

**RESTORATIVE JUSTICE:
RESOLUTION OF CRIMINAL CONFLICT**

by

VERNON WHITE

B.A., Acadia University, 1998

A thesis submitted in partial fulfillment of the requirements for the degree of

MASTER OF ARTS

in

CONFLICT ANALYSIS AND MANAGEMENT

Royal Roads University



**National Library
of Canada**

**Acquisitions and
Bibliographic Services**

**395 Wellington Street
Ottawa ON K1A 0N4
Canada**

**Bibliothèque nationale
du Canada**

**Acquisitions et
services bibliographiques**

**395, rue Wellington
Ottawa ON K1A 0N4
Canada**

Your file *Votre référence*

Our file *Notre référence*

The author has granted a non-exclusive licence allowing the National Library of Canada to reproduce, loan, distribute or sell copies of this thesis in microform, paper or electronic formats.

The author retains ownership of the copyright in this thesis. Neither the thesis nor substantial extracts from it may be printed or otherwise reproduced without the author's permission.

L'auteur a accordé une licence non exclusive permettant à la Bibliothèque nationale du Canada de reproduire, prêter, distribuer ou vendre des copies de cette thèse sous la forme de microfiche/film, de reproduction sur papier ou sur format électronique.

L'auteur conserve la propriété du droit d'auteur qui protège cette thèse. Ni la thèse ni des extraits substantiels de celle-ci ne doivent être imprimés ou autrement reproduits sans son autorisation.

0-612-62042-5

Canada

TABLE OF CONTENTS

Introduction.....	1
Restorative Justice – Resolution of Criminal Conflict	2
Yukon Restorative Justice	4
The Yukon Government’s Strategy on Restorative Justice.....	5
Review of the Law	9
Evolution of Restorative Justice in Canada	22
Literature Review.....	28
Client Satisfaction	29
Recidivism	34
Summary	34
Overview of Yukon Programs.....	38
Historical Information	38
Community Justice Projects in the Yukon.....	40
Statistical Review	46
Quantitative.....	46
Qualitative.....	54
Summary	63
Review	64
Recommendations.....	65
Affirmations.....	70
References	71
Appendix “A”	A-1
Appendix “B”	B-1
Appendix “C”	C-1
Appendix “D”.....	D-1
Appendix “E”	E-1
Appendix “F”	F-1
Appendix “G”	G-1
Appendix “H”.....	H-1

INTRODUCTION

The idea of restorative justice, regardless of the wide diversity of its actual implementation, can be described as a method in which we deal with offences using the knowledge, wisdom and involvement of victims, offenders and community, to reconcile or restore the parties to *previous to crime* conditions. The results of such a process should include parts or all of the following:

- restoration of harmony,
- repair of damage, physical and psychological(to some extent)
- re-integration of the offender

Justice in Canada has become a system that is increasingly institutionalized, bureaucratized and less personal than it was previously. This has resulted in the words victim and community being dropped from mainstream justice and replaced with the word "the state". In this realm of justice an adversarial system has taken command of determining right from wrong, and in the process removed it from the hands of those most affected and placed it in the hands of a legal system that speaks of punishment, and retribution without any concern for restoration or reconciliation.

In 1984 Canada introduced restorative justice through the Young Offenders Act, identifying it as alternative justice for young persons charged with offences. This introduction of a reconciliation process was unheard of in mainstream justice, although it had been practiced in Aboriginal communities for centuries and seen in European and non-Western society in earlier times. As this process became more accepted we saw the advent of restorative justice into mainstream society dealing with adult offenders as well as the previously accepted youth matters.

Restorative justice is a set of principles that guide a society, community, and social agencies in

dealing with crime in a restorative manner rather than a retributive manner. In restorative justice there is opportunity for the involvement of victims and offenders (including their respective community and family members) in a problem solving approach that looks at the reasons for crime, finding solutions based on those reasons and not the result of the crime alone.

Restorative Justice

In restorative justice, the offender is involved in a shaming, process by which a person is made to accept responsibility for their actions and be subjected to discussion surrounding the actions and effect of those actions on the victim. The offender takes full responsibility for their actions that have caused the harm. This process shows accountability and a willingness to be answerable to the victim and community. The shaming is done in a re-integrative way in a caring and supportive context, allowing the parties to work together in a collaborative manner, not seen in the mainstream adversarial justice system.

The proponents of restorative justice believe this approach to be more fair, satisfying, efficient and effective than the conventional, court-based, and adversarial approach to justice. The difficulty in this is that there hasn't been a real client based analysis done to justify these opinions. There are also serious flaws identified in the recidivism rate information that has been gathered previously.

This new (albeit ancient) way of dealing with offenders in the criminal justice system seems to have the feelings, beliefs and values of the parties involved as the foundation for an improved and more accountable justice system. The process of restorative justice is meant to be inclusionary and overall more satisfactory for all parties involved.

To consider the maintenance of the programs in the Yukon, and the expansion of the specific and further programs throughout the Yukon it is necessary that the RCMP and Justice officials overall, perform longitudinal research on restorative justice, using a compare and contrast style, between mainstream justice and restorative justice. It is necessary that in doing this we utilize direct satisfaction as the measuring tool, and consider the comparative recidivism at the same time. Such research should identify any concerns of the affected parties and allow the RCMP and Justice officials and committees to make recommendations to assist in the expansion and edification of the process.

YUKON RESTORATIVE JUSTICE

Introduction

In considering the rationale behind the movement toward new forms of justice, the work that has been done in the Yukon and those who are involved in the development of this justice system provides a case example. Communities which can see that mainstream justice is not satisfying their needs or the needs of victims and offenders drive the restorative justice movement in the Yukon. Recidivism rates within mainstream justice reach into the eightieth percentile, in some studies, so it is difficult for a 20% success rate to be considered a success. As a result, Yukoners and communities overall have decided that there must be a better way to deal with crime and criminals and have made the necessary moves to implement such a change.

The RCMP in the Yukon has agreed that the movement from mainstream justice into a system that has reconciliation and restoration at its core is fundamental to a more appropriate system of justice from most crimes and criminals. The RCMP has hosted information sharing sessions between the RCMP detachments and the community justice projects (where they exist) and community partners (where no project currently exists). These sessions have been extremely well received and have provided an excellent opportunity to highlight partnerships between the RCMP detachments and current community justice projects and to share information on innovative initiatives. The detachment representative and the Justice Coordinator representing the Territorial Government Department of Justice made each community presentation jointly. Community involvement within each project or alternative justice process appears to be essential to the success of that process. This will be discussed further in the data collection segment of this paper

The Yukon Government's Strategy on Restorative Justice

In December 1998 the former Yukon Minister of Justice, the Honorable Lois Moorcroft, tabled a draft discussion paper on restorative justice in the Yukon as part of the government's goal of fostering safe and healthy communities. To focus the consultation process, the draft restorative justice in Yukon paper and information pamphlets highlighted a number of issues and questions dealing with correctional reform, crime prevention, policing policy, victim services and community and aboriginal justice projects.

In May and June of 1999, senior Justice and RCMP officials of the Yukon conducted a tour of the Yukon to hear what the people had to say about future direction for justice in the territory. The intent of this consultation process was to solicit the widest possible range of views about how to make our justice system more open and more responsive to the needs of Yukon people and to make better use of existing justice processes and resources. The comments received during these hearings were included in a report on the public consultations. Copies of the public consultation reports were sent to meeting participants, affected organizations and were made available to the general public. The intent of this phase of the consultation was to seek the views of municipal and First Nation governments, community justice committees, the legal profession, the judiciary, the RCMP, non-government organizations, departmental staff, affected federal and territorial government departments and others with a special interest in this subject. (Discussions with Yukon Department of Justice officials)

The RCMP and the Yukon Department of Justice have worked collaboratively to develop a standard of conflict management for criminal cases that could foster better relationships in communities and reduce crime stats. This is seen in the program development as the programs that are in place are fine-tuned and new programs developed where the community is ready and willing to further their efforts.

An in-depth analysis of restorative justice in the Yukon and/or the affirmation of present programs were needed. This would identify the main areas of interest, recidivism rates and client satisfaction that the community, social agencies, justice officials and police need to identify where the restorative justice process will go.

In this project, I have reviewed the types of restorative justice being utilized in the Yukon Territory, and utilizing the two measuring tools that are most often considered, recidivism and client satisfaction, can make concrete statements about restorative justice. This evaluation includes the use of statistics gathered from the RCMP and the restorative justice committees, and client satisfaction surveys from communities in the Yukon including Whitehorse, Watson Lake, Haines Junction, and Carcross.

Methodology

In this project I have utilized a number of methods to compare restorative justice with mainstream justice. The methods used include:

- Client satisfaction surveys conducted with witnesses, victims and offenders involved in restorative justice initiatives. The client satisfaction survey has been developed and is attached as an appendix for review. The RCMP and the ethical review committee of Royal Roads University for use in this project have approved it. Discussions relating to this survey document has also been had with the Yukon Territorial Department of Justice, Teslin T'linget Council First Nation, Carcross-Tagish First Nation, and Council of Yukon First Nations, whom have recommended that they be completed by their constituents. Although many of the noted agencies had concerns about the use of such statistics, they all agreed with the need for increased knowledge and further analysis of programs.
- Collection of data normally identified to Statistics Canada through data collection by RCMP Detachments at the target communities. This data has been utilized in comparing pre and post restorative justice statistics to give the reader an understanding of the recidivism rates of the offenders. I have utilized over 150 cases in this project for comparison and as you will see in the data analysis segment looked at young offenders and adults in this analysis. In the adult cases I have taken 75 high-risk adult offender cases and compared their pre-restorative justice criminal activities to their post-restorative justice criminal activity. This will give us

an opportunity to see what offences the offender was charged with for a five-year period before and after the process as most of the subjects were subjected to the restorative justice process in 1994-95. Whether or not they re-offended is one measuring tool, but as important is the type of offence committed after the restorative justice process, and this is also part of the analysis. I have also looked at a similar number of moderate and low risk adults and compared their recidivism rates.

In this study I have compared mainstream and restorative justice and have also consider the following areas that have or may have had an impact on justice in society:

- how the removal of community involvement, in criminal matters, has affected justice and resulted in the present day mainstream justice system;
- the history of justice and policing in Canada and more specifically in the Yukon, which has resulted in the development of the present systems; and
- a comparison between restorative justice and mainstream justice which will focus on the effects mainstream justice has on community involvement and what the effects restorative justice will and is having on that process.

I have focused my data collection on recidivism rates and client satisfaction. My data in relation to recidivism rates acts as a precursor to the issue of client satisfaction.

I offer concrete evidence to the hypothesis that “restorative justice increases client satisfaction”, and reduce recidivism of offenders, based on the data collection methods used. I make a number of recommendations and affirm present activities that are being taken by Department of Justice, the police and communities to improve restorative justice in the Yukon.

REVIEW OF THE LAW

To better understand where Canadian law has derived its roots from it is necessary to understand how we developed and expanded our legal system and laws moving toward what we have today.

I will begin by presenting a short history of law in Canada, up to 1867, as written by Lloyd

Duhaime and reprinted with his permission: Lloyd Duhaime, is a Victoria, British Columbia

lawyer and author of *Hear! Hear! 125 Years of Debate in Canada's House of Commons*. *Hear!*

Hear! is published by Stoddart Publishers, Toronto, Canada.

Canadian Law: A History - Short Titles to 1867

First Residents (8,000 BC)

The first residents of what is now Canada arrived over the Bering Strait. The waterway between present-day Russia and Alaska was frozen over at the time. When the last Ice Age ended the nomads from Eurasia were forced to stay and gradually made their way over the entire continent.

By 8000 BC, most parts of southern Canada had been occupied by "Indians."

Vikings arrived from Europe in 1000 BC and set up temporary settlements in Labrador. By this time, there are about 300,000 residents in what would become known as Canada, all Indians.

The Iroquois lived as clans, with a woman "matriarch" being the ruler over the clan households.

But the men decided matters of war, peace and trade.

The First Treaty (1450)

Warring Iroquois Indian clans (called "nations") signed a peace treaty in 1450 near Syracuse, New York. Meanwhile, European explorers had discovered North America and white settlers wasn't long to follow. By 1600, French explorer Jacques Cartier has claimed "New France" for France and Humphrey Gilbert claimed Newfoundland for England. Hostilities broke out between the new arrivals and the Indians in 1609, when French explorer Samuel Champlain subdued Iroquois attackers with guns. Champlain was also to experience Indian customs for dealing with prisoners-of-war, who were cruelly tortured.

The First Laws (1611)

Newfoundland's first English governor, John Guy, established the first law, which attempted to regulate the fishing industry and control the deforestation of the shoreline. In 1628, King Louis the 13th of France approved a new company called Company of the Hundred Associates. The Company was given the right to settle all land from Florida to the Arctic and to make all efforts to populate New France. Major settlements of New France were briefly conquered by English troops but returned to France by a treaty signed between England and France in 1632. Two years later, the Company of the Hundred Associates implemented the seigniorial system of land ownership to New France. Large land grants were made to lords (called "seigniors") who rented out parts. Seigniors acted as judges for minor disputes between their tenants. The land property system would last until 1854.

The First Councils (1647)

The first "provincial" government was created by the Company of the Hundred Associates. A local council was made up of the governors of Quebec City and Montreal and the senior representative of the Jesuit order. The Council had lawmaking power over the entire French colony. Meanwhile French explorers pushed deeper and deeper into North America and by 1659, had reached the western end of Lake Superior. By 1663 New France was declared a province of France and a Sovereign Council replaced the local council. The Sovereign Council was given the mandate to oversee the implementation of French law in New France. The new Council was presided by a governor selected by the King and included a senior church representative. The arrival of French law included the payment of a "tithe" or a tax of eight per cent of the annual produce from land owned by the church. One of the first laws of the Sovereign Council was to prohibit straw and manure from city streets. Another threatened men with the loss of their trading rights if they refused to marry.

Charter of the Hudson's Bay Company (1670)

The Royal Charter of the Company included law-making powers for the territory then known as "Rupert's Land." The 7,000-word charter was granted to a group of 18 investors which included King Charles II's cousin. The main purpose of the charter was to grant a fur, fish and mining monopoly to the Hudson's Bay Trading Company. Lawmaking power was to be exercised by the Governor of the Company in conformity with the laws of England. One curious exception provided that the serious crimes committed by a "white man" had to be tried in England. The English rapidly settled the Hudson's Bay area and establish a long network of trading posts deep into the land.

Royal Proclamation of October 7, 1763

Residents of New France (Quebec) were guaranteed the enjoyment of their property and freedom of worship "so far as the laws of England permit." Habitants were also to have "the enjoyment of the benefit of the laws of our realm of England."

Montreal Hangs a Slave (1734)

To protest her slavery and pending sale, a black slave burnt down her master's house in Montreal. Unfortunately for Marie-Joseph-Angelique, the fire spread and destroyed 46 houses including a historic church. First sentenced to have her hands cut off and be burnt alive, she appealed the conviction and her sentence was "reduced" to death by hanging. This was typical of the harsh justice then meted out not only in the colonies, but also in Europe. Even in 1824, an 18-year old New Brunswick boy was "hung by the neck until dead" for having stolen 24¢. In Upper Canada, theft can mean being branded with a red-hot iron on the palm of the hand or a public whipping.

Slavery of blacks was prevalent in New France. After the 1759 conquest by England, slavery was protected in the surrender documents. Even by 1766, English Governor Murray owned slaves. It would be 1793 before Upper Canada began phasing out slavery. In 1800, the Chief Justice of Lower Canada James Monck ruled that slavery was illegal on the legal grounds that a British law dated 1797 had prohibited all slavery legislation. The legal argument was apparently flawed. In 1834, the British government formally abolished slavery in the Empire. Racism was not restricted to blacks either. The legislature was surprised by the election, in 1808, of a Jew,

Ezekial Hart. Hart made the mistake of wearing his religion on his sleeve. For example, he insisted on omitting "in the year of our Lord" when dating documents. When he was sworn in a member of the Lower Canada assembly, he replaced the word "Christian" with "Jewish" in the text of his oath of member. Hart was re-elected, took the proper oath. When the assembly resolved to expel him again, the Governor dissolved the assembly and called an election. Cruel and unusual punishment was rare except for treason. For example, on July 21, 1797, an American spy, David McLane was publicly hung, his stomach cut open and his head cut off. McLane's arguments, that he could not be convicted of treason since he was not a citizen of His Majesty, the King of England, fell on deaf ears.

A Legislature Takes Root in the Maritimes (1758)

An influx of New Englanders urged on Nova Scotians to ask and to establish their own law-making legislature, which gathered for the first time on October 2, 1758. One British observor wrote back to England that "too many of the members chosen are such as have not been the most remarkable for promoting obedience to His Majesty's government here."

New France Falls to the English (1759)

Inspired by victory at Quebec at the famous Plains of Abraham battle on September 13, 1759, the English promised the captive French habitants "mild and just government." Meanwhile, the defeated French troops fled to Montreal. A few months later, the British military commander ordered the disarming of all French Canadians living on the south side of the Saint Lawrence River. Worse, all residents were required to swear allegiance to the British Crown. Suspected of masterminding insurrection, Jesuit priests were ordered to leave Quebec City. Montreal was

surrendered in September of 1760, with most of the citizens of the town in favour of surrender. New France was renamed "Quebec" and formally delivered to England by the Treaty of Paris, 1763. Curiously, neither side really wanted the colony because it was considered too expensive to maintain.

The Treaty ended French rule in Canada. A Royal Proclamation in the same year stated that North American will have legal title to all lands then occupied by them and which were outside the territory of the colony and the Hudson's Bay Company.

Getting The Judge's Ear (1764)

Judge Thomas Walker was attacked in his home on December 6, 1764, by men disguised with blackened faces. Walker tried to get to his guns but the men subdued him and cut off his ear. The attack was in retaliation for a legal decision which resulted in the jailing of a ship captain who refused to leave a judge's residence. The incident results in the recalling of Governor Murray to London.

The Quebec Act (1774)

Ever since the conquest of New France by England, the status of French law in Quebec was uncertain. The Quebec Act clarified matters a great deal by stating that property and civil rights were to be resolved by reference to the laws of Canada; i.e. the French law that had been in force. The seigniorial land system is continued and calls for a council of 17 to 23 members to which the French are to enjoy access as members. The Quebec Act also said that for criminal law, the law of England would apply. British merchants are furious as are the Americans, who

are rallying for independence from England. The Act also enlarged Quebec to include Labrador and the Roman Catholic population was guaranteed religious freedom.

Upper Canada says "no" to French Civil Law (1791)

As soon as England had separated Quebec into Upper and Lower Canada by the Constitutional Act of 1791, the new legislature of Upper Canada (Ontario) used their first statute to reject French civil law and to introduce English common law and English rules of evidence. Each province is given a lieutenant-governor which is supported by an elected assembly.

Upper Canada gave the right to vote to those who own land or pay £10 in rent. Most women did not vote anyway but just in case, the province of New Brunswick enacted a law which excluded them. This is in stark contrast to Iroquois law which not allows women the right to vote, but Indian women were alone in selecting the political leaders.

British North America was now comprised of four colonies: Upper and Lower Canada, New Brunswick (since 1784) and Nova Scotia. Meanwhile, George Vancouver was charting new land at the other end of continent.

A King's Counsel Nomination Rebuked (1815)

Politicians tried to appoint a 23-year old as King Counsel, bringing the practise to ridicule. The man had but a few months of call to the bar.

Impartial Judiciary (1831)

The British government announced that it will no longer appoint judges to law-making assemblies, ensuring the independence of the judiciary from political parties. The only exception is to be the chief justice "for the purpose of giving legal advice in framing the laws."

The People's Choice (1835)

In 1835, the popular Halifax Newspaper editor Joseph Howe published a letter critical of local government and faced libel charges. He could not find a lawyer prepared to defend him so he defended himself. During the two day trial, Howe gave a six-hour speech and was cheered on by the crowd in the public gallery. He said local magistrates were "the most negligent and imbecile that ever managed a people's affairs." The judge recommended a conviction but the jury took only 10 minutes to return with a "not guilty" verdict.

Rebellion Ends At The Gallows But Results In Unification (1837)

A short-lived 1837 rebellion in Upper and Lower Canada, against British rule, both ended in failure. Several of the ring-leaders in both Canadas were hung. The constitution is suspended in Lower Canada for a 1½-years. Lord Durham was appointed to study the situation in the Canadas.

His report, issued in 1839, proposed the assimilation of the French Canadians and the union of the two provinces. The British government united the two provinces into "Canada" in 1840.

British Columbia A Colony (1858)

In August 1858, the British government declared Vancouver Island a colony and appointed Sir James Douglas as its first governor. Matthew Begbie was sent from England to be the first British judge of the colony. Begbie was kept busy with the excitement of gold rushes causing frontier justice. The new legislative assembly opened in 1860. By 1866, the colony would be joined with British Columbia, the mainland colony.

Colonial Laws Validity Act (1865)

A law passed by the British Parliament that said that any law of a British colony that differed with a British law specifically aimed at that colony, was null and void to the extent of the difference. This was important because it set aside the older rule that colonial laws that were inconsistent with English common law could be set aside.

I believe Duhaime has supplied us with a good understanding of how Canada became a country of law makers and moved toward developing laws and standards that met and often still meet the societal norms of the country. This also identifies how criminal justice and the manner in which we deal with crime has come to pass. The beginning of laws and their make-up identifies that this is an adversarial system that has at its core retribution and punishment, flying in the face of the justice and mercy that is found in restorative justice.

I will now discuss justice, crime and criminal acts in an effort to give a better understanding of how we started to develop punishment within our justice system and how this can be and in fact has been changed to allow for a more open-minded form of justice, with reconciliation at the base of its belief system.

Justice is defined in the Oxford Dictionary as:

- *the exercise of authority or power in maintenance of a right; indication of a right by assignment of reward or punishment*
- *the administration of law on the forms and processes attending it - legal proceedings of any kind, a court of justice*
- *the infliction of punishment, legal vengeance on an offender.*

It is the construct by which the guilt for the commission of a crime is decided and the retribution for that crime is meted to the participant.

Justice is defined by Duhaime's Law Dictionary as: *Fairness. A state of affairs in which conduct or action is both fair and right, given the circumstances.* In law, it more specifically refers to the *paramount obligation to ensure that all persons are treated fairly.* Litigants "seek justice" by asking for compensation for wrongs committed against them; to right the inequity such that, with the compensation, a wrong has been righted and the balance of "good" or "virtue" over "wrong" or "evil" has been corrected. (Duhaime, accessed June, 2001)

When we consider this definition we can see that the opportunity for the infusion of new and innovative thinking is available. Restorative justice, albeit not new, is such an opportunity.

A crime is defined by Howard Zehr in *Changing Lens*, when referenced to retributive justice as: *A violation of the state, defined by lawbreaking and guilt. Justice determines blame and administers pain in a contest between the offender and the state directed by systematic rules.*¹

We can see that crimes are breaches of law, as defined by society or a community, against the accepted societal norms of that society/community. When we consider the definition of justice and crime, we can see there is no occasion for victim and community to be involved in the process of justice. Therefore it is necessary that we consider alternative ways of defining crime and therefore alternative ways to deal with that crime through justice, as seen in Duhaime's definition. In considering this, Zehr continues in defining crime that will be considered using the restorative method in stating, "Crime is a violation of people and relationships. It creates obligations to make things right. Justice involves the victim, offender, the community in a search for solutions which promote repair, reconciliation and reassurance".

Duhaime defines crime as: an act or omission, which is prohibited by criminal law. Each state sets out a limited series of acts (crimes) which are prohibited and punishes the commission of these acts by a fine, imprisonment or some other form of punishment.(Zehr,1990) This in combination with Duhaime's definition of criminal law; that body of the law that deals with conduct considered so harmful to society as a whole that it is prohibited by statute, prosecuted and punished by the government, shows us that punishment was all important in dealing with crime and law. What is needed to introduce alternative justice to crime and criminal law is the removal of punishment and to utilize reconciliation and restoration as the benchmark measuring success.

The three essential elements of a criminal act, needing punishment as found in Kenny's *Outlines of Criminal Law* are:

- *harm brought about by human conduct that the state desires to prevent;*
- *the threat of punishment is among the measure selected for prevention of the act sought to be prevented;*
- *legal proceedings of a special kind are used to decide whether the person accused did in fact cause the harm and is to be held legally punishable for doing so. (Kenny, 1952)*

These elements were defined by Kenny in 1952, and have to be considered accurate today as well. We need to be open minded to the second element to make the necessary changes to allow for restorative justice, within this definition. We need only change element 2 to accommodate an obligation to repair and reconcile the harm done, to make the transition from a criminal act dealt with by mainstream justice to one which would or could be dealt with by restorative justice.(Duhaimé, 2001)

The view of punishment has followed a series of changes and now has progressed to a point where we are concerned not only for the offender, punishment or rehabilitation, but also the victim and community, through reconciliation or restoration. Historically we looked at punishment as a retribution for the acts of the offender, without any serious concern over the effect this would have on the victim or community. With restorative justice we are seeing a move toward the consideration of the victim and community being paramount in determining how the criminal act is resolved and by what means the victim and offender can better reconcile the incident within their community.

More often than not, a crime being committed has a victim or community of victims and so we must look at what is best for the victim(s) from their point of view and not only from the point of view of the gatekeepers of society, justice officials and police. In the past victims have typically told the court how the crime has affected them, and not what they want from the victim. This often helps to restore them to some semblance of what they were before the crime. We must remember that the restoration that will occur will not be the same as before (most often) and that Websters Dictionary defines restorative as: "returning to health or strength; to bring something back to use and also as giving back". This does not suggest that things will be the same as before the event and in fact most often it is not the same, however, may allow for some reconciliation to occur. It is hoped that in restorative justice we will see the participants return to some form of balance or normalcy that had existed prior to the crime. We must remember that the state of normalcy that occurs after the restorative justice process may be very different to the one that existed before the criminal act.

EVOLUTION OF RESTORATIVE JUSTICE IN CANADA

As we can see, the acceptance of restorative justice is fairly new in Canada. The roots of restorative justice in Canada, however, come from the practice of the First Nations of Canada who utilized a form of reconciliation when they dealt with crime and criminals. Aboriginal crime was more a breaking of their societal laws against people as developed by their society, and was often handled through a shaming and reconciliation that was victim based. Our justice is seen as offender based rather than victim based.

When considering the evolution of restorative justice it is important to look at the results of mainstream justice. The primary focus in measuring the success of restorative justice initiatives derives from the results of mainstream justice. Mainstream justice has a high rate of recidivism and although the numbers vary depending on the research, Statistics Canada have reported that recidivism rates as high as 78%, have been found. In essence, we are measuring the success of one program when comparing it to the failure of another. As Canadians continued to see the revolving door of jails and lack of involvement by the public in this system, their dissatisfaction increased thereby placing increasing demands for real change in the justice system.

These demands have resulted in pressure from the public at the same time, as there were financial pressures on police and justice agencies providing services to that public. The public wanted to see success in the reduction of the recidivism rates at the same time that government wanted to see financial pressures diminish. In this way the right variables came to play and the development of restorative justice came to fruition.

When we consider the two different outcomes described in the following scenarios, we might envision the potential of re-evaluating our present justice system.

- Sam, an 18-year old petty criminal who robs a local video store, stealing \$75.00 from the clerk, was captured within hours, processed in the courts and sentenced to 30 months in jail. Sam was abused as a child, grew up in a dysfunctional family and felt unwanted and hated throughout his life. During his time in jail Sam was introduced to heroin and partook readily, drowning his pain in the drug habit he developed. When Sam was released from jail he sold narcotics to support his own habit and was involved in petty crime throughout his life, and died on the streets of a heroin overdose, mourned by few and with many relieved that he was off the streets.
- Tom is a similar criminal with the same background. He too is involved in a serious robbery and is also captured. He is prepared and destined for the same fate as Sam, but he is given an opportunity to enter into a family group conference. Family group conferencing is one manner of restorative justice, developed from the same reconciliatory base of other similar programs. Tom, receives support from the group and finds himself hearing from the victim, and listening to the effects his crime has had on the victim. He hears the fear in her voice when she speaks about thinking he was going to kill her, and explains to the committee how he feels and how sorry he is for his actions. Tom doesn't go to jail and is offered a chance to change, maybe the first such opportunity he has had. It is, more importantly, a chance for him to take responsibility for his actions and reflect on his actions and how they affect others. Tom doesn't become a pillar of society, but lives a fairly normal life, in and out of minor difficulties, and stays out of serious trouble with the police.

I can, as a police officer, give hundreds of similar situations, changing the names and situations but not the results. I have seen many "Sams" over the past 19 years and I have seen little improvement in the manner in which they are dealt with through mainstream justice.

It was in this way that restorative justice came to light as the model to be developed and offered:

- a different way of thinking about crime
- a new response to crime
- focus on the harm caused by crime, condemning the crime itself and not the person behind the crime
- a requirement that the offender take full responsibility for their actions
- seeking recognition for the victim and establishing consequences for the offender
- assisting victim and offender in restarting their lives after reconciliation

Restorative justice is really a philosophy more than anything else. It follows an approach that allows victims to control the process rather than one in which the offender controls the process.

In 1996, the Canadian legal system changed with the addition of Section 742 of the Canadian Criminal Code(Martin, 2000) that allowed for conditional sentences, a precursor to restorative justice for adults, and a recognition that jails do not work. There was also the addition of Section 718(e) of the Criminal Code that recognized that aboriginal offenders should be treated differently. These two changes forced the courts and, by extension, justice officials and the police to consider restorative justice as an accepted manner to deal with crime. The Aboriginal Justice Strategy was also developed and designed to assist communities in the development of community justice initiatives that take on justice as a community program. In 1999, there was a recognition by the Supreme Court of Canada that we should deal with aboriginal offenders in a more lenient manner, identifying that aboriginals have dealt with crime differently and that there was an over representation of aboriginals in Canada's jails. (Supreme Court of Canada Regina vs Giadue) The Supreme Court advised all courts to consider restorative justice in sentencing Aboriginals. There were also other changes around the same time when in 1998 the Federal

Government began its Youth Justice Renewal Initiative which was designed to replace the Young Offenders Act with a new Youth Act that would have at its core a requirement that restorative justice is the first line of action for the police, rather than an option for the police to consider. As we can see these changes and initiatives show that for the most part Canadians are recognizing the need for change toward a system that recognizes a system that punishes the crime and not the criminal.

Although established in 1998, a federal/provincial/territorial working group began work in 2000 on restorative justice. This, many believe, will be the beginning of real movement toward restorative justice as the missing link in many programs and substantive change can only be seen with the necessary involvement of victims groups and in essence victims themselves.

The current mainstream justice offers little in the way of success, with high rates of recidivism, high rates of re-incarceration and low rates of satisfaction. However we could find ourselves being lulled into a sense of satisfaction with the low recidivism rates, in the restorative model, when we consider this form of justice. There are problems inherently associated to this statement, since restorative justice programs of the past have hand picked clients. This will be looked at further in the data analysis portion of this paper. I have tried to correct this possible bias with data collected in the past. I have been successful in attaining the statistics of 75 cases in which first time offenders were used and another large group of offenders in which the offenders have extensive criminal records before they were permitted to enter the program. The data collection and analysis compares these two groups, along with the client satisfaction results of the groups interviewed or surveyed.

A comparison between the two systems shows the following elements, which often catches the attention of communities in supporting their belief of restorative justice.

Mainstream Justice

- crime is defined as a violation of rules, and a harm to the state
- victim is inhibited from speaking restorative justice
- about their real losses and needs
- offender, victim and community remain passive and have little responsibility for a resolution
- community's role is limited
- controlled and operated by the state
- restitution is rare
- offender is blamed, stigmatized and punished
- repentance and forgiveness are rarely considered
- assumes a win-lose outcome

Restorative Justice

- crime is defined as a harm done to victims and communities
- victims/offenders and community are active participants in the resolution
- offenders are held accountable by the community
- overseen by the state - driven by the community
- re-integration of the offender into the community and preservation of dignity
- repentance and forgiveness are encouraged
- makes possible a win-win outcome

A 1997 Angus Reid poll showed that the public is demanding a change to restorative justice:

- 47% of those polled were not very/or at all confident in our courts
- 54% of those polled were not very/or at all confident in our Prison System
- 72% of those polled were not very/or at all confident in the Young Offenders Act

- **72% of those polled were not very/or at all confident in the Parole System**

This poll was taken at a time when we were spending \$10 billion yearly on the criminal justice system, that is \$317 for every second of every day on a system the public did not like, which had a high recidivism rate and frankly is not successful and doesn't work very well.

At the same time there was a dramatic decrease in crimes in countries using restorative justice. For example Hollow Waters, Manitoba has seen an 80% reduction in sexual assaults. (Hollow Waters - A Difference - video) The Australia Bureau of Statistics advise that for young offenders who have participated in family Group Conferencing (a form of restorative justice) they have shown a recidivism rate of 5%.

These changes in the Canadian legal system have permitted communities and society to become involved in the manner in which we deal with criminals. It appears that this has started to give society the feeling of inclusion, which can be healthy for both the victim and criminal. In my statistical analysis I will be able to clearly identify whether the restorative justice process in Canada is successful on two fronts; client satisfaction and recidivism reduction.

LITERATURE REVIEW

Although restorative justice is fairly new in Canada, there has been fairly intensive and extensive analysis of the various types of restorative justice in Canada and abroad. The literature and analysis that has been conducted includes some limited client satisfaction reviews along with extensive recidivism analysis and research. In this chapter I will look at reviews from both spectrums to better display the issues of both recidivism and client satisfaction.

Client Satisfaction

A Report on the Evaluation of RCMP Restorative Justice Initiative:
Community Justice Forum as Seen by Participants(<http://infoweb.rcmp-grc.gc.ca/>)

This report was prepared in 1997 and identified the concept of "*restorative justice*" and considered the program as being a philosophy rather than a different way of meting out justice. The report speaks of the various methods of restorative justice and identifies it as "can generally be described as a way of dealing with the harm caused by an offence by involving the victim(s), the offender(s), and the community that has been affected". The report looks at the outcomes that are sought in restorative justice and sees the repairing of harm and restoring of harmony as the main goals and the philosophy. The report refers to client satisfaction and reduced recidivism as the effects seen with this philosophy and describes the RCMP's research in these areas. There is general discussion in this report, about the effect this process could have on the victim and offender; repairing psychological harm caused to the victim and re-integration of the offender into society.

The report touches on the manner in which the Canadian Government has moved restorative

justice forward with the involvement of key players such as the Solicitor General, Director of RCMP Community Contract and Aboriginal Policing Services (CCAPS) and Judge David Arnot, involving players at every level to consider how it is working and what actions to take in the future. The report tells us that the RCMP adopted the philosophy of restorative justice, and has taken the initiative to implement this approach through one of its tools, the "Community Justice Forum" (CJF), a term of choice for its emphasis on community involvement, instead of the term "Family Group Conferencing" (FGC) as it is known in Australia and New Zealand. The movement allowed for a national approach and at the same time held three "Train the Trainers" workshops, in January, 1997. The CJFs are being used for youths and sometimes for adults in conflict with the law, and the types of offences, which are being commonly dealt with, include theft, assault, vandalism, "bullying", property damage, drug use and possession, shoplifting, and breaking and entering.

This report outlines this evaluation project of the RCMP initiative and it was undertaken by the Research and Evaluation Branch of the CCAPS directorate in December, 1997. The first part was an evaluation of the "Train the Trainers" component, including its effectiveness to provide the necessary tools to community members and the overall effectiveness of these trainee-trainers to train others in conducting CJFs. The second part of the report looks at the overall effectiveness of CJFs through perceptions of CJF participants and facilitators, based on their experience. The first report provided information on the first major part of the evaluation, and the present report provides information regarding the second part, dealing with how effective the CJFs have been according to those who had direct experience with them.

A summary of the findings has been attached as Appendix "A".

Summary of Findings for the Second Report

In the second part of the evaluation project, data collection methods included mail-in questionnaires, telephone interviews, and in-depth personal interviews. The data collected in this study identified the following areas associated with restorative justice: (1).CJF participants' overall satisfaction, (2). CJF participants' satisfaction with the process, and (3). CJF participants' satisfaction with the outcome/agreement. A 5-point Likert-type scale was utilized for collecting all quantitative data: where 1 meant 'very little', 2 meant 'somewhat', 3 indicated 'medium', 4 denoted 'quite a bit' and 5 meant 'very much'. In this portion of the report the authors look at client satisfaction from a raw data basis, and not comparing the responses to other forms of mainstream justice. Not that this would have an effect on the responses; however, it is not uncommon to see satisfaction at a higher level without a comparative opportunity. In the data collection the researchers also collected information from the participants relating to their perception of the process.

The results of this study are attached as Appendix "B".

In general, all parties felt that the participants were open to ideas and problem solving and further that the participants would most likely honor the agreements that were negotiated. The offenders felt they had a better understanding of their wrong acts and the impact their actions had on the victims. The victims stated they had their questions answered and brought forward a sense of closure.

The results of the study identified a strong support for the restorative justice philosophy, however, this was not a controlled experiment, and the samples were not random. The study is

supported by other similar studies that seem to lend validity to the findings. I will refer to a number of such similar reviews later in this chapter.

A number of recommendations included:

- provide standardized training for facilitators,
- develop a pre-process briefing for CJF participants,
- consider advanced training to ensure the power imbalance in sessions was secure (do no harm),
- ensure follow-up for agreement-compliance,
- review the role and applicability of the CJFs (when compared to other processes),
- be clear about the police role (ensure police are using discretion first and not restorative justice by default),
- increase awareness and education of process,
- ensure the utilization of longitudinal analysis (to ensure continued success).

I can see the validity of such recommendations and the other supporting literature has similar findings. Overall this report is clearly supportive of the process and sees the merits of restorative justice for many criminal cases. The report fails to use random sampling and is limited in any form of comparative review. It does a good job of measuring pure satisfaction in the process and would have been interesting to see a similar review of mainstream justice for comparative reasons.

RISE Working Papers: Paper No. 2 (Strang/Sherman, 1994)

In this paper the authors, Strang and Sherman, look at the client satisfaction of victims, specifically, with the restorative justice model. They look at and consider that victims feel they

are the forgotten players in the “drama of criminal justice”. From my perspective this is very true in the Canadian Justice System as they are victimized personally and yet have no opportunity to regain control over the act that has harmed them, as it is lost in the system.

In 1994, the Canberra’s police introduced a reintegrative shaming process referred to as Diversionary Conferencing, very similar to the Family Group Conferencing used in Canada by the RCMP. The police felt this new system would provide them with a forum to explain directly all the harm they have experienced and to be involved in the introduction of a suitable outcome to repair that harm.

Stang and Sherman wanted to see what the result of this new process had on the victims. The conferencing used was found to be successful in dealing with the cases it received; the more important question was how the victims felt about their involvement in this process. In the evaluation the researchers decided to interview 35 victims of offenders who had their cases processed through the mainstream court system and another 35 who had their cases conferenced.

The researchers stated that overall interviews with the two groups of victims showed a totally different opinion of how they were dealt with in the two processes. The conferenced victims felt involved and a part of the process and that they were the focus of the system, where the opposite was true for the court-introduced victims. The results of this study can be found attached as Appendix “C”.

Client Satisfaction of Family Group Conferencing

12 Sites in the Judicial District of Minnesota (Fercello/Umbreit, 1996, 1998)

In July 1996 Family Group Conferencing programs began in 12 communities in a district in Minnesota. During the next year the program was evaluated by Umbreit and Fercello for client satisfaction. The results of the study were very positive with a total of 455 individuals being interviewed. They consisted of 166 victims of crime, 159 offenders, and 130 support persons. Of these interviews, the researcher asked questions relating to the satisfaction of the participants in the process, the preparation for the process, fairness of the process and questions relating to accountability and outcome.

In general, the data collected showed a tremendous support for the process of restorative justice. Those interviewed indicated very high levels of satisfaction overall and specifically within the areas of concentration. The data's specific findings can be found attached as Appendix "D".

The data derived from this research indicates an overall high level of satisfaction for the restorative justice model of family group conferencing used. These results are very consistent with similar studies conducted by the McCold & Watchel, 1998; Umbreit & Fercello, 1998, giving credence to the study and to a greater extent, the process. There are some issues with the study itself in that it failed to utilize random selection or a comparison group and as a result we cannot use the results to broadly generalize, but rather to give a strong indication for the success (client satisfaction) of the process.

Summary

Client Satisfaction

In my bibliography I have identified a number of other reports that I have reviewed and considered in this summary of client satisfaction - literature review, segment. Overall, the literature review showed a real disparity between the satisfaction of victims that were allowed to enter the restorative justice process versus the mainstream process. The most identifying factors put forth by those represented were the opportunity to be involved in the restorative justice process and the fact that there was an increased opportunity for the victim to hear from the offender and feel some form of remorse, through actions or dialogue.

Recidivism

In the measurement of recidivism there have been a number of researchers who have looked at the effects restorative justice has had on the rates of offenders. Overall, the research has been very positive however, for the most part the research has focused on the basic re-offending that has occurred, staying away from the manner in which they re-offended. In saying this, the majority of offenders who have been offered an opportunity to participate in restorative justice have been low risk or first time offenders. Limited research has been conducted on the high-risk offender. In my research I have looked at both the first time offender and also at a group of offenders, in excess of 100, who are high risk and multiple offence offenders. The data from the low risk offender considered in the literature review and in my data collection show very good success when compared to the mainstream legal system. The data from the high-risk offenders will be discussed later in this document.

In the study conducted by Umbreit, 1994, on four Juvenile programmes there were positive results found in that “*Considerably fewer and less serious additional crimes were committed within a one year follow-up period by juvenile participants in mediation programmes when compared with similar offenders who did not participate.*” In the New Zealand study, Maxwell and Morris (1993), it was found that young offenders in their sample who went through the restorative justice process, were at risk for re-offending yet less than half (48%) of those referred had re-offended within 6 months. A further study has been conducted on these subjects and for those aged 14 to 16 at the time of the original sample and now aged 18 to 20 years (Maxwell & Morris, 1995). A total of 35% had no convictions for either criminal or serious traffic offences and while 65% had convictions, only 27% were categorised as persistent recidivists. This shows a clear change in attitude in that contrary to traditional mainstream recidivism rates as high as 80%, we are now around 65% with a further reduction of serious re-offending.

In separate studies conducted by the RCMP in Fort St. John and Nanaimo, British Columbia they showed recidivism rates dropped substantially over a two year period, for cases processed through restorative justice, rather than mainstream justice. Although this appears to be supported by other similar studies, there is little comparative literature on high-risk offenders. As a result of this I decided to review a number of high-risk cases heard in the Yukon between 1994 and 1996. These cases involved over 100 high risk and repeat offenders that were processed and I will identify the criminal caseload for a pre-determined period before and after the restorative justice interaction. I believe that although many studies, some listed in the bibliography, identify the lowering of recidivism some important facts regarding how and how often they re-offend are

found in my research.

One area that is often missed in literature reviews on criminal conflict resolution is the importance of the process. We often discuss the satisfaction of the participants and the recidivism rate decrease, which are both outcome oriented, as the factors that make restorative justice successful. Many readings that were surfaced during my course load dealt with the process followed and the importance that process was to the over all success. In *Preparing for Peace*, (Lederach, pp 20-21) we can see that the process itself may be the most important part of the restorative justice initiative. In this book, there is a reference to the “Micah’s Dilemma”, which looks at the writings of Micah when stating “the task before us is to do justice, love mercy and walk humbly with our God”. The paradox here is that “doing justice is the pursuit of restoration, rectifying wrongs, of creating relationships based on equity and fairness.” “Mercy ... involves compassions, forgiveness and a new start”. I can see that in many peacemaking instances these two are at opposite ends and are incompatible, however we can see that in restorative justice the process used by the facilitator is able to and in fact must have the capacity to facilitate both justice and mercy. The result is that the process itself is the measure of success. In my personal involvement with restorative justice we had a bookkeeper for a society I was involved with, steal \$7500 from our account. She was dealt with through restorative justice and the family group conference that was held brought both mercy and justice into the same room, resulting in a successful conclusion. The truth is that after the process we did not want punishment nor retribution and in fact it was the offender who felt the need for such measure.

We have also seen in *Designing Conflict Management Systems*, the importance of involving the stakeholders in the actual system. In restorative justice we always involve the offender, victim, community and facilitator in the development stages, allowing a better flow of information and actuated design, giving ownership and determination in the process. Constantino and Merchant stress the importance when they look at the outcome, and in restorative justice the outcome, I believe, begins with the development of the process, which in turn is a strong influence on the final success felt by the participants.(Constantino and Merchant)

OVERVIEW OF YUKON PROGRAMS

Restorative Justice takes many forms. It is not only a program that is utilized to deal with criminal activity but also a philosophy that is understood and practiced in such situations.

As noted earlier the RCMP "M" Division hosted information sharing sessions to examine and highlight the work detachments and justice projects were doing. This sharing of information is essential to future success of the restorative justice programs.

Historical Information

Mainstream justice is seen as adversarial, which matches the offender/legal counsel against the victim/crown in a courtroom examined by a Judge who will determine guilt or innocence. In Canada the number of offenders apprehended and brought to court is considered to be low when compared to actual convictions with less than 10% of all offences coming to a successful conclusion. The recidivism rates associated to these offenders and satisfaction of all parties in the process is also considered very low, for a variety of reasons, including the conviction rates themselves.

Although restorative justice is derived from indigenous culture the present program(s) being utilized in Canada are used for all races and cultures. The programs used across Canada are not drawn along ethnic lines, although some Aboriginal groups have embraced the concepts more readily than non-Aboriginal. Those involved in my sampling will not be identified nor chosen along their cultural differences and no consideration will be given as to their ancestral background. As the programs being reviewed are operated in mixed communities their will be

no consideration given as to their race.

Restorative justice can be many things to many people, and it is necessary to understand that what is good for the offender, victim and community, can be good for justice overall. There is no firm definition of restorative justice; it is based on the needs of the three parties for reconciliation. A number of different programs fit under the umbrella of restorative justice.

Descriptions of how some restorative justice approaches, in the Yukon, work include:

- **Circle Sentencing originated as an alternative to the current sentencing process and is recognized by many Aboriginal groups as the manner in which they have traditionally handled internal conflict. In this process community members actively assist justice authorities by participating in discussions about available sentencing options and plans to reintegrate the offender back into the community. In some cases, non-custodial community sentence can replace a jail term.**
- **Victim and Offender Mediation provide the offender with the opportunity to meet with their victims face-to-face in the presence of a trained mediator. This process can help reduce the victim's fears, while establishing accountability and reparation for the crime. Extremely important in this process is the balancing of power, through the mediator.**
- **Family Group Conferencing brings together the victim, offender, family members and supporters. It provides a forum for dealing with unanswered questions, emotions, and the right to restitution and reparation for the victim. This is used extensively in the**

Northwest Territories, Nunavut and Yukon, primarily because the police force of these areas, the RCMP, offer training to communities to return the justice process to those communities wishing such control.

- **Community Sentencing Panels** are comprised of volunteers from the community. Their agendas often focus on restorative measures such as restitution, reparation, mediation and victim involvement. Furthermore, community-sentencing panels also address social factors that may foster crime, and may work on crime prevention through social development as a framework.

Community Justice Projects in the Yukon

To understand how restorative Justice has grown in the Yukon I will review each of the projects in the Yukon. (Norma Davidgnon, 2000, Yukon Justice) The RCMP “M” Division (Yukon) work in partnership with the following Community Justice projects;

Dawson Community Group Conferencing; Dawson City, Yukon

The Dawson Community Group Conferencing program is based on the Family Group Conferencing/Community Conferencing model. Planning for the Community Group Conferencing Group began in July 1997, with support from a wide range of community members and agencies throughout the process.

The Community Group Conferencing project accepts pre-charge referrals from the RCMP, from the Crown (post-charge), and from the community in general. The Society also works closely

with the schools on a pilot basis to deal with conflict within the school and is currently developing a ‘mentoring’ project to assist young people with completion of their agreements and reintegration into the community. The Dawson Community Group Conferencing Program employs one part-time coordinator and trained volunteers facilitate cases.

Dawson City RCMP members and Divisional representatives have been involved in all aspects from development to implementation of this project. Dawson City Detachment is the main referral source for this project and members are trained as facilitators.

Dene Keh Justice Project; Watson Lake/Upper Liard, Yukon (Liard First Nation)

The Dene Keh Justice Project of the Liard First Nation includes pre-charge diversion, post charge diversion, sentencing recommendations and a reintegration of offenders program. All diversions are dealt with using a process based on the Community Justice Forum model, with Kaska traditions incorporated. This community based project includes a Dene Keh Justice Board, made up of elders, adults and youth who consult and advise the Dene Keh workers on a number of issues, include which cases to accept and relevant dispositions. A member of the Board is present during each CJF and often is an important part of the monitoring and follow-up.

This project employs a Director of Justice, a Justice Worker, a Courtworker, and a Crime Prevention Worker. The RCMP in Watson Lake is a close and integral partner in this project, as most cases diverted to the project are through a pre-charge diversion process.

Community Justice Forum Program; Whitehorse, Yukon

This is an RCMP based pre-charge diversion project based out of Whitehorse Detachment.

Facilitators for the CJF project include a range of RCMP members and volunteer community members. Coordination and follow-up is done through the Detachment, by an in-house coordinator.

Kwanlin Dunn Social Justice Committee; Whitehorse, Yukon (Kwanlin Dun First Nation)

The Kwanlin Dunn Social Justice Project includes a circle court (client intake, assessment, treatment, support and monitoring) as well as offender and victim services; counseling, healing circles, conflict resolution and mediation. Circle court is a process that surrounds the sentencing of individual offenders and does not involve a pre-charge or post-charge diversion at this time; however there are efforts to establish pre-charge/ alternative measures programs within the community.

This project employs a Director, an Adult Justice Worker, a Victim Service Worker, a half time Crime Prevention Worker and a Youth Worker who is seconded from the Yukon Department of Health and Social Services.

Southern Lakes Justice Committee (SLJC); Carcross, Yukon

The SLJC was established in 1992 and consists of a circle court system to which both adult and juvenile offenders make application. The SLJC has 6 volunteer members and employs one part-time justice coordinator. Members of the Carcross Detachment work closely with the SLJC and are involved in most aspects of the project. The SLJC now accepts both pre and post charge diversions.

Teslin Peacemakers Court; Teslin, Yukon (Teslin Tlingit Council)

The objectives of the Teslin Peacemakers Court are to restore a traditional approach to justice, combined with contemporary forms of justice, to restore the elders as educators of traditional law and to adopt healing and reparation strategies in dealing with offenders and victims.

Protocol is in place for both an adult and youth diversion program, both pre-charge and post-charge.

This Court is a two-tiered system involving elders in the community, as well as a Court of All Clan Leaders, based on clan based traditional dispute resolution process. This project employs one Justice Worker. Members of Teslin Detachment work closely with the coordinator to select and divert appropriate cases.

Haines Junction Community Justice Committee; Haines Junction, Yukon

Both a circle court and a police-based diversion program have been established, and steps have been taken to establish community mediation services and a Justice of the Peace Court. There is one part time co-ordinator, who also co-ordinates and edits the Yukon Community Justice Newsletter; "Community Justice Links". The Justice committee consists of three members appointed by the Village of Haines Junction and three members appointed by the Champagne and Aishik First Nation. Yukon Justice and the Aboriginal Justice Directorate fund this project. Members of Haines Junction Detachment work closely with the Justice coordinator and most referrals to the committee are on a pre-charge basis

Tan Sakwathan (Skookum Jim's Friendship Centre), Whitehorse, Yukon

Pre and Post Charge First Nation youth diversion program for urban youth, focusing on rebuilding traditional knowledge and family relationships. The youth are diverted and they and their families are required to attend an 8 weeks of workshops, which include traditional laws & values, traditional parenting, and family communications. A protocol has been signed between Whitehorse Detachment and Skookum Jim's Friendship Centre for pre-charge diversion cases. Workers from this program are also members of the Whitehorse CJF program's facilitator pool and links between these two programs are made.

Communities in Development

Members of the RCMP in the communities of Ross River and Old Crow are working closely with the community to develop and implement a community justice project. Both communities have identified a coordinator and are working to develop the framework for their referral process and work with justice issues.

In addition, the communities of Carmacks, Mayo and Burwash Landing have also expressed an interest in developing restorative justice initiatives and are at various stages of knowledge and development.

It is important that we reflect on these community programs as the RCMP has expanded with these programs, without the requisite review. As we move into further expansion we need to have some idea of the effect these programs are having on recidivism and client satisfaction. By looking at all of these programs and closely reviewing a number of them, through town hall

meetings and data collection, we should be able to answer some of the questions relating to these two important areas of concern.

Statistics

Statistically the Yukon has seen a tremendous increase in involvement with community justice organizations and in 1999 processed over 115 individuals through this form of pre-charge diversion. This number is not truly representative of the actual number of cases managed as the scoring of such cases has not been fully captured through the present system, which identifies diversion cases as community justice forum based programs, without consideration for other approved programs. This is being rectified through education of RCMP members and added survey codes.

Summary

The Yukon is very active in the restorative Justice process and is seen as a leader in Canada in active pursuit of alternative manners of dealing with Criminal Offences. Communities and the courts have embraced restorative justice as a real alternative to mainstream justice and are working together to make a difference that is measurable and positive.

STATISTICAL REVIEW

Quantitative

In this project I reviewed the types of restorative justice being utilized in the Yukon Territory. Using the two measuring tools most often considered, recidivism and client satisfaction, I will make some concrete statements about the success of restorative justice. The statistics gathered include:

- a comparison between restorative justice and mainstream justice using statistics from an assembly of high risk offenders, using pre and post restorative justice data,
- a comparison between restorative justice and mainstream justice using statistics from an assembly of low risk first time offenders, using pre and post restorative justice data,
- an evaluation of restorative justice using data gathered through, client satisfaction surveys and interviews

In this section I will look at the quantitative data gathered in restorative justice programs in the Yukon.

Methodology

Criminal Data

In this review I have identified a number of offenders who were processed through mainstream justice, restorative justice or in some instances both forms of justice and in using the collected data identified some interesting similarities and also some anomalies. I have also compared the statistics with those identified through a random sampling of participants that were processed through mainstream justice process.

**Tan Sakwathan (Skookum Jim's Friendship Centre),
Whitehorse, Yukon**

This pre and post charge youth diversion program for urban youth, focuses on rebuilding traditional knowledge and family relationships. The "youth only" diversion program requires participants to attend an 8 week session of workshops, in which they learn and become involved in traditional laws & values, traditional parenting, and family communications. In the data collected in this case I refer to cases where the offender was not involved formally with the police prior to their involvement in restorative justice. Although not involved formally with the police there were occasions where the offenders in these cases were involved on an informal basis. In the data collected we can see that the names have been replaced with first and last name, initials only.

The following identifies the statistical summary of the data collected with the full report found attached as Appendix "E".

This participant group, numbering sixty-six, constituted of young offenders (ages less than eighteen years) and included both male (25), and female (35) offenders. These participants were involved in fairly minor offences, and offences consisted of minor property offences and including thefts, break and enters or mischief to property (willful damage). None of these participants had offences involving violence that resulted to their participation in this diversion program.

Results

Of the sixty-six participants, twenty re-offended following the restorative justice process. This 33% re-offending rate is very low when compared with the 62% found in the random sampling of the same number of offenders who were involved with the law within one year of being dealt with by the mainstream criminal justice system. There was little difference between the male and female participants, 31% and 29%, respectfully. There has been an increase in the re-offending rates of these participants, when the period between program involvement and the review is extended. However, this is seen in all justice systems and is a reality of the lengthening of any review. The concern with this type of statistical review is that there are many variables that can influence the data. The offenders processed through restorative justice are not compared directly to participants in mainstream justice and as a result leaves the results skewed. The process used to analyze the success of the program, in restorative justice often looks at the recidivism and compares it to the typical recidivism rate found in mainstream justice systems. The difficulty in this is that neither control group is actually controlled and the participants may or may not be random. An example is found in some programs where there are basic requirements set that identify only first offenders as being eligible. In this particular program there was no such requirement, however, there may have been a preconceived ideas about what persons are considered for the program, by those selecting or recommending participants.

Kwanlin Dunn Social Justice Committee;

Whitehorse, Yukon (Kwanlin Dun First Nation)

The Kwanlin Dunn Social Justice Project includes a circle court (client intake, assessment, treatment, support and monitoring) as well as offender and victim services; counseling, healing circles, conflict resolution and mediation. In the cases that I will refer to, there were 69 cases that were involved in a circle court process. In each instance they were identified and recommended by a presiding judge following a court appearance. (Judge Barry Stuart, Yukon Court)

The cases comprise of adult and young offenders who had extensive criminal histories in the five years preceding their restorative justice involvement. Each of these cases was heard between 1992 and 1995 and I have compared the extensive adult criminal record before their involvement against their criminal records in the five years following restorative justice. The interesting part of these cases is that they involved high-risk offenders who, for the most part, were well into their adult criminal life. Often it can be found that criminal activity begins in the mid teens and ends in the early twenties. In these cases the criminal activity being described involved adult offenders, of which only 11 were under the age of 25 years. It is felt that this review will identify whether we can see success in repeat offenders and also will try and measure success in different manner, seriousness of post restorative justice offences, along with recidivism rates. When we consider that each of these cases saw a 100% recidivism rate in their five years before restorative justice, then the results in this instance could be an important consideration for the appropriateness of such individuals. I have attached the full statistical

review as Appendix "F".

Results

Of the sixty-nine participants, forty-six re-offended following the restorative justice process, over the five years following their participation. This 66% re-offending rate is comparable to the rates noted for offenders, identified randomly, involved with the law within one year of being dealt with by our mainstream criminal justice system. However, the results show 28 re-offended in the first year - a 40% re-offending rate. This is much lower than the average for mainstream justice, given that the high risk offenders had a dramatic decrease in the re-offending rate and that these offenders are extremely high risk, based on their record, such a change in criminal activity is notable. In these cases, the more important data to be analyzed is that of the seriousness and raw number of post offences in comparison to the pre-program offences.

Of the participants in this group only ten were age 25 years or lower when permitted to enter the restorative justice process. This is a significant fact as the high-risk activity has progressed well beyond the juvenile level often seen in young criminals. The data show that the offenders committed a combined 1358 criminal offences, for which they were charged, in the ten years preceding participation. Of these 1358 charges, 672 were indictable offences (more serious) and another 686 were summary conviction offences (often less serious). The offences for which they were charged, when appearing in the process, totaled 468 with the division between indictable and summary conviction being 231 and 227 respectively. When combining the pre and on-date process charges a total of 1826 offences were committed.

By comparison, the five to nine years following their participation the same 69 participants were charged with a total of 230 offences, with the division of indictable and summary offences being 77 and 153 respectively. The change in recidivism rate is significant, since each of these offenders are high risk and long term repeat offenders. The dramatic decrease in criminal activity of these high rate offenders and the real reduction in the types of crime being committed, based on indictable versus summary offences, is identified as a real success in the program.

In reviewing the statistics for the years pre and post restorative justice, three offenders were charged at the same or greater rate in the post program statistics. Only two other participants re-offended at 50% of their previous rate. The fact that of 69 participants, 64 offenders reduced their criminal activity by more than 50% is substantial and remarkable. Comparison of the activities of these offenders over an extended period before and after provides an opportunity we seldom have. It is also very important that we consider the fact that these participants were chosen by the same court that normally would process them, and were chosen without regard for their previous criminal activity.

Dawson Community Group Conferencing; Dawson City, Yukon
Community Justice Forum Program; Whitehorse, Yukon
Southern Lakes Justice Committee; Carcross, Yukon
Teslin Peacemakers Court; Teslin, Yukon (Teslin Tlingit Council)
Haines Junction Community Justice Committee; Haines Junction, Yukon

These programs produced a number of participants that were involved in the committees noted above. These committees are primarily involved in circle, or community healing programs and include client intake, assessment, support and monitoring, offender and victim services, conflict resolution and mediation. In the cases I refer there were 81 cases that were involved in a

circle/conferencing process.

The cases comprise of adult and young offenders who had low to moderate extensive criminal histories in the five years preceding their restorative justice involvement. Each of these cases was heard between 1992 and 1999 and I will compare the five-year criminal record before their involvement against their criminal records in the five years (where available) following restorative justice. The interesting part of these cases is that they involved moderate to high-risk offenders who often were well into their adult criminal life. Often it can be found that criminal activity begins in the mid teens and ends in the early twenties. In these cases the criminal activity being described involved primarily adult offenders, and only 4 young offenders when processed. It is felt that this review, along with the results from the previous data analysis, may identify whether we can see success in repeat offenders. I have attached the full statistical review as Appendix "G".(Judge Barry Stuart, Yukon Court)

Results

Of the eighty-one participants, thirty-seven re-offended, over the five years following their participation. This 45% re-offending rate is a notable move from that noted in other Statistics identified randomly in research. The normal post charge offender rate in the five years following a criminal charge is 62%. When we consider the difference we can see that based on raw recidivism restorative justice in these programs had a much greater success. We must consider that the high-risk offenders saw a dramatic decrease in the re-offending rate and that based on their criminal record, such a change in criminal activity is notable. In these cases the more important data to be analyzed is that of the seriousness and raw number of post offences in comparison to the pre-program offences.

The offenders committed a combined 324 criminal offences, for which they were charged, in the five years preceding participation. Of these 324 charges 129 were indictable offences and another 195 were summary conviction offences. The offences for which they were charged when appearing in the process totaled 177 with the division between indictable and summary conviction being 95 and 79 respectively. When combining the pre and on-date process charges we see a total of 501 offences being committed. By comparison, the five years following their participation the same 81 participants were charged with a total of 173 offences, with the division of indictable and summary offences being 52 and 121 respectively. The recidivism rate overall is significant, since each of these offenders are moderate to high risk and for the most part are long term repeat offenders.

There has been a dramatic decrease in criminal activity and a real reduction in the types of crime being committed, based on indictable versus summary offences - in itself a real success in the program. Only two other participants re-offended at 50% of their previous rate. The fact that of 69 participants 64 offenders reduced their criminal activity by more than 50% is substantial and remarkable. The fact that we are able to look at the majority of these offenders over a ten-year period comparing their activities for five years before and after is an opportunity we seldom have. It is also very important that we consider that these participants were chosen by the same court that normally would process them and were chosen without regard for their previous criminal activity.

Summary

In the Tan Sakwathon program we can see the traditional set of measurements for restorative justice being used. The participants were very low risk offenders with limited involvement with the police or the mainstream justice system. This group has been identified in previous reviews as the typical low risk offender that would be successful in a restorative justice program.

In contrast the other two reviews identified moderate and high-risk offenders who were involved in high criminal activity before their restorative justice opportunity. Seldom has it been considered appropriate that these types or level of offender be considered for a restorative justice process, based solely on their previous record. In this instance we can see that the results of involving these offenders can have the same effect as our first time offenders, in raw recidivism rate reduction and furthermore that we could see a dramatic decrease in criminal activity to the extent of criminal activity. In reviewing the statistics for the years pre and post restorative justice we can see that few offenders were charged at the same or greater rate in the post program statistics.

Qualitative

In this project I reviewed the types of restorative justice in the Yukon Territory utilizing the two measuring tools most often considered - recidivism and client satisfaction. Some concrete statements about the success of restorative justice are made below. They have been gathered through:

- a comparison between restorative justice and mainstream justice using statistics from an

- assembly of high risk offenders, using pre and post restorative justice data,
- a comparison between restorative justice and mainstream justice using statistics from an assembly of low risk first time offenders, using pre and post restorative justice data,
- an evaluation of restorative justice using data gathered through client satisfaction surveys and interviews

In this section I will look at the client satisfaction results based on interviews conducted with victims and offenders.

Methodology

Survey Questionnaires

In my review, I sent questionnaires to all of the Yukon projects asking that coordinators or police officers have them completed by participants in their local restorative justice process. In this review there were a limited number of responses, less than expected - forty-two questionnaires were completed and returned for analysis.

Questionnaire

The questionnaire was developed in an attempt to measure the basic satisfaction of the restorative justice system and to measure any comparison between restorative and mainstream justice. The questionnaires completed were done so anonymously and received from the RCMP Detachments or in some cases directly from the coordinator of the program involved.

The questionnaire utilized is attached as Appendix "H".

The responses received were not as high as I had expected, however they were very complete and thorough. The results as received from the completed questionnaires are as follows:

1 What was your initial relationship with the complaint?

Complainant	3
Victim	
Victim/Complainant	22
Witness	4
Suspect	12
Other (write in below)	

2 Who was your initial complaint made to?

Police	26
Justice Committee	15
Other (write in below)	

3 How was your initial contact made?

By telephone	21
In person	21
By mail	
Other	

4 When you were in first contact with a representative of the restorative justice program, what was the main thing you expected them to do? (CHECK AS MANY AS NECESSARY)

Listen to my problem	8
Give advice or information	2
Record information or details	26
Solve the problem	17
Deal with the offender	31
Nothing	
Other	

5 What was actually done? (CHECK AS MANY AS NECESSARY))

Listen to my problem	19
Give advice or information	14
Record information or details	32
Solve the problem	2

	Deal with the offender	35
	Nothing	3
	Other (write in below)	
6	Thinking back to that first contact, how well would you say that your main expectations were met? (CHECK ONE)	
	Entirely	15
	To a large extent	20
	To a small extent	5
	Not at all	2
	Can't remember/Don't know	
7	Have you been involved with the court/justice system in the past?	
	Yes	24
	No(go to 10)	18
8	Compared with your previous court/justice experience, were you satisfied with the time it took for the restorative justice program to act on your complaint?	
	Satisfied	22
	Dissatisfied	2
9	Did you feel that restorative justice satisfied your personal needs more than court/justice system has in your past dealings? (CHECK ONE)	
	Much more satisfied	18
	Somewhat more satisfied	2
	No difference	2
	Somewhat less satisfied	2
	Much less satisfied	
	Other (write in below)	
10	How do you feel your complaint was dealt with through Restorative Justice? (CHECK ONE)	
	Very good	30
	Good	8
	Less than satisfied	4
	Other (write in below)	
11	Do you feel those involved in the restorative justice process were helpful in coming to some conclusion?	
	Yes	38

No	4
Can't remember/don't know	

12 What is your response to the amount of time that was needed before you were contacted by a restorative justice representative(police or co-ordinator)?

Timely	14
Too long	20
Sooner than expected	3
Longer than expected	5
Other (write in below)	

13 Overall were you satisfied with the time that it took for restorative justice to deal with your case?

Satisfied	20
Dissatisfied	22

14 After your initial contact, do you think that there was sufficient effort placed on solving your problem or dealing with your concern? (CHECK ONE)

Sufficient effort	33
Insufficient effort	7
No effort at all	1
Can't remember/Don't know	1

15 Since your initial contact, has someone let you know what has happened?

Yes	28
No	14

16 How would you describe the restorative justice representatives who dealt with you? (CHECK ONE)

Very good	29
Fairly good	7
Less than acceptable	5
Poor	1
Can't remember/Don't know	

17 During your first contact with the restorative justice representatives, how would you best describe your feelings? (CHECK ONE)

Upset	34
-------	----

Angry	4
Frightened	4
Normal or unaffected	
Other (write in)	

18 After your contact with restorative justice representative(s) how did you feel toward justice in general? (CHECK ONE)

More favourable	18
No difference	22
Less favourable	2
Unsure/Don't know	

19 After this contact, do you think there is anything the restorative justice program ought to do to improve the service? (CHECK ONE)

Yes	31
No (GO TO #22)	13

20 What do you think restorative justice should do to improve their service to the community? (CHECK ONE)

Faster response	27
Better accessibility	
Keep people informed	4
Have a more sympathetic manner	
Be more polite	
Other (Write in)	

21 In general, how would you rate the work you think restorative justice is doing in your community? (CHECK ONE)

Very good	17
Good	5
Fairly good	5
Very poor	
No opinion/Don't know	

22 In general, how would you rate the work that the restorative justice program did with your case? (CHECK ONE)

Very good	25
Good	9
Fairly good	4
Very poor	4
No opinion/Don't know	

Results

From these results we can see that overall satisfaction on the restorative justice system was high, which is in itself a very important factor. As important, is that the satisfaction when compared to previous experience in the mainstream justice system was also notable. In reviewing the responses of those who completed the questionnaires we can make some firm assertions, as follows:

Question 6

Thinking back to that first contact, how well would you say that your main expectations were met?

83% felt their expectations were met entirely or to a large extent.

Question 8

Compared with your previous court/justice experience, were you satisfied with the time it took for the restorative justice program to act on your complaint?

92% of those previously involved in the court process, felt satisfied with the time the process took to act on the complaint.

Question 9

Did you feel that restorative justice satisfied your personal needs more than court/justice system has in your past dealings?

75% of those previously involved in the court process, felt that the restorative justice process satisfied their personal needs in comparison to mainstream justice.

Question 13

Overall were you satisfied with the time that it took for restorative justice to deal with your case?

47% felt satisfied with the time the process took to act on the complaint.

Question 18

After your contact with restorative justice representative(s) how did you feel toward justice in general?

42% felt more favourable to toward justice in general, and another 52% felt no different than they did before the involvement.

Question 19

After this contact, do you think there is anything the restorative justice program ought to do to improve the service?

73% felt there were improvements to be made to the restorative justice system.

Question 20

What do you think restorative justice should do to improve their service to the community?

The general consensus of those responding was that the response time from restorative justice needs improvement.

Summary

The overall satisfaction in restorative justice was noted to be high. When we consider the responses we can see that there is a strong satisfaction rate, although there are issues with the timeliness of the program. In the questions surrounding basic satisfaction we can see that the outcome questions indicate a strong belief in restorative justice and that the process followed may be lacking, ie. timeliness, while the content and result may not.

We can and do see in the responses a very real concern raised in the ability of any system to deal with crime, and justice in a manner that recognizes the needs of the victim versus that of the offender. Restorative justice may not be notably different in the earlier stages, as there is still an

emphasis on the offender as the police and the justice workers try and prepare the case for the process and ensure the integrity of the case that is presented.

I will make a number of recommendations that should assist in correcting the process elements while identifying the success realized in the other areas. I believe some of the responses seen particularly that noted in question 13, may be a result of a longer standing anger toward the justice in general and will discuss the involvement of the victim in the earlier stages, making them a part of the solution from the beginning rather than later.

SUMMARY

Restorative Justice has taken on a new role in the administration of justice in Canada, not because it is a new way of disposing justice, but rather because it has taken on a new focus and become a philosophy for many organizations, communities, provinces, and police forces. In recent years, people have begun to question the adequacy of justice in Canada. Many Canadian communities and justice system professionals are dissatisfied with the way justice is conceived and delivered in Canada. Many communities are turning to alternatives to adversarial justice - the idea of restorative justice. Restorative justice is a philosophy built on the cornerstone of community healing. Unlike the current adversarial system, which is based on punishment, restorative justice encourages dialogue and responsibility for past behaviour, while focussing on future problem-solving and offender accountability. Ideally, the victim, the offender and the community should be involved in 'making things right' so that all parties return to their pre-crime states. Within the philosophy of restorative justice, crime is a violation of one person by another, not simply a broken law. (Phil Murray, Commissioner(ret), Royal Canadian Mounted Police)

When we consider the comments of Commissioner Phil Murray we can see that the largest police force in Canada has taken restorative justice on as a new philosophy of the way we do business. This is not just an option to mainstream justice but a new manner in which we deal with crime, criminals and victims in Canada.

Review

The mainstream justice system focuses on determining legal guilt and assessing blame with a court system that considers the facts of a case, looking at the determination of blame based on the facts and then pursuing punishment for the offender. When we look at this we can see that there is no room for the victim in such a production and that the system, as described, is offender based and without regard for the victim. When court systems focus on offenders and the crime, they do so at the expense of the victim, and not because of the victim. This offender focus allows for punishment, however does not allow for, and in fact may discourage, the need for offenders to take responsibility for their actions. When we look at restorative justice we see that the victim is the centrepiece of the process, with the offender taking on responsibility for his or her actions without regard for what will happen to them. This acceptance of responsibility is key to the success of restorative justice and in fact is the one essential ingredient that is required to make restorative justice a success. In mainstream justice we look at a win-lose situation that invites offenders to avoid taking responsibility. In restorative justice it is required that offenders take responsibility for their actions, thereby making this process more of a win-win process.

In this project we have seen the manner in which the law has been developed in Canada, the evolution of justice and policing in Canada and how we have moved toward restorative justice, after many years using a mainstream justice system, as described. When we consider how justice and the law was formulated in Canada we can also see how we could become dissatisfied with this system, and more importantly how and why we have become more interested in restorative justice. The development of law and justice has resulted in a system where the courts arbitrate between trained lawyers, representing the interests of others (victim and offender), while

choosing a winner and loser. In considering how our justice system got its beginnings, we can also come to better understand why it fails to meet the expectations of the victim, or the community. In looking at the statistics of mainstream justice it is a fact that a vast majority of offenders processed through this system, re-offend and are returned to their cells in a timely fashion. When we consider this it is plainly obvious that what we really are seeing is a system that fails as often as 80% of the time and yet we often measure our success by catching a criminal, often one who has committed a crime in the past, thereby measuring our success in the way we have failed. What is needed is a system that causes an offender to take responsibility and work toward reintegration with the victim, thereby allowing for an acceptance of responsibility for their actions and then restoration to a pre-crime status. It was in this need for change, and the failure of our mainstream system that a system has been rejuvenated where it was built on; responsibility, victim based, reconciliation and a new focus that sees success in lower recidivism rates and increased client satisfaction.

In this project we have witnessed a dramatic decrease in recidivism rates, among both repeat and new offenders, while also seeing increased client satisfaction among those polled. When we consider the failure of our mainstream system, these substantial changes via restorative justice could make a difference in the future manner in which we deal with offenders and more importantly victims.

Recommendations

Before this project I had been involved with the criminal processing of a large number of young and first time offenders through restorative justice. I had seen very positive results in these

instances. What I had not seen was repeat or high-risk offenders regularly processed in restorative justice and I did not believe that I would see success for these offenders. As a result of the cases that I analysed from the various programs in the Yukon I believe there is a real difference to be made with high-risk offenders. To ensure we continue to see success in lowering of recidivism rates and increased client satisfaction I have formulated a number of recommendations that should be considered including consideration for the increased processing of high risk and repeat offenders through the restorative justice process.

Training

The training of facilitators and coordinators of restorative justice programs is essential to its success. Having participated in a number of restorative justice conferrals I have come to realize the importance of training of these key components. The ability to mediate between the two parties; identify the power imbalance; operate in a caring and respectful environment is essential to the success of restorative justice. Failure to take care of this ingredient may risk the process itself and jeopardize this opportunity, possibly for the sake of expediency or cost.

- It is recommended that all restorative justice programs have a minimal training standard that tests the capacity of the facilitators and coordinators to manage the program and process.

Community Education

We need to ensure that every community utilizing the restorative justice process, has presentations to them identifying the program and why it is an essential ingredient of justice

itself, and we must ensure the facts surrounding client satisfaction and recidivism rates are made known. There has to be an understanding by the public that restorative justice is not soft on crime, often a belief in the community.

- That all communities being introduced or presently operating a restorative justice program have ample opportunity to become educated about the positive attributes this program brings to justice, crime and the community/victims itself.

Follow-up

The community, and indeed the victim and offender, identify that there needs to be a strong follow-up in the system. This is not different from what we see in the mainstream system as often these same people complain that they are not advised as to the actions taken, and involved, when appropriate, in a closure for all parties.

- That all programs follow a strict regimen of follow-up to the process, ensuring compliance and completion of all aspects. With this follow-up will come the knowledge that many participants need to better understand and appreciate the actions taken.

Program Assessment

To learn from a program it is necessary that the restorative justice program implemented be assessed to identify difficulties and best practices. This will need to be a collaborative approach between the program coordinator, Justice officials overseeing the program and the police involved in the program.

- An assessment panel is introduced to the program utilizing those parties noted, with the sole purpose being the identification of areas of concern, and best practises.

Participant Briefing

Having been personally involved in the restorative justice programs, in young offender based justice since 1985 and adult based program since 1994, the success of the program is often in the communication between the facilitator and participants. This communication begins in educating those parties in the manner in which the process will work and what they should expect as a result. This should also help alleviate any lack of knowledge identified by some participants.

- A briefing package is developed for all participants in the restorative justice process. That this briefing package becomes a part of any facilitator education program developed.

Applicability of Restorative Justice

Until recently, the majority of restorative justice programs in Canada have been used at the pre-charge stage and primarily for property crime offences such as theft, damage and break and enters. There has been a legitimate concern among the police and program coordinators over the utilization of the process for the more serious offences involving physical injuries and repeat offenders. There is an issue here that we fail to recognize and that is the victim, and it appears that we should be considering the victim before we jump to conclusions regarding the appropriateness of such an introduction. When we look at the results of those high risk and

serious offenders that were processed through restorative justice in the Yukon examples, we can see that the success of the program was remarkable. As a result those who are involved should measure the introduction of such crimes and offenders into restorative justice, rather than by bureaucrats who set the guidelines for such program involvement.

- Given the satisfaction rate and recidivism success by those involved in restorative justice it is recommend that serious and repeat offenders be given consideration for restorative justice involvement. The parties that should determine the opportunity for involvement in restorative justice should be left to the victim (through agreement), the offender (acceptance of responsibility) and the community (willingness to facilitate, manage and follow the process), and not just the other parties who are deemed to be in control of justice. We must make these decisions not in isolation but by total inclusion of all affected parties.
- That restorative justice be permitted to enter the mainstream justice at any time that it appears the three parties noted agree with such a resolution, and not be limited to pre or post charge.

Referrals

Flexible guides and guidelines must be developed regarding referrals to restorative justice.

Discretion needs to be monitored to ensure there is an unbiased approach to restorative justice and that the police, when involved, ensure the necessary follow-up to the agreement.

- **Clear guidelines established to ensure the success of the program being introduced or implemented. Identifying the areas of concern raised by those participating in the client satisfaction review. The areas of note include follow-up and timeliness and are issues that can be managed through appropriate development and implementation of guides and guideline documents.**

Affirmations

We can and have seen that the success of restorative justice is often found in the process, and that the result appears to be secondary. When we consider where restorative justice has derived its roots, it is apparent that aboriginal culture and the willingness to heal and work together to find solutions is essential to positive results. When we consider the successes we can and do see in restorative justice, especially when compared to mainstream justice, it is obvious that we must continue to move away from retribution and punishment as the only answer to crime and criminality. When our successes are measured by reducing our failure it is akin to identifying that 70% of all grade seven students repeat the grade, over and over, and looking at the fact that we caught their errors as the success. The successes we have seen in the various restorative justice programs in the Yukon, and elsewhere, are indicative of where we can go, as compared to where we have been, then we have come a long way but can yet go a lot further. This isn't about taking chances with a system that we are afraid to mess with, as we can look at this system as a failure now and take some chances to make things better.

REFERENCES

- Braithwaite, J (1989). Crime, Shame and Reintegration. New York, Cambridge University Press, 226p.
- Chupp, Mark. (1989). "Reconciliation Procedures and Rationale" . In Mediation and Criminal Justice: Victims, Offenders and Community, edited by Martin Wright and Burt Galaway. London; Newbury Park; Beverly Hills; New Delhi: Sage Publications.
- Constanio, Cathy A., Merchant, Christina S.(1996) Designing Conflict Management Systems Jossey-Bass Publishers, San Francisco, California.
- Duhaime's Law Dictionary, retrieved June 21, 2001 <http://www.duhaime.org/dict-c.htm>
- Galaway, Burt and Joe Hudson, (1990) eds. Criminal Justice, Restitution and Reconciliation. Monsey, NY: Criminal Justice Press.,.
- Graham, I. (1993) Juvenile Justice in New South Wales. In L. Atkinson and S-A. Gerull(eds.). New Directions In National Conference on Juvenile Justice Conference Proceedings No. 22, Canberra, Australia: Australian Institute of Criminology, p 149-166.
- Harding, John. . (1994) Youth Crime: A Relational Perspective, In Relational Justice: Repairing the Breach, edited by Jonathan Burnside and Nicola Baker. Winchester: Waterside Press.,.

- Harland, Alan. (1996) "Towards a Restorative justice Future." In Restorative justice: International Perspectives, edited by Burt Galaway and Joe Hudson. Monsey, NY; Amsterdam, The Netherlands: Criminal Justice Press and Kugler Publications,.
- Lederach, John Paul. (1996) Preparing for Peace, Syracuse University Press, Syracuse, New York,.
- Maxwell, G. & Morris, A (1995). Family group conferences and re-offending. Criminology, Aotearoa/New Zealand. 3: 12-13.
- Maxwell, G. & Morris, A. (1996). Research on family group conferences with young offenders in New Zealand. In J. Hudson, et al. (eds.). Family Group Conferences:
- McCold, P. and Watchel, B (1998). Restorative Policing Experiment: The Bethlehem Pennsylvania Police Family Group Conferencing Project. Pipersville, PA; Community Service Foundation.
- McElrea, Fred. (1994). "Justice in the Community: The New Zealand Experience.", In Relational Justice: Repairing the Breach, edited by Jonathan Burnside and Nicola Baker. Winchester: Waterside Press
- Minor, Kevin I. and J.T. Morrison. (1996) "A Theoretical Study and Critique of Restorative justice." In Restorative justice: International Perspectives, edited by Burt Galaway and Joe Hudson. Monsey, NY; Amsterdam, The Netherlands: Criminal Justice Press and Kugler Publications,.
- Moore, David. (1993) "Shame, Forgiveness and Juvenile Justice. Criminal Justice Ethics 12/1 3-25.

- Rowley, M.S. (1990) "Recidivism of Juvenile Offenders in a Diversion Restitution Program (Compared to a Matched Group of Offenders Processed through Court)." In Criminal Justice, Restitution and Reconciliation, edited by Galaway, Burt and Joe Hudson. Monsey, NY: Criminal Justice Press..
- Umbreit, M. & Stacey, S. . (1995) Family group conferencing comes to the U.S.: A comparison with victim offender mediation The Center for Restorative justice & Mediation. St. Paul, MN: University of Minnesota, 15p.
- Umbreit, Mark and Fercello, Claudia (1998). "Client Evaluation of Family Group Conferencing in 12 sites in 1st Judicial District of Minnesota". Center for restorative justice & Mediation, School of Social Work, University of Minnisota.
- Umbreit, Mark S., et al. (1994) Victim Meets Offender: The Impact of Restorative Justice and Mediation. Monsey, NY: Criminal Justice Press..
- Van Ness, Daniel W. (1997.) "Legal Issues of Restorative justice." Draft for Publication in *Restorin Juvenile Justice*,
- Van Ness, Daniel W. and Karen Heetderks Strong. (1997). Restoring Justice. Cincinnati, OH: Anderson Publishing Co.,
- Van Ness, Daniel W. (1986). Crime and Its Victims: What We Can Do. Downers Grove, Illinois: Intervarsity Press,
- Wright, Martin. ." (1989) "What the Public Wants" In Mediation and Criminal Justice: Victims, Offenders and Community, edited by Martin Wright and Burt Galaway. London; Newbury Park; Beverly Hills; New Delhi: Sage Publications,

Zehr, Howard. (1990). Changing Lenses: A New Focus for Crime and Justice.

Scottsdale, Pennsylvania; Waterloo, Ontario: Herald Press,

APPENDIX "A"

A Summary of Findings from the First Report:(without modification)

- Seventeen hundred individuals across Canada were trained to conduct CJF sessions (up to October, 1998).
- 67 workshops were held at 48 geographical locations across Canada.
- RCMP collaborated with at least 29 organizations and numerous communities.
- Most respondents (93%) believed that the CJF would be highly effective in improving the Canadian Justice System.
- Most respondents (73%) believed in their own competence as trainers (quite a bit or very much), and 25% rated it as moderate.
- Most respondents also felt that they had the supervisory or organizational support behind them (18% rated it as moderate and 71% as high).
- A total of 30 different types of offences or combination of offences were reported by the 67 facilitators who had actually conducted CJFs. CJFs were most frequently reported for theft (26%) and assault (21%). The next few major categories of offences dealt with at CJFs were Public Mischief (7%), Drugs (6%), Property damage and Break & Enter (5%), Sexual Abuse (4%) and Harassment or Bullying (4%). There were some cases where more than one offence, for example, both Break and Enter and Theft, Theft and Fraud, or Break and Enter, Property Damage and Public Mischief were committed. CJFs were also used for offenders who committed fraud (2%), arson (2%), assault with a weapon (2%), loitering (.4%), trespassing, impaired driving, obscene phone calls, breach of probation (.4%) and illegal possession of alcohol. Other offences such as threats and intimidation, verbal abuse, dangerous operation of a vessel and "bumper skinning" were also resolved using the CJF

process.

- The majority of those facilitators (79%) who had conducted CJFs indicated that the offenders were 19 years-old and under. The most frequently reported age range for offenders participating in CJFs appeared to be 14 to 16 years of age (38%), and another 15% were between 17 and 19 years old. There were 6 cases (2%) where the offender was over 50 years of age and 18 cases (7%) where the offenders were 11 years of age and under. However, it is to be noted that the reported data for the age categories, in several instances overlapped. The reason for this is that many facilitators had to guess the age of the offenders, since they had not recorded the exact age.

APPENDIX “B”

Results:

CJF Participants’ Views:(without modification)

The results of this study, based on responses collected from a total of 239 CJF participants, showed that the mean ratings for overall satisfaction as well as levels of satisfaction with procedural and outcome fairness were high among all participants. Almost all participants reported they felt ‘quite’ (39% rated it 4) or ‘very’ (51% rated 5) satisfied with the CJFs, and others felt ‘moderate’ level of satisfaction. Eighty-five percent of offenders and 94% of victims reported they felt either ‘quite’ or ‘very much’ satisfied with the CJF overall.

Similarly, 96% of all participants indicated that they felt the CJF process was ‘very’ (5) or ‘quite’ (4) fair. In spite of the generally high level of satisfaction with the CJF process, there was a slight indication of perceived undue pressure to attend the CJF on the part of victims.

Responses also suggested that before coming to the CJF, not all participants had a completely clear and thorough understanding of what it involved. However, in spite of their imperfect understanding of the process, the majority of participants had participated in CJFs voluntarily (100% of offenders and victims’ supporters, over 95% of victims’ and offenders’ supporters).

Results for satisfaction with agreement/outcome were also consistently high: 91% of all participants felt that the agreement/outcome was ‘quite’ or ‘very’ fair and most participants acknowledged that they were given a chance to provide input into the agreement with no pressure from anyone. Ninety-seven percent of victims rated the fairness of the agreement/outcome as ‘quite’ or ‘very’ fair while 77% of offenders rated it either ‘quite’ or ‘very’ fair. These results are significant, particularly in relation to victims who often report feeling frustrated with both the process and the outcome of the traditional court system. Another measure of participants’ satisfaction with their CJF experience was demonstrated in their reported choice between the CJF and the court, if they had to do it all over again. The majority of them - 87% of the offenders, 93% of the victims, 95% of offenders’ supporters and 93% of victims’ supporters would choose CJFs over the court.

Results showed that 98% of all offenders indicated that the CJF helped in their understanding of the consequences of their actions and their willingness to take responsibility for the same. About

97% of their supporters and everyone in the categories of victims and their supporters (100%) indicated that they felt the offenders understood and took responsibility for the consequences of their offenses at least to some extent. The total percentage of interviewees who stated that the offenders had actually complied with the CJF agreement was 84.8%, with other cases still on-going. Both offenders and their supporters expected that there would be quite a bit (or higher) of support for the offenders from their family and friends in complying with the agreement. Over 90% of victims who answered the questionnaire indicated that they would be 'quite' or 'very' willing to give the offender a second chance. In fact, some of the victims indicated that they came to the CJF because they wanted the offenders to have a second chance. Victims' supporters and offenders' supporters were also willing to give the offenders a second chance (ranging from 'moderate' to 'very much'). Following their participation in CJFs, 97% of questionnaire respondents reported 'somewhat' or higher regained sense of control over what happens in their community. The majority of respondents in each category reported that the CJF process gave them back 'quite a bit' of control. In this study, 88% of victims interviewed reported that the CJFs helped 'quite a bit' or 'very much' with their psychological healing. An additional 12% reported that it helped 'moderately'. The mean response to the question 'Was justice done?' was high for the total group of participants. Also, both victims' supporters and offenders' supporters indicated that in their view, harmony was restored. The data indicated that the CJFs took place within 1 to 20 weeks (average 5.4 weeks) after the offending incident occurred. The facilitators' observations corroborated this fact. Responses to the question about the likelihood of the offenders re-offending showed that offenders themselves and their supporters believed that they were unlikely to offend again, although victims' supporters were a little less convinced.

Facilitators' Views on CJFs:

In-depth, face-to-face interviews were conducted with thirty facilitators in various parts of Canada, to discuss a wide range of issues such as the type of communities they worked in (mixed socio-economic levels, urban and rural, multi-ethnic), these communities' receptivity to CJFs (informed communities were receptive), the types of cases where CJFs should be applied

(mostly non-violent crimes), perceived willingness of participants to attend CJFs (mostly willing) and factors likely to be associated with agreement-compliance (parental support). These interview data complement the findings presented in the first report. In addition, sixty-nine CJF facilitators, mostly police officers, filled out questionnaires immediately following the completion of CJF sessions they had facilitated, to provide us with their perceptions on specific issues.

APPENDIX "C"

Rise Results

- that 74% of the victims conferenced received apologies, compared to 11% who went to court, an extremely important statistic as all victims stated they felt an apology was an important part of the process and that they felt they should receive an apology. This is a sign that the emotional reconciliation with the offender is an extremely important part of the healing,
- that when apologies were added to material reparation, which was ten times more likely to occur for conference victims(83%) than for those assigned to court(8%), and that this difference may have been the reason that there was a reduced anger felt by conference victims felt towards the offenders(from 60% feeling "quite" or "very" angry before the conference to only 30% afterwards). While these victims also felt sympathetic for the offenders almost doubling (from 23% to 43%) after victims saw offenders in their family and life circumstances during the conference.
- that conferences seem to make victims feel safer than court as only ten per cent of victims were still afraid of the offenders after the conference. *Victims attending conferences were also less likely to fear that the offender would victimise them again (6%) than victims whose offenders were sent to court (19%; though this difference was statistically significant only at the 10% level).*
- that victims had a better feeling about the future conduct of the offender following a conference as victims stated that they felt the offender was less likely to commit further crimes(31%) than those who participated in the court process(67%).

APPENDIX “D”

Client Satisfaction of Family Group Conferencing

- **93% of victims were satisfied with the handling of their case**
- **94% of offenders were satisfied with the handling of their case**
- **96% of victims felt prepared for the conference**
- **85% of offenders felt prepared for the conference**
- **100% of victims felt the facilitator was fair**
- **98% of offenders felt the offender was fair**
- **97% of support people felt the facilitator was fair**
- **95% of victims felt the negotiated agreement was fair**
- **89% of offenders felt the negotiated agreement was fair**
- **95% of both victims and offenders were satisfied with the outcome**
- **94% of the support people were satisfied with the outcome**
- **90% of victims felt the offender was adequately held accountable for their actions**
- **98% of victims would recommend conferencing to others**
- **99% of support people would recommend conferencing to others**
- **94% of offenders would recommend conferencing to others**

APPENDIX "E"

Name	DOB	Program Date	Post Record	Sex
1. B D	84-6-22	Jan/99	nil	female
2. C Q	82-09-26	July/99	B&E 00-08-16	female
3. J E	82-06-18	July/98	Assault - Theft < 99-11	female
4. T J	81-06-26	July/98	nil	female
5. T M	77-11-27	July/98	nil	male
6. S A	83-09-08	Sept/98	nil	female
7. S P	81-05-17	Sept/98	nil	female
8. M P	83-03-18	July/99	theft< 00-04	male
9. M G	84-07-16	Nov/98	uttering threats 99-02	female
10. R P	83-03-18	July/98	Theft < 99-9	female
11. T S	83-01-20	Nov/98	possession stolen prop 00-08	male
12. B M	84-05-24	Nov/98	possession stolen prop 00-08	male
13. T M	86-01-13	Nov/98	nil	female
14. K S	84-07-03	Nov/98	nil	female
15. S N	79-01-05	Nov/98	mischief 99-02	female
16. V P	83-02-14	Jan/99	assault 00-03	male
17. A P	83-02-14	Jan/99	theft< 00-06	female
18. S D	85-06-07	May/99	mischief 00-07	female
19. C D	84-06-08	May/99	mischief 00-07	female
20. J S	86-01-17	May/99	nil	male
21. P S	80-10-10	May/99	nil	female

22.	S D	80-09-16	May/99	nil	female
23.	A B	81-05-25	July/99	impaired 00-04	female
24.	P B	85-11-30	July/99	nil	female
25.	C D	84-09-22	July/99	nil	male
26.	J B	84-08-22	July/99	nil	male
27.	J H	84-08-28	July/99	nil	female
28.	K S	82-06-01	July/99	nil	female
29.	M L	84-06-29	Aug/99	theft< 00-07	male
30.	R D	85-07-03	Jan/00	nil	male
31.	D G	87-09-01	Jan/00	nil	male
32.	R G	90-01-11	Jan/00	nil	male
33.	A P	80-08-29	Jan/00	fraud 01-01	female
34.	M S	unknown	Jan/00	nil	male
35.	R M	83-02-08	May/00	ACBH 00-09	female
36.	T G	82-09-13	May/00	TAWOC 00-12	female
37.	J D	82-07-26	May/00	theft< 00-09	male
38.	D C	82-11-02	May/00	nil	male
39.	A C	80-01-27	July/00	nil	female
40.	N W	82-06-23	May/00	nil	female
41.	N S	86-12-04	May/00	nil	female
42.	D T	86-04-27	May/00	assault 00-11	male
43.	C T	83-07-04	May/00	nil	female
44.	J T	84-12-30	May/00	nil	female

45.	P T	81-12-19	May/00	nil	female
46.	E K	86-05-30	Nov/00	nil	female
47.	R N	85-05-30	Sept/00	nil	male
48.	K M	85-08-22	Sept/00	nil	female
49.	C S	85-02-04	Sept/00	nil	male
50.	C M	84-10-18	Sept/00	nil	female
51.	J S	84-12-09	Nov/00	nil	female
52.	M M	85-02-13	Nov/00	nil	male
53.	S S	86-08-02	Nov/00	nil	male
54.	B Q	86-07-21	Nov/00	nil	male
55.	S C	87-10-18	Nov/00	nil	male
56.	J C-B	87-02-13	Nov/00	nil	female
57.	C K	86-01-03	Jan/01	nil	female
58.	B S	86-03-24	Jan/01	nil	female
59.	T L	82-09-02	Jan/01	nil	male
60.	S S	86-03-25	Jan/01	nil	male
61.	C L	82-11-29	Jan/01	nil	female
62.	S S	83-06-19	Jan/01	nil	female
63.	L C	85-03-01	Jan/01	nil	female
64.	S S	84-07-19	Aug/99	theft<x2 00-03	male
65.	C B	84-06-20	June/98	nil	female
66.	D H	86-08-13	Mar/00	nil	female

APPENDIX "F"

Identifiers:

ID	number for identification purposes
DOB	date of birth
Sex	sex of participant
Sent.	Sentence date
DAC	date of circle/restorative justice program
BF	offences before program
(B)I	indictable offences before program
(B)S	summary conviction offences before program
Immed.	number of offences for which offender was being processed when involved in program
(IB)I	number of offences for which offender was being processed when involved in program - indictable
(IB)S	number of offences for which offender was being processed when involved in program - summary conviction
Aft	number of offences following program involvement
(A)I	number of offences for which offender was processed following involvement in program - indictable
(A)S	number of offences for which offender was processed following involvement in program - summary conviction
A)pro	total number of offences for which offender was processed following involvement in program

ID	DOB	Sex	Sent	DAC	BF	(B)I	(B)S	Immed.	(IB)I	(IB)S	Aft	(A)I	(A)S	A)pro	Comment
55	50-11-19	M	96-03	95-08	21	10	11	2	1	1	2	1	1	2	
66	55-10-08	M	95-09-11	95-06-28	24	11	13	1	0	1	6	4	2	6	4 breaches
54	56-01-18	F	96-02	95-03-07	16	5	11	4	2	2	0	0	0	0	
52	56-05-28	M	95-06	95-01-31	46	27	19	4	4	0	7	0	7	7	5 breaches
68	44-11-25	M	95-05-09	95-01-19	20	9	11	1	1	0	0	0	0	0	
69	57-08-25	F	95-05-29	95-01-22	7	4	3	1	1	0	0	0	0	0	
76	58-04-10	M	95-05-01	95-01-16	8	4	4	3	1	2	1	0	1	1	Impaired
51	62-03-15	M	95-02	94-10-26	36	19	17	4	2	2	4	2	2	4	2 sex off
50	60-05-09	M	95-12	94-9	15	9	6	1	1	0	0	0	0	0	
49	54-04-16	M	95-12	94-09-14	21	7	14	2	0	2	0	0	0	0	
75	59-09-01	M	95-03-30	94-08-28	17	13	4	1	1	0	1	0	1	1	Sec.266
48	27-01-16	M	94-10	94-06-20	1	1	0	1	1	0	6	1	5	6	dec 97-07
71	54-06-26	M	95-08-28	94-06-29	12	8	4	1	0	1	0	0	0	0	
47	62-04-24	M	94-12	94-05-25	4	4	0	2	2	0	0	0	0	0	
74	50-05-06	M	95-04-10	94-05-25	43	17	26	9	3	6	1	1	0	1	
44	62-03-28	F	94-07	94-04-07	3	2	1	3	2	1	0	0	0	0	
46	76-05-30	M	95-02	94-06-23	6	2	4	6	2	4	3	0	3	3	1 breach
43	63-10-01	M	95-02	94-03-23	7	6	1	2	2	0	2	0	2	2	
45	32-06-30	F	94-08	94-03-29	0	0	0	0	0	0	0	0	0	0	

41	67-08-15	M	94-04	94-02-23	2	2	0	1	1	0	0	0	0	0	
42	58-10-10	M	94-11	94-02-23	5	4	1	3	3	0	1	0	1	1	1 breach
33	74-08-29	M	94-09	94-01-20	35	9	26	9	5	4	10	4	6	10	6 breaches
53	54-12-16	M	94-12	94-10-28	59	15	44	11	0	1	0	0	0	0	
57	75-01-20	F	95-01	94-01	27	9	18	11	3	8	5	0	5	5	1 breach - minor offences
67	52-02-18	M	94-08-09	94-01-19	14	10	4	5	3	2	10	0	10	10	5 driv - 3 breaches
72	70-08-24	M	94-06-14	94-01-29	21	8	13	4	2	2	0	0	0	0	
37	67-05-13	M	94-03	93-12-13	6	4	2	3	2	1	1	0	1	1	com ass
38	57-12-14	M	94-01	93-12-06	9	6	3	1	1	0	0	0	0	0	
39	57-11-26	M	94-11	93-12-08	6	5	1	1	1	0	0	0	0	0	
40	68-10-11	M	94-01	93-12	13	9	4	3	2	1	0	0	0	0	
35	63-04-24	M	94-07	93-11-29	4	2	2	2	0	2	1	0	1	1	theft >
36	62-12-06	F	94-01	93-11-22	11	7	4	8	6	2	3	0	3	3	2Xtheft< - 1 fta
32	73-08-10	M	93-11	93-10-18	30	21	9	10	6	4	0	0	0	0	
65	72-08-27	M	93-09	93-08-14	15	12	3	12	9	3	18	8	10	18	serious offences
13	53-09-27	M	94-04	93-07-12	37	14	23	18	6	12	0	0	0	0	
29	53-07-07	M	94-05	93-06-14	29	20	9	10	7	3	6	1	5	6	3 breaches - 2 driving breaches
30	60-03-16	M	93-08	93-07-08	31	18	13	8	8	0	3	0	3	3	
34	73-07-09	M	93-07	93-05-31	22	17	5	8	5	3	26	14	12	26	assaults weapons
24	65-04-11	M	94-08	93-04-13	19	7	12	16	4	12	1	0	1	1	impaired
26	55-11-30	M	93-09	93-04-12	50	21	29	5	0	5	2	1	1	2	com ass - theft<
27	60-05-21	M	93-09	93-05-17	17	7	10	8	2	6	2	0	2	2	com ass - breach
28	65-06-04	M	94-01	93-05-18	33	20	13	13	5	8	8	3	5	8	2 escape 2 breaches 1 rob - 1 acbh
31	52-06-28	F	93-08	93-05	18	10	8	6	1	5	0	0	0	0	
17	70-06-06	M	93-09	93-03-22	4	2	2	4	2	2	4	2	2	4	2 acbh
18	53-03-12	M	93-12	93-03-01	11	10	1	3	3	0	1	0	1	1	resist arrest
19	55-05-08	M	93-12	93-03-15	37	12	25	1	1	0	2	2	0	2	2 comm ass
20	66-07-03	M	93-04	93-03-22	33	20	13	16	8	8	12	2	10	12	1 breaches 2 mischief<
21	62-08-22	M	93-06	93-04	7	7	0	5	5	0	1	1	0	1	impaired
22	58-09-26	F	94-01	93-03	17	11	6	9	8	1	11	4	7	11	
23	52-08-18	F	93-07	93-03-27	4	4	0	1	1	0	0	0	0	0	
25	68-05-12	M	94-01	93-03-04	14	12	2	11	11	0	3	1	2	3	2 x com ass
16	67-02-22	M	93-03	93-01-27	8	6	2	1	1	0	1	1	0	1	acbh
9	58-05-07	F	93-03	92-12-11	23	12	11	19	9	10	7	5	2	7	similar offences to pre

APPENDIX "G"

Identifiers:

ID	number for identification purposes
DOB	date of birth
Sex	sex of participant
Sent.	Sentence date
DAC	date of circle/restorative justice program
BF	offences before program
(B)I	indictable offences before program
(B)S	summary conviction offences before program
Immed.	number of offences for which offender was being processed when involved in program
(IB)I	number of offences for which offender was being processed when involved in program - indictable
(IB)S	number of offences for which offender was being processed when involved in program - summary conviction
Aft	number of offences following program involvement
(A)I	number of offences for which offender was processed following involvement in program - indictable
(A)S	number of offences for which offender was processed following involvement in program - summary conviction
(A)pro	total number of offences for which offender was processed following involvement in program

ID	DOB	Sex	DAC	BF	(B)I	(B)S	Immed.	(IB)I	(IB)S	Aft	(A)I	(A)S	(A)pro	Comment
015	47-01-19	M	95-10-20	95-10-25	1	1	0	1	1	0	0	0	0	
811	58-08-08	M	96-09-24	95-03-12	0	0	0	3	2	1	0	0	0	
004	75-08-06	M	93-08-24	92-05-15	3	3	0	3	3	0	3	1	2	3 serious prop before
370	73-09-08	M	93-08-24	92-05-15	0	0	0	2	2	0	0	0	0	
184	72-05-02	M	93-07-29	94-12-30	3	1	2	3	3	0	0	0	0	
554	67-03-10	M	92-09-08	93-05-11	13	4	9	3	1	2	6	0	6	6 B&E before minor thefts after theft over
268	71-04-13	M	94-03-15	93-08-10	3	2	1	5	3	2	1	1	0	1
239	70-06-11	F	92-09-08	93-03-05	7	1	6	1	1	0	11	3	8	11
660	66-03-13	M	94-03-17	93-06-16	2	1	1	2	2	0	0	0	0	0
218	63-09-30	M	96-12-05	94-06-06	5	1	4	6	2	4	0	0	0	0
440	79-09-07	M	97-04-14	96-05-30	12	4	8	1	1	0	5	2	3	5
060	70-10-08	M	92-07-23	94-03-11	10	3	7	1	1	0	0	0	0	0
731	68-04-20	M	92-04-02	92-10-09	7	5	2	1	1	0	3	1	2	3 minor post offences
853	78-06-06	M	96-03-07	96-03-22	2	2	0	1	1	0	0	0	0	0
624	60-10-19	M	97-07-29	99-01-19	2	2	0	1	1	0	0	0	0	0 none since 97
069	58-09-15	M	99-05-04	00-02-08	0	0	0	1	1	0	0	0	0	0
932	65-05-30	M	93-05-05	93-11-03	3	2	1	1	1	0	0	0	0	0
711	66-03-28	M	96-06-27	96-12-02	4	2	2	2	1	1	0	0	0	0
262	42-03-01	M	93-08-12	95-10-19	2	1	1	1	1	0	0	0	0	0
707	68-03-20	M	95-08-29	96-03-08	0	0	0	1	1	0	0	0	0	0
397	61-01-12	M	95-08-29	96-03-08	8	4	4	1	1	0	0	0	0	0 pre charges

579	52-07-14	F	95-07-18	95-07-18	5	1	4	1	1	0	0	0	0	0
411	69-01-13	M	95-07-18	96-10-01	6	4	2	1	0	1	1	0	1	1
598	70-09-02	M	96-01-23	96-01-23	4	1	3	1	0	1	0	0	0	0
580	27-01-07	M	95-07-18	95-07-18	2	0	2	1	0	1	2	0	2	2
130	74-04-01	M	92-09-10	92-09-10	3	1	2	1	0	1	2	0	2	2
836	50-11-19	M	95-08-24	96-03-05	3	0	3	5	1	4	0	0	0	0
547	71-11-05	M	92-09-29	92-09-29	1	1	0	2	1	1	0	0	0	0
327	70-01-13	M	92-09-29	93-04-14	3	2	1	1	1	0	1	1	0	1
943	71-10-09	M	91-02-26	92-02-11	9	3	6	1	1	0	2	0	2	2
230	61-08-17	M	95-01-11	95-08-31	2	0	2	1	1	0	2	0	2	2
151	80-11-26	M	96-01-18	96-06-17	3	1	2	5	3	2	0	0	0	0
373	63-10-01	M	94-03-23	95-02-20	2	1	1	1	1	0	1	1	0	1
106	65-12-24	F	95-07-19	95-11-21	0	0	0	2	1	1	0	0	0	0
440	55-05-11	M	94-03-23	95-04-26	3	1	2	2	1	1	0	0	0	0
343	76-02-09	M	91-04-08	92-09-22	5	4	1	4	2	2	6	3	3	6
766	54-04-16	M	94-09-14	94-12-12	4	1	3	1	1	0	0	0	0	0
307	67-06-17	M	92-02-25	92-07-25	8	2	6	3	0	3	3	1	2	3
509	69-12-15	M	94-03-27	94-05-17	1	0	1	1	1	0	0	0	0	0
371	63-04-24	M	94-03-21	94-07-12	2	0	2	1	0	1	1	0	1	1
644	55-05-25	M	94-01-19	95-05-09	1	0	1	1	1	0	1	0	1	1
355	56-05-14	F	98-07-08	99-12-17	0	0	0	2	1	1	0	0	0	0
418	57-03-31	M	96-10-24	97-11-24	10	2	8	2	1	1	4	0	4	4
					324	129	1956	177	95	79	173	52	121	173

deceased 98-08

deceased 97

APPENDIX "H"

Restorative Justice Client Survey

We are conducting an ongoing assessment of the services provided to you during your interaction with the Restorative Justice/Alternative Measures Program, and your assistance, by completing this short questionnaire, is very much appreciated. Your name was selected at random from all the persons who had contact with us on a restorative justice initiative in the past 6 months. It will only take about ten minutes of your time. The questionnaire is completely anonymous. A copy of the report and all data collected will be housed at Royal Roads University, Victoria, British Columbia. Thank you very much for your help.

1 What was your initial relationship with the complaint?

- Complainant..... []
- Victim []
- Victim/Complainant []
- Witness []
- Suspect..... []
- Other (write in below) []

2 Who was your initial complaint made to? (CHECK ONE)

- Police []
- Justice Committee..... []
- Other (write in below) []

3 How was your initial contact made? (CHECK ONE)

- By telephone []
- In person []
- By mail..... []
- Other (write in below) []

4 When you were in first contact with a representative of the restorative justice program,

what was the main thing you expected them to do? (CHECK AS MANY AS NECESSARY)

- Listen to my problem.....[]]
 - Give advice or information[]]
 - Record information or details[]]
 - Solve the problem.....[]]
 - Deal with the offender[]]
 - Nothing[]]
 - Other (write in below)[]]
-

5 **What was actually done? (CHECK AS MANY AS NECESSARY)**

- Listen to my problem.....[]]
 - Give advice or information[]]
 - Record information or details[]]
 - Solve the problem.....[]]
 - Deal with the offender[]]
 - Nothing[]]
 - Other (write in below)[]]
-

6 **Thinking back to that first contact, how well would you say that your main expectations were met? (CHECK ONE)**

- Entirely.....[]]
- To a large extent[]]
- To a small extent.....[]]
- Not at all[]]
- Can't remember/Don't know[]]

7 **Have you been involved with the court/justice system in the past?**

- Yes[]]
- No(go to 10).....[]]

8 **Compared with your previous court/justice experience, were you satisfied with the time it took for the restorative justice program to act on your complaint?**

- Satisfied[]]
- Dissatisfied[]]

9 **Did you feel that restorative justice satisfied your personal needs more than court/justice system has in your past dealings? (CHECK ONE)**

- Much more satisfied []
- Somewhat more satisfied []
- No difference []
- Somewhat less satisfied []
- Much less satisfied []
- Other (write in below) []

10 How do you feel your complaint was dealt with through Restorative Justice? (CHECK ONE)

- Very good []
- Good []
- Less than satisfied []
- Other (write in below) []

11 Do you feel those involved in the restorative justice process were helpful in coming to some conclusion?

- Yes []
- No []
- Can't remember/don't know []

12 What is your response to the amount of time that was needed before you were contacted by a restorative justice representative(police or coordinator)?

- Timely []
- Too long []
- Sooner than expected []
- Longer than expected []
- Other (write in below) []

13 Overall were you satisfied with the time that it took for restorative justice to deal with your case?

- Satisfied []
- Dissatisfied []

14 After your initial contact, do you think that there was sufficient effort placed on solving your problem or dealing with your concern? (CHECK ONE)

- Sufficient effort []
- Insufficient effort []

No effort at all.....[]]
Can't remember/Don't know[]]

15 Since your initial contact, has someone let you know what has happened?

Yes[]]
No[]]

16 How would you describe the restorative justice representatives who dealt with you?
(CHECK ONE)

Very good[]]
Fairly good[]]
Less than acceptable[]]
Poor.....[]]
Can't remember/Don't know[]]

17 During your first contact with the restorative justice representatives, how would you best describe your feelings? (CHECK ONE)

Upset.....[]]
Angry[]]
Frightened[]]
Normal or unaffected.....[]]
Other (write in)[]]

18 After your contact with restorative justice representative(s) how did you feel toward justice in general? (CHECK ONE)

More favourable.....[]]
No difference[]]
Less favourable.....[]]
Unsure/Don't know[]]

19 After this contact, do you think there is anything the restorative justice program ought to do to improve the service? (CHECK ONE)

Yes[]]
No (GO TO #22).....[]]

20 What do you think restorative justice should do to improve their service to the community? (CHECK ONE)

- Faster response..... []
- Better accessibility..... []
- Keep people informed..... []
- Have a more sympathetic manner..... []
- Be more polite..... []
- Other (Write in) []

21 In general, how would you rate the work you think restorative justice is doing in your community? (CHECK ONE)

- Very good []
- Fairly good..... []
- Fairly poor..... []
- Very poor []
- No opinion/Don't know []

22 In general, how would you rate the work that the restorative justice program did with your case? (CHECK ONE)

- Very good []
- Fairly good..... []
- Fairly poor..... []
- Very poor []
