the existing research which to date has provided little insight into how practitioners do their work (Bruce, 2013). By exploring the characteristics, skills and experiences of a group of facilitators working in a model that is best practice in this field (Bolitho 2015) patterns can be observed. In this study, facilitators shared a common set of core beliefs about conflict, the potential (and limits) of restorative processes and the human capacity for change. While inherently optimistic, knowledge of and experience with criminal justice systems, trauma, violent offenders and victims meant facilitators needed to be open-minded, pragmatic and able to problem solve. Because displays of emotion are common particularly after serious crime, facilitators described skills that enabled them to cope with this: they are self-aware, able to separate their own reactions from other responses and seek help when needed. Though many strategies are used to good effect in coping with the work, in the RJU professional de-briefing is now mandatory.

In Table 2 the characteristics and skills needed to facilitate restorative justice identified in the literature are compared to the findings from our research. Our findings confirm the few existing previous studies into the nature of RJ facilitation and of mediators in general.

**Table 2: Facilitation skills explicitly found in the literature versus attributes identified in this study**

Skill	NZ Guidelines	UK Guidelines	Umbreit & Armour (2011)	Mayer (2012)	This study
Communication	✓	✓	✓	✓	✓
Knowledge of particular RJ practice/ process	✓	✓	✓	✓	✓
Being 'professional' (including being objective, having integrity, maintaining confidentiality)	✓	✓	✓		✓
Honesty, openness, 'congruence'	✓	✓	✓□		✓
Appreciative of humanity of all participants		✓	✓	✓	✓
Active and 'deep' listening		✓	✓	✓	✓
Ability to manage emotion & conflict	✓	✓		✓	✓
Self-aware	✓	✓	✓		✓
Ability to work with & respect diversity	✓	✓		✓	✓
Knowledge of relevant criminal justice system	✓	✓			✓
Knowledge relating to victims	✓	✓			✓
Knowledge relating to offenders	✓	✓			✓
Knowledge relating to trauma	✓	✓			✓
Ability to plan & problem solve		✓		✓	✓
Ability to manage power dynamics		✓		✓	✓
Tolerance for uncertainty			✓		✓
Knowledge of legal contexts		✓			✓
Knowledge of support services		✓			✓
Victim centred, offender sensitive			✓		✓
Respect for intuitive decision-making			✓		✓
Knowledge of local cultures & communities	✓	✓			
Ability to maintain neutrality				✓	✓
Ability to manage 'crises'				✓	✓
Ability to encourage creativity				✓	✓
Ability to be non-directive			✓		✓

While some techniques were learnt, some came with experience. Consistently, facilitators described techniques as being useful across (rather than relevant to only some) offence types. Rather than working to a particular offence 'kind', the focus is on meeting participant needs whatever they may be. For example, knowing how and having experience

working with intense anger or grief, is just as important as knowing how and having experience working with violent offenders.

The RJU routinely undertake tough, complex cases, and do so successfully (Bolitho, 2015). Facilitators in the RJU are permanently employed to do this (and associated work); this is different to restorative facilitators employed in other models such as the NSW youth justice sector where it is undertaken on a casual basis. An important question is the extent to which the RJU facilitators studied in our research are representative of RJ facilitators in general. The findings in this study do support the existence of a *particular set* of attributes that make someone good at, and able to, facilitate post-sentencing RJ following serious crime. It is possible that many restorative practitioners will share such attributes but perhaps to a greater or lesser extent depending on the nature of the crime being addressed restoratively, and the RJ model being used. For example, an inherent curiosity about people is a characteristic of many professionals working in caring professions including in pre-sentencing restorative justice practices. But the ability to hear the details of horrific crimes and their impact, day in and day-out, perhaps not as common. The ability to endure many hours of intense emotion, compartmentalising personal emotional reactions from the needs of the day, is a quite specialised characteristic. Understanding power dynamics within groups is a skill needed in many occupations, but intuitively (and skillfully) recognising them ‘in real time’, particularly when employed by offenders with extensive and violent histories is perhaps less common. Being able to sensitively address such dynamics is integral to success. Thus we consider there to be a core set of skills for facilitation but as the complexity of cases increases so too does the demand for advanced practice.

In facilitating RJ meetings dealing with violent crime experience matters is important. Prior experience in affiliated areas of work means: being comfortable with adult offenders who will need to talk about possibly the most terrible thing they have ever done while at the same time being knowledgeable and aware of common manipulations and minimisations of harm. In this study it was clear that facilitators learn on the job, learn from each other and share case material progressively so that decisions are rarely taken ‘solo’. The implications of this are that even for those well suited to the work, experience, teamwork, mentoring, and appropriate de-briefing are essential. On a practical level, it is not about the type of crime, but how many complexities there are in a case. It follows, there should be progression from more straightforward cases and at the lower end of severity to more

complex cases where victims have died (murder, manslaughter, driving causing death) and where the dynamics are complex (sexual violence) or particularly sensitive (such as within families and small communities).

### **Conclusion**

When RJ is used in complex cases best practice in facilitation is paramount for ensuring effective practice. This research found that good RJ facilitation is shaped by three key elements: (i) a practitioner's core beliefs, (ii) specific knowledge and skills and (iii) the capacity to merge who you are with what you know to shape the alchemy that exists within RJ spaces. Best practice in RJ is increasingly moving to 'standards', accreditation, training and professional development. Understanding the skills needed to facilitate RJ processes well is integral to conceptions of best practice. Our research found that a specific set of characteristics was common to the facilitators of the RJU who routinely work within a 'fully' restorative model following serious crime. While knowledge and skills are important, good facilitation is also about the motivations for work, capacity for the kind of work, and access to appropriate sources of support.

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