

The Crime Reduction Research Program

The Crime Reduction Research Program (CRRP) is the joint-research model in British Columbia between academics, the provincial government, and police agencies operated by the Office of Crime Reduction – Gang Outreach. The CRRP is supported and informed by a Crime Reduction Research Working Group that includes representation from the Ministry of Public Safety Solicitor General (represented by Community Safety and Crime Prevention Branch and Police Services Branch), the Combined Forces Special Enforcement Unit of British Columbia, and the Royal Canadian Mounted Police “E” Division.

The CRRP focuses on investing in research that can be applied to support policing operations and informing evidence-based decisions on policies and programs related to public safety in British Columbia. Each year, the CRRP reviews submissions of research proposals in support of this mandate. The CRRP Working Group supports successful proposals by working with researchers to refine the study design as necessary, provide or acquire necessary data for projects, and advise on the validity of data interpretation and the practicality of recommendations.

The CRRP operates a \$1M annual funding allocation in the form of grants that are dedicated to support university-led research at Canadian institutions. This project was supported through the 2021/22 CRRP funding allotment.

Executive Summary

Restorative justice seeks to involve victims, offenders, and community members in a collaborative approach to resolving crime. It provides an opportunity for offenders to take responsibility for their actions and to understand the effects of their behaviour. Often associated with youth crime and lower severity crimes, restorative justice seeks to create dialogue and engagement towards understanding and resolving offences through a safe and equitable access to justice, while operating outside the traditional criminal justice approach of charges and criminal courts. There is a potential to use restorative justice as a primary intervention method before the involvement of the formal criminal justice system. By addressing the needs of victims and offenders, restorative justice has the potential to increase access to justice by shortening timelines for resolution and addressing the needs of all participants. In this manner, restorative justice can move beyond less severe crimes to those involving power imbalances, such as intimate partner violence and sexual crimes.

The current project involved a study of restorative justice programs across British Columbia with the intended purposes of understanding the perceived benefits and challenges with using restorative justice as a response to youth and adult offending, the application and potential use of restorative justice to a wide variety of criminal offending, including its potential application to power-based crimes, and a quantitative analysis of the effects of pre-charge referrals to restorative justice on criminal recidivism. This report adds to the existing knowledge and empirical evidence about the use and value of restorative justice and encourages the consideration of the relative effects of restorative justice on a wider range of offence types and with a greater number of files across British Columbia. The project methodology is further enhanced via a qualitative component involving interviews with Executive Directors of restorative justice programs from all police districts in British Columbia.

The quantitative data analyses compared a sample of offenders referred to restorative justice as a pre-charge diversion with a sample, matched by offence type, who were not referred to restorative justice. Most of the current offences involved property crimes, while a substantial minority involved crimes against the person. When using CPIC data to compare criminal history and recidivism, most (93 per cent) of those referred to restorative justice did not have a criminal history prior to the referral, and most (88 per cent) did not re-offend following the referral. Conversely, over half (59 per cent) of those in the matched non-referred sample had a criminal history, while three-quarters (75 per cent) re-offended at least once. Those in the restorative justice program were six times less likely to re-offend than those in the non-referred group. When they did re-offend, they did so after a significantly longer period of time (average of 675 days) compared to those in the non-referred sample (average of 244 days). Of those in the non-referred group who committed a new offence, nearly half (46 per cent) committed an offence of equivalent severity, while one-quarter (26 per cent) committed a more serious offence. Of those in the referred group who committed a new offence, nearly half (47 per cent) committed a new offence that was of greater severity. In effect, the data demonstrated that individuals referred to restorative justice were substantially and significantly less likely to re-offend than offenders who were processed through the formal criminal justice system.

Restorative justice appeared to work equally well for both female and male offenders, as well as across multiple age groups, although it was particularly effective amongst younger individuals. Individuals who were 19 years of age and younger and who were processed through the traditional criminal justice system were more than 13 times as likely to re-offend when compared to individuals 19 years of age and younger who were referred to restorative justice. Those with a criminal history prior to the current offence were much more likely to re-offend than those without a criminal history, regardless of whether they were referred to restorative justice. For those who were processed through the formal criminal justice system, individuals with a criminal history were more than 20 times as likely to commit a subsequent offence. Comparatively, individuals with a criminal history who were referred to restorative justice were nine times more likely to commit a subsequent offence compared to individuals without a criminal history who were referred to restorative justice. Comparing only those without a criminal history, the individuals who were referred to restorative justice were nearly 8.5 times less likely to commit a subsequent offence than those processed through the formal criminal justice system. Among those in the control group, the more serious the prior offence, the greater the likelihood that the individual would recidivate. However, those who participated in a restorative justice program exhibited approximately the same odds of recidivism regardless of the severity of their key offence, which supports the argument that restorative justice programs can reduce the likelihood of recidivism even among those who committed a more serious offence.

A final set of multivariate analyses examined predictors of recidivism for the individuals processed through the formal criminal justice system, and then for those who were referred to restorative justice. In the control sample, women, those aged 19 years of age and younger, those without a prior conviction, those who had committed a less severe current offence, and those who committed an offence against a person were less likely to re-offend. Conversely, among those referred to restorative justice only two factors were associated with re-offending: those who were 20 years of age and older, and those with a previous conviction were both more likely to reoffend. In other words, gender of the offender, severity of the current offence, and offence type were not predictive of re-offending providing further support for the conclusion that restorative justice may be an effective response to more serious offending.

The qualitative interviews with experienced restorative justice program managers and police representatives generally echoed these findings. Many restorative justice programs primarily address offending amongst youth and young adults using a holistic approach that addresses the needs of both the victim and offender. Healing, transformation, and change were common key program objectives. In addition to the typical restorative justice activities, such as victim-offender conferencing, restorative justice programs commonly engaged in outreach, focusing on developing positive relationships with police and other community groups. Outreach and establishing positive relationships throughout the community had the tangible benefit of increased referrals but also contributed to schools, families, businesses, other service providers, and even the police seeing restorative justice as a viable approach to addressing conflict and crime and encouraging everyone to work and live in a restorative way. Programs generally identified themselves as focusing both on the victim and offender rather than prioritizing the needs of one over the other. This approach was based on an understanding that, at its core, restorative justice needed to ensure that not only was

the person(s) harmed taken care of but that the person who caused the harm also needed similar consideration, empathy, compassion, and assistance.

While most participants indicated that their programs had many volunteers, it was somewhat common for there to only be a few trained restorative justice facilitators and very few, if any, paid full-time or part-time staff. Restorative justice programs with full-time or part-time staff indicated that their funding either came from applying for civil forfeiture grants or were 'in-kind' agreements where an agency allowed an employee to take on the restorative justice program as part of their duties. Most participants also indicated that they received a small amount of money from the provincial government. Training was identified by participants as a critical issue. Given the expense and need for timely training, many participants indicated that they engaged in a lot of 'in-house' training, which involved more experienced people mentoring and shadowing those with less experience, restorative justice practitioners getting together to support each other and transfer knowledge, relying on the prior experience and knowledge of volunteers that can be shared with others, and, when possible, bringing experts or other professionals to hold targeted training sessions. The general sentiments were that restorative justice programs were operated with by people who had the necessary training to serve as facilitators for less serious offences, but that there was a need for more resources to support training that is sustained, comprehensive, standardized, and addresses emerging issues and trends.

Nearly all participants indicated that most referrals came from the police. Most participants also reported that they took community-based referrals, such as resolving neighbour disputes, and referrals directly from victims and offenders. Other common referral sources included Crown Counsel or Probation Services. Despite delivering presentations to schools to educate staff and students on restorative justice principles, most participants reported that they did not receive a lot of referrals from schools. The average number of referrals to restorative justice programs was around seven or eight referrals per month; for most participants, these were primarily pre-charge referrals. Generally, most referrals to restorative justice were for four offence types: theft under \$5,000.00, assault, mischief, and vandalism.

In terms of client characteristics, most participants indicated that either all or most of their pre-charge clients did not have a previous criminal history. Although it varied by program, clients were typically first-time offenders that did not have a history of violence, most were males, and half of more would be classified as a youth. When asked about the proportion of pre-charge clients who self-identified as Indigenous, the geographic location of the restorative justice program and whether the program was affiliated with an Indigenous community played a large role.

Participants outlined several common outcomes of their restorative justice programs, such as letters of apology, community service, counselling, direct restitution to victims, and re-education programs. When asked to specify what success looked like from the perspective of their restorative justice program, common indicators included getting to a place where both the victim and offender voluntarily agreed to participate in the process, getting to where the victim was given a chance to express themselves and address the harm created by the offender, getting to where the offender accepted responsibility and was accountable for their actions, getting to a resolution agreement, and getting to a place where the harm done by the offender was addressed and healed for both the victim and offender. Some noticeable patterns and characteristics perceived as associated with

success in the program included that the offenders were open and willing to take responsibility for their actions, and that they were committed to addressing the harm they caused. It was also important that the victim be willing and committed to full participation in the restorative justice process; success was also enhanced by having a good support system, especially for youth offenders. The screening or initial meetings with the offender and victim were critical to assessing motivations and identifying those who were compatible with restorative justice goals.

Participants outlined a range of benefits that they believed resulted from participation in the restorative justice process. For the offender, participation in a restorative justice program provides an opportunity to take responsibility for their actions and understand the harm they have caused. Further, it gives them a chance to repair the harm and make amends to the victim and the community without receiving a criminal record. It also provides the offender with improved conflict resolution skills and builds their ability to effectively communicate and control their emotions. It may also facilitate access to necessary community programs, resources, or services. For the victim, the restorative justice process provides an opportunity to have their needs and concerns heard and addressed in a safe and controlled manner. Additionally, the restorative justice process can provide a sense of closure and resolution that is not always obtainable through the formal criminal justice system. Participants also stated that there were benefits to the community when people completed a restorative justice program. Another advantage stated by participants was that restorative justice programs were much more cost effective than the criminal justice system's penal outcomes, while providing opportunities to address the root cause of conflict and crime.

Most participants noted that they felt the police and Crown Counsel were supportive of the restorative justice initiatives within their jurisdictions. However, some participants suggested that if police leaders were not supportive of restorative justice or did not believe in its principles and practices, their members would be much less inclined to refer cases. A frequent response from participants was that there was a general lack of knowledge within the community about what restorative justice was and its effectiveness and that there were many who felt that restorative justice was soft on crime, an easier path for offenders that allowed them to escape justice, and lacked adequate punishment, even though restorative justice has been shown to be effective at reducing recidivism. Nearly all participants agreed that adequate funding would greatly improve their ability to engage and educate the community on the realities of restorative justice programs.

Nearly all participants stated that utilizing restorative justice practices would be acceptable for power-based crimes, such as hate crimes and intimate partner violence; however, restorative justice's application for these types of offences would largely depend on the victim's willingness to engage with the offender and participate in a restorative justice process. Participants highlighted two main concerns with using restorative justice as an alternative to criminal justice responses when dealing with power-based crimes. Primarily, participants stated that public safety was paramount when considering whether it was appropriate to use a restorative justice process instead of the formal criminal justice system. The second major concern was that most participants did not have the necessary training, skills, education, or abilities to handle all instances of power-based crimes and so more funding and training would be needed to ensure they had the proper education to handle such cases safely and properly. Even with these concerns, participants outlined several benefits of utilizing restorative justice in place of the punitive criminal justice system when

dealing with power-based crimes. These included that restorative justice offered enormous benefits in terms of healing both victim and offender because it allowed both parties to address the trauma in a supported, educated, and safe manner; it provided the victim with an opportunity to tell their story and express how the offender's actions negatively affected them; it provided the offender with a chance to reconcile and identify their wrongdoings in ways that enable them to change their future behaviour; and it would help reduce the overall cost on the criminal justice system. Still, most participants stated that they did not accept referrals for power-based crimes, largely because their agreement with the provincial government did not allow them to accept these kinds of referrals. However, nearly all participants agreed that their restorative justice program would be receptive to accepting referrals associated to power-based crimes if they had the support of the provincial government and police to do so.

Similar themes were expressed by the participants representing the police agencies who make referrals to the restorative justice programs. The primary role of these participants consisted of ensuring police officers were aware of the existence of restorative justice programs in their community, coordinating the referral flow from the front-line officers to the community program, monitoring the status of the file, and reporting back to the initial referring officer. Police participants indicated that, despite being responsible for restorative justice referrals, they did not have any detailed training other than a rudimentary understanding of the process as provided during initial police training. All police participants indicated that a formalized provincial training program would be beneficial for personnel working in positions related to restorative justice. Police participants perceived that greater acceptance of restorative justice programs by frontline police officers had a direct effect on the number of referrals. In effect, increased understanding of the process resulted in higher referral rates. For most referrals, the victim, the victim's family, or police initiated the process. Participants agreed that the most common types of offences referred to restorative justice were for property crime or mischief, although some victims requested the process for lower-level violent crime, such as sexual touching between youth, online harassment, and the distribution of sexual images.

Most participants agreed that their programs tended towards a younger demographic, particularly in the 15- to 17-year-old range. Participants indicated that adults referred to restorative justice programs tended to be in their late teens or early twenties; however, for property crime and neighborhood disputes, most participants indicated they have also referred adults into their 40s. Most participants agreed that there was an even distribution by gender among their youth referrals, while adult referrals tended to include more males than females. Police participants stated that they did not track participation among Indigenous offenders. In part, this was due to separate Indigenous restorative justice programs in their community receiving direct referrals and a perceived lack of need to track this specific data. Participants agreed that there was no specific policy preventing more serious types of crime from being referred to a restorative justice program, especially if the matter was discussed with Crown Counsel prior to charge approval, though there were some concerns regarding the appropriateness of restorative justice with some power-based crimes, particularly intimate partner violence and sexual assault where violence occurred.

Police participants indicated that most successful referrals involved an offender who showed remorse and an admission of responsibility or guilt. Successful referrals involved an offender who

was willing to change their behaviour and accept accountability measures, as opposed to someone who was just trying to make the issue go away or avoid charges. Participants mentioned that family dynamics also played an important role for the alleged offender and the victim(s). Having a supportive environment to work through the complexities of an incident and what it meant to both parties was an important aspect of a successful resolution, particularly for youth offenders.

Participants agreed that restorative justice could be more effective than the criminal justice system, particularly when the offender had no prior interaction with the criminal justice system. There was also agreement that restorative justice was a faster process than the court system could ease the burden on court system, allow officers to devote more time to serious offences, and free officers up to perform general police work. There was consensus that the restorative justice approach was less costly than a court process and was more likely to address the root causes of crime. However, the police participants felt there was significant work to be done in resourcing and raising awareness. Police participants also expressed a desire to create a common approach to restorative justice, even to the point of consistent guidance or legislation to ensure that restorative justice was used more as a primary response than as an afterthought. Most agreed that a successful restorative justice outcome involved satisfaction on the part of the victim that they had been heard, which, in turn, resulted in an increased feeling of safety on the community level. However, police participants agreed that there was insufficient tracking and data collection to make a truly informed assessment of success.

There was agreement the program could be expanded for more serious offences, but only with increased understanding and acceptance in communities and police organizations. Participants were particularly adamant that more serious incidents could only be referred to a restorative justice program if there were conditions in place to protect the victim. Some participants felt that, while a pre-charge diversion to restorative justice would often not be appropriate for certain power-based crimes, they had fewer concerns with Crown Counsel choosing to divert a file and may even recommend that they consider doing so in some of their Reports to Crown Counsel.

With respect to power-based crimes, participants observed that restorative processes allowed the root causes of the behaviour to be identified and addressed, and it could help the victim to obtain closure that they would not normally get through the formal court system. An increased use of restorative justice would also allow for ways to more quickly address the harms that occurred and the perpetrator's role in causing those harms without resulting in a criminal record that can put more pressures and strain on the family. Providing a restorative justice option in response to power-based crimes can also help to address the existing power imbalance inherent in these types of offences. Several participants believed that using a restorative approach to address these crimes may put some of the power and control over the process back in the hands of the victim, though it would be important for the restorative justice practitioner to receive specialized training regarding these kinds of files. Still, overall, police participants supported the use of restorative justice for a wide range of offence types and recommended that it be used more often.

Based on the review of the literature, the quantitative analysis of the effects of pre-charge referrals to restorative justice, and qualitative interviews with restorative justice program managers and police participants, several key recommendations were made to enhance and expand the use of restorative justice programming in British Columbia. These included: increasing funding for

restorative justice programs; providing more training for restorative justice practitioners and police officers; increasing the overall number of pre-charge referrals to restorative justice; the creation of a policing standard that emphasizes restorative justice as a primary response to criminal offending; the expansion of restorative justice to more serious offences; establishing practice standards for the use of restorative justice with power-based crimes, such as sexual offences and intimate partner violence; expanding the use of restorative justice with power-based crimes; providing training to power-based restorative justice specialists; establish consistent protocols for unsuccessful restorative justice referrals; standardization of data; and further research.

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Introduction

In 2013, the Centre for Public Safety and Criminal Justice Research carried out a research project examining the effects of police pre-charge referrals of shoplifters to the City of Chilliwack, British Columbia's restorative justice program (Robinson et al., 2014). The research provided an opportunity to compare rates of recidivism of pre-charge offenders with offenders whose charges were moved on for consideration by Crown prosecutors. The goal of that research project was to examine whether offenders in the pre-charge referral group were more or less likely than non-referred offenders to recidivate over a two-year follow-up period after being referred to the Chilliwack restorative justice program. Among the findings of that research project was that offenders with a pre-charge referral had lower rates of recidivism than offenders who were forwarded to Crown Counsel with recommended charges and who, therefore, did not participate in a restorative justice program. More importantly, the research revealed that this pattern held true for both male and female offenders, as well as for repeat offenders. At the same time, while this pattern held true for adult offenders, it did not for youth offenders. Overall, the results from this project led the researchers to recommend that restorative justice initiatives be broadened to consider a wider range of offences, in addition to paying more attention to the appropriateness of using restorative justice programs for adult and repeat offenders (Robinson et al., 2014).

While the Chilliwack research project provided several important insights, it involved the analysis of a relatively small number of cases ($n = 308$) and a single restorative justice program. Given this, the current project involved a study of restorative justice programs across British Columbia with the intended purposes of understanding the perceived benefits and challenges with using restorative justice as a response to youth and adult offending, the application and potential use of restorative justice to a wide variety of criminal offending, and a quantitative analysis of the effects of pre-charge referrals to restorative justice on criminal recidivism over a longer follow-up period than in the original study. The current study adds to the existing knowledge and empirical evidence about the use and value of restorative justice and encourages the consideration of the relative effects of restorative justice on a wider range of offence types and with a greater number of files across British Columbia. The project methodology is further enhanced via a qualitative component involving interviews with Executive Directors of restorative justice programs from all police districts in British Columbia, as well as a sample of participants drawn from police agencies.

Importantly, restorative justice seeks to involve victims, offenders, and community members in a collaborative approach to resolving crime. It provides an opportunity for offenders to take responsibility for their actions and to understand the effects of their behaviour (Department of Justice, 2021). Often associated with youth crime and lower severity crimes, restorative justice seeks to create dialogue and engagement towards understanding and resolving offences through a safe and equitable access to justice, while operating outside the traditional criminal justice approach of charges and criminal courts (Ploeg & Sandlie, 2011). Examples of restorative justice approaches include Indigenous healing circles and Extrajudicial Measures or Sanctions used to divert youth under the *Youth Criminal Justice Act* (YCJA), both of which have been successful in addressing the needs of victims and offenders (Department of Justice, 2021).

There is a potential to use restorative justice as a primary intervention method before the involvement of the formal criminal justice system (BC Justice Summit, 2021; De Jager, 2021). By addressing the needs of victims and offenders, restorative justice has the potential to increase access to justice by shortening timelines for resolution and addressing the needs of all participants (Cohen et al., 2014; Ploeg & Sandlie, 2011). In this manner, restorative justice has the potential to move beyond less severe crimes to those involving power imbalances, such as intimate partner violence and sexual crimes. While this is not a prevalent approach in Canada, other countries, specifically in the European context, have had success using restorative justice programs to address more serious crime, albeit in a limited manner with respect to power-based crime (BC Justice Summit, 2020; Ploeg & Sandlie, 2011).

Using restorative justice to address offending, including power-based crimes, has the potential to facilitate faster reintegration of offenders into society, while addressing the needs of the victim to a fuller extent. This may create a better outcome than short-term incarceration, which has little effect on crime rates or repeat offender behaviours (Cohen et al., 2014; Moore et al., 2018; Ploeg & Sandie, 2011; Vancouver Police, 2020). Ineffective sentencing that fails to address the needs of offenders and victims can be detrimental to overall wellbeing (Malakieh et al., 2020; Moore et al., 2018). Given that most sentences in Canada are less than two months in duration, even for certain power-based crimes, restorative justice may have better long-term outcomes, especially for victims who may feel under-served by retributive criminal justice approaches (Dandurand & O'Hara, 2020; Department of Justice Canada, 2018). This is indicated by research in other countries, such as Norway, that focusses on diversionary programs in lieu of incarceration (Jesseman & Payer, 2018; Ploeg & Sandlie, 2011).

The tendency in Canada to impose short-term sentences is not only expensive, but it also has little effect on the actual crime rate (Moore et al., 2018). Since most serious crime is committed by a very small group of offenders (Cohen et al., 2014), it would be more effective to focus on the histories of these offenders to change their trajectories, rather than relying on retribution and punishment. As a primary response to first time offending, survival-based criminality, or even some power-based crimes, fully funded restorative justice programs may have better long-term outcomes in terms of crime reduction, improved victim satisfaction, reductions in overincarceration of Indigenous offenders, reduced costs, and increased access to justice than a revolving door justice system (BC Justice Summit, 2020; Canadian Association of Chiefs of Police, 2020; Couture et al., 2001; Department of Justice Canada, 2018; Ploeg & Sandlie 2011).

Project Objectives

There are two main objectives of this research project. The first is to provide quantitative and qualitative analyses of the effects of being referred to a restorative justice program at the pre-charge stage on recidivism. To that end, this report examines how chargeable offenders who were referred by police to restorative justice programs in British Columbia differ from chargeable offenders who were not referred with respect to their criminal histories and subsequent re-offending. To provide a more complete picture of this issue, this project also included interviewing a sample of police officers responsible for restorative justice programs and the Executive Directors

and Managers of restorative justice programs about the ways that offenders who have gone through their programs were affected by the program. Given this, the overall goals are to determine the extent to which pre-charge referral by police to restorative justice programs helps to reduce reoffending and to determine if pre-charge referral by police is more effective at reducing recidivism for selected groups of offenders.

Restorative justice programs have typically been used in a diversionary manner for youth and for less severe crimes. A second objective of this project is to determine current restorative justice initiatives and programs directed toward the resolution of power-based crimes, and the potential application of restorative justice for these offence types in the future. This report also includes a jurisdictional scan of programs throughout Canada and in other countries to gain an understanding of the success of restorative justice for more severe crimes, such as those arising out of power imbalances. This jurisdictional scan can lead to the development of recommendations to expand restorative justice programs in British Columbia to address more serious criminal behaviour in a manner that is supportive to all parties. In addition to the jurisdictional scan, this report includes information from police officers and Executive Directors and Managers of restorative justice programs from British Columbia that do address power-based crimes to determine the benefits, outcomes, challenges, and limitations associated with using restorative justice for these types of offences.

Project Methodology

The objectives of this project were achieved through a combination of quantitative and qualitative data. The analyses were conducted on anonymized Canadian Police Information Centre (CPIC) data provided by the Royal Canadian Mounted Police (RCMP) “E” Division Operations Strategy Branch and through qualitative interviews.

QUANTITATIVE DATA ANALYSIS

The data analysis component of this study began with a request to RCMP “E” Division Operations Strategy Branch for an anonymized database of offenders in British Columbia who showed as charged in CPIC in 2018, which is Canada’s national police database. Specifically, the criminal histories before and after the 2018 offence that resulted in a referral to a restorative justice program in British Columbia were requested and obtained by the authors of this report. The database provided demographic information and data on all official offending prior to the key offence in 2018 and all subsequent chargeable re-offending associated to that individual over a three-year follow-up period. A matched database of offenders who committed similar offences in 2018 but were not referred to a restorative justice program was also requested and obtained to allow for comparisons between referred and non-referred individuals on reoffending. This resulted in a database consisting of 3,076 individuals. Of these, 935 files were for individuals that the police referred to restorative justice programs for a chargeable offence in 2018 and 2,141 files were for individuals who were not referred to a restorative justice program for their chargeable offence in 2018. As such, this aspect of the research project involved univariate, bivariate, and multivariate

analyses of quantitative police data designed to determine the subsequent criminal behaviour among chargeable offenders who were referred pre-charge by police to restorative justice programs as compared to a sample of similar offenders who were not referred as one indicator of the effect of restorative justice programs.

QUALITATIVE INTERVIEWS

The qualitative aspect of this project involved individual interviews with the Executive Directors or Managers of 13 restorative justice programs in British Columbia. The selection of restorative justice programs involved a sample of restorative justice programs from the Lower Mainland, Island, North, and South-East policing districts of British Columbia. There was representation from restorative justice programs that received referrals from RCMP detachments, municipal police departments, schools, community services, and directly from victims, as well as representation of small, medium, and large restorative justice programs, in terms of the number of individuals who were referred and went through a restorative justice program. The interviews also examined the potential to apply restorative justice to power-based crimes, specific experiences, and interactions with those involved in restorative justice interventions. There are approximately 65 restorative justice programs in British Columbia. 25 programs were identified as the sample from which 13 completed an interview.

As will be demonstrated below, these interviews provided qualitative information from Executive Directors and Managers of restorative justice programs about the different ways that their restorative justice programs have affected participants. Importantly, the interviews focused on successful and unsuccessful participants' program experiences and effects, whether certain groups of offenders (e.g., adult vs. youth, gender, repeat vs. first-time, types of offences) were more or less positively affected by restorative justice programs, program mandates, structure, interventions, the experiences of the restorative justice program's referral process, and the challenges and benefits and expanding the types of offences represented by the restorative justice programs. Interviews also focused on the potential for restorative justice programs to be used for power-based crimes, specific experiences, and interactions with those involved in restorative justice interventions.

Police participants were recruited through direct communication with senior police leaders, British Columbia RCMP headquarters staff, and the British Columbia Association of Chiefs of Police. Chief Constables and RCMP Detachment Commanders were contacted through email, sent the project summary, and invited to have personnel participate in the study. The result was participation by a cross section of police agencies, including RCMP and municipal departments, representing the four policing districts in British Columbia of Vancouver Island, the Lower Mainland, the Interior and North Districts. A cross section of agency sizes (e.g., large urban, small rural) was also achieved.

In total, 14 police detachments or departments responded resulting in 21 participants who were interviewed after being identified as the most appropriate participants by their respective commanders. In all but one case, detachment and department commanders delegated their participation, citing their desire to have restorative justice police coordinators respond to the questions. Participants varied in rank and responsibility, including nine junior ranking (Constable/Corporal) participants, six senior ranking (Staff Sergeant/Inspector or those in

command positions), and four civilian coordinators who were embedded in the police agency. Junior participants were defined as having responsibility for a single program or section within a larger agency while senior participants were defined as being in a command role or responsible for multiple units, including the Restorative Justice section. Interviews were focused on gaining a better understanding of the procedures and policies related to decisions to refer people to restorative justice programs at the pre-charge stage, which types of offences they typically refer people to restorative justice for and why, and what benefits and challenges they perceive in expanding the types of offences that are referred, with a particular focus on power-based crimes.

All interviews were conducted by the principal investigators. All interviews were conducted either by phone or via online video conferencing. The ethics of the research project, including the interview schedule and project methodology, were reviewed and approved by the University of the Fraser Valley's Human Research Ethics Board prior to any data being collected. Participation in the interviews was voluntary and those willing to participate were provided with an information sheet prior to the interview that included a detailed overview of the purpose of the interview.

Immediately before the interview began, all participants were provided with the information sheet and asked to provide their verbal consent to participate in an interview. Interviews were not recorded using video or audio recording devices. Research assistants attended each interview and anonymously transcribed the conversation.

Once the interviews were completed, all the anonymized information was entered into a Microsoft Word document and analyzed for common themes. The analyses focused on themes emerging from the specific content provided by respondents during their interviews, in addition to latent content illustrating any underlying themes.

Literature Review

Rooted in Indigenous-led justice approaches, restorative justice principles and practices emerged in the 1970s (Umbreit & Armour, 2011). In the twenty-first century, restorative justice initiatives are increasingly being adopted as alternative measures to handle both non-violent and violent crimes at all levels of the adult and youth justice systems with the goal of minimizing the effects of crime on people and communities (Umbreit & Armour, 2011). According to the restorative justice philosophy, crimes are not only a violation of the law, but they also represent a breakdown between people and relationships and cause a disruption of the peace in the affected community (Province of British Columbia, 2022; Zehr, 2014). The crucial components of the restorative justice approach are to value inclusion, responsibility, reparation, safety, healing, and reintegration (Tomporowski et al., 2011). Thus, compared to the more traditional criminal justice system responses designed to establish guilt and to punish offenders and remove them from society, restorative justice programs seek to repair the harms caused by crime and violence by meaningfully holding offenders responsible for their actions, and providing an opportunity for those effected by the crime, including the offender, victim, and the community, to engage with the justice process by identifying and addressing their needs in the aftermath of a crime (Province of British Columbia, 2022; Tomporowski et al., 2011). The ideal is for all restorative justice processes to include a discussion about what happened during the offence, who has been harmed and their needs, and how to

address the matter, including providing a means for making amends on the part of the offender.¹ However, depending on the extent to which victims, offenders, and communities are involved, the ways in which restorative justice processes operate may vary. The following are some of the types of restorative justice processes that are in operation.

Victim-offender mediation involves a meeting between a victim and offender in a safe and structured setting facilitated by a trained, impartial mediator (Tompsonski et al., 2011). Victims often explain the physical, emotional, or financial outcomes the crime had on their lives, while the offender is afforded opportunities to apologize, answer lingering questions, and develop plans for repairing the harm (Canadian Resource Centre for Victims of Crime, 2011). The outcome from a mediation process varies (i.e., type of reparation such as restitution or in-kind services) and will be monitored based on a written agreement. In this process, the victims and offenders are the key stakeholders.

Conferences employ the same principles of face-to-face engagement as victim-offender mediation; however, they involve greater community participation. In addition to one or more victims and the offender(s) meeting with a facilitator, the victim's and offender's communities are welcomed into the mediated interaction to help decide how the offender should repair the harms caused (Tucker, n.d.). Compared to the victim-offender mediation process, the focus of a conference is on the role of the family and other support persons in influencing the offender and the outcome (Umbreit & Armour, 2011). Family group conferences, which are rooted in the Māori culture in New Zealand, involve young people who are supported by family members in the process of holding the youth offender accountable, teaching individual responsibility, and in addressing the harm done (Canadian Resource Centre for Victims of Crime, 2011). Introduced into the juvenile justice system as an alternative to youth court, the focus of a conference is to repair the harm done by an offence and minimize the likelihood of future harm. In Canada, this practice has been expanded to include community justice conferences, which typically address cases involving adult offenders and broaden participation to include supporters of the offenders and victims who may or may not be family (Canadian Resource Centre for Victims of Crime, 2011; Tompsonski et al., 2011).

Circles were developed based on First Nations practices in North America and focus on shared leadership and consensus-based decision-making. These processes involve a wider range of individuals as participants, including families, community members, justice professionals, and others, and are designed to be used in place of western-style courts to keep offenders out of the prison system (Tompsonski et al., 2011; Tucker, n.d.; Van Ness, 2005). Given the large number of potential participants, these types of processes make use of a talking piece passed between participants to designate who may speak (Umbreit & Armour, 2011). Circles of Support and Accountability, for instance, involve groups of volunteers helping to provide a healthy environment for an ex-offender by advocating with various systems, establishing dialogue with the ex-offender about attitudes and behaviours, and mediating concerns with the community. Rooted in Aboriginal

¹ Making amends commonly includes an apology (i.e., sincere expression of regret), changed behaviour (i.e., commitment to changing one's approach to life), restitution (i.e., repaying the victim for what they have lost), and generosity (i.e., contributing to the community at large through community service) (Tucker, n.d.).

tradition, Peacemaking Circles seek to address the presenting criminal problem and build community by uncovering underlying problems and restoring balance. Healing Circles are intended to bring conflict to a close by allowing participants to express their feelings, while Sentencing Circles bring victims, offenders, families, and community members together with a judge, lawyer(s), and the police to recommend the type of sentence an offender should receive (Canadian Resource Centre for Victims of Crime, 2011). Community-assisted hearings or releasing circles, which are designed specifically for Aboriginal offenders, involve members of the parole board, the offender, his/her parole officer and support person, elders from the community, and victims sitting in a circle to discuss the effects of the crime (Canadian Resource Centre for Victims of Crime, 2011).

There is also a process that involves the use of **justice committees** that are generally comprised of volunteers who play a role in addressing community concerns by creating a meeting wherein accused persons and their families come together with victims and their supports, police, and other justice agencies to discuss and resolve the incident (Canadian Resource Centre for Victims of Crime, 2011; Tomporowski et al., 2011). Youth Justice Committees (YJCs) are specifically designed to ensure there are community supports available for young persons, and to assist in arranging for programs, services, and mentorship for youth (Canadian Resource Centre for Victims of Crime, 2011). Applying restorative justice principles in the youth criminal justice process, these committees bring together community members, victims, young persons in conflict with the law, and their parents to negotiate an appropriate way for the youth to make amends for their actions (Canadian Resource Centre for Victims of Crime, 2011; Department of Justice Canada, 2003).

Healing lodges are used to deliver correctional services for Aboriginal offenders serving federal sentences. Reflecting the physical space and programs of the Aboriginal culture, the needs of offenders are addressed through Aboriginal teachings, ceremonies, contact with Elders, and interaction with nature. Focused on release preparation, the goal of healing lodges is to create an interactive relationship between the offender and the community (Canadian Resource Centre for Victims of Crime, 2011).

Surrogate victim/offender restorative justice dialogue is a unique process wherein a victim or an offender may choose to meet with someone who was similarly victimized or who committed a similar offence rather than meeting with the specific offender/victim in their own case (Canadian Resource Centre for Victims of Crime, 2011). These dialogues are useful for victims who do not, for a variety of reasons, want to meet the offender in their case, and they are also helpful for offenders who want to participate in a restorative justice process where the victim is unable or does not want to take part (Canadian Resource Centre for Victims of Crime, 2011).

In addition to the diverse ways in which restorative justice can be delivered, the process can also be initiated at various times during the criminal justice process. Most criminal matters handled through a restorative justice process are referred by police officers at the pre-charge stage (i.e., after committing a crime but prior to being charged with an offence), by Crown post-charge (i.e., after being formally charged with a crime but prior to the commencement of court procedures), or pre-conviction (Canadian Resource Centre for Victims of Crime, 2011; Tomporowski et al., 2011). Referrals that take place once a case has entered into the formal criminal justice system, including those made by judges (i.e., the courts) during the pre-sentencing stage, as well as during the post-sentencing stage or post-release from custody (i.e., pre-revocation), where referrals are made by

correctional staff (e.g., probation or parole officers) (Province of British Columbia, 2022; Tomporowski et al., 2011; Tucker, n.d.). While many programs limit their referrals to specific stages of the judicial process, there have even been a few programs designed specifically to address serious violent offences that can be referred at either the pre-sentence or post-sentence stages (Tomporowski et al., 2011).

CANADIAN CONTEXT: THE DEVELOPMENT OF RESTORATIVE JUSTICE PROGRAMS

In Canada, restorative justice was initially introduced in 1974 by the Mennonite Central Committee as victim-offender mediation during court processes involving youth offenders engaged in acts of vandalism (Dhami & Joy, 2007; Robinson et al., 2012; Tucker, n.d.). It became more formally incorporated into the criminal justice system by 1988 following the Daubney Report, in which the Parliamentary Standing Committee on Justice and the Solicitor General recommended the expansion and evaluation of victim-offender reconciliation programs at all stages of the criminal justice system throughout Canada (Tucker, n.d.). Being one of the few countries to adopt restorative justice strategies at every stage of the criminal justice process, Canada has seen a plethora of different restorative justice programs developed and implemented across the country (Tomporowski et al., 2011; Tucker, n.d.). There are four national restorative justice programs, and the Aboriginal Justice Strategy supports over 100 community-based programs designed to increase the involvement of Aboriginal peoples in the administration of justice and reduce rates of crime and victimization among Aboriginal peoples in over 400 First Nations, Inuit, and Métis communities across Canada (Tomporowski et al., 2011).² Most recently, the Government of Canada has recognized the need to increase support for restorative justice programs. In response to the COVID-19 pandemic, the government provided additional funding for 12 restorative justice initiatives aimed at assisting Indigenous people and youth from across the country (Department of Justice Canada, 2020). Through Justice Canada's Indigenous Justice Program, Justice Partnership and Innovation Program, and the Youth Justice Fund there were funds allocated to support research, education, and awareness activities in relation to restorative justice (e.g., capacity-building training), and to assist individual Indigenous organizations to address harm caused by crime through rehabilitation and other efforts to hold offenders accountable and responsible for their actions (Department of Justice Canada, 2020).

Responding to the needs and issues present in their different communities, there have also been a myriad of different frameworks for restorative justice developed in the various territories and provinces across the country. For example, in Nunavut, communities incorporated traditional Inuit law into victim-offender mediation and counselling services. Participation in restorative justice activities, including community justice committee meetings, was reported to be quite high in the Northwest territories (Tomporowski et al., 2011). In the Yukon territory, there are three programs available (Canadian Resource Centre for Victims of Crime, 2011). The Yukon Department of Health

² It is important to note that, although all restorative justice practices have features in common, programs tend to be categorized as either belonging to more western adoptions of restorative justice practices or programs rooted in traditional Aboriginal justice (Cameron, 2006).

and Social Services supports various community justice committees and projects in eight communities, including the Youth Justice restorative Community Conference Program that provides conferencing services under the YCJA (Tomporowski et al., 2011).

In the Atlantic provinces, there are at least four different restorative justice programs available for youth and adult offenders. More specifically, a restorative justice program has been operating in an Aboriginal community in New Brunswick, Prince Edward Island adopted restorative justice processes and principles into their alternative measures and extrajudicial sanctions, the RCMP offers community justice forums in Labrador, and Nova Scotia provides a comprehensive restorative justice strategy for youth cases (Tomporowski et al., 2011). Although restorative justice has been adopted to a lesser extent in Quebec, the province does support alternative measures programs, community justice initiatives, Aboriginal justice programs, and community justice committees (Tomporowski et al., 2011).

With approximately 15 operating restorative justice programs, Ontario funds agencies to provide restorative justice programs for youth, including the development of youth justice committees in almost 60 court jurisdictions. In addition, Ontario offers a victim-focused restorative justice service, the Collaborative Justice Project, designed to address matters involving serious offences, including robbery and impaired driving causing death (Tomporowski et al., 2011). This program gives priority to victims, safety, accountability, reparation, and reintegration to deliver justice to victims, offenders, and the community (Canadian Resource Centre for Victims of Crime, 2011). Ontario was also the first province to develop a program designed to support high-risk sexual offenders who are released at the end of their sentence without any community supervision. This program is the Circles of Support and Accountability (COSA) (Umbreit & Armour, 2011).

Manitoba has over 50 designated justice committees and several Aboriginal justice projects linked to restorative justice, including the Community Holistic Circle Healing Project that was implemented in Hollow Water and uses circles and restorative justice principles to respond to sexual abuse (Tomporowski et al., 2011). Initiated and supported by many women in the Ojibway communities, the Hollow Water program is viewed as being a healthy and safe alternative to imprisonment for those who commit partner violence, child sexual abuse, and related forms of violence (Cameron, 2006). The Restorative Resolutions program, also located in Manitoba, provides victim-offender mediation, and prepares sentencing plans for adult offenders. Like Manitoba, Saskatchewan is noted for relying heavily on restorative justice processes to handle both adult and youth criminal matters, with upwards of 6,000 referrals to restorative justice programs every year (Tomporowski et al., 2011). In line with the Hollow Water initiative, Saskatchewan also has programs that are designed to deal specifically with more serious, violent offences. These include the Regina Alternative Measures Program and Saskatoon Community Mediation Services. Alberta has approximately eight different restorative justice programs and employs the Alexis Restorative Justice Court restorative justice model that focuses on treatment, community involvement, and integrated responses to offending (Canadian Resource Centre for Victims of Crime, 2011). Within this province, there are 126 Youth Justice Committees along with several restorative justice agencies (Tomporowski et al., 2011). Most cases handled through diversionary measures in Alberta involve offences of a less serious nature (i.e., shoplifting and mischief), and program referrals

generally come from local probation staff at both pre- and post-charge stages (Department of Justice Canada, 2003).

In British Columbia, the province promotes the use of restorative justice through the BC Ministry of Justice's Community Accountability Program, which provides a \$5,000 start up grant to help programs get established, as well as a \$2,500 annual grant to the approximately 70 restorative justice programs operating across the province (Asadullah & Morrison, 2021; Robinson et al., 2012).³ There are many community-based restorative justice organizations or programs operating throughout British Columbia. Most of the community programs operating in the province utilize the RCMP's Community Justice Forums model. This model, based on the family group conference developed in New Zealand, involves the offender, offender's supporters, victim, victim's supporters, and others who may be affected by the crime meeting with a trained facilitator and the investigating police officer (Robinson et al., 2012).

There are several other operating programs in British Columbia, including the following examples. The North Shore Restorative Justice Society seeks to build capacity and connectivity with the North Shore community to prevent and respond to conflict and harm, and to develop solutions that are consistent with the traditional values of the community's elders, adults, and youth (North Shore Restorative Justice Society, 2022). Operating in various regions in British Columbia, including the Central Okanagan, the John Howard Society has developed a restorative justice program that diverts criminal matters from the court by facilitated meetings that bring those harmed together with the person who caused harm to collaboratively create a contract/resolution agreement to repair harm (Restorative justice in British Columbia, 2022). They offer services, including pre-release supports for individuals residing in provincial correctional facilities, home and wrap-around supports for persons on conditional release from federal and provincial correctional institutions, community reintegration resources, services, and supports, as well as alternative justice interventions (John Howard Society of Okanagan & Kootenay, n.d.). The Vancouver Aboriginal Transformative Justice Services Society is a non-profit agency operating within the Metro-Vancouver area that provides justice, homelessness, and crime prevention services to Indigenous people. They focus on providing a non-retributive, non-adversarial approach that emphasizes healing, meaningful accountability, and community involvement to build a safer and healthier community (Vancouver Aboriginal Transformative Justice Services Society, n.d.). The Restorative Justice-Victoria Program uses family group conferencing methods to deal with youth crimes, such as minor theft, assault, and other property-related crimes (e.g., trespassing, auto theft and vandalism) (Dhami & Joy, 2007; Tucker, n.d.). The goal of this program is to invite individuals and affected community members to participate in a collaborative process that repairs the harm caused by offences, reunites individuals and communities, builds capacity for individuals to take responsibility for changing behaviours, and creates opportunities for communities to resolve conflict (Dhami & Joy, 2007). The Chilliwack Restorative Justice and Youth Advocacy Association Program, which was established in 1998, provides a group conference setting to directly resolve matters for individuals affected by or involved with incidents of shoplifting, arson, assault, theft,

³ Additional federal government funding is also provided to community justice initiatives in BC through the Aboriginal justice strategy (Robinson et al., 2012).

break and enter, vandalism, or mischief (Robinson et al., 2012). Not only does this program focus on strengths, including building agreements tailored to the offenders' strengths and enhancing their future opportunities, it also strives to connect clients with community members and organizations to facilitate positive activities and relationships (Robinson et al., 2012). One of the unique components of this initiative is the direct referral process that allows for a more rapid response by enabling the process to be initiated by the store's loss prevention officer or other staff member without a police officer being physically present (Robinson et al., 2012).⁴

The Community Justice Forum pre-charge restorative justice model is sanctioned by the RCMP. In British Columbia, these forums operate under three basic processes. In smaller communities, police officers refer, coordinate, and facilitate the restorative justice program (Munro, 2006). In mid-sized communities, the programs are more community-based, with police making referrals, community volunteers coordinating the program, and trained community volunteers facilitating the forums. The final structure has been adopted to deal with higher volumes of cases in larger urban areas. Here, police form a partnership with a non-profit organization and rely on community justice-trained community volunteers to facilitate the forums that are monitored by a paid coordinator. This model has been adopted, for example, by the Nanaimo RCMP, who partnered with the Nanaimo Region John Howard Society (Munro, 2006).

The Community Accountability Program (CAP) was established by the BC provincial government in 1998, and it promotes and funds the establishment of volunteer-run, community-based restorative justice initiatives (Dhami & Joy, 2007). Most of these programs have been utilized on a pre-charge basis to handle low-level offences (e.g., auto-theft, non-dwelling break and enter, minor assault, and minor theft) for first- and second-time low-risk youth and adult offenders (Dhami & Joy, 2007; Tomporowski et al., 2011). There are approximately 40 such restorative justice programs operating in British Columbia (Dhami & Joy, 2007).

Youth and Family Court Committees (FCCs), which are established under the *Provincial Court Act*, serve to provide advice to municipalities and other levels of government based on court watching and other related activities focused on youth and families (e.g., monitoring family violence issues, assessing needs and recommending programs for youth, providing sentencing advice to courts, etc.) (Canadian Resource Centre for Victims of Crime, 2011). The Fraser Region Community Justice Initiatives Association in Langley has also developed restorative justice processes to address serious, violent offences, including robbery, murder, and sexual assault (i.e., rape, sexual assault, and child sexual abuse) (Tomporowski et al., 2011). This program fosters peacemaking and resolution of conflict in the community through the development and application of mediation and conciliation, including a day treatment program, victim-offender mediation program and a victim-offender reconciliation program (Canadian Resource Centre for Victims of Crime, 2011).

While all these programs operate slightly differently, they all follow the basic requirements outlined by the provisions contained in the *Criminal Code* and the YCJA that were created to support the use of alternative measures (Tomporowski et al., 2011). For instance, all restorative justice programs require that participation in the process be voluntary and confidential. In effect, the

⁴ See Robinson et al. (2012) for a more detailed description of the direct referral process.

person who has been harmed (i.e., the victim) must want to participate in the process, and the offender (i.e., person responsible for the harm) needs to admit guilt, take responsibility for the harm caused, and freely consent to participating in the restorative justice process (Canadian Resource Centre for Victims of Crime, 2011). Referrals to these programs are generally accepted from Crown Counsel, probation officials, courts, and police (RCMP or municipal police services). In terms of case profiles, many programs have been designed to deal with young persons. However, many programs have expanded to be inclusive of all offenders, with some programs designed specifically to provide services to address the unique circumstances of Indigenous offenders (Vancouver Aboriginal Transformative Justice Services Society, n.d.). Furthermore, while most of the programs are designed to work with low-risk offenders (i.e., those who commit less serious offences, such as theft, mischief, minor assault, possession of a controlled substance, etc.) (Canadian resource Centre for Victims of Crime, 2011), some programs have been adapted to deal with more prolific/violent offenders who commit serious offences, including murder, sexual and/or spousal assaults, or offences involving death (Vancouver Aboriginal Transformative Justice Services Society, n.d.). Several models have been adopted to deal specifically with intimate partner violence, including: (1) sentencing circles that can be either judicially convened circles (i.e., processes used by a judge after a finding or plea of guilty) or court diversion circles that operate as an independent program in Aboriginal communities accompanied by resources, such as counselling; (2) family group conferencing, which is used in British Columbia to deal with family violence cases, including those concerning child welfare in Aboriginal and non-Aboriginal communities; (3) victim-offender mediation that can be initiated under the authority of a special agreement with correctional authorities during an offender's incarceration; and (4) alternative measures, which are mandated by federal criminal legislation, and may involve diversion from prosecution into programs administered by probation officials (Cameron, 2006).

ADOPTION OF RESTORATIVE JUSTICE PRACTICES IN THE UNITED STATES AND INTERNATIONALLY

Restorative justice practices have been implemented in over 80 countries around the world, including most European countries, Australia, Japan, China, Liberia, New Zealand, South Africa, South Korea, Russia, Ukraine, and several countries in South America (Umbreit & Armour, 2011). However, the legal status of these programs varies widely. In some countries, restorative justice programs operate independently of the criminal justice system, with only their outcomes being connected to the formal legal system (e.g., peace committee in Pakistan, the *sulha* peacemaking process in the Middle East, and mediation programs in Guatemala and Argentina) (Van Ness, 2005). In some countries, including Austria, restorative processes operate under explicit and limited legislative authorization, while other jurisdictions have included restorative justice processes into larger justice reforms (e.g., the Youth Offending teams in the *Crime and Disorder Act* of 1998 in England and Wales) (Van Ness, 2005).

In the United States, although the integration of restorative justice principles into their legal framework is less cohesive and developed compared to Canada (Katz & Bonham, 2006), there has been an increase in the use of restorative justice programs over the last 30 years (Bouffard et al., 2016). Given that each state can choose which types of programs and processes will be

incorporated into their legal statutes, there has been a wide range of restorative justice initiatives developed and implemented into the criminal justice system in the United States (Katz & Bonham, 2006). For example, there are individual, community-based restorative justice programs operating in virtually every state in America. In addition, there are a growing number of states and county jurisdictions (namely in Arizona, California, Colorado, Illinois, Iowa, New York, Ohio, Minnesota, Oregon, Pennsylvania, Texas, Wisconsin, and Vermont) that are attempting to replace much of the existing traditional criminal justice response with principles and practices of restorative justice (Umbreit & Armour, 2011). The community Reparative Boards in Vermont, for instance, have replaced much of the state's traditional probation supervision. Moreover, 19 states have introduced or passed legislation promoting a more balanced and restorative juvenile justice system. For instance, in Orange County, California, victim-offender mediation and conferencing programs divert juveniles away from the traditional justice system, and provide needed support, assistance, and restoration for victims of crime (Umbreit & Armour, 2011). An additional 30 other states have incorporated restorative justice principles into their mission statements or policy plans (Umbreit & Armour, 2011). Moreover, community panels have been developed as a cost-effective method to reduce the likelihood of re-offending in cases involving drunk driving (Fors & Rojek, 1999).

Restorative justice initiatives are also being increasingly utilized to handle cases involving severe and violent crimes, including sexual offences. Driven by requests from victims, Departments of Corrections in Texas, Ohio, and other states have implemented victim-offender mediation through their victim services units (Umbreit & Armour, 2011). In these programs, victims who have experienced trauma caused by extreme violence meet with the offenders who have harmed them, and, through a facilitated dialogue, search for meaning, an acknowledgement of responsibility, and some degree of closure (Koss & Achilles, 2008; Umbreit & Armour, 2011). In addition to the Mediation Program for Victims of Violent Crime, which has assisted survivors/victims of sexual assaults, the Pennsylvania Office of the Victim Advocate actively facilitates Victim Impact Panels that involve survivors/victims speaking with incarcerated sex offenders about the effect of these types of crimes have had on victims and their communities (Koss & Achilles, 2008). The RESTORE program in Pima County, Arizona offered a modified conferencing process wherein survivors/victims of misdemeanour or felony sexual assault were contacted first to ensure offender consent was not used to coerce participation, rigid rules were put in place to prevent verbal re-abuse or contact with the victim, participants were seated around a large table to maintain separation and perceptions of protection, and pre-screened and trained volunteer community members were present to validate survivors/victims and offer offenders assistance in problem solving, maintenance of contact with law abiding community members, and, where necessary, terminate the process for non-compliance (Koss & Achilles, 2008). One of the main goals of this program was to create a Redress Agreement, which required that the offender complete a series of tasks (e.g., sex offender treatment, counselling, restrictions on contact, monetary restitution, and/or forms of punishment) to repair the harm caused within a specified period of time (usually 12 months) (Godlewska, 2022). Currently, there are approximately 34 restorative justice programs operating across the United States that handle intimate partner violence and sexualized violence cases (Godlewska, 2022).

In some regions around the world, restorative justice practices have become the mainstream reaction to certain types of offending. For example, in 2001, the European Union adopted a policy

stating that member states (i.e., nations) of the union should promote victim-centred mediation (i.e., victim-offender mediation) in criminal cases and integrate this practice into their national laws (Umbreit & Armour, 2011). Austria established the first broad implementation of victim-offender mediation (VOM) into its criminal procedure. Inclusive of both youth and adults, most of the clients referred to VOM in Austria commit offences involving bodily injuries, including assault and battery (Lauwaert & Aertsen, 2015). Receiving a relatively high number of cases involving intimate partner violence, the VOM model has been adapted to include specific methods and guidelines, including single interviews, mixed double meetings,⁵ and risk assessment tools to allow for these sorts of cases to be handled appropriately (Lauwaert & Aertsen, 2015).

Following the example set by Austria, numerous other European countries have made strong policy commitments to restorative justice. In Northern Ireland, for instance, youth offenders are dealt with primarily through conferencing operated by the Youth Justice Agency (Lauwaert & Aertsen, 2015). In England and Wales, Youth Offender Panels, which consist of two trained community volunteers, a member of the Youth Offender Team, the offender, victim, supporters for both the victim and offender, and members of the community, provide a less formal context to discuss the crime and its consequences, and to develop an agreed-upon contract between the community panel and offender for a specified period of time (Bouffard et al., 2016). Moreover, Germany has over 468 victim-offender mediation programs in operation (Umbreit & Armour, 2011). Copenhagen, Denmark offers a dialogue restorative justice program, wherein staff assist survivors/victims of sexual-related offences to establish communication with offenders via writing or telephone (Koss & Achilles, 2008).

New Zealand completely restructured its youth justice system to reflect the traditional practices of its Indigenous people, the Māori, as well as the principles of restorative justice (Umbreit & Armour, 2011). Family Group Conferencing, which was developed in New Zealand, is now the primary mechanism for dealing with youth criminal cases. While this type of program usually involves participation and the engaged dialogue of the victim, offender, family members, and a representative of the justice system, each conference varies in terms of the degree of emotional expression, supportive gestures, and reparation agreements (Bouffard, Cooper, & Bergseth, 2016). The youth justice system in both New Zealand and Australia have also expanded to handle incidents of sexual assault utilizing restorative justice processes, such as the South Australia Juvenile Justice Intervention, and the Restore-NZ in Auckland (Koss & Achilles, 2008). Of note, in Australia, cases involving juvenile sexual assault are mandated to go through conferencing (Koss & Achilles, 2008), and the New Zealand Restore program, which was founded in 2005, handles sexual assault cases at the pre- and post-conviction stages (Godlewska, 2022).

⁵ Separate single interviews with the involved parties allow for the case to be assessed for suitability for the restorative justice process and for facilitators to prepare the mediation session. The mixed double method involves holding separate meetings for the parties that take place in tandem (i.e., same time). Immediately following these sessions, mediators relay what they have learned from their participant (i.e., mirror the stories of the partners) to understand the perceptions and expectations of each party (Lauwaert & Aertsen, 2015).

EVALUATIONS OF RESTORATIVE JUSTICE PROGRAMS OR INITIATIVES

Conducting formal evaluations on the outcomes and effects of restorative justice on victims, offenders, and communities has, thus far, been difficult. One of the major obstacles is that restorative justice processes are highly varied. Goals, objectives, and processes may be different depending on the needs and resources of the community being served. To further complicate matters, because these processes are highly subjective, personal, and interactive, it is difficult to capture and measure the core restorative justice processes and their outcomes, including victim empowerment and offender remorse/empathy (Robinson et al., 2012). Research is also limited by the lack of standardized data collection. In other words, without a comprehensive, systematic national data collection on restorative justice, it remains unclear as to the precise number of operating restorative justice programs, how many cases are handled through different restorative justice responses, and what the outcomes are for clients who participate in restorative justice processes (Tomprowski et al., 2011). In addition, obtaining proper control groups of victims and offenders who have participated in conventional justice system responses to compare to those who have participated in restorative justice processes remains a challenge.

Guided by the fact that restorative justice is more of a process than a product, research has focused on participation rates and reasons, overall satisfaction of participants, and participant perceptions of fairness as measures of the efficacy of the process. Meanwhile, the overall effectiveness of restorative justice processes has centred around examinations of restitution and reparations of harm, recidivism, and overall costs (Umbreit & Armour, 2011).

Program Use and Formal Evaluations

Youth Justice Committees

There are over 260 designated Youth Justice Committees operating across Canada; however, the establishment of this alternative measure varies substantially by province/territory. There are marked differences between jurisdictions in terms of the number of established Youth Justice Committees (YJC). For instance, provinces making more use of this alternative measure include Newfoundland and Alberta, with approximately 32 and 98 designated Youth Justice Committees, respectively (Department of Justice Canada, 2003). However, jurisdictions, such as Nova Scotia, Prince Edward Island and New Brunswick, have not adopted Youth Justice Committees. Even more discerning are the characteristics of the operating Youth Justice Committees. While all designated Youth Justice Committees meet certain standards for membership and operations, such as screening of members, community representation, and training, there is wide variation amongst the programs in terms of: (1) budgets/funding, where, for example, Alberta provides between \$500 to \$55,000 in annual funding per committee depending on the size of the committee, caseload, and other factors, while Saskatchewan receives no funding; (2) the number of volunteers and whether they are paid; (3) the number of referrals annually, which can range from two or three per year up to 200 based on community size, eligibility criteria, and the Youth Justice Committees relationships with referral agencies (i.e., police and Crown); (4) the referral stage, with many programs primarily geared toward considering the applicability of a YJC after charges have been laid, including the YJC Program in Peel and Toronto (Associated Youth Services of Peel, 2024); (5) eligible offences and offenders, where some provinces, such as Ontario, limit inclusion to first-time offenders committing

minor offences, while others, including Alberta, provide programs with more discretion in terms of who is screened out; and (6) victim participation, wherein jurisdictions differ in terms of how often victims are invited to participate in the process, with Ontario routinely inviting victims to hearings (Department of Justice Canada, 2003). Youth justice committees vary in terms of the number and type of functions they provide. From the perception of youth court judges, youth committees may serve one or more of the following purposes: assisting with alternative measures and other pre-trial options, providing information to the community about youth justice, helping to develop non-custodial sentencing options, assisting in conferences involving offenders and victims, and/or providing judges with information about available non-custodial options (Government of Canada, 2021).

Collaborative Justice Project

An evaluation of the Collaborative Justice Project, which employs a restorative justice approach in cases involving serious crimes that would normally result in a significant term of imprisonment, examined whether a restorative approach can be successfully applied in cases involving serious crimes at the pre-sentencing stage, as well as whether the Collaborative Justice Project met its mandate and goals (Rugge et al., 2005). The evaluation relied on a sample of 288 participants, with 65 offenders and 112 victims in the Collaborative Justice Project group and 40 offenders and 71 victims in the control group, and examined client characteristics, program activities, program outcomes, and value added. Offenders were mostly male adults just under 30 years of age, while victims were slightly older (over 30 years of age) and more evenly split across gender. Most of the offenders who participated in the Collaborative Justice Project were low-risk, first-time offenders who were involved in offences that were serious in nature, including robbery, assault or assault causing bodily harm, sexual offences, and dangerous driving (Rugge et al., 2005).

Some of the important outcomes from this evaluation included identifying victims' and offenders' needs, program activities and outcomes, and the program's added value. Information obtained from victims prior to participating in the restorative justice process indicated that victims wanted to obtain information, address the offender's needs/rehabilitation, tell the offender how the crime effected them, obtain an apology/have the offender make reparations, have active involvement in the process, determine for themselves whether the offender was remorseful, receive financial compensation and emotional support, and feel a sense of closure (Rugge et al., 2005). Post-participation interviews indicated that the majority (91.1 per cent) of victims felt their needs were met (e.g., they experienced healing or closure, were able to tell their story, etc.). In cases where the victims' needs were not met, it was suggested that the program could have been improved by increasing facilitator training and having a psychologist present throughout the process. Compared to the victims, the offenders expressed fewer needs prior to participating in the Collaborative Justice Project. Their primary needs included wanting the opportunity to apologize, provide an explanation, reduce their sentence, attempt to repair the harm caused, rehabilitate, be made aware of the effect of the crime on the victim, and resolve the conflicting facts with the victim (Rugge et al., 2005). As were victims, offenders were primarily satisfied with the process and felt that their needs

were met in that they felt supported, they believed they had been given the opportunity to apologize and to explain, and to answer victims' questions.

In terms of program activities, most of the cases were referred to the Collaborative Justice Project from the judicial pre-trials (44.3 per cent), defence attorney (27.9 per cent) and Crown Counsel (18.0 per cent). Prior to victim-offender meetings, both victims (78.6 per cent) and offenders (95.0 per cent) were looking forward to the meeting. While not all cases were deemed appropriate for a victim-offender meeting or circle, meetings still occurred in 58.5% of cases, with most taking place prior to sentencing (Rugge et al., 2005). In terms of outcomes, reparation plans, which included performing community service, providing restitution, attending/continuing treatment, attending school, and maintaining employment, were developed and agreed upon in the majority of cases. Offender and victim reflections on the process suggested that the greatest strength of the program was bringing everyone together, with the greatest challenge identified was meeting the other person (i.e., victim or offender) (Rugge et al., 2005).

Some important findings pertaining to program outcomes related to victims' feelings of fear and changes in offender remorsefulness and accountability. Although victims indicated their level of fear dropped slightly after participating in the Collaborative Justice Project, on average, the most frequent response pertaining to their current level of fear was a "5" on a 10-point scale anchored by 'not afraid at all' and 'extremely afraid'. Moreover, most victims indicated that they had made changes in their life because of being victimized (e.g., being more cautious and lacking trust in people, locking their doors, etc.). This suggested that perhaps the program did not engage in activities to specifically target fear of victimization. In terms of outcomes related to the offenders, there were increases in genuine remorsefulness between pre-program and post-program participation, and there were indications of increased accountability throughout the program (i.e., offender accepting responsibility) (Rugge et al., 2005). Furthermore, in most cases, it was determined that offenders had been adequately held accountable for their behaviour and had made sufficient efforts to make reparations, including making apologies and financial restitution.

A final important finding from the evaluation was related to the value added of a restorative approach compared to the traditional criminal justice system response. Interviews with key Collaborative Justice Project players (i.e., Crown Counsel and defence attorneys, judges, probation officers, police officers, and Collaborative Justice Project advisory circle members) indicated that, in general, there were positive opinions about the operations and outcomes of the Collaborative Justice Project. More specifically, most believed that a restorative justice process was fair, promoted healing, humanized the process, promoted offender responsibility and rehabilitation, and had a place within the criminal justice system (Rugge et al., 2005). In terms of the success of the Collaborative Justice Project, program facilitators believed that most cases were successfully handled through the restorative justice process and would recommend a restorative justice approach in the future. Despite being unable to compare the rate of reconviction between the Collaborative Justice Project offenders with those handled in the traditional criminal justice system, the evaluation did reveal that, of the 65 offenders who participated in the Collaborative Justice Project, the proportion who recidivated increased from 15.4% within the first year to 32.3% at the three-year follow-up mark (Rugge et al., 2005). The evaluators discovered that the program's

greatest effect on future offending appeared to be with offenders deemed low risk, which was consistent with previous findings (e.g., Bonta et al., 2005).

Restorative Resolutions Program

The evaluation of the Restorative Resolutions (RR) restorative justice program operating out of the John Howard Society in Winnipeg revealed some interesting information about the referral process. Bonta et al. (1998) found that defence attorneys were the most likely to refer cases, and referred cases typically involved single males around the age of 28 years old with at least one prior contact with the criminal justice system. They also discovered how difficult it was to have a case accepted into the program (Bonta et al., 1998). For example, of the 297 referrals made between October 1, 1993, and May 9, 1997, only 99 offenders had plans developed and accepted by the court. It appears acceptance into the program was heavily influenced by Crown Counsel, including their recommendation for a custodial sentence and referral to the program, as well as the offender's motivation to participate in the program (i.e., willingness to assume responsibility and meet with the victim).

In terms of the actual restorative justice process, the evaluation revealed that, in most cases, victims were contacted, and attempts were made to request their participation in the development of a restorative justice plan (Bonta et al., 1998). Despite the attempts made to include victims, for a variety of reasons, such as a desire to forget the experience and the lack of need for emotional closure, there were very few victims who met with the offender (Bonta et al., 1998). However, there was some evidence to suggest that victims benefited from the process by receiving apologies and being able to provide victim-impact statements. Other benefits stemmed from reparations that were the direct result of participating in the Restorative Resolutions program, including restitution and community service agreements. On average, \$2,563 was paid to each crime victim, and offenders completed 175.9 hours of community service (Bonta et al., 1998). Another positive outcome related to changes in offender behaviours, particularly in relation to re-offending. Results from the evaluation's recidivism analysis suggested that offenders who were supervised by the Restorative Resolutions program were less likely to re-offend than offenders exposed to traditional correctional supervision (Bonta et al., 1998).

Hollow Water's Community Holistic Circle Healing Process

The Hollow Water First Nation Community Holistic Circle Healing incorporates several provincially and federally funded services (e.g., policing, justice, corrections, health, and social services), and provides most of the mature healing-focused processes in Canada. As the program progressed, several criticisms of the process emerged, including the Community Holistic Circle Healing being too offender-oriented, the program's values being more traditional and, thus, not widely representative of everyone in the community, and the drop in the number of sex offender cases being referred to the program (Couture et al., 2001). Utilizing a participatory evaluation framework, Couture and colleagues (2001) aimed to examine the value added by the Community Holistic Circle Healing process. Based on information gathered from case files, interviews,

questionnaires, and secondary data sources (e.g., health services), Couture and colleagues (2001) were able to assess the benefits of the program in comparison to the direct and indirect costs, as well as its contributions to community wellbeing.

Based on their examination of costs between the Community Holistic Circle Healing process and the criminal justice system over an approximately ten-year period, they estimated that total costs per annum to run the Community Holistic Circle Healing program were \$2.4 million compared to \$6.2 million (at the low end) up to \$15.9 million required to cover inmate costs, including housing inmates in the traditional criminal justice system (Couture et al., 2001). This means that for every dollar spent on the Community Holistic Circle Healing program, the provincial government would have had to spend \$3.75 for pre-incarceration, prison, and probation costs. Similarly, the federal government would have had to spend between \$2.46 and \$12.15 on incarceration and parole costs for every dollar contributed to the Community Holistic Circle Healing. This finding suggests that, at the most basic level, the services provided by the Community Holistic Circle Healing are contributing to the community in a cost-efficient manner (Couture et al., 2001). Moving beyond the basic incarceration costs, Couture and colleagues (2001) suggested that there may be additional understated costs that were also curbed by the Community Holistic Circle Healing process. For instance, provided that clients of the Community Holistic Circle Healing rarely re-offended (only two clients had re-offended in the ten years under consideration for the evaluation), the Community Holistic Circle Healing also reduced costs associated with recidivism, including services required by victims for healing, as well as the police and court costs associated with re-offending (Couture et al., 2001).

One of the greatest contributions of the evaluation are the findings related to community health and wellness. Provided that the Community Holistic Circle Healing was designed to provide a holistic healing process for a community affected by the historical colonization of Indigenous people, as well as a host of other significant issues, including population trends (i.e., increase in youth at risk), migration into the community, inadequate housing, high levels of unemployment, health issues (e.g., poor nutrition, diabetes, etc.), and substance abuse, the finding that the Community Holistic Circle Healing program proved to be a catalyst for the healing of intergenerational pain was crucial (Couture et al., 2001). Couture and colleagues (2001) discovered that some of the indications of improved community health and wellness that were tied to the Community Holistic Circle Healing process focused on prevention. Foundational supports provided by the program (i.e., those that focused on addressing the underlying issues facing individuals at risk) were tied to outcomes, including improved holistic health of children, an increase in the number of people completing their education, improvements in parenting skills, broadening of community resources, an increased sense of safety along with a decrease in overall violence, and a return to traditional ceremony. Furthermore, the interviews and questionnaires provided evidence to suggest that the Community Holistic Circle Healing process served to strengthen empowerment, woman power, and respect and responsibility within the community (Couture et al., 2001). The model has helped victims be more assertive, enabled women to find their voices, and brought people together to tackle community problems. Given the focus on improving community conditions, the researchers suggested that these outcomes surpassed a dollar amount in terms of the Community Holistic Circle Healing's benefits.

Restore

The Restore program operated in Arizona between March 2003 and August 2007 (Godlewska, 2022). In an evaluation of this program, it was evident that, not only was it difficult to be selected into the program (only 20 of 66 referrals made it through to the actual conference), but there were also components of the program that raised concerns/required improvements, including pre-conference preparations for survivors, and the program's ability to truly offer a transformative experience for offenders (Koss, 2014). Survivors expressed concerns about the sincerity of offender apologies, and an examination of pre-conference intake forms and letters of apology indicated that many offenders avoided significant expressions of empathy (Bletzer & Koss, 2012). Still, overall, there were more positive than negative findings in the evaluation. In terms of victim-centred outcomes, participation in the Restore program indicated healing benefits for victims, including marked reductions in Post-Traumatic Stress Disorder (PTSD) symptoms (Koss, 2014). The process appeared to reduce instances of victim-blaming, with only one recorded instance of an offender issuing a victim-blaming statement. Moreover, the Restore program appeared to provide psychological safety for victims, with more than 90% of the participants reporting feeling supported, safe, and respected (Koss, 2014).

Informal Program Reports

A report on the use of alternative measures and extrajudicial sanctions in Saskatchewan revealed that there has been a downward trend in the use of restorative justice programs between 2013 and 2018 (Corporate Initiatives, 2020). In the 2017/2018 year there were 3,349 adult and youth referrals to restorative justice programs, which was a decrease by 854 referrals as compared to the 2013/2014 year. While both the number of youth and adult referrals dropped, the decrease was most pronounced with youth referrals, with a 30% decrease in referrals in 2017/2018 as compared to 2013/2014 (1063 compared to 1510, respectively) (Corporate Initiatives, 2020). The vast majority of the referrals occurred post-charge by an authorized Crown prosecutor (approximately 90% of all referrals), for offences involving theft under \$5000, mischief under \$5000, assault and possession of narcotics (Corporate Initiatives, 2020). In terms of who is referred to these programs, the majority of the offenders were male (over half of all adult offenders, and upwards of 60% of youth offenders), between the ages of 18 to 34 years of age (approximately 50%), with an increasingly high proportion identifying as Indigenous (approximately 57% of adult offenders and 69% of youth offenders self-identifying as Indigenous by 2017/2018) (Corporate Initiatives, 2020).

In terms of the success of the programs, approximately 75% of referrals resulted in at least a partial agreement. For processes involving adult offenders, between 2014 and 2018, approximately 30% of victims received an apology, another 20% of offenders completed community service, and about 30% of offenders made restitution and donations to charity (Corporate Initiatives, 2020). Outcomes involving youth offenders primarily involved apologies to victims (37%) and community service (25%). Restitution was a less common outcome in cases involving young offenders (approximately 12%) (Corporate Initiatives, 2020). Combined, offenders repaid over \$1.1 million in restitution directly to victims, donated over \$500,000 to charities, and provided nearly 90,000 hours of community service between 2013 and 2018 (Corporate Initiatives, 2020). Based on these outcomes, it is suggested that the use of alternative measures may be an effective mechanism for

holding offenders accountable and providing opportunities to make amends to victims and communities (Corporate Initiative, 2020). Furthermore, by allowing for approximately 3,000 cases to be resolved by community-based agencies, restorative justice programs are reducing the burden on the traditional criminal justice system. Despite the potential benefits, however, it is important to note that the data revealed a steady increase in the number of victims who refused to participate in the restorative justice process, from 12% up to 25% (Corporate Initiatives, 2020). This suggests that there needs to be greater emphasis placed on the victim component of the restorative justice process.

The most recent annual reports for the John Howard Society suggest that their justice-related services are having a positive impact. Their 2018-2019 report revealed that their restorative justice program recovered over \$9,000 in restitution for victims of crime. In addition, this organization was able to connect individuals to services and programs throughout the community, including restorative justice (16 clients), their shoplifting prevention program (65 clients), their STOP – Stop Taking it Out on your Partner, domestic violence prevention program (35 men), and outreach services (189 persons served) (John Howard Society of Okanagan & Kootenay, 2020). Anecdotal client feedback about the STOP program suggests that this initiative offers important insights into offender issues and problem-solving strategies that are life changing (John Howard Society of Okanagan & Kootenay, 2020). Similarly, clients involved with the services provided by the probation outreach initiative, including transportation, assistance with housing, and connections to community services, suggest that these supports have helped them make positive changes in their lives (John Howard Society of Okanagan & Kootenay, 2020). The report for 2020-2021 revealed that they had an increase in referrals to their justice services (Sellars & Bacon, 2021). Over the course of the year, they had 648 clients who participated in their justice service programs, who ranged in age from 30-39 years old. The program continues to build partnerships within the community, including creating relationships with shelter services and community corrections. Furthermore, in addition to offering clients a range of services such as issuing temporary ID's, the program is planning to expand their services to support individuals “for whom their substance use, mental health, or homelessness lock them in a destructive cycle of interactions with the Justice System” (Sellars & Bacon, 2021, p. 14).

The Fraser-Burrard Community Justice Society's (2007) performance report revealed that 259 referrals were received between January of 2000 and December 2007, with a total of 165 conferences held. A variety of agreements were established during the conferences (e.g., verbal apology, written apology, financial restitution, etc.), and, in general, the compliance with agreements was high. In total, 97% (242 of 250) youth upheld their agreements, and most agreements were completed in a timely manner (i.e., 96% were completed within six months). Additionally, based on their feedback from 44 individuals who participated in the program between January 2007 and December 2007, it was evident that the process encompassed core restorative justice principles; the majority of participants felt they had a choice to participate, they could speak openly, felt others were interested in what they had to say, and that they were understood (Fraser-Burrard Community Justice Society, 2007). The process was also viewed as encouraging accountability, understanding, and empathy, with consensus amongst participants (i.e., victims, offenders, and support persons) that the accused had taken responsibility and apologized, and the majority agreeing that something positive was accomplished during the conference (e.g., regaining

trust, feeling better about themselves, etc.). In terms of outcomes, participants suggested that the agreement was fair, and that the conference not only resolved the conflict, but that the process provided a mechanism for significantly repairing the harm (Fraser-Burrard Community Justice Society, 2007). Participants did identify some concerns, including the length of conferences (i.e., too long), the time between the offence and the conference (again too long), and some expressed feeling embarrassed, lonely, scared/nervous or intimidated prior to or during the conference. This suggests that there are still areas requiring improvement.

RESEARCH ON SPECIFIC PROCESSES AND OUTCOMES

One of the major goals of the restorative justice process is to achieve reintegration into the community. More specifically, using various strategies, such as therapy, support groups, and mentorship programs, restorative justice aims to help victims heal and create harmony within the community primarily through a focus on deterring future criminal behaviour (Tucker, n.d.). It is not surprising, therefore, that much of the research on the effects of restorative justice processes and programs have focused on future offending (Lauwaert & Aertsen, 2015). Most of this research has been carried out in Australia, New Zealand, North America, and the United Kingdom. Although the results are mixed, in general, the research shows that offenders who have participated in restorative justice programs are less likely to re-offend (e.g., Bergseth & Bouffard, 2007; Bergseth & Bouffard, 2013; Bonta et al., 1998; Bonta et al., 2002; Bradshaw et al., 2006; Dhami & Joy, 2007; Latimer et al., 2005; Maxwell & Morris, 2002; McGarrell et al., 2000), or, at the very least, no more likely to re-offend (e.g., Wilcox et al., 2004) compared to offenders receiving a traditional criminal justice response. In addition, of those offenders who do commit new offences post-restorative justice participation, the crimes tend to be less serious (Dhami & Joy, 2007; Umbreit et al., 1994).

The reasons for the mixed results may be related to both the type of process utilized, as well as the characteristics of participants. Some studies have concluded that certain restorative justice processes may be more effective than others or that the success of a program is tied to the type of offenders participating in the process. For instance, in their study of seven restorative justice schemes in the United Kingdom, Miers and colleagues (2001) concluded that only one restorative justice program had a significant effect on reoffending rates. Compared to the other schemes, the successful program not only made the expectation for offenders clear from the outset (i.e., that participation in the process would not impact their sentence), it also dealt with more serious offenders who were serving longer prison sentences (Miers et al., 2001). There is also evidence to suggest that offender characteristics, such as the offender's age, age at first offence, gender, and previous history of offending, coupled with the characteristics of the restorative justice intervention may predict re-offending ((Dandurand & Griffiths, 2006; Dandurand et al., 2020). For example, offenders who were younger and remorseful may re-offend less. Similarly, lower recidivism rates have been observed among young offenders who reported having a memorable conference, did not get stigmatically shamed, were involved in conference decision-making, complied with their conference agreements, felt remorseful for their actions, and felt that they had righted wrongs when they met with and apologized to victims (Dandurand et al., 2020).

Youth-Specific Focus

It remains commonplace for restorative justice initiatives to target youth involved in criminal activity. Most of the research focusing on restorative justice outcomes, therefore, involves an examination of youth who have participated in a restorative justice process. The Thames Valley Police restorative cautioning initiative in the United Kingdom was found to stop or reduce offending for about one-quarter of the offenders aged 10 to 17 years old who were included in the program evaluation. In this study, of 56 youth offenders, only 14% were re-sanctioned within one year following their restorative session (Hoyle et al., 2002). Compared to reoffending following traditional responses, the restorative cautioning approach diminished the likelihood of reoffending by half within a one-year period. Clairmont's (2002) evaluation of the relationship between first case processing and recidivism also suggested that, regardless of gender, recidivism was more likely when young offender cases were processed through court compared to utilizing a caution or making a referral to the Nova Scotia restorative justice program.

Similar results have been found in the United States. Examining reoffending rates for first time offenders aged 14 years or younger, McGarrell and colleagues (2000) concluded that being assigned to a conference or other diversionary court program resulted in a 40% reduction in reoffending. Through an examination of juvenile offending in an urban, metropolitan area of the United States, Rodriguez (2007) suggested that, not only were youth less likely to recidivate when they participated in a restorative justice program, females and offenders with minimal criminal histories showed the greatest levels of success from having engaged with the restorative justice process. In their follow-up study of restorative justice programming and its effectiveness for different types of youth offenders, Bergseth and Bouffard (2013) concluded that restorative justice programming was most successful for younger offenders, males, those with no prior arrests, and youth who had a current violent or property offence compared to a drug-related crime. Bouffard and colleagues (2016) compared 284 youth referred to restorative justice programs and 267 youth referred to traditional juvenile court in a rural area in the Midwest over a four-year period. Their study revealed that not only did youth who participated in restorative justice processes, namely direct and indirect mediation and little to minimal restorative justice intervention, experience a lower likelihood of recidivating, they were also more likely to refrain from reoffending for longer periods of time after their participation compared to those who were referred to traditional youth court (Bouffard et al., 2016). In addition, they found that older youth refrained from re-offending for longer periods, as did youth with less extensive offence histories (Bouffard et al., 2016). The authors attributed these outcomes to restorative justice.

Another study that examined a specific restorative justice initiative found similar results pertaining to re-offending among youth. Examining the effect of participation in conferencing offered through San Francisco's Make-it-Right restorative justice program on youth aged 13 to 17 years old facing felony charges of medium seriousness (i.e., burglary and assault), Shem-Tov et al. (2022) discovered that, compared to the control group (i.e., those facing regular felony prosecution), youth assigned to Make-it-Right were less likely to re-offend both in the immediate aftermath of the initial arrest (i.e., after the first six months after participating in the program, the Make-it-Right youth showed a 44% reduction in recidivism), as well as in the four years following completion of the program (i.e., Make-it-Right youth were 32% less likely to be re-arrested). Not only were the

juveniles assigned to Make-it-Right less likely to be re-arrested, but they were also less likely to commit more serious offences post-conferencing (Shem-Tov et al., 2022). The researchers surmised that the recidivism-reducing effects of the Make-it-Right program stemmed primarily from the personal effects of the conferencing process, namely those elements fostering empathy and dialogue between the accused and the victim.

Despite these positive outcomes, there have been other studies revealing negative or mixed results in terms of the effect of restorative justice processes on youth re-offending. A meta-analysis that included 57 unique studies with 631 effect sizes revealed that, while many studies have found restorative justice programs and practices to be associated with a statistically significant, small-to-moderate decrease in re-offending compared to more traditional juvenile justice responses ($g = 0.23$, $p < .001$, 95% CI [0.14, 0.32]), the most robust studies showed small, insignificant effects for restorative justice programs (Kimbrell et al., 2022). This suggests that perhaps the efficacy of restorative justice depends on the program specifics and context rather than the general philosophy. Individual studies of specific programs have similarly shown some mixed effects. An examination of the Toronto Police Service Youth Referral Program pre-charge diversion program, for instance, revealed that, in a period of just over one year after the offence resulting in the referral, only 14.3% of the youth who completed the program had contact with a police officer relating to an allegation of a subsequent criminal offence (Greene, 2011). However, compared to youth informally cautioned and those sent to court, the Toronto Police Service Youth Referral Program groups showed no significant differences in terms of their levels of recidivism. The program also did not show any positive effect on the likelihood of youth re-offending (Greene, 2011). Similarly, some research on restorative justice conferences showed mixed results pertaining to youth re-offending. Examining the use of community conferences in Baltimore, Maryland on the likelihood of youth re-offending, one researcher found that program participants had higher recidivism rates (Brooks, 2013), while a separate study showed that participation in conferences resulted in a reduced likelihood that youth would reoffend by approximately 60% (Umbreit & Armour, 2011).

Family group conferences have also shown mixed results in terms of recidivism rates among participating young offenders (Shem-Tov et al., 2022). In their evaluation of a police-run, family-group conference intervention in Pennsylvania, McCold and Watchel (1998) found no evidence of any reductions in recidivism during a one-year follow-up period. Conversely, other studies have found a reduction in recidivism among youth offenders in Indianapolis (McGarrell et al., 2000), as well as in South Wales (Luke & Lind, 2002) when the conferences were perceived as being procedurally fair (Hayes & Daly, 2003) and when youth were successful in completing the program (Rodriguez, 2005). Focusing on victim-offender mediation programs, Bradshaw and colleagues' (2006) meta-analysis revealed these types of restorative justice processes can have various effects on recidivism among youth offenders. Even with the variations in definitions, use of control groups, and length of follow-up periods though, among the 15 studies they examined, Bradshaw et al. (2006) concluded that participation in victim-offender mediation did account for about a 34% decrease in youth offending among the 9,200 youth included in the different studies.

There is also some evidence to suggest that the success of restorative justice processes may depend, at least in part, on the gender of the offender. While similar to findings related to recidivism in

general, in their Queensland study on the effect of restorative justice community conferences on young offenders, Hayes and Daly (2004) found that young female offenders tended to be more responsive to restorative justice interventions compared to their male counterparts, showing less likelihood of reoffending post-restorative justice participation. Rodriguez's (2007) study also highlighted the potential importance of the offender's characteristics in terms of the efficacy of restorative justice programs. Through an examination of youth who participated in a hybrid model of restorative justice (i.e., some elements of a family group conference and reparative board) and who completed their dispositions, Rodriguez (2007) discovered that, while all restorative justice participants were less likely to reoffend, the success of the program was most apparent amongst females and those with no priors.

Examining more of the nuances, the results from some meta-analyses suggest that perhaps the effectiveness of diversionary measures amongst young offenders are related to the type of approach included in the diversion and the type of offenders being diverted. Schwalbe and colleagues' (2012) meta-analysis revealed that the use of pre-charge diversion into individual treatment programs had similar effects on recidivism as the traditional court system. However, when police diversion programs involved family counseling or restorative justice approaches, they were more effective in addressing re-offending than the regular court procedure (Schwalbe et al., 2012). Wilson and Hoge's (2013) evaluation of diversion programs showed that youth who completed pre-and post-charge diversion programs were less likely to re-offend when compared to those youth processed through the traditional court system. Of interest was the fact that, although this result held true regardless of the type of intervention involved in the diversion (i.e., formal interventions such as counseling were equally as effective as simple cautioning), the effectiveness of diversion was affected by the level of risk posed by the youth. Specifically, while pre-charge programs that accepted low-risk youth were more effective, post-charge programs that were geared toward youth who received programming after appearing in court were less successful (Wilson & Hoge, 2013). In effect, by targeting specific risk profiles, diversion programs may increase the likelihood of reducing recidivism amongst young offenders.

Examining youth sexual assault cases, Daly (2006) compared the outcomes associated with 385 sexual offence cases that were either finalized in court or via a restorative justice conference between 1995 and 2001. One of the most important findings was that, compared to youth in the court system, those who participated in the restorative justice process had lower recidivism rates (66 per cent compared to 48 per cent, respectively). Additionally, youth who participated in restorative justice conferences were more likely to receive sexual offending treatment than their court-case counterparts (79 per cent versus 49 per cent of outcomes, respectively) (Daly, 2006). Another longitudinal study completed in South Australia that examined general and sexual re-offending amongst youth charged with sexual offences (i.e., individuals aged 18 years old or less at the time of the offence) showed that youth whose cases were finalized in court had a higher rate of re-offending compared to those youth who had their cases dealt with through conferences. This difference was most apparent amongst youth who did not have a prior history of offending (Daly et al., 2013).

Based on the available literature, it is evident that restorative justice processes may improve outcomes for at least some youth offenders. The inconclusive results pertaining to re-offending

raised questions as to whether restorative justice/diversionary programs are truly meeting their goal of reducing the negative effects associated with crime amongst young offenders. It remains unclear as to whether it is the diversionary process that influences re-offending in youth, or if there are just certain youth who would not normally continue to re-offend regardless of the intervention method imposed. More research is needed to determine if formal diversion programs, including restorative justice, are targeting offender behaviours versus merely capturing a group of offenders who would naturally mature out of or desist in their offending behaviour.

Adults and General Offending

There is evidence to suggest that age plays a central role in the success of restorative justice programs, with research suggesting that restorative justice may be more viable among mature offender populations (Bain, 2012). Based on the results from a meta-analysis that included 24 individual studies, it was evident that, of those who participated in restorative justice processes, adults tended to re-offend less compared to youth (Bain, 2012). Compared to the research on restorative justice and young offenders, the research on restorative justice and adult offenders more consistently shows a positive relationship between program participation and changes in offending behaviours. In their five-year follow-up study of the use of community panels in the adult criminal justice system, for instance, Rojek et al. (2003) found a lower rate of recidivism amongst driving under the influence offenders who participated in the restorative justice process compared to those involved with a traditional criminal justice system response (16 per cent compared to 34 per cent, respectively). Examining the effect of the Chilliwack Restorative Justice and Youth Advocacy Association (CRJYAA) program on shoplifting, Robinson and colleagues (2012) concluded that, compared to shoplifters who were charged or chargeable and not charged, shoplifters who completed the restorative justice program were less likely to be apprehended for shoplifting, they committed fewer subsequent crimes, and they refrained from re-offending for a longer amount of time during a two-year follow-up period. Especially notable was the drop in subsequent re-offending among offenders with prior criminal histories. Here, youth and adult male and female offenders with prior criminal histories who successfully completed the CRJYAA program had substantially lower rates of subsequent shoplifting than did repeat offenders who were charged/regarded as chargeable (Robinson et al., 2012). Contrary to popular belief, the first-time young offenders showed the least amount of differentiation in outcomes based on participation in restorative justice. In other words, both male and female first-time young offenders had a low rate of re-offending, regardless of whether they completed the CRJYAA program or were treated as chargeable/were charged (Robinson et al., 2012).

Another study examining the effect of the delivery of restorative justice interventions on recidivism outcomes amongst 1,316 individuals incarcerated in various prisons across the United States revealed that, while the timing of initiating a restorative justice intervention was not connected to whether an offender was likely to recidivate in general, participation with a restorative justice intervention did effect the length of time it took for individuals to reoffend (Richner et al., 2022). Amongst those who reoffended, when the restorative justice intervention was delivered closer to the time of their release from prison, it increased the amount of time before they recidivated (Richner et al., 2022). Women and older individuals also appeared to benefit most from

participation in the restorative justice intervention, as they had lower recidivism rates than men and younger individuals.

In another robust research project that examined three restorative justice schemes in the United Kingdom, CONNECT, REMEDY, and JRC, Shapland and colleagues (2011) discovered that adult offenders who participated in conferencing or mediation did not show significant differences in the severity of their reoffending behaviours compared to a control group over a two-year follow-up period. However, even though the difference was not statistically significant, they did find that offenders who participated in a restorative justice process tended to reoffend less frequently. They surmised that certain elements of the restorative justice process may account for the decreased frequency in recidivism, including the offender meeting the victim and realizing the harm done (Shapland et al., 2011).

The Research and Statistics Division of the Department of Justice Canada's meta-analysis that examined 22 unique studies that, in total, evaluated the effectiveness of 35 restorative justice programs, revealed that participation in restorative justice programs reduced recidivism by approximately 7%. Compared to offenders who did not participate in restorative justice processes, offenders who did engage with a restorative justice program were significantly more successful during follow-up periods (Latimer et al., 2005). Similarly, another meta-analysis that included ten studies revealed that certain restorative justice processes had a positive effect on future offending. The studies that employed a randomized design to test the effects of restorative justice conferencing between one personal victim and one or more of their offenders on either repeat offending or victim impact included 1,879 offenders (both youth and adult) and 734 interviewed victims involved in violent and property crimes (Strang et al., 2013). Even though the cases were referred to restorative justice conferencing at various stages of the criminal justice process (i.e., pre-charge, post-conviction but pre-sentencing, as well as post-sentencing), nine of the ten studies revealed a positive relationship between restorative justice conferencing and subsequent convictions/arrest. Ranging from 7% to 45% fewer repeat crimes or arrests, the studies indicated that participation in restorative justice conferencing was associated with reductions in crime (Strang et al., 2013). Bradshaw and Rosenborough's (2005) meta-analysis also revealed that participation in certain restorative justice processes may further increase the chances for a successful outcome. Compared to the family group conferences that resulted in a 11% decrease in re-offending, participation in a VOM was associated with a 34% reduction in recidivism. As was revealed in Bain's (2012) meta-analysis, a decrease in subsequent re-offending following participation in a restorative justice process may be related to the degree of contact between the victim and offender. In effect, it appears that offenders who have contact with their direct victims (i.e., with the actual victim and not a surrogate victim) showed significant decreases in recidivism.

Serious Crimes

Emerging research suggests that, even though restorative justice programs continue to be used in Canada primarily with youth and to address property crimes, restorative justice processes may have the greatest effects in reducing recidivism when used in cases involving violent offences (e.g., Sherman et al., 2000). The results of the Re-Integrative Shaming Experiment study in Australia, for instance, revealed that conferences may be effective in reducing future offending for youth and

adult offenders (up to the age of 29 years old) who committed violent crimes, while being less successful for young offenders who committed property crimes or those arrested for drunk driving (Sherman et al., 2000). Sherman and colleagues (2000) examined the effects of diversionary restorative justice conferences on four types of offenders, namely violent offenders, drunk drivers, youth property offenders, and shoplifters, who were randomly assigned to either a court or a conference process. The cases were followed for at least one-year post-process participation.⁶ The results showed that, while there were no differences in repeat offending by youth property offenders and shoplifters, the diversionary conferences reduced offending rates for violent offenders and drunk drivers by 38 crimes per 100 offenders per year, and six crimes per 100 offenders per year, respectively (Sherman et al., 2000). Hayes' (2005) re-assessment of the Bethlehem, Pennsylvania Restorative Policing Experiment similarly revealed that, while there were no differences in reoffending for property offenders, violent offenders showed significant differences. In this study, violent offenders referred to police-run family-group conferences were less likely to reoffend compared to those referred to court (36 per cent compared to 10 per cent, respectively) (Hayes, 2005). The results of a meta-analysis further supported the connection between restorative justice and recidivism for violent offences. Strang and colleagues (2013) found that, on average, restorative justice conferences worked better for violent crimes than for other types of offences, with effect sizes being close to zero for property crimes. Of note, the positive effect of the restorative justice process was more pronounced amongst adult offenders compared to youth (Strang et al., 2013). It is important to note that, although results may have changed if different offenders and offence-types were included in the studies, the findings from the meta-analysis do suggest that restorative justice conferences operate differently for property compared to violent crimes.

Positive outcomes have also been found when restorative justice processes have been used to handle cases involving domestic violence and other sexual offences. Evaluations of the use of VOM on recidivism amongst offenders charged with battery/assault revealed that, compared to those receiving a court sanction, offenders who successfully completed VOM had lower recidivism rates (Hofinger, 2014, as cited in Lauwaert & Aertsen, 2015). After three years, 41% of those who were initially sentenced to court reoffended, while only 10% of the clients who were referred to VOM after being violent to their partner recidivated (Hofinger, 2014, as cited in Lauwaert & Aertsen, 2015). Similarly, a study examining the effects of participating in the Circles of Support and Accountability program revealed that, compared to offenders who did not participate in the program, offenders in Circles of Support and Accountability had a 73% reduction in violent recidivism, and an 83% reduction in sexual recidivism (Wilson et al., 2009).

Beyond recidivism, many researchers and restorative justice practitioners also suggested that the deepest healing effect of restorative justice may be found when addressing and responding to severe violence, including murder (Canadian Resource Centre for Victims of Crime, 2011). For instance, in his research for the Centre for Restorative justice and Peacemaking at the University of Minnesota, Umbreit concluded that the number of victims of sexual assault and attempted murder,

⁶ The follow-up period was two years for drunk drivers.

as well as the survivors of murder victims (mostly parents of murdered children) seeking dialogue with the offender to explain the effect of the crime on their lives, receive answers, and obtain closure increased not only in the United States, but also in Canada and Europe (Canadian Resource Centre for Victims of Crime, 2011). Hayden (2012) found that, in the context of intimate partner violence, restorative justice provided participants with a greater sense of justice and fairness. Similarly, an evaluation of the South Australia Juvenile Justice Intervention (SAJJ) further revealed that, in cases involving young offenders (males between 11 and 18 years old) charged with sexual assault, victims who participated in conferencing had the satisfaction of knowing that an offender made an admission of guilt (Daly, 2002). The conference also provides an opportunity for the stories of victimization to be heard and allows for a longer-term plan to be set in motion; usually offenders are required to participate in counselling for six to 12 months (Daly, 2002).

However, the healing effects of restorative justice may be dependent on a complex series of actions, words, and body language that take place between offenders and victims. For instance, when examining a sample of SAJJ youth conferences that took place in 1998 and 1999 for violent crimes and property offences having personal or community victims, Daly (2003) discovered that during the course of the young offender taking responsibility for the offence, and showing remorse and a desire to repair harms, and the victim being able to explain the impact of the offence, there were gaps between how victims and offenders interpreted each other's actions, words, and body language. Of the cases where victims were present at the conference, 53% of the young offenders showed remorse, and three-quarters of the victims were effective in describing the impact the offence had on them (Daly 2003). However, while more than half of the young offenders (53 per cent) reported that they understood the impact of the offence on the victim, only 36% of the victims reported understanding the young offender's situation (Daly, 2003). Furthermore, offenders oftentimes did not feel sorry for the victim. Based on interviews with offenders involved in conferences in 1998, only 47% of offenders felt sorry for the victim following the conference (Daly, 2003). It was more prevalent for offenders to report feeling sorry for what they had done more generally (74 per cent). Victims were also unlikely to feel moved by the offender's story shared during the conference: only 36% reported the offender's story having some or a lot of impact (Daly, 2003). The victims appeared to be more concerned about obtaining reassurance that the offender would not re-offend (Daly, 2003).

Taking a more qualitative approach, another study was completed to determine how participation in restorative justice processes influenced the desistance journey of offenders, including those who were involved in situational conflicts or intimate partner violence, as well as which factors within the restorative justice practices supported changes that assisted in the initiation or maintenance of desistance from crime (Lauwaert & Aertsen, 2015). A total of 90 desisters from Austria, Belgium, and Northern Ireland were interviewed. The results suggested that participation in restorative justice processes, including victim-offender mediation and conferencing, had the potential to influence desistance, primarily through the element of communication with the victim. By facing the situation of the victim, the restorative justice process enabled offenders to change their perspective, develop empathy with the victim, and/or acknowledge the real effect of their behaviour, such as to apologize, express regret, and show changes in their lives post-offence. In addition, by actively participating in developing the reparation plan, offenders were provided the opportunity to receive rehabilitative treatment/services (e.g., anger management, cognitive

therapy, etc.), find closure, deal with emotions of shame, guilt, blame, and culpability, and feel hope for the future (Lauwaert & Aertsen, 2015).

Despite the growing body of evidence to support the use of restorative justice for cases involving serious crimes, more research on the suitability of restorative justice for violent offences, especially those involving power or gender dynamics, like sexual assault and domestic violence, is needed. Because certain crimes place victims at an increased potential for revictimization and/or serious harm, it is critical to understand how restorative justice programs plan to not only address the harm, but also ensure they provide proper risk assessment, and create protocols and processes that ensure that victim needs are met and their safety is prioritized (Tompson et al., 2011).

VICTIMS AND OFFENDER NEEDS/SATISFACTION

Across all restorative justice approaches, participant satisfaction has remained the most studied outcome variable (Umbreit & Armour, 2011). Based on the extant research, it is apparent that restorative justice programs are generally well received by participants (e.g., Brooks, 2013; Daly & Hayes, 2002; McCold & Watchel, 1998; Sherman et al., 2015; Umbreit & Armour, 2011). There has been a consistently high level of expression of satisfaction with victim-offender mediation across sites, cultures, and offence severity for victims and offenders (Latimer et al., 2005). In their meta-analysis that included 22 studies examining the effects of 35 restorative justice programs, Latimer and colleagues (2005) determined that participation in a restorative justice program resulted in higher victim satisfaction compared to traditional justice system processes in all but one of 13 programs that examined this outcome. In addition, there is also evidence showing that participation in restorative justice programs increased victim satisfaction with the ways in which their cases were handled or the outcome of their case (e.g., Dhimi & Joy, 2007; Joseph Rowntree Foundation, 2002; Poulson, 2003; Strang et al., 2013; Tucker, n.d.; Umbreit et al., 1994). Compared to victims whose cases were dealt with in the retributive-based system, victims in restorative justice programs tended to perceive their cases as having been handled more fairly (Dhimi & Joy, 2007; Hayes, 2005; Joseph Rowntree Foundation, 2002; Latimer et al., 2005; Leonard & Kenny, 2011; Poulson, 2003). The higher level of satisfaction with restorative justice processes may be due, at least in part, to restorative justice programs being successful in having offenders complete their restitution agreements, including the offender making genuine apologies (Dhimi & Joy, 2007; Hoyle et al., 2002; Latimer et al., 2005; Morris & Maxwell, 1998; Strang et al., 2006; Tucker, n.d.). As Morris and Maxwell (1998) concluded, the most frequent reason victims cited for feeling dissatisfied after participating in a family-group conference was the failure to receive what they deemed to be the 'appropriate' restitution. Satisfaction may also be tied to restorative justice providing victims with the opportunity to be meaningfully involved in addressing the harms caused by crime. Research suggests that participation in a restorative justice process may help victims express their thoughts and feelings, heal emotionally in the aftermath of the crime, obtain closure/a sense of resolution, and reduce their fear/anxiety of the offender and/or fear of being re-victimized (Canadian Resource Centre for Victims of Crime, 2011; Dhimi & Joy, 2007; Evans et al., 2021; Hoyle et al., 2002; Poulson, 2003; Strang et al., 2013). Findings from some studies also suggested that restorative justice processes, like conferences, contributed to victims of family violence feeling

better (e.g., Boyer et al., 2018), and reduced violent crime victims' feelings of vengeance towards their assailants (e.g., Strang et al., 2013).

The positive effects of the restorative justice process are less apparent among offenders compared to victims. However, there is still evidence suggesting that offenders who participated in restorative justice processes believed they were treated fairly (e.g., Miers et al., 2001; O'Mahony & Doak, 2004; Poulson, 2003). Moreover, even though offender satisfaction rates do not always differ significantly between traditional responses and restorative justice programs (e.g., Latimer et al., 2005), there is evidence that the restorative justice process can increase offender feelings of satisfaction when the restorative justice process is initiated in the earlier stages of the criminal justice process, such as pre- and post-charge when compared to post-sentencing (Latimer et al., 2005). There is also some evidence that the restorative justice process may be more beneficial for offenders compared to victims on the matter of providing an opportunity to express their opinions and feel heard (Miers et al., 2001; Poulson, 2003). In the evaluation of the Thames Valley Police restorative cautioning initiative, for instance, offenders were pleased that they were provided with the same opportunity to speak as their victims, and they appreciated being listened to with a degree of respect (Hoyle et al., 2002).

In terms of general levels of support for restorative initiatives, there is evidence to suggest that victims and the public are supportive of the restorative justice model (e.g., Bazemore & Walgrave, 1999). However, there remains some reluctance with the use of restorative justice in cases involving serious crimes (e.g., Paulin et al., 2021; Reeves, 1989; Roberts, 2002, as cited in Gaudreault, 2005). In cases of violence against women and children, for instance, one concern is that restorative justice process may increase existing power imbalances (Gaudreault, 2005). Research involving victims of violent crimes who had contacted the Canadian correctional system to obtain information, attend hearings, or make a statement revealed that individuals who were sexually assaulted by a family member, attacked by their spouse, or had lost someone close to them were angry, leery, or suffering unduly, and declined attempts at reconciliation or restoring their relationship with the offender (Gaudreault, 2003, as cited in Gaudreault, 2005). Similarly, in their evaluation of the use of restorative justice in family violence cases, Paulin and colleagues (2021) found that, although restorative justice practitioners believed that victims were able to participate in a conference to the extent they wanted to, over half of the victims of family violence either chose not to proceed to conference or the process was halted on their behalf due to concerns over a history of serious violence/safety concerns, suspected coercion of victims by their offender, or violence was suspected or known to be continuing.

OTHER OFFENDER-FOCUSED RESTORATIVE JUSTICE BENEFITS

Research suggests that certain restorative justice processes, including victim-offender mediation, may benefit both victims and offenders by humanizing the criminal justice system (Canadian Resource Centre for Victims of Crime, 2011). There is greater agreement among both victims and offenders that, in a restorative justice process, offenders are held directly accountable to the people they victimized (e.g., Poulson, 2003), and that victims can be more actively involved in the justice system by engaging in a restorative justice process (Canadian Resource Centre for Victims of Crime,

2011). Having to face their victims and confront and acknowledge the pain and suffering they have inflicted on another human's life tends to create a greater sense of remorse for offenders (Tucker, n.d.). Not only are offenders able to understand the effects of the offence on their victims, they also develop a sense of shame about their behaviours (Hoyle et al., 2002; Miers et al., 2001; O'Mahony & Doak, 2004). It is believed that the increased feelings of empathy towards their victims makes offenders less likely to repeat their delinquent or criminal behaviours in the future, and more likely to comply with agreements (Dandurand & Griffiths, 2006; Tucker, n.d.).

Restorative processes may also help to repair relationships. By learning about an offender's history, victims may be more likely to be sympathetic towards their offender, and, thus, able to forgive (Hoyle et al., 2002; Tucker, n.d.). Offenders may also be afforded a greater opportunity to establish social connections, repair bonds with estranged family and friends, and improve their relationships with the others, including the police (Hoyle et al., 2002; Lauwaert & Aertsen, 2015).

A final benefit for offenders is the increased potential to engage with relevant programs. Compared to being processed through the traditional criminal justice system, outcomes reached through a restorative justice process are more likely to include opportunities for offenders to access various programs designed to address issues or concerns, and to improve skills or qualifications (Lauwaert & Aertsen, 2015). Provided that offenders taking part in restorative justice processes are voluntarily admitting their guilt, they are also more likely to be open to rehabilitative opportunities. A restorative justice approach, therefore, may offer extra motivation to offenders to continue the path towards desistance from criminal activity (Lauwaert & Aertsen, 2015).

REFERRALS TO RESTORATIVE JUSTICE PROGRAMS

Police Referrals

In several countries, police are using restorative justice processes and outcomes to deal with youth and adults in conflict with the law with the successful completion of some form of mediation or conference agreement resulting in the dismissal of charges (Maxwell & Morris, 2001; Van Ness, 2005). In Norway, a case may be removed from the ordinary police certificate of good conduct following the offender's completion of a restorative justice agreement (Paus, 2000). In South Africa, partnerships are being formed with police to allow for referrals to Community Peace Committees that are responsible for crime prevention and resolution in jurisdictions where there has been little confidence in the formal criminal justice system (Sharma, n.d.).

In England, police officers are trained to conduct conferences involving victims and offenders, their family and friends, and members of the community (Van Ness, 2005). To date, the largest-scale restorative justice initiative in the United Kingdom was implemented by the Thames Valley Police in 1998. The restorative cautioning initiative involves police using a script to facilitate a structured discussion about the harms caused by the offence and how these harms could be repaired (Hoyle et al., 2002). Over the course of the first three years of this initiative, thousands of restorative justice conferences took place with ($n = 1,915$) and without ($n = 12,065$) the presence of victims. An evaluation of this program found that the restorative justice script was used in over two-thirds of police cautions; however, the implementation of the restorative cautioning model was often

deficient in individual situations (Hoyle et al., 2002). In certain situations, police facilitators occasionally asked illegitimate questions, such as seeking admissions to prior offending or attempting to gain useful criminal intelligence, dominated the conversation by prioritizing their own agenda rather than those of the participants in the process, and/or overstepped boundaries by utilizing coercive methods to obtain apologies from offenders (Hoyle et al., 2002). Moreover, in many instances (approximately one-third of cases), the police facilitators did not contact the participants prior to the restorative cautioning session, which restricted victims' and offenders' opportunities to provide informed consent to participate in the process and consider what they wanted to achieve from the session.

In Canada, referrals may occur at both the pre- and post-charge stages. Since the 1990s, police agencies across Canada have been open to restorative justice and endorsed its usage in certain circumstances (Crocker, 2013). For example, the Nova Scotia Restorative Justice Program relies primarily on referrals from police services for Criminal Code offences. Of the approximately 10,000 referrals received between 1998 and 2010, 60% were made by police (Crocker, 2013). Remaining quite stable over time, ranging from 45% in 2002 to 71% in 2010, the high rate of police referrals is consistent with the underlying principles of restorative justice, which emphasize repairing harm rather than seeking punishment (Crocker, 2013). A review of the case activity for the Coquitlam Community Youth Justice Program for the years 2017 to 2019 similarly revealed that most program referrals come from police services, with more than half of the offender referrals made by the Coquitlam or Port Coquitlam RCMP (Cera, n.d.).

Given that police are in the unique position to limit an offender's exposure to the formal criminal justice system processes, police are seen as being a logical point of referral for restorative justice programming (Weinrath & Broschuk, 2022). Based on this rationale, many programs rely solely on referrals made by police. An examination of these programs revealed that police tended to make referrals in cases involving first-time offenders who committed minor crimes, namely theft under \$5,000 (Greene, 2011). In addition, the police seemed to make a larger number of referrals in cases involving younger, female youth (Greene, 2011). Greene (2011) also found that most police officers in the Toronto and Halton region made at least one referral to a diversion program. In addition, based on the fact that there has been a downward trend in the number of youth charged and sent to court, especially for crimes related to theft, since the implementation of diversionary programs, it appears as though police were successfully utilizing pre-charge diversionary measures (Greene, 2011). However, it is also worth noting that, in addition to the decrease in court cases, there has also been a decrease in the use of informal cautions. This suggests that, perhaps, the use of pre-charge diversionary measures may be increasing the number of youth receiving formal responses to minor crimes (Samuels, 2015).

In the case of Youth Justice Committees/programs, referrals come from police and Crown Counsel, and, to a lesser extent, from courts and probation officials (Department of Justice Canada, 2003). The Fraser-Burrard Community Justice Society Community Youth Justice Program, for instance, reported that, of the 37 case referrals received in 2007, 29 came from police sources (e.g., Coquitlam RCMP, Port Moody Police Department, and New Westminster Police Services), and the offences primarily involved break and enters, mischief, different forms of theft and fraud, as well as assault (Fraser-Burrard Community Justice Society, 2007). Similarly, an examination of the

referrals made to the Nova Scotia Restorative justice Program revealed that, between 2007 and 2011, there had not only been a steady decline in the number of referrals to the program from all agencies, but the decrease was most noticeable in relation to police referrals (Clairmont, 2013). In the early implementation stage, police accounted for most referrals (approximately 75 per cent occurred at the pre-charge stage in 2001-2002). However, by 2011, the proportion of referrals from police and Crown (post-charge) were almost identical (48 per cent compared to 45 per cent, respectively) (Clairmont, 2013). The police were also likely to refer different types of cases compared to Crown Counsel. In effect, Crown Counsel referrals were more likely to involve youth with restorative justice priors (i.e., repeat offenders) who committed more serious offences (i.e., violent as opposed to property crimes) (Clairmont, 2013). The reasons for the variation in the overall number of referrals from different sources may be related to the availability of other diversionary options, perceptions of program eligibility criteria (e.g., seriousness of offence), and the size of the community. Based on the results from surveying 297 members of the Halifax Regional Police, Crocker (2013) found that police decisions to utilize restorative justice options were heavily based upon the nature of the crime and harm caused. Even though the majority of participating police officers (approximately three-quarters) supported the use of restorative justice programs for youth and adults, a larger proportion of officers viewed cases involving property crimes as being more appropriate for restorative justice processes than those involving violent offences (84 per cent as compared to 64 per cent). Similarly, officers reported being more likely to refer to a restorative justice program when the offence was less serious (58 per cent) (Crocker, 2013). Regardless of the program, most of the referrals to restorative justice programs came from police at the pre-charge stage (Department of Justice Canada, 2003). While this information is dated, it implied that the number of referrals in most communities, therefore, relied heavily on police involvement and investment in the program, and their presence in the community (Department of Justice Canada, 2003).

Crown Counsel Referrals

There is limited research on the involvement of other referral sources in restorative justice programs. In Canada, because police play such a pivotal role in the referral process, as outlined above, much of the research has focused on police involvement with restorative processes. However, the involvement of prosecutors was examined in one Canadian study. Using an ethnological approach to observe and interview ten Crown Counsels from various areas in Eastern Canada, Johnson (2018) discovered that referral decisions were based on weighing several factors, including offender blameworthiness, protection of the victim and society, potential for delays in court proceedings, and the effect of the referral on the reputation of the criminal justice system. Interestingly, potential beneficial elements of participation in restorative justice processes, such as victim and offender satisfaction, were not deemed by Crown Counsel to be important when deciding whether to make a referral (Johnson, 2018). Crown Counsel appeared to appreciate the use of restorative justice in cases where its use would not endanger victims, it could reasonably contribute to public safety, and it would not supersede the criminal justice system (Johnson, 2018). Looking at the use of diversion through referrals to restorative justice, Weinrath and Broschuk (2022) examined how a sample of arrestees who committed crimes that were eligible for diversion (i.e., those that did not involve serious violence or other non-eligible offences, such as drug crimes)

were treated by police compared to Crown Counsel. Out of 1,000 eligible charge cases, police had the potential to divert 663, and Crown Counsel could have diverted 337 cases. Police referred a total of 49 eligible cases to restorative justice, while Crown Counsel diverted a total of 101 cases. Of note, of the 337 cases that fell to the responsibility of the Crown, 41 (12 per cent) were diverted (Weinrath & Broschuk, 2022). Police appeared to divert less serious offenders to the restorative justice process, referring 30.8% of the lowest severity cases (i.e., those with no prior record and no outstanding charges). On the other hand, Crown Counsel were more likely to refer more serious offenders (i.e., offenders with one to five priors, no prior violence, and two or less outstanding charges) to restorative justice compared to the less severe cases, with referral rates of 20.8% and 17.9%, respectively. With moderately severe offences, there was minimal activity by police. Here, police only referred 4.2% of arrestees charged with moderately severe offences (Weinrath & Broschuk, 2022). The researchers surmised that, even though police were the first point of contact, they may refrain from referring most cases to restorative justice because of restrictions related to case eligibility requirements and a lack of patrol-level discretionary powers (Weinrath & Broschuk, 2022).

In other jurisdictions, restorative justice processes are being used more at the post-charge stage by prosecutors. Generally speaking, prosecutors have more discretionary powers than police, and, thus, may have greater opportunities to divert cases (Van Ness, 2005). The German *Juvenile Justice Act* of 1990 gives prosecutors the authority to dismiss criminal cases in instances where the young offender has reached or has tried to establish a settlement with the victim (Van Ness, 2005). In Austria, prosecutors may send youth cases to mediation (i.e., out of court offence compensation) after receiving positive recommendations from social workers/mediators and divert adult offenders who are facing sentences of less than five years imprisonment to restorative justice process, such as victim-offender mediation (Loschnig-Gspandl, 2001; Pelikan, 2000).

Court/Judge Referrals

There is limited information about the use of restorative justice processes by courts/judges as pre-trial diversion or as part of preparations for sentencing (Van Ness, 2005). However, other countries have made use of later-stage referrals to restorative justice programs. In New Zealand, even though police have the option to refer youth to conferences because of the *Children, Young Persons, and Their Families Act* of 1989, most restorative justice processes are initiated at the sentencing stage, where offenders are required to make apologies, do community service, or pay restitution (Morris, 2004). Similarly, most referrals to restorative justice processes involving cases of family violence are made by the District Court at the pre-sentencing stage (Paulin et al., 2021). In North Carolina, the use of restorative justice has become such a routine part of the court process that, at the beginning of hearings, the prosecutor invites all parties interested in mediation to identify themselves, and the judge explains the benefits of mediation (Van Ness, 2005). Trained volunteer court mediators are present to assist with creating a mutually acceptable resolution. More often, restorative justice processes are used by judges in the sentencing phase (i.e., following a conviction or guilty plea). The Restorative Resolutions Project in Canada, for instance, utilized restorative justice processes to create plans for adult offenders and their victims in cases of serious indictable offences. For example, in its initial 18 months of operation, there were a total of 56 plans developed

and submitted to judges at the time of sentencing, with 45 of those plans being accepted by the court. (Van Ness, 2005)⁷

Post-Sentence Referrals

Provided that not all offenders and/or victims are willing or able to participate in restorative justice processes at the pre- or post-charge stages, some referrals are made during the course of the offender's sentence (Van Ness, 2005). While the research in Canada has focused primarily on early-stage referrals, later-stage restorative justice referrals have become established in different jurisdictions around the world. In Japan, for instance, a rehabilitation centre was opened in 2001 to arrange conferences between youth offenders and their victims at the request of probation officers (Van Ness, 2005). Like victim impact statements, in the state of Texas, a program was developed to facilitate meetings between crime victims/survivors of crime victims and offenders who are serving long sentences, as well as to provide victims the opportunity to give input at parole hearings (i.e., whether the offender should receive parole and what conditions to impose) (Van Ness, 2005).

COSTS VERSUS BENEFITS OF RESTORATIVE JUSTICE PROGRAMS

Another important consideration when assessing the value of restorative justice is whether it is worth the financial investment. Thus, in addition to determining whether a restorative justice initiative is achieving its objectives, it is essential that it also be deemed to be cost effective. A substantial amount of funding is required to develop and sustain restorative justice programs (Canadian Resource Centre for Victims of Crime, 2022). The costs associated with establishing and maintaining a fully functioning restorative justice program include: (a) establishing and maintaining a physical space equipped with furniture and technical equipment needed to receive and coordinate case referrals, accommodate conferences/program meetings, and store confidential case files; (b) recruiting and training staff and volunteers; and (c) conducting program evaluations. In British Columbia, the province provides restorative justice programs \$2,500 annually and covers their operating insurance (Restorative Justice Victoria, 2019). The individual programs are required to source out additional funding required to deliver their programming (Restorative Justice Victoria, 2019), although, in June 2023, the province of British Columbia announced plans to distribute \$3 million in funding to support restorative justice programs.⁸ Restorative Justice Victoria (2019), for instance, receives core funding to cover operational costs from Municipalities of Victoria, Esquimalt, and Oak Bay, the Ministry of Community, Sport, and Cultural Development, Provincial Employees' Community Services Fund, and Sisters of St. Ann, as well as specific project funding from various sources, including the Victoria Foundation, First West Foundation, and Emergency Community Services Fund. While not limited to restorative justice, the John Howard Society of Okanagan and Kootenay has an annual operating budget of approximately \$12,000,000 (John Howard Society of BC, 2023). The organization receives funding from various sources,

⁷ There was a total of 115 cases referred to this program in the first 18 months of its operation; however, only 67 were accepted (Van Ness, 2005).

⁸ <https://news.gov.bc.ca/releases/2023PSSG0044-000889>

including the City of Kelowna, Interior Health, Community Living British Columbia, BC Housing, Government of Canada, United Way Central and South Okanagan Similkameen, Skyline, and Provincial Health Services Authority, and derives revenue from subsidies, contract income, rental income, grants, and other sources (John Howard Society of BC, 2023).

Even with the initial start-up costs and the aforementioned contributions, it is estimated that the funds needed to continue to operate most restorative justice programs remain relatively low compared to the formal criminal justice system. Provided that restorative justice programs are primarily run by volunteers, offenders typically do not require legal representation, and cases are usually resolved within hours, there are usually fewer costs associated with operating a restorative justice program compared to the formal criminal justice system (Latimer & Kleinknecht, 2000). While the findings are now 15 years old, a survey of eight restorative justice programs operating in British Columbia found that the average annual cost of a program with a paid coordinator position was just \$35,600 (Dhami & Joy, 2007). Similarly, a survey of 116 mediation programs across the United States revealed that, on average, it cost approximately \$55,000 USD to operate this type of restorative justice initiative (Umbreit et al., 1998).

Although it is difficult to determine the total costs associated with restorative justice versus formal criminal justice initiatives, there is some evidence to suggest that restorative justice programs are worth investing in. Compared to traditional criminal justice methods, it is estimated that restorative justice has a lower cost per percentage of effectiveness and is more than six times more cost effective (Jeffrey et al., 2017). Research suggests that restorative justice processes may help to reduce the total costs of crime through the prevention of reconvictions and, thus, the need for criminal justice system services, including police services, court proceedings (e.g., prosecution and defence), and custody (e.g., Dhami & Joy, 2007; Strang et al., 2013). In their meta-analysis, Sherman and colleagues (2015) concluded that, on average, face-to-face restorative justice conferences resulted in a modest but highly cost-effective reduction in the frequency of repeat offending. Across the seven United Kingdom experiments included in the analysis, it was estimated that the benefit in terms of total cost of crimes prevented (i.e., inclusive of criminal justice system costs and those associated with health and welfare) compared to the cost of delivering restorative justice conferences was anywhere from 3.7 to 8.1 times greater (Sherman et al., 2015).

Evidence of cost-effectiveness has also been found amongst individual operating programs. By processing cases through the Hollow Water First Nation Community Holistic Circle Healing rather than relying on the traditional criminal justice system, for instance, it was estimated that the provincial and federal governments saved approximately \$3,212,732 over a ten-year operating period (Couture et al., 2001). In New Zealand, the systemic changes brought about by the enactment of the *Children, Young Persons, and Families Act* of 1989 resulted in a reduction in the court load from upwards of 13,000 cases per year to as few as 2,587 cases by 1990 (Umbreit & Armour, 2011). In a review of the Chilliwack Restorative Justice and Youth Diversion Association, it was determined that each young offender processed through this program saved an estimated \$2,649.50. This reduction resulted from a decrease in the hours spent on the cases compared to the traditional system (12.45 hours versus 34.5 hours, respectively) (The Chilliwack Restorative Justice and Youth Diversion Association, 2001). Utilizing Chilliwack's estimate and adjusting the value to account for inflation based on the Bank of Canada's Inflation Index, the Cranbrook and District

Restorative Justice Society estimated that processing a file through a formal court process instead of their restorative justice program would cost the community \$3,579.01 in 2017. Provided that the Cranbrook and District Restorative Justice Society program completed 46 of the 54 files it received in 2017, it is estimated that compared to relying on the formal court process, utilizing the restorative justice program saved the community \$164,634.46 (Cranbrook and District Restorative Justice Society, n.d.).

In addition to more formal cost-benefit assessments, there have been some informal estimates indicating that restorative justice programs may be a cost-efficient means for handling criminal offences. The Grand Chief of the Southern Chief's Organization in Manitoba explained that, even though their restorative justice programs' annual operating budget was \$400,000, it was estimated that the program provided a savings of approximately \$100,000 per person who was processed through their program rather than through the traditional justice system (Monkman, 2018). While the limited formal and informal cost-benefit assessments of restorative justice programs suggest that restorative justice programs are cost-effective, given the lack of rigorous, formal cost-benefit analyses on operating restorative justice programs, it is difficult to ascertain the true monetary benefit of restorative justice approaches. It would be prudent for researchers and program operators to evaluate the cost-efficiency of restorative justice programs. On that note, it is important to acknowledge that the value of restorative justice programs should extend beyond cost savings. The goal of a restorative justice program should be addressing and repairing harm rather than reducing costs to the criminal justice system (Canadian Resource Centre for Victims of Crime, 2011).

CHALLENGES/ISSUES WITH OPERATING RESTORATIVE JUSTICE PROGRAMS

Even though there are several benefits associated with utilizing restorative justice to handle various types of criminal matters, there are still challenges with successfully implementing these programs. One of the difficulties is that community-based restorative justice programs rely on partnerships with key stakeholders for financial and in-kind supports, case referrals, and to encourage community participation in the programs (Dhami & Joy, 2007). The Nanaimo restorative justice program, for instance, attributed much of its success and sustained growth to the strong cooperation between agencies and community stakeholders (Munro, 2006). However, establishing these partnerships required buy-in to the program, shared goals, collaboration, and information-sharing (Dhami & Joy, 2007). Due to potential conflicts of interests (e.g., apprehensions about restorative justice due to the close proximity of victims and offenders) and general skepticism of restorative justice program volunteers' knowledge, competence, accountability, reliability, skills, and/experience from agents of the formal criminal justice system, it can be difficult for restorative justice programs to develop and sustain both the number and level of community partnerships needed to maintain their initiatives long-term (Department of Justice Canada, 2003; Dhami & Joy, 2007). As a result of these issues, many restorative justice programs have been impeded by insufficient funding, lack of support by key agencies (e.g., police), receiving too few referrals, incomplete or unavailable community services/programs for restorative justice participants to be placed into, and an inability to guarantee adequate follow-up of cases post-restorative justice process completion (Department of Justice Canada, 2003; Dhami & Joy, 2007; Evans et al., 2021).

Another challenge stems from the fact that many of the existing restorative justice programs are run by volunteers. Program organizers are tasked with recruiting, screening, training, and retaining a sufficient number of dedicated volunteers who will competently provide services to victims, offenders, and the community in a timely manner (Dhami & Joy, 2007). Not only is the recruitment process time-consuming, it also places a great deal of onus on the program organizers to balance a number of considerations when selecting volunteers. Organizers need to recruit suitable volunteers who embrace restorative justice principles, are reliable and committed to the program (i.e., are understanding of the expectations in terms of their duties and the time required for completing tasks), have adequate availability (i.e., have a relatively flexible schedule, are not over-committed to other activities, etc.), have sufficient experience, are able to deal with sensitive issues and vulnerable people (i.e., has appropriate skills, including good listening and communication), and who are representative of the community served by the program (i.e., in terms of age, gender, SES, cultural background, etc.) (Dhami & Joy, 2007). Moreover, ideally, programs need to aim to retain volunteers for at least one year to ensure continuity for a case from reception all the way through to follow-up (Dhami & Joy, 2007).

Having the right type of volunteers may also play a key role in the success of a restorative justice program. To provide consistent services, volunteers need to understand the criminal justice system, the effects of victimization, and the causes of crime (Dhami & Joy, 2007). Given this, volunteers need to receive adequate training to ensure they are prepared to meet the needs and rights of victims and offenders (Dhami & Joy, 2007). Even though many programs offer some initial training for new volunteers, a major obstacle for restorative justice programs has been the establishment of ongoing training. This is cause for concern because the individuals bringing offenders and victims together and recommending outcomes should be skilled facilitators with a good understanding of the dynamics and suitable processes (Department of Justice Canada, 2003). The need to ensure advanced training and preparation of mediators and participants is of particular concern in instances where restorative justice programs agree to take on cases involving serious crimes, especially those involving power imbalances, as an improperly trained practitioner could do significant harm to a victim (Canadian Resource Centre for Victims of Crime, 2011; Paulin, Paipa, & Carswell, 2021). On a national level, restorative justice programs would benefit from more consistent and standardized training of facilitators (Munro, 2006).

Program eligibility is also an issue for many restorative justice programs. Some staff/volunteers/advocates have expressed concerns about accepting more serious cases or those involving more complicated offender issues, such as fetal alcohol problems. Program staff can be wary because of their lack of training or qualifications to handle more complex cases (Department of Justice Canada, 2003). There are also concerns about the ability of restorative justice programs to adequately serve victims/survivors of power-based crimes. Victim safety is a primary concern when the offence involves sexualized violence (Cameron, 2006). In situations where offenders hold power or influence over an especially vulnerable victim (i.e., based on age, economic dependency, mental or emotional capacity, or based on the nature of the offence), there are concerns that the offender may manipulate the process, the victim may be pressured or intimidated to consent to the process, or that the victim's physical safety may be compromised by a meeting or dialogue with the offender (Cameron, 2006; Canadian Resource Centre for Victims of Crime, 2011; Godlewska, 2022). There is some evidence to suggest that survivors of intimate violence may be revictimized, in the

form of victim blaming, threats of physical violence, actual physical violence, or coercion (Cameron, 2006).

Maintaining confidentiality, especially in small communities, also presents challenges. One of the most pressing concerns being the ability to treat intimate partner violence as a crime (Cameron, 2006). It may be more difficult for victims to formally acknowledge the actions of the offender as being criminal in nature, especially in cases where the offender is well-known in the community (i.e., has a lot of community ties). Moreover, even though some program staff are interested in expanding their programs to deal with growing community concerns, such as family violence, particularly amongst young couples, the ability to develop an appropriate process is limited by policy, system, and resource barriers (Cissner et al., 2019; Koss & Achilles, 2008).

There are also criticisms related to the various tolls the restorative justice process can take on victims. In addition to the process being time consuming, there are often concerns about the lack of information provided to victims prior to the process commencing. It has been argued that victims are often “left on the sidelines” and merely considered as part of the processes’ rehabilitative and educational initiatives for offenders (Gaudreault, 2005, p. 4). As a result, victims may not be included in the initial preparations, and, in turn, may not receive sufficient information in a timely manner to allow them to become familiar with the process and the objectives, and to prepare themselves psychologically for the range of different possible outcomes (Gaudreault, 2005). Without adequate preparations, the process can become overwhelming and emotionally draining for victims (Canadian Resource Centre for Victims of Crime, 2011). Even where preparations are not the issue, it is possible that the restorative justice process may not be plausible for some victims given their situation or personal circumstances. While some victims have moved on from the crimes and do not wish to revisit the situation, for others, forgiveness, repentance, and remorse are neither an appropriate nor plausible response (Canadian Resource Centre for Victims of Crime, 2011). And yet, for others, the idea of meeting the offender may be distressing (Canadian Resource Centre for Victims of Crime, 2011). Even for those who do choose to participate, some victims may come away from the process feeling frustrated or disappointed with the process (Canadian Resource Centre for Victims of Crime, 2011). In their meta-analysis, Strang and colleagues (2013) found that victims who elected to participate but failed to receive a restorative justice conference were not only disappointed, but they were also some of the most dissatisfied victims. Furthermore, given that not all offenders are willing to accept responsibility for their actions, empathize with the victim, or show genuine remorse, victims agreeing to participate in the process may not receive the answers or closure they were hoping for (Canadian Resource Centre for Victims of Crime, 2011; Gaudreault, 2005).

Determining the offender’s true motivation for participating in a restorative justice process may also pose challenges. It is often found that offenders have a multitude of reasons for wanting to partake in a restorative justice program. In addition to the desire to engage in communication with the victim, offenders also indicate they want to take responsibility for their actions, explain their behaviours, express their feelings, apologize to their victims for the harm caused, or restore contact with the victim, particularly in cases where the offender and victim had a prior relationship (Lauwaert & Aertsen, 2015). Despite these positive motivations, there remains the potential that offenders are merely utilizing the restorative justice process to avoid going to court or to lessen the

severity of their sanction. A lack of authentic participation from the offender impedes the restorative justice process and may be harmful to victims (Lauwaert & Aertsen, 2015). Thus, ensuring the offender's motivation to participate in the process aligns with the principles and purpose of the restorative justice program must remain a top priority.

Many of these concerns apply to intimate partner violence. However, this does not mean that restorative justice cannot be used in these cases; only that there needs to be a way to differentiate intimate partner violence files where restorative justice could offer a useful and effective response as compared to those where it may result in greater harm being caused. For example, research has identified several subtypes of intimate partner violence. A large proportion of the violence occurring between current or former intimate partners is described as “situational couple violence”, where the partners are engaged in conflict that is typically the result of a disagreement, where use of substances may enhance the aggression of one or both parties, and where the violence may result from issues, such as emotional dysregulation or a lack of communication skills (Johnson, 2008). These kinds of files may involve conflict regarding finances, parenting, or sex, and may escalate to pushing, shoving, or throwing objects towards a partner (Johnson, 2008). The critical distinctions with this form of intimate partner violence is that it does not involve an underlying and ongoing pattern of power and control by one partner over the other and is less likely to escalate to lethal violence. These files would be more appropriate for referral to restorative justice. In contrast, Johnson also described a more serious and severe form of intimate partner violence that he initially labelled as intimate terrorism. Now known as coercive control, this form of intimate partner abuse is characterized heavily by elements of power and control, and involves the unilateral domination of one partner over the other (Johnson, 2008). In intimate partner abuse files involving coercive control, the abuser is psychologically, emotionally, and financially abusive, isolating the victim from their support systems and creating numerous barriers to help-seeking or ending the relationship (Myhill & Hohl, 2019; Wiener, 2023, 2017). They may also engage in physical or sexual violence to threaten and coerce the victim into compliance, and they may manipulate the children, other loved ones, or the court systems (Dichter et al., 2019; Hilton et al., 2022; Nielsen et al., 2016; Tutty et al., 2023). Coercive controlling abusers are more likely to escalate to using lethal violence, particularly when the victim attempts to leave the relationship (Dichter et al., 2019; Dobash et al., 2009; Hardesty et al., 2015; Hilton et al., 2022; Johnson, 2008; Johnson, 2011; Johnson et al., 2019; Myhill, 2015; Ornstein & Rickne, 2013; Policastro & Finn, 2017; Stansfield & Williams, 2018; Ubbillos-Landa et al., 2020; Verschuere et al., 2018; Wiener, 2017). These types of files – not only because of the extreme power dynamics, but also because of the increased risk for lethality – would not be suitable for a restorative justice referral. As police in British Columbia are now screening for coercive controlling behaviours as part of their Summary of Intimate Partner Violence Risk Factor review (McCormick, 2020), they may be able to identify which files may or may not be appropriate for a referral to restorative justice; however, training and further assessment of their ability to detect coercive controlling behaviours would be a necessary step.

Even though the restorative justice process is attractive, it is evident that these types of programs may not be suitable for everyone or for every situation. There does not seem to be a consensus amongst practitioners or researchers about the types of cases for which restorative justice processes work best. Rather, it appears that the success of restorative justice depends on the particular facts or circumstances of each case. That being said, there is one key element underlying

every successful restorative justice process, namely voluntary participation. Neither victims nor offenders should feel pressured to participate in a restorative justice process (Canadian Resource Centre for Victims of Crime, 2011). Victims should not feel compelled to meet with or engage in dialogue with an offender, and offenders should maintain the right to choose whether to admit their guilt and take responsibility for their actions (Canadian Resource Centre for Victims of Crime, 2011). Therefore, it is essential for restorative justice processes to ensure that both victims and offenders are in a proper psychological state to make free and informed decisions about the process, are treated respectfully, and that their fundamental rights are safeguarded (Gaudreault, 2005; Van Ness, 2005). This is especially crucial for cases involving child victims as they are in a unique position of powerlessness. There is typically a relationship of control and coercion where the child has learned to “obey” the offender (Vogt & Dandurand, 2018). Given their vulnerability, it is essential that the child’s best interests are considered when making decisions regarding a child’s participation in a restorative justice process (Vogt & Dandurand, 2018).

One of the key elements of the restorative justice process also presents certain challenges, namely the inclusion and participation of the community. Defining community has become an increasingly difficult undertaking. In addition to the fact that a person may have both a physical (i.e., geographically defined community) and spiritual community, their family and other supports may be widely scattered across countries or even continents (Tucker, n.d.). Communities may cross various physical boundaries (e.g., where the victim(s) and offender reside, where the crime was committed, etc.) as well as contain different levels, including family, friends, neighbourhoods, and local organizations (Dhami & Joy, 2007). Thus, program organizers must not only consider where the community is, but also whose community it is, and who the community members are (Dhami & Joy, 2007). Provided that community is an integral part of the restorative justice process, lacking inclusion of key members of the community may reduce the number of referrals made to programs and the supports available to both victims and offenders (Tucker, n.d.).

Cultural issues have also been noted. Some Aboriginal women, for instance, have argued that current western restorative justice practices, and even Aboriginal justice models, are male-centred and culturally inappropriate (Cameron, 2006). Their concerns focus on the inability of particular models to afford Aboriginal women respect, stature or leadership, or, at their worst, to physically protect victims from their abusers (Cameron, 2006). Other concerns have been raised about the disconnect between victim-offender mediation and the more traditional Aboriginal justice approaches. The narrow focus of victim-offender mediation is thought to undermine the more traditional, holistic approach to justice wherein the goal is to restore harmony within the community (Department of Justice Canada, 2003). Similarly, language has been cited as a cause for concern, as it is difficult to obtain program staff who are fluent in the offender’s, victim’s, and/or family’s first language (Department of Justice Canada, 2003). Given this, language may present a barrier for inclusivity, and may mean a program is not able to adhere to a true restorative model.

RESTORATIVE JUSTICE PROGRAMS AND POWER-BASED CRIMES

There has historically been resistance to using restorative justice with power-based crimes, in particular, with intimate partner violence and sexual violence. Concerns include potential threats to victim safety, a perceived inability to hold the offender accountable, and the potential for further

harm to occur to the victim due to the inherent power imbalances between the victim and offender in these types of cases (Evans, 2021). However, several programs offer restorative responses to these types of offences and have demonstrated successful outcomes. Bourgon and Coady (2019, as cited in Evans, 2021) published an annotated bibliography on the use of restorative justice with sexual violence, in which they summarized the findings of several studies concluding that victims who participated in a restorative justice response to their victimization were more satisfied and felt a greater sense of control, experienced reductions in symptoms of post-traumatic stress, and were less likely to be re-victimized than those who experienced the formal criminal justice system. Recent empirical studies have drawn some similar conclusions. Klar-Chalamish and Peleg-Koriat (2021) studied the use of restorative justice conferencing with intrafamilial sexual offending and concluded that the process offered important opportunities for victim healing and family reconciliation. Using a case study approach with a survivor of sexual violence, McGlynn et al. (2012) reported that restorative justice offered the survivor an opportunity to be heard and created a turning point in healing, whereas the formal criminal justice system offered no resolution and resulted in a formal complaint being made regarding experiences with the police response.

While British Columbia, like elsewhere in Canada, has generally been resistant to use restorative justice with gender based violence, including sexual violence and intimate partner violence, a recent study by the Ending Violence Association of British Columbia conducted in conjunction with the restorative justice agency Just Outcomes suggested that ongoing concerns about the inability of the criminal justice system to effectively address the needs of victims of crime has resulted in greater interest in the potential use of restorative justice in gender based violence (Ending Violence Association of BC & Just Outcomes, 2021). However, the sample participating in their study did not include police or Crown Counsel representatives; thus, there continues to be a need for further research with those who are responsible for making criminal justice-based referrals to restorative justice to determine whether there is support among the referral sources for using restorative justice for gender-based offences.

In New Zealand, restorative justice is used with both family violence (intimate partner violence, intrafamilial violence, and child abuse and neglect) and non-family violence cases (Ministry of Justice, 2019). In 2013, New Zealand published its original Restorative Justice Standards for Family Violence Cases (Ministry of Justice, 2019). These standards were distinguished from the original Restorative Justice Practice Framework to articulate the unique considerations of family violence cases where there is a greater potential for power dynamics to affect the restorative justice process. Moreover, the more cyclical nature of family violence offending poses unique considerations for provision of safety throughout the process (Ministry of Justice, 2019). In 2019, the standards were updated with insight from service providers and to reflect findings from the Family Violence Death Review Committee Fifth Report, and to more closely link with the Risk Assessment and Management Framework. The Standards outline five stages of the process. Stage 1 is the referral and initial assessment to determine if the case is appropriate for restorative justice. While the baseline standards are similar for both family and non-family violence referrals, the Restorative Justice Standards for Family Violence Cases sets out additional considerations unique to family violence files at each of the five stages. During Stage 1, this includes ensuring that the restorative justice program has practitioners who are accredited to work on family violence cases, and that the program has established partnerships with family violence service providers in the community.

Stage 2 represents the Initial Contact with both parties, where the practitioner will ensure that the victim and offender are giving their informed consent to participate, that the victim is suitably supported, and that the offender is able to engage in the process safely and in a respectable manner. For Family Violence cases, added considerations include paying special attention to the victim's ability to make a freely informed decision to participate and ensuring they are not being manipulated or forced by the offender. In Family Violence cases, there is also a requirement, rather than a recommendation, for a suitable support person to be present for the victim and the offender during the conference. These individuals should be screened for suitability, and the victim is given the ability to veto a potential participant. Stage 3 is the Pre-Conference where the practitioner meets with both sides individually to assess the suitability for moving forward in the process. Informed consent is re-iterated, and the process and rules are explained. Regardless of whether the offence involves family violence, a conference risk assessment is expected to be completed, where the facilitator reflects on potential barriers or challenges, such as the offender's capacity for remorse, the victim's emotional or health needs, and the suitability of the supports. With Family Violence cases there is an added requirement to assess for risk of future violence that includes conducting a lethality/dangerousness assessment, and to prepare safety plans and strategies to minimize the likelihood of harm occurring. The conference may only go ahead if there is sufficient supports in place, there is no evidence of coercive controlling behaviour, the offender is participating in programming, and the risks are manageable (Ministry of Justice, 2019).

Stage 4 is when the actual Conference occurs. Here, the practitioner will remind the parties of the conference rules, review the conference risk management plan, monitor for safety throughout, facilitate the discussion, ensure that an apology is issued, and support the participants to create outcomes that are specific, measurable, agreed upon, realistic, and time-bound (SMART). When the case involves family violence, added considerations include an understanding that risk is dynamic and so re-assessments may need to occur and strategies may need to adjust, that the victim is informed about the current level of risk, and that the offender must agree to take certain actions, such as program attendance, that should be monitored by the practitioner. Stage 5 is the conclusion of the process when the post-conference occurs. During this stage, the practitioner needs to monitor any agreed upon actions or outcomes. A conference report will specifically outline who will be doing the monitoring, how, when, and what will be monitored, and when the monitoring will end. With family violence cases, the monitoring period also includes attention to risk and re-assessments of risk or adjustments to case management as needed to reflect changes in risk. The practitioner will follow up with both the victim and offender and will work in partnership with family violence programs or service providers to keep the risk of revictimization low. The practitioner will submit a final conference report to the court that includes a summary of the relevant facts and information, an overview of the process, and the agreed upon outcomes. When possible, practitioners should also provide updates or progress reports (Ministry of Justice, 2019). Another unique element to the Family Violence process is that the restorative justice specialist working with family violence cases must be regularly professionally supervised by someone with relevant training and clinical expertise who ensures any potential biases, challenges in practice, or professional development needs are addressed (Ministry of Justice, 2019). This position is distinct from the regular in-program management system as it is a form of external quality control.

In 2023, the New Zealand Ministry of Justice published a report examining the use of restorative justice, including recommendations to increase its use going forward. Between July 2021 and June 2022, nearly 1,300 restorative justice conferences occurred, with an average case length of 36 days. Most (97 per cent) referrals were made at court as a pre-sentence referral by a judge while 2% occur through the Adult Police Diversion Scheme, and nearly half (48 per cent) involved offences where an injury was intended (Ministry of Justice, 2023). Most (84 per cent) of the offenders and half (51 per cent) of the victims were male. The proportion of youth offenders was not reported. Nearly half (46 per cent) of the referred cases involved family violence, while 2% involved sexual offences. Of those that proceed to a full conference, 51% were family violence cases while 3% involved sexual offences (Ministry of Justice, 2023). A victim declining the process was the overwhelmingly most common reason for why a referral did not progress to a pre-conference meeting (Ministry of Justice, 2023). Victims who dropped out between the pre-conference and conference provided a variety of explanations, including that they did not see the benefit of participating in the process, that they were emotionally vulnerable, that there were logistical challenges or the facilitator did not follow up with them, or that they were concerned about how the offender would behave, what the outcome would be, or they did not want to establish a relationship with the program. Conversely, the reasons given by victims for participation included that it provided them with an opportunity to get answers, to get closure, to tell their side of the story or how they have been affected by the act, to restore their self-image, or to hold the offender accountable (Ministry of Justice, 2023). Offenders who participated felt they had an opportunity to repair the harm, demonstrate remorse, access supports, and generally felt listened to (Ministry of Justice, 2023).

The main barriers that prevented greater use of restorative justice included a lack of rigorous training and funding for practitioners and programs, a lack of awareness about the potential use of restorative justice among potential clients, and a greater need for flexibility to allow for restorative justice to be used more often at earlier (pre-charge) or later (post-sentence) stages. Concerns about restorative justice among service providers included that the timing was not long enough to adequately and effectively address underlying risks, that there was a lack of funding to support post-conference monitoring of agreements, that while the post-conference reports could be informative, this varied by region, as did the number of files referred to restorative justice, and that the training and accreditation process could be difficult to access and achieve. Another main challenge was when victims or offenders did not feel adequately prepared for the conference, which may be because they were being funding to support a single individual pre-conference session with the victim and the offender. Although half of the cases that were referred to restorative justice concerned family violence, some practitioners and judges did not feel that restorative justice was suitable for family violence cases or cases involving serious charges (Ministry of Justice, 2023). Although few comments were made in the report about the risk assessment process, one recommendation from the report was to review and simplify the Practice Standards where concerns were expressed about the risk assessment practices in family violence cases. In short, needing to continuously assess risk throughout the process was viewed as too much paperwork and repetitive for the victims and offenders, who may also be engaging in other services that likewise conducted assessments of risk.

Most of the cases analyzed in the 2023 New Zealand Ministry of Justice Report were court referrals to restorative justice, as this is the main form of referral used by the Ministry (Ministry of Justice, 2019). However, the New Zealand Police also have an Adult Diversion Scheme Policy that enables the diversion of offenders aged 18 years and older pre-prosecution, typically at the point of their first court appearance (New Zealand Police, 2023). Specially trained officers appointed as Diversion Officers or District Prosecution Managers are involved in this process from the police staffing side. Five stages are involved in this process. In Stage 1, the file is evaluated to determine whether it meets the criteria for referral that, for police-diversion, includes offences that are more minor in nature or first-time offending. Of note, for diversion to occur, there must be sufficient evidence to otherwise support a charge. Diversion can also be used if several years have passed since the last conviction or if the current offence(s) were different now previous offences. Consistent with restorative justice practices elsewhere, the offender must be willing to consider the diversion. The victim must also be consulted, although the case can be diverted without their consent because not all cases are diverted to restorative justice. If the offence involves low-level family violence, the District Family Violence Coordinator must be consulted prior to offering the diversion. Offences that more specifically involve an assault in a family context are less likely to be diverted, and so the District Family Violence Coordinator must again be consulted, and the District Prosecution Manager must also give their approval prior to the diversion occurring. Of note, breaches of protection orders or other court orders are prohibited from being diverted.

Stage 2 is the First Court Appearance, which is where the matter will be adjourned to a future date if the file is to be considered for diversion. Typically, this occurs before a plea is entered in front of a judge. Stage 3 involves the Diversion Interview where the offender's acceptance of responsibility and the statement of facts are confirmed. During this process, aggravating and mitigating circumstances are considered along with the offender's explanation for the offence and their understanding of how their offending has affected the victim. The decision to divert or not then occurs. If the decision is made not to divert, the file returns to court, where information that was disclosed during the Diversion Interview is not admissible. Should the file be diverted, Stage 4 is the Diversion Agreement, where the form of diversion is determined. This can include restorative justice; however, other options also include the offender making an apology, agreeing to participate in programs, making reparations, or agreeing to do community work. If the diversion is to restorative justice, which will also require the victim's consent, the program receiving the referral will assess the case to confirm that it is appropriate for restorative justice. Once the form of diversion has been determined, the offender will formally sign the diversion agreement where they agree, in principle, to the conditions and the timeline for completion. If the diversion was to restorative justice, the restorative justice process will then occur, the victim and offender will agree on the outcomes, and the service provider will report back with a summary of the conference and the agreed upon outcomes to the Police Diversion Officer. Stage 5 is Completing Diversion. In this final stage, the Police Diversion Officer will monitor to ensure that the outcomes are met. Once the agreement has been carried out, the Police Diversion Officer will submit a letter to the court requesting that the charge be dismissed due to successful completion of the diversion agreement. If the diversion agreement is not completed satisfactorily, the offender will be returned to court and the case will continue through the formal criminal justice system (New Zealand Police, 2023).

While the New Zealand Police policy on adult diversion states that diversion will be very rare for sexual offences, New Zealand is home to Project Restore, which is a national specialist program established in 2005 that works only with sexual offences. Project Restore receives referrals pre-plea or pre-sentence from the courts, as well as post-sentence from Corrections. However, referrals can also be made in situations where charges will not be laid either by a police referral or through a self or community referral. In addition to having a restorative justice facilitator, there are also two community specialists, including a survivor specialist and an offender specialist, as well as a clinical psychologist who provides oversight and supervision of the practitioners. Otherwise, Project Restore follows a similar process as described above, where the facilitator engages in pre-conference meetings with the offender and the victim, then holds a conference where they facilitate a conversation and outcomes are agreed upon. Project Restore will then monitor the completion of the agreed upon outcomes.

BEST PRACTICES FOR RESTORATIVE JUSTICE PROGRAMS

Good restorative justice programs have well-trained facilitators who understand the community in which the crime took place and the dynamics of the criminal justice system. In addition, effective programs are also geared toward meeting the needs of the victims, including: (1) prioritizing safety (i.e., ensuring the victim's safety is the highest priority and putting appropriate safety measures in place); (2) ensuring there is adequate preparation of the victim and offender prior to commencing the formal process (i.e., providing required information to all parties, including an explanation of the events to take place during the restorative justice process, victim's role and the role of the offender and any other participants, and the possible outcomes,); (3) ensuring the program offers victims choices (i.e., informing victims of their options for participation at the earliest appropriate opportunity); (4) allowing the victim to tell their story, either in person or through another means (e.g., written or video testimony); and (5) providing validation of the losses or harms caused to victims and the potential for restitution (Canadian Resource Centre for Victims of Crime, 2011; Evans et al., 2021).

Best Practices for Serious and Violent Cases

There are some special considerations for best practices for cases involving serious crimes, especially those involving power imbalances. One of the considerations focuses on the types of processes that would be suitable for the situation. While there are several different restorative justice processes, they may not all be suitable for every type of offender and offence. When a case involves serious acts of violence that create an imbalance of power amongst parties, it is essential that any restorative justice process is not counterproductive or damaging for survivors/victims. It is believed that traditional mediation processes may be less useful in these instances because of their design mandate to resolve a conflict through a negotiation process that results in each side being satisfied with the outcome (Koss & Achilles, 2008). Given that sexual violence is often a gendered crime that challenges the assumption of equal resources to speak and be heard, victim-offender dialogues would need to be re-oriented to focus on the survivors/victims voicing the effect of the offence and receiving validation (Koss & Achilles, 2008). Conferencing offers a restorative justice process that shows the greatest promise for responding to acts of sexual assault. Premised

on the offender taking responsibility for the acts committed, a conference involves a consensual agreement by survivor/victims, offender(s), and their family/friends to meet. Guided by a specially trained facilitator, a conference usually follows a pre-arranged agenda, including the offender taking responsibility for their acts, the survivor/victim voicing the effect of the crime, family and friends of the victim/offender providing input, the offender acknowledging and responding to what they have heard about the harm caused, and the process concluding with discussions to formalize a plan for the offender to make amends, repair harm, and undertake personal changes to prevent the reoccurrence of similar acts in the future (Koss & Achilles, 2008). Another important feature of the conference that aligns this process to more sensitive cases involves the preparations associated with convening a conference. Prior to the conference convening, there are weeks or even months of meeting preparations completed by all parties.

Regardless of the process selected, there are several recommended best practices for referring, accepting, and processing a case of a serious nature within a restorative framework. Based on input gathered from victims/survivors, service providers, and advocates through focus groups and listening projects (e.g., Mika et al., n.d.; Nancarrow, 2006), it is evident that the most crucial component for any restorative justice process is that it is victim-centred (Koss & Achilles, 2008). Victim-centred processes provide victims/survivors the opportunity to tell their own stories about their experiences, obtain answers to questions, experience validation as a legitimate victim, observe genuine offender remorse, obtain support to offset any feelings of isolation, shame, and self-blame, and choose and provide input into the resolution of their violation (Koss & Achilles, 2008). To ensure victims/survivors' needs are safeguarded, respected, and met, restorative justice processes need to be respectful of survivor/victims as autonomous persons, and individualize their needs and the appropriate community responses (i.e., avenues for offender accountability, material reparation, protection of physical safety, reduction in potential re-abuse, and maximization of offender fulfillment of their commitments) (Daly, 2017; Koss, 2014; Koss & Achilles, 2008). Consulting with victims/survivors in the planning and implementation stages of restorative justice programs can also help to ensure they can engage meaningfully in directing how sexual and power-based crimes should be dealt with in their communities (Cameron, 2006).

To ensure a process is victim-centred, there have been several best practices suggested for each stage of the restorative justice process. At the referral stage, the restorative justice provider should complete an initial risk assessment to determine whether the case is suitable for a restorative justice process. This assessment should, at minimum, involve reviewing information about the offender and victim (e.g., criminal history, cognitive capacity, personality pathology, insight and remorse, seriousness of the circumstances, victim impact statement, etc.), obtaining input from any relevant specialists (e.g., a child specialist where the primary victim is a child/young person), and determining whether it is feasible to complete the process in a timely fashion (Paulin et al., 2021).

Once the case passes the initial screening, the second stage should involve contacting potential participants, namely the person harmed and the individual who caused the harm. It is most crucial at this stage that the process starts with securing the victim's consent. At the very least, the victim should be the first one contacted prior to any attempts made to contact the offender, and, during the initial contact, the victim/survivor should be provided with information about the restorative justice process. Ideally, at this stage, a victim/survivor should also be presented with an offer to

participate in a restorative justice process (i.e., to meet in person at a suitable time and venue) (Godlewska, 2022). At this stage, steps should be taken to ensure the victim's consent is truly voluntary by confirming that there is an absence of circumstances pointing to any form of influence or coercion (Paulin et al., 2021). As part of the consent process, the restorative justice practitioner should also determine whether the victim wants to attend a pre-conference meeting and continue with the restorative justice process (Paulin et al., 2021).

The third stage of the process should then involve a pre-conference meeting with the victim and the offender to assess their readiness and suitability for a restorative justice process, such as a mediation or conference (Paulin et al., 2021). The restorative justice facilitator should complete a risk assessment and document a risk plan that prioritizes the views of the victim, including their desire to veto any participants, and identify suitable support people to participate in the process. Issues related to victim safety must be considered, including determining whether the violence occurred in the past or is ongoing, and the presence/type of power imbalance that exists between the parties (e.g., family, employment, financial, age, etc.) (Godlewska, 2022). After identifying safety concerns, a safety plan must be developed that encompasses the entire restorative justice process, including incorporating skillful, sensitive, and experienced mediators/facilitators specialized in facilitating power-balancing techniques into the process, issuing/monitoring protection orders, ensuring appropriate interventions accompany the restorative justice process (e.g., anger management, anti-violence training, etc.), and developing an appropriate observation period to monitor the victim and offender after the restorative justice process concludes (Vogt & Dandurand, 2018). Once the victim's needs are addressed, it is important for the facilitator to assess the offender's suitability to partake in the process. At minimum, facilitators must be confident that the offender is capable of and genuinely willing to admit responsibility for their actions. It is also prudent to assess the offender for known risks that may impair their ability to properly participate in the process, including mental health concerns, substance use issues, and emotional literacy (Godlewska, 2022).

Once a case is deemed suitable, to ensure the success of the process, restorative justice initiatives geared toward handling serious crimes must have well-designed and implemented procedures. First, there should be clear guidelines for the preparations required on behalf of all participating parties (Koss & Achilles, 2008; Umbreit & Armour, 2011). By creating a schedule/script and outlining the expectations for the participants in advance, there are likely to be fewer surprises and fewer opportunities for the process to become counterproductive or damaging to victims/survivors (Evans et al., 2021). Second, taking care to incorporate appropriate cultural practices into the process may also help to create a healing space for participants (Paulin et al., 2021). Third, in terms of conducting the restorative justice process itself, it is best practice for facilitators to: (1) review the risk management plan and ensure unforeseen risk factors or incidents are assessed, mitigated, and documented; (2) ensure the safety of participants (especially victims) is continuously monitored throughout the process; (3) outline and reinforce the ground rules with all participants; (4) invite all participants to discuss the offence, impacts, and outcomes, paying particular attention to encouraging victims to contribute to the process; and (5) ensure that any apology offered remains focused on victim safety and offender responsibility, and that victims are not required to accept the apology (Paulin et al., 2021). Finally, in terms of outcomes, it is important that the restorative justice process provides mechanisms to ensure offender actions are completed,

including treatment and reparations, and all measures are in place to minimize the risk of re-victimization/re-offending (Paulin et al., 2021).

A further note should be considered when applying best practices in a Canadian context. Across Canada, there continues to be a pressing need to offer greater support for victims of serious/violent crimes in Indigenous communities. Thus, when considering case suitability for a restorative justice process, a victim/survivor and/or the accused/offender self-identifying as Indigenous and expressing a desire to participate in a restorative justice process should be given a great deal of weight (Godlewska, 2022). However, in keeping with the victim-centred approach, it is imperative that the victim/survivor's needs remain paramount. The victim/survivor's desire to participate in the process must take precedence and must always be voluntary. In addition, addressing their needs should come first, and this includes creating more opportunities for victim-offender dialogue, and an offer of culturally appropriate victim interventions immediately after the crime (Umbreit & Armour, 2011).

Quantitative Analyses of Police Data

The goal of the quantitative analyses produced below was to evaluate the impact of participation in a restorative justice program at the pre-charge stage on the likelihood of recidivism. As outlined in the Methodology section above, the primary focus of this quantitative analysis was the 935 individuals who committed an offence and subsequently participated in a restorative justice program in 2018. This year was chosen to provide an ample follow-up period to allow for reoffending. To assess the efficacy of restorative justice, a control group comprised of 2,141 individuals who committed offences but who were not referred to restorative justice in 2018 was selected. The control group was matched to the restorative justice sample based on offence type.

The main question of interest is whether, in comparison to the control group, participating in restorative justice reduced the probability of recidivism in the follow-up period, which ran until the end of 2021. For matters of clarity, the *key* offence is the offence that occurred in 2018, while *recidivism* (or re-offending) is the first CPIC charge following the key offence, if applicable. Thus, the baseline analysis is whether the observed rates of recidivism were different between individuals who were referred to restorative justice at the pre-charge stage of their 2018 key offence and participated in a restorative justice program from those who had a similar key offence in 2018 but were not referred to restorative justice (control group). This analysis was further supplemented by the introduction of several predictors that could also be related to potential differences in recidivism rates, including gender, age at time of key offence, criminal history, crime severity (or seriousness), and key offence type.

All crime data were retrieved from CPIC records, which includes all cases that have been cleared by a charge. The crime history variable is a count of CPIC offences that occurred between January 1, 2013, and the date of the key offence to provide "pre" and "post" periods that were approximately equal in length. Crime Severity is based on scores used by Statistics Canada in the creation of the Crime Severity Index (CSI). However, a word of caution is required here: the CSI values used in this report are the values published by Statistics Canada in 2014. These values have subsequently been updated, but public information about the specific values of the updated Index was not available at

the time of writing this report. Thus, Crime Severity reported here should be taken as a rough approximation of severity only. The values attributed to selected offence types are presented in Appendix A. Finally, all the bivariate and multivariate results were produced using logistic regression models.

SAMPLE

The study groups varied significantly in terms of both gender makeup and age distribution. As illustrated in Figure 1, the restorative justice sample was comprised of significantly ($t = -8.77, p < .000$) more females (42.2%) than the control group (25.8%). And, as demonstrated in Table 1, the restorative justice sample was also significantly younger, with a median age of 17 years old, which was half the median age of the control group at 34 years old.

FIGURE 1: GENDER DISTRIBUTION OF SAMPLE

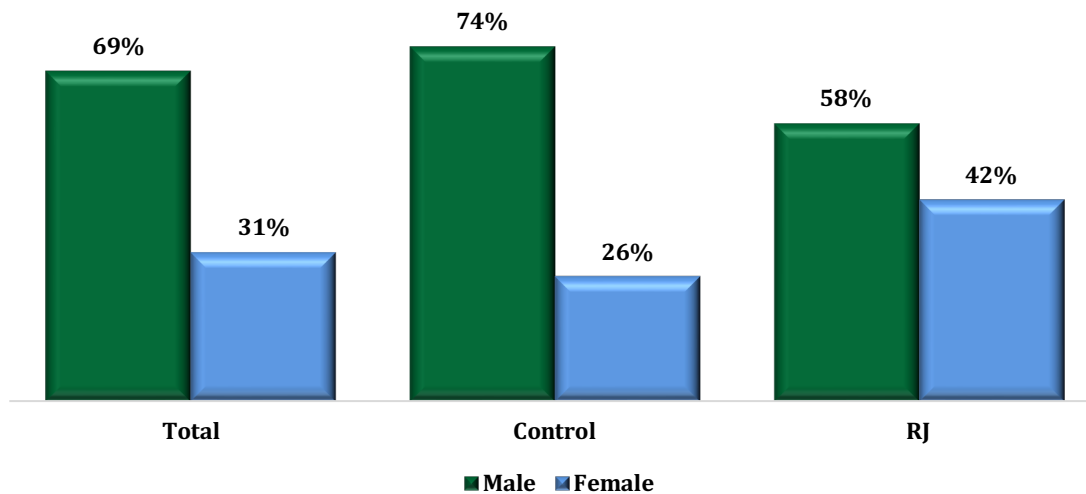


TABLE 1: AGE DISTRIBUTION OF SAMPLE

	Sample Total (N = 3,076)	Control (N = 2,141)	Restorative Justice (N = 935)
14 Years Old and Younger	7.4%	0.5%	23.3%
15 – 16 Years Old	7.4%	0.8%	22.6%
17 – 18 Years Old	5.0%	2.1%	11.9%
19 – 24 Years Old	12.7%	13.1%	11.7%
25 – 29 Years Old	12.9%	16.1%	5.8%
30 – 39 Years Old	38.4%	47.0%	18.6%
40 Years Old and Older	16.1%	20.4%	6.2%
<i>Median</i>	31.0%	34.0%	17.0%

In contrast, because the control group was selected based on the nature of the key offence in 2018, the distribution of types of key offences were statistically equivalent. More than two-thirds of all offences for both samples were some forms of property crime, while personal crimes comprised another 21% of the key offences for both samples. ‘Other’ crimes made up the remaining offences.

Table 2 presents in greater detail the types of key offences for both samples. The number presented on the left side of each column is the proportion across the entire group, while the numbers on the right of every column indicate the proportion of the sub-type of offence within the group. For example, in the control group, 69.1% of key offence crimes were generally related to the category of theft. And the most common type of theft-related crime for the control group was shoplifting under \$5000 (69.4 per cent). Similarly, the most common offence category for the restorative justice sample was also theft (66.1 per cent), with the most common type of theft also being shoplifting under \$5000 (67.6 per cent). As noted in the methods section above, given that the control group was created by matching offenders to those in the restorative justice group on offending in 2018, the data presented in Table 2 were very similar between the two groups. However, this information is important because it provides some context for the type of offences that resulted in someone being referred to restorative justice programs in British Columbia in 2018.

TABLE 2: KEY OFFENCE TYPE

	Total (N = 3,076)	Control (N = 2,141)	Restorative Justice (N = 935)
Theft	68.2%	69.1%	66.1%
Shoplifting Under \$5000	68.9%	69.4%	67.6%
Mischief \$5000 or Under	13.9%	14.6%	12.3%
Theft Under \$5000	12.6%	12.8%	12.0%
Theft - Other	4.6%	3.2%	8.1%
Assaults	15.1%	16.3%	12.4%
Assault - Common	80.4%	80.5%	80.2%
Assault - With Weapon	19.1%	19.5%	18.1%
Assault - Other	0.4%	0.0%	1.7%
Threats	4.5%	4.3%	4.7%
Break & Enter	3.4%	3.5%	3.2%
Drugs	3.3%	3.0%	4.2%
Possession - Cannabis 30g & Under	81.6%	98.4%	46.2%
Drugs - Other	18.4%	1.6%	53.8%
Weapons	2.0%	2.1%	1.8%
Weapons - Possession	96.8%	100.0%	88.2%
Weapons - Other	3.2%	0.0%	11.8%
Public Disorder	1.0%	0.8%	1.5%
Sexual Violence	0.8%	0.1%	2.6%
Sexual Assault	38.5%	50.0%	37.5%
Sexual Images	38.5%	0.0%	41.7%
Sexual Interference	23.1%	50.0%	20.8%

Other Violence	0.6%	0.1%	1.6%
Motor Vehicle	0.3%	0.1%	0.7%
Breach/FTA	0.2%	0.3%	0.1%
Other	0.5%	0.2%	1.1%

CRIME HISTORIES

Although the restorative justice and control groups exhibited very similar key offending, their broader patterns of criminal offending were very different. Figure 3 displays the number of offences both before and after the key offence. Simply put, most individuals in the restorative justice sample (93.0 per cent) had no previous convictions. A similarly large percentage of the restorative justice sample (87.6 per cent) also had no CPIC recorded offences following the key offence. Conversely, three in five individuals in the control group (59.4 per cent) had at least one prior conviction; over one-quarter (27.2 per cent) had four or more subsequent convictions. The control group also was much more criminally active in the period following the key offence. Here, three-quarters had at least one subsequent conviction (75.3 per cent), and almost one-third (31.6 per cent) had four or more subsequent convictions (see Figure 2).

FIGURE 2: PERCENTAGES OF SAMPLES CRIME COUNTS BEFORE AND AFTER KEY OFFENCE

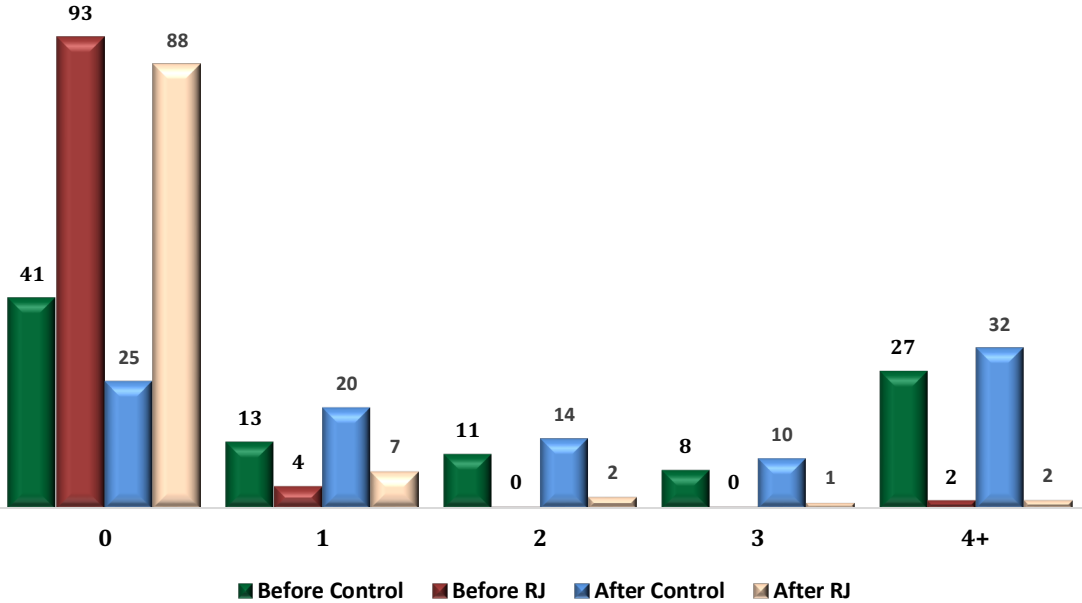


Table 3 provides further context on the issue of criminal histories. More than half (55.3 per cent) of individuals in the control group had at least one conviction both before and after their key offence. Moreover, only 21.8% of those in the control only had the key offence on their CPIC record. The comparable statistic for the restorative justice sample was that only 3.3% of those in the restorative justice sample had at least one offence both before and after the key offence. Critically, especially

when compared to the control sample, for approximately four-fifths (84 per cent) of individuals in the restorative justice group, their key offence was their only offence (see Table 3).

TABLE 3: COMPARISON OF OFFENCE COUNTS BEFORE AND AFTER THE KEY OFFENCE

			After	
			0	1+
Before	Control	0	21.8%	19.7%
		1+	3.2%	55.3%
	Restorative Justice	0	84.0%	9.1%
		1+	3.6%	3.3%

RECIDIVISM

Simply stated, individuals whose cases were handled through a restorative justice program were over six times (6.1) less likely to recidivate compared to those in the control group. In terms of proportions, three-quarters of individuals in the Control Group (75.3 per cent) reoffended during the follow-up period, while only 12.4% of the restorative justice sample reoffended. A survival analysis was conducted to determine if the two groups differed in terms of the length of time it took individuals to reoffend. Consistent with the logistic regression findings, even when they did recidivate, individuals in the restorative justice sample avoided recidivating for a significantly ($\chi^2 = 105.86, p < 0.000$) longer period of time ($\bar{x} = 675$ days) compared to individuals in the control group ($\bar{x} = 244$ days). In other words, not only were those who went through a restorative justice program less likely to recidivate, but among those who did, they lasted 2.8 times longer before reoffending when compared to the control sample.

As shown in Figure 3, the types of offences committed during their recidivism varied notably between the restorative justice and control groups. More than half of the control group (55 per cent) were charged with property crimes while 14% of recidivism offences involved personal offences. Conversely, personal crimes were the most common recidivism offence for individuals in the restorative justice sample, comprising over 40% of cases. A more detailed breakdown of recidivism offences is provided in Table 4. The two most dominant offences were Theft Under \$5000 and Common Assault. More specifically, while 51.6% of all recidivism offences for the control group were for theft, slightly more than one-third (35.3 per cent) of the recidivism offences for the restorative justice sample were for theft. However, as just mentioned, for both groups, the most common form of theft was theft under \$5,000.00 (see Table 4). Similarly, with respect to personal or violent recidivism, the most common category for both groups was assault. Here, 13.5% of recidivism offences for the control group and 32.8% of the recidivism offences for the restorative justice group was for an assault. Again, the most typical form of assault for both groups was common assault. In terms of the 'other' category, the most common offence type for both groups were Breach of Conditions or Failure to Appear; however, here, approximately 19.7% of individuals in the control group were convicted of this offence type, compared to 5.2% of individuals in the restorative justice group.

FIGURE 3: RECIDIVISM BY OFFENCE CATEGORY

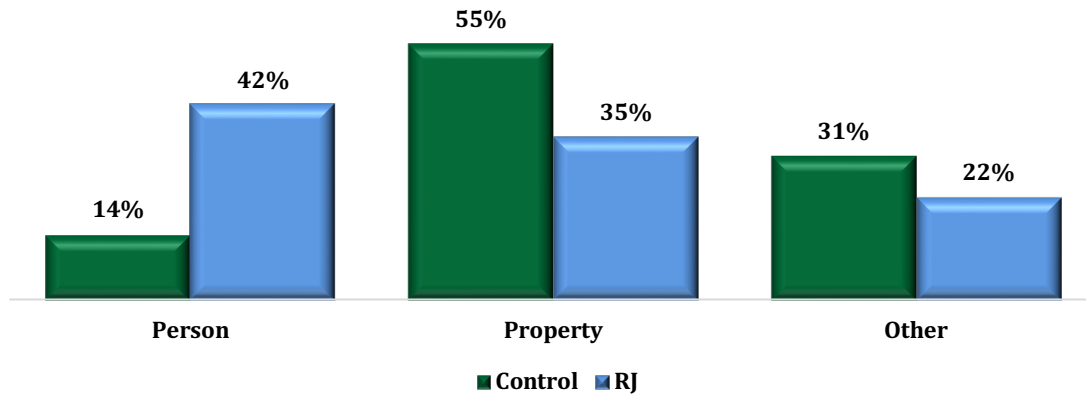


TABLE 4: RECIDIVISM OFFENCE TYPE

	Control Sample (N = 1,612)	Restorative Justice Sample (N = 116)
Theft	51.6%	35.3%
Shoplifting Under \$5000	0.0%	0.0%
Mischief \$5000 or Under	2.9%	2.4%
Theft Under \$5000	76.9%	80.5%
Theft - Other	20.2%	17.1%
Assaults	13.5%	32.8%
Assault - Common	72.0%	68.4%
Assault - With Weapon	22.9%	28.9%
Assault - Other	5.0%	2.6%
Threats	3.8%	3.4%
Break & Enter	3.4%	0.0%
Drugs	2.3%	5.2%
Possession - Cannabis 30g & U	0.0%	0.0%
Drugs - Other	100.0%	100.0%
Weapons	1.6%	3.4%
Weapons - Possession	84.6%	100.0%
Weapons - Other	15.4%	0.0%
Public Disorder	0.4%	0.0%
Sexual Violence	0.1%	5.2%
Sexual Assault	50.0%	66.7%
Sexual Images	0.0%	0.0%
Sexual Interference	50.0%	33.3%
Other Violence	0.4%	4.3%
Motor Vehicle	0.7%	4.3%
Breach/FTA	19.7%	5.2%
Other	2.4%	0.9%

In addition to counts, criminal history can also be conceptualized in terms of crime seriousness/severity. Of 935 individuals referred to a restorative justice program, only 12.4% (n = 116) reoffended compared to 75% (n = 1,612) of those in the control group. Of the 1,612 control group individuals who reoffended, nearly half (45.7 per cent) committed a new crime that was equivalent in severity to their key offence. Equal proportions committed a new offence that was either more severe (26.4 per cent) or less severe (27.9 per cent). When examining the 116 restorative justice participants who re-offended, most (53.5 per cent) did so by committing a new crime that was either the same level of severity as their referral crime (34.5 per cent) or less severe than their referral crime (19.0 per cent). However, 54 individuals (46.6 per cent) committed a subsequent crime that was considered more severe than their key offence. When examining these 54 cases in more depth, one clear pattern emerged (see Table 5). Of 28 individuals whose referral crime was a shoplifting under \$5,000 offence, 13 individuals (46.4 per cent) went on to commit a common assault, which typically involves a minor form of violence, including psychological violence.

Overall, given the very small size of the sample of individuals who re-offended following their participation in restorative justice and the even smaller proportion of those who committed a more severe offence than the one resulting in the restorative justice referral, in most cases, the data demonstrates that the individuals referred to restorative justice in this study were substantially and significantly less likely to reoffend. However, future research may want to explore the small group of recidivists who commit a more severe offence in more depth. For example, it was unclear, given the data available to the researchers, whether these individuals had completed their restorative justice program or dropped out of it, if they had completed their restorative justice program before the new offence occurred, or what the underlying factors were (e.g., neuropsychological deficits, consistent with life course patterns of offending) that might have contributed to their more severe recidivism. Still, the important caveat is that this is a small group of individuals who reoffended in a more severe manner than their original offence, and while the severity increased, it was not a substantive increase given the very low numbers of individuals who went on to commit more severe forms of assault, sexual violence, or robbery/weapons related offences. In other words, this increase in severity typically reflected individuals who had engaged in a shoplifting offence that brought them into a restorative justice program and subsequently engaged in a common assault.

TABLE 5: CHANGE IN OFFENCE TYPES FROM KEY OFFENCE TO RECIDIVISM OFFENCE

		<i>Key Offence</i>								
		Shoplifting < \$5000	Mischief < \$5000	Theft < \$5000	Public Disorder	Assault - Common	Threats	Possession Cannabis < 30g	Break and Enter	Other
<i>Recidivism Offence</i>	Theft – Other	3	0	0	0	0	0	0	0	0
	Theft < \$5000	0	0	0	0	0	0	0	0	3
	Breach / FTA	1	0	0	1	0	0	0	0	0
	Assault – Common	13	2	2	1	0	1	0	0	0
	Assault w/Wpn	3	0	0	0	0	1	1	0	0
	Threats	2	0	0	1	0	0	0	0	0
	Assault – Other	0	1	0	0	0	0	0	0	0
	Drugs – Other	0	0	1	0	0	1	0	0	0
	Motor Vehicle	0	0	1	0	1	0	0	0	0
	Sexual Assault	1	0	0	0	1	1	0	1	0
	Sexual Interference	1	0	0	0	1	0	0	0	0
	Robbery	2	0	1	0	1	0	0	0	0
	Serious Violence - Other	1	0	0	0	0	0	0	0	0
	Weapons Possession	1	0	0	0	1	0	1	0	0

BIVARIATE ANALYSES

To establish a baseline understanding of the effects of each variable independent of the other variables, a series of bivariate analyses were conducted. The results of these analyses are presented below.

Overall, females were much less likely than males to reoffend. However, Figure 4 clearly demonstrates that the difference in recidivism rates was solely attributable to the control group. In effect, the odds of females in the control group reoffending were about half (51.5 per cent) that of males. In contrast, the recidivism rates for females and males in the restorative justice sample were

essentially equal. Put another way, the positive effects of restorative justice on reducing recidivism were the same for both female and male offenders.

FIGURE 4: RECIDIVISM COMPARISON OF RESTORATIVE JUSTICE AND CONTROL GROUPS BY GENDER

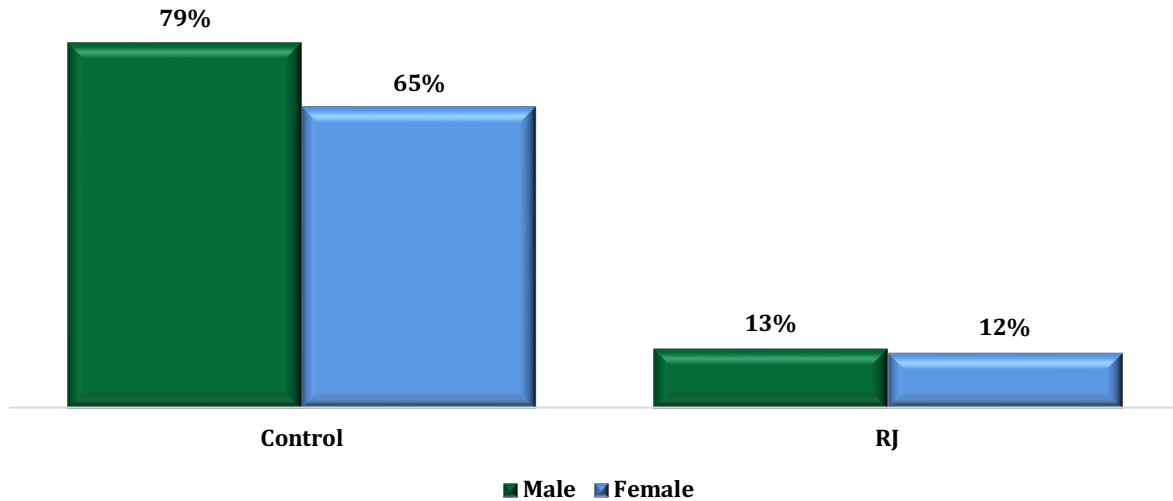


Table 6 highlights the differences in recidivism rates across a range of age categories. Two findings are worthy of note. First, recidivism rates for the restorative justice sample were consistently lower than those for the control group. In effect, for every age category, the proportion of individuals that reoffended was three times lower for the restorative justice sample, except for those 40 years old and older (2.8 times). In other words, the overall differences in recidivism rates were not being driven by particular age categories, but rather, were evident across the age spectrum.

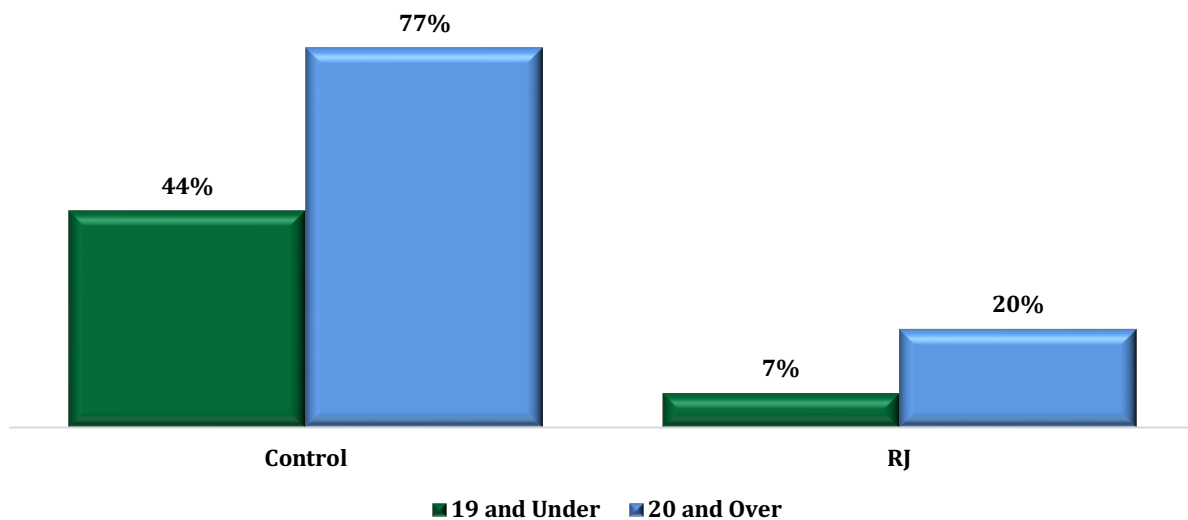
TABLE 6: RECIDIVISM COMPARISON OF RESTORATIVE JUSTICE AND CONTROL GROUPS BY GENDER

	Control Sample (N = 1,612)	Restorative Justice Sample (N = 116)
14 years old and younger	27.3%	9.2%
15 – 16 years old	64.7%	4.3%
17 – 18 years old	38.6%	8.1%
19 – 24 years old	68.7%	14.7%
25 – 29 years old	81.4%	24.1%
30 – 39 years old	76.7%	19.0%
40 years old and older	76.9%	27.6%

Having said that, Table 6 also demonstrates that recidivism rates were particularly low for younger individuals. To explore this finding further, age was divided into two categories: under 20 years old and 20 years old and older. The results from this analysis were stark. For the control group, individuals 20 years old and older were 4.2 times more likely to reoffend than those under 20 years

old. For the restorative justice sample, the 20 years old or older category was 3.4 times more likely to reoffend than those 19 years old or younger. When comparing the odds of recidivism between the control and restorative justice groups, the results were especially telling. In the control group, the odds that those 19 years old and younger would not recidivate was 1.26.⁹ In other words, somewhat better than 50/50. But, for the restorative justice sample, the odds of those 19 years old and younger not recidivating was 13.08 (.929/.071). Comparing these odd ratios across the two groups indicated that the odds of not recidivating were nearly 13 times larger for the restorative justice sample compared to the control sample. Simply put, while being a teenager acted as a protective factor for recidivism across the whole study, its impact was much larger for the restorative justice sample (see Figure 5).

FIGURE 5: RECIDIVISM COMPARISON OF RESTORATIVE JUSTICE AND CONTROL GROUPS BY AGE

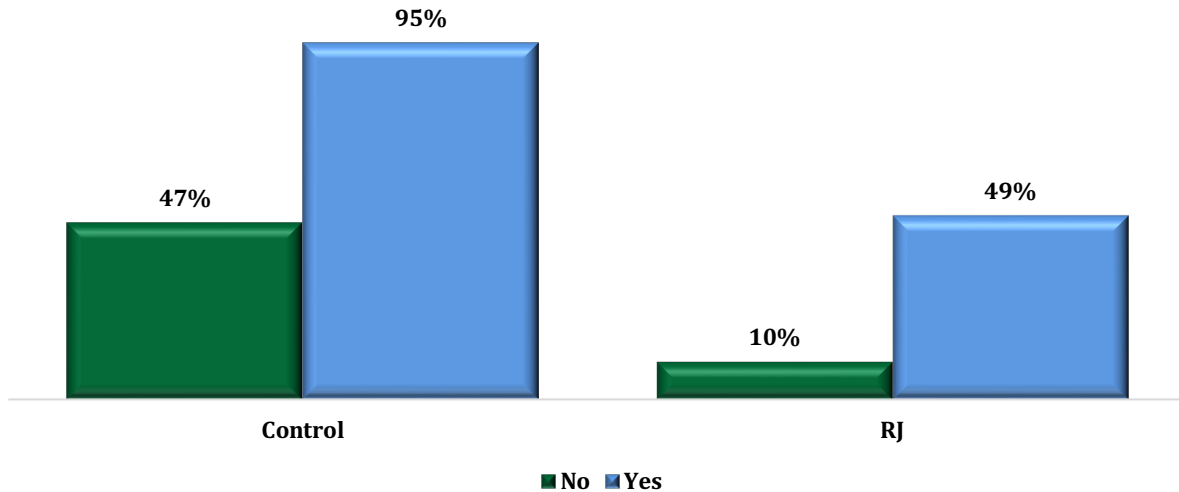


Like the results for age, the existence of prior convictions before the key offence had a significant impact on the likelihood of recidivism after the key offence, as demonstrated in Figure 6. For the control group, individuals with criminal histories were 20.4 times more likely to reoffend compared to those in the control group without criminal histories prior to the key offence. For the restorative justice sample, having a criminal history increased the recidivism odds by 9.1 times. Again, comparing across groups produced further important insights. For example, taking those individuals who did not have a criminal history in the control group, the odds that these individuals would not recidivate were 1.10. In other words, it was just a little better than 50/50. However, for the restorative justice sample, the odds of an individual with no criminal history not recidivating were 9.31 (.903/.097). **Comparing these the odds across both groups, the odds of not recidivating were 8.45 times, or nearly 850%, larger for the restorative justice sample.** In

⁹ The odds of an event are calculated as: Odds = Probability / (1 - Probability). For this reason, the baseline for Odds is 1.00 (because if the probability of an event was 50%, Odds = .50/.50 = 1.00).

summary, the protective effect of not having a criminal history was much stronger for the restorative justice sample. It is worth noting that reversing the wording of the question produced the same outcome. In other words, if the question was by how much does having a criminal history increase the risk of recidivism between the control group and the restorative justice sample, the answer would still be by nearly 850%.

FIGURE 6: RECIDIVISM COMPARISON OF RESTORATIVE JUSTICE AND CONTROL GROUPS BY CRIMINAL HISTORY



In addition to dichotomizing criminal history (yes or no), criminal history can also be conceptualized as the actual number of prior offences. For the control group, every additional prior conviction increased the likelihood of reoffending by 269% and, for the restorative justice sample, the comparative figure was 203%. Table 7 demonstrates that the recidivism rates for both groups were very consistent after the first prior offence. Here, the probabilities of recidivating for the control group and the restorative justice sample were over 90% and about 75% respectively for second and additional priors. However, again, nearly half of the control group (47.6 per cent) that had no prior offences before the key offence recidivated after the key offence, but only 9.7% of the restorative justice group did so. Similarly, 90.4% of those in the control group with one prior offence before the key offence recidivated, but only slightly more than one-third (35.7 per cent) of the restorative justice group did so.

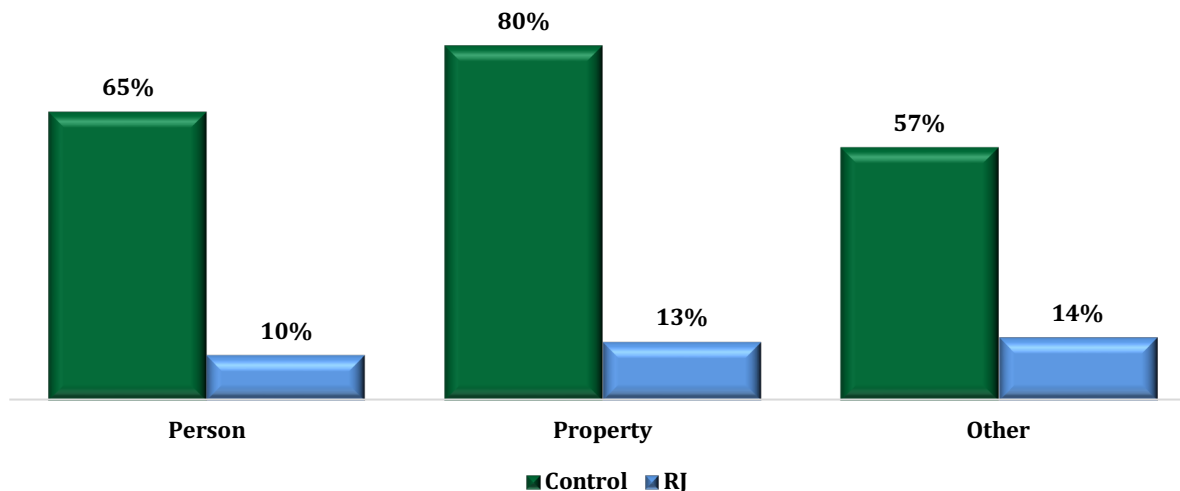
TABLE 7: RECIDIVISM BY CONTROL AND RESTORATIVE JUSTICE GROUPS AND NUMBER OF PRIORS

	Control Sample (N = 1,612)	Restorative Justice Sample (N = 116)
0	47.6%	9.7%
1	90.4%	35.7%
2	93.5%	75.0%
3	92.6%	75.0%
4+	98.3%	73.3%

As noted above, a second way of assessing the impact of criminal history involves crime severity. Consistent with expectations, the seriousness of an individual's key offence was a significant predictor of recidivism for those in the control group. In effect, the more serious one's key offence, the more likely that individual was to recidivate. Specifically, for every point higher the key offence was on the severity index for the control group, the likelihood of reoffending rose by 0.6%. Of note, this comparatively small number is a result of the range of the index. As mentioned above, the two most common key offences for both groups were shoplifting under \$5,000 and common assault. An individual in the control group who committed a common assault as their key offence was 14% more likely to reoffend than an individual referred for shoplifting under \$5,000. Similarly, if the individual's key offence was robbery, that individual would be more than 15 times more likely to recidivate than the person whose key offence was a common assault. In contrast, and importantly, key offence seriousness was not a significant predictor of recidivism for individuals from the restorative justice sample. Put another way, from a statistical perspective, those who participated in a restorative justice program exhibited approximately the same odds of recidivism regardless of what was their key offence. At a minimum, this finding suggests the protective effects of the restorative justice program for recidivism were not limited to any particular offence type and provides some support for the notion that restorative justice programs can reduce the likelihood of recidivism for even more serious offence types.

The final variable tested as a potential predictor of recidivism was offence type. As demonstrated in Figure 7, for the most part, offence type was generally unrelated to recidivism risk within each group. In other words, the likelihood of reoffending tended not to differ across key offence categories. The only exception to this conclusion was in relation to property crimes for individuals in the control group. Here, if the key offence was a property crime, offenders were significantly more likely to recidivate than those who committed either a person or 'other' offence as their key offence. Although much smaller and statistically insignificant, there were slight differences in recidivism rates between offence types for the restorative justice sample. Compared with person types of offences, offenders whose key offence was either a property or 'other' type of offence were only slightly more likely to reoffend; however, from a statistical perspective, differences in offence types did not produce different levels of recidivism for those in the restorative justice sample. However, consistent with the other factors presented above, very large and significant differences were evident between the control group and the restorative justice sample. For property crime, the odds of recidivating were 26.7 times higher for the control group, 16.7 times higher for person offences, and 8.1 times higher for 'other' offences when compared to the restorative justice sample.

FIGURE 7: RECIDIVISM COMPARISON OF RESTORATIVE JUSTICE AND CONTROL GROUPS BY OFFENCE TYPE



MULTIVARIATE ANALYSES

Although bivariate analyses provide important information about each of the predictor variables and recidivism, they only tell part of the picture because these variables do not act independently, but rather, operate in concert with one another. Thus, a comprehensive understanding of recidivism requires multivariate analyses that can demonstrate the effects of each factor while simultaneously controlling for the effects of the other factors in the model. One way to do this is to conduct a logistic regression analysis that includes all seven of the predictors. The results of this analysis (not shown) confirmed the earlier bivariate analysis of recidivism: controlling for the other factors in the model, **individuals in the restorative justice group were 86.5% less likely to recidivate than individuals in the control group.** A second multivariate approach involves dividing the results by these two groups. The results of these analyses are illustrated in Table 8.

TABLE 8: FULL MODEL COMPARISON OF PREDICTORS

	Control Group	Restorative Justice Group
Gender	0.567*	0.854
Teenager	0.415*	0.418*
Previous Conviction	17.108*	5.959*
Crime Severity	1.006*	1.000
Person vs. Property Crime	1.675*	1.138
Person vs. Other Crime	0.705	1.501
<i>Model Fit</i>		
Nagelkerke R ²	0.422	0.144

* p < 0.05

The coefficients displayed in the control group column show the effects of the predictors for the individuals in the control group and can be interpreted as follows:¹⁰

- Gender – Female offenders were 43.4% less likely to reoffend than were male offenders. This is equivalent to saying that males were 76.4% more likely to recidivate than females.
- Teenager – Those who were 19 years old and younger were 58.5% less likely to reoffend than those who were 20 years old or older. Alternatively, individuals 20 years old and older were 2.4 times more likely to recidivate than those 19 years old or younger.
- Previous Conviction – Individuals who had at least one previous conviction were over 17 times more likely to reoffend than those without a previous conviction. Conversely, not having a previously conviction reduced the odds of recidivism by almost 95%.
- Crime Severity – Every one-point increase in the severity of the key offence increased the chances of recidivism by 0.6%.
- Person vs. Property Crime – Individuals who committed property crimes were 67.5% more likely to recidivate than individuals who committed person crimes.

The coefficients displayed in the restorative justice group column show the effects of the variables for the individuals in the restorative justice sample. Interestingly, four of the six coefficients were not statistically significant, indicating that these variables did not predict recidivism in the restorative justice sample. For example, in the restorative justice sample, females were 14.6% less like to recidivate than were males. Because this value was not statistically significant, one can conclude that the rates of recidivism were statistically equal for males or females. Put another way, the impact of participating in a restorative justice program was equal across genders for recidivism. Similarly, the insignificant effects for crime severity and crime type indicate that positive effects of restorative justice programs are distributed equally across all key offence, regardless of offence type or severity. However, there remain two predictors that were statistically significant for the restorative justice sample:

- Teenager – Those who were 19 years old or younger were 58.2% less likely to reoffend than restorative justice participants who were 20 years old or older.
- Previous Conviction – Individuals who had at least one previous conviction were nearly six times more likely to reoffend than those without a previous conviction.

These findings suggest that, in relation to decreasing the likelihood of recidivism, among the restorative justice sample, restorative justice was more beneficial for those under 20 years old and those without a previous conviction. Moreover, they provide further support for the argument that restorative justice can be an effective response to crimes of a more serious nature.

Finally, in considering the relative effect sizes of the six statistically significant predictors in the model or “how important” or “how strong” the variables were in predicting recidivism among individuals in the control group, the three strongest predictors were crime severity, being a

¹⁰ Note: only the significant predictors are discussed.

teenager, and whether the key offence was a person versus a property offence. These three variables were three to four times more powerful than whether the offence was a person versus a 'other' crime type, gender, and whether the individual had a previous conviction in predicting whether an individual recidivated following their key offence.

SUMMARY OF FINDINGS

The empirical evaluation revealed that individuals who participated in a restorative justice program were over six times less likely to recidivate than individuals who did not engage in restorative justice. This finding held even after the introduction of relevant predictors, such as gender, age at time of key offence, criminal history, crime severity, and key offence type. Restorative justice programs also appeared to significantly extend the time to recidivism for those who did re-offend.

The effects of restorative justice generally were consistent. For example, males and females who received restorative justice programming recidivated at approximately the same rate. Similarly, the effects of restorative justice did not vary with either the type or seriousness of individuals' offences. Although preliminary, this finding suggests that restorative justice programs need not necessarily be limited to particular types of less serious offences and provides a solid foundation upon which to expand restorative justice programs to more serious types of offences.

The findings regarding offender age were more nuanced. On one hand, individuals who participated in restorative justice were less likely than those in the control sample to recidivate across the full range of age categories, indicating that restorative justice is effective for individuals of every age. Having said that, restorative justice programs proved to be especially effective in limiting recidivism for those who were younger than 20 years old when they committed their key offence. Thus, while restorative justice should be considered for offenders of all ages, offenders under 20 years old are likely to benefit the most from these types of programs.

Finally, the results indicated that criminal history should be treated cautiously. Yes, restorative justice helped reduce the likelihood of recidivism even for those who had committed at least one offence prior to their key offence. But amongst all individuals who participated in restorative justice, the odds of recidivating were more than eight times greater for those who had criminal histories. Ultimately, criminal history should not disqualify individuals from participating in restorative justice, but these individuals do present higher risks than those who do not have criminal histories.

Qualitative Analysis of Interviews with Restorative Justice Program Managers

GENERAL DESCRIPTION OF SAMPLE

The sample for this portion of the report comprised very experienced restorative justice practitioners, with the least experienced having been involved with their restorative justice program for eight years and the longest having been involved for 32 years. On average, participants had been involved with restorative justice for 14 years. Nearly all participants were leading their

restorative justice programs through one type of management position or another. Specifically, seven participants held the position of executive director (sometimes with responsibilities beyond their restorative justice program), three were restorative justice program co-ordinators, and two were restorative justice managers. While only one participant self-described as a restorative justice facilitator, it was clear that all respondents had extensive experience as facilitators. On average, participants have held their current position for an average of 12 years.

Most participants stated that their office was in the community, but not in a police building. Participants stated that having an office that was separate from police was by design to create a less intimidating environment for individuals going through the restorative justice process. Most participants added that their goal was to be perceived as neutral rather than adversarial in any way. However, a small number of participants said they had their office within a local community police office or a RCMP detachment located in the area. Of these participants, most noted that being within close proximity to police had some benefits, such as being able to have face-to-face discussions with police and Crown Counsel about cases, being able to build a more direct working relationship and rapport with police, and generally having more influence on police regarding their attitudes towards restorative justice and making referrals to a restorative justice program.

GOALS, MANDATE, AND STRUCTURE OF RESTORATIVE JUSTICE PROGRAMS

As outlined in the literature review, there are several interconnected goals that restorative justice programs attempt to achieve. When asked to outline the main goals of their restorative justice program, participants highlighted many of the same themes presented in the literature review. Commonly, participants indicated that they were focused on addressing youth and young adults in conflict with the law, providing an alternative approach to crime and conflict in the community outside of the formal criminal justice system, and addressing the harm that crime and conflict creates in the community in a holistic approach that incorporates the needs of both victims and offenders. Of note, many participants specifically mentioned the notion of healing, transformation, and change for all parties involved as key objectives of their program. Other participants identified a focus on developing an understanding among those engaged in a restorative justice process about the root causes of negative behaviours, the pathways towards negative decision-making, and how individuals can recognize and avoid making wrongful choices. Of note, some participants indicated that their mandate did not restrict their program to working just with youth or those who engaged in a criminal act. Some participants indicated that their restorative justice program worked with adult offenders, while other participants reported that their program worked with people who had engaged in non-criminal acts, such as negative behaviours that one might encounter in a middle or high school, including bullying or inter-personal conflicts that did not rise to the level of a criminal offence. In summary, participants tended to identify their mandate and program goals as assisting in creating a safer and healthier community, reducing recidivism or poor choices by youth or young adults, delivering a trauma-informed alternative to the formal criminal justice system, being a resource and proving an opportunity to provide community-based assistance and guidance to offenders and victims, and reconnecting people to themselves, their communities, and their culture.

There were also several common themes for how participants' restorative justice programs achieved their mandates and goals. While most participants spoke about using a community justice model and employing the main elements of what is commonly considered a restorative justice approach, such as victim-offender conferencing and mediation, there were some important themes that emerged from the interviews. One participant indicated that, in part, their program goals were met by offering offender conferencing, which was used when a victim was unable to actively participate in the process. Typically used in shoplifting cases when the retailer did not have the staff or time to participate in the restorative justice process directly, offender conferencing is very similar to victim-offender conferencing. In contrast to the typical process, while the victim might be interviewed over the phone for the facilitator to collect relevant information and go through many of the same steps that would be undertaken in preparation for a victim-offender mediation process, such as the preparation of a victim impact statement, the end process does not involve a meeting between the offender and the victim. While this approach was only identified by one participant, a more commonly mentioned strategy involved ensuring that volunteers and staff were adequately trained and received frequent training sessions to be prepared to address evolving community issues. It was felt by several participants that having a well-trained group of facilitators that could address a wide range of issues and build rapport with many kinds of people was key to their program achieving their mandate. Participants also discussed the importance of case preparation and working with victims and offenders through the process as key aspects of achieving program goals.

Related to this point, participants indicated that, while they had several frameworks that they could use, a key contributor to achieving their mandate was being flexible in their restorative justice approaches to best support the specific needs of victims and offenders on a case-by-case basis. In effect, participants identified that each case was unique and, therefore, a one-size-fit-all approach would not be effective or welcomed. As a result, participants reported that having the ability and capacity to use various restorative justice approaches, being adaptable, and being flexible were critical to achieving their mandate. Other important themes were engaging in outreach and developing positive relationships with the police of jurisdiction and other community groups and organizations. Establishing trusting and positive relationships throughout the community not only contributed to increasing their number of referrals but also played a key role in developing and instituting a 'restorative community'. In other words, outreach and establishing positive relationships throughout the community had the tangible benefit of increased referrals but also contributed to schools, families, businesses, other service providers, and even the police seeing restorative justice as a viable approach to addressing conflict and crime and encouraging everyone to work and live in a restorative way. In effect, participants felt that **outreach, relationship building, and partnerships contributed to the development of a restorative environment** that had the ability to permeate the entire community. Of course, developing and maintaining positive relationships with a broad range of community and government stakeholders could also contribute to establishing more secure sources of funding of restorative justice programs.

As outlined in the literature review, one of the theoretical benefits of restorative justice is that it is more victim-focused than the criminal justice system. When asked if their program was more victim-centred or offender-focused, participants provided a range of interesting responses. For example, one participant indicated that, for a long period of time, their program had been rather

offender-focused in that it tended to emphasize what the offender was going to do to make amends, what steps the offender was going to take to rehabilitate, and the role of the restorative justice program and the community in assisting the offender to reintegrate into their community, rather than focusing on what the victim wanted or needed. However, this participant indicated that, more recently, their program had shifted to become much more sensitive to the needs of the victim and, while not ignoring the needs of the offender, now focused much more on providing resources and support to the victims. Other participants indicated that the nature of the offence somewhat dictated where their focus was placed. The most common example of this was in dealing with shoplifting or theft under \$5,000.00. Here, as mentioned above, the retailer often did not have the ability to fully engage in the restorative justice process. As a result, these types of cases are commonly very offender-focused. However, cases that involved assaults or other forms of violence would emphasize and prioritize the needs of the victims.

The most common response from participants was that they were both victim and offender focused. The idea forwarded was that for restorative justice to really work, it was important and necessary for both the victim and offender to feel that justice was served throughout the process. This requires the focus of the restorative justice program to be placed on both the victim and the offender. In this way, many participants expressed their commitment to the healing and wellbeing of all parties in the process. To this end, one participant indicated that their program tended to mimic the processes used by police-based or community-based victim services with the offender as well. In effect, the restorative justice program used their pre-forum meetings to determine treatment needs, resources, and to provide referrals for both victims and offenders to community services. This approach was based on an understanding that, at its core, restorative justice needed to ensure that not only was the person(s) harmed taken care of but that the person who caused the harm also needed similar consideration, empathy, compassion, and assistance.

STAFFING AND TRAINING OF RESTORATIVE JUSTICE PROGRAMS

While most participants indicated that their programs had many volunteers, it was somewhat common for there to only be a few trained restorative justice facilitators and very few, if any, paid full-time or part-time staff. In this sample, the number of trained restorative justice facilitators per agency ranged from one to 20; however, even in places with many facilitators, most were unpaid volunteers. When volunteers were not sufficiently trained in restorative justice practices and, therefore, could not serve as facilitators, they assisted with translation duties, scheduling, and filing. Volunteers who had some training but were either not experienced enough or did not feel comfortable enough to act as facilitators assisted facilitators during meetings, processed files and their associated paperwork, and assisted with managing and coordinating files.

In terms of organizational structure, some restorative justice programs had a full-time restorative justice coordinator and volunteers, while other restorative justice programs functioned with a contracted staff person and volunteers. It was interesting to note that those restorative justice programs with full-time or part-time staff indicated that their funding either came from applying for civil forfeiture grants or were 'in-kind' agreements where an agency allowed an employee to take on the restorative justice program as part of their duties. Most participants also indicated that

they received a small amount of money from the provincial government. While participants for this study came from jurisdictions throughout British Columbia and, therefore, were from urban, rural, large, and small jurisdictions, it remained fairly common that there were just one or two paid positions, if any, and that these positions were typically, but not always, part-time, even though some of these programs have been in operation for 15 years or more. Of course, there are restorative justice programs in larger urban centres that have a wide range of positions, including a program and volunteer manager, complex case workers, a program coordinator, many trained facilitators, and a Board of Directors.

As in most service areas, **training was identified by participants as a critical issue.** It can be a challenge to get everyone, especially volunteers, adequately trained in a timely fashion, as well as providing ongoing, upgrading, or issue-specific training, such as training on fraud, cyberbullying, or intimate partner violence. For the most part, participants reported that they believed their staff and volunteers were adequately trained, but that there remained challenges with funding for training and the availability of timely resources to address particular issues, such as trauma-informed practices or cultural humility and awareness training. More specifically, participants indicated that their staff and/or volunteers typically received training on the community justice forum model provided by the RCMP and/or training provided by organizations like the Justice Institute or the Crisis and Trauma Resource Institute. Given the expense and need for timely training, many participants indicated that they engaged in a lot of ‘in-house’ training, which involved more experienced people mentoring and shadowing those with less experience, restorative justice practitioners getting together to support each other and transfer knowledge, relying on the prior experience and knowledge of volunteers that can be shared with others, and, when possible, bringing experts or other professionals to hold targeted training sessions.

For the most part, participants believed that the level of training their volunteers and facilitators received did not hinder the type of cases they worked on. While power-based cases will be discussed in greater detail below, for the most part, participants did not contend that they did not take on more serious cases due to inadequate training. Rather, this typically occurred because of their contract with the RCMP or **the province that stipulated the types of cases the restorative justice program could accept.** Still, on the topic of training and the ability to work on a wide range of files, at least one participant felt that there was a reluctance among some people to take on more serious cases because of a lack of training. The effects of this lack of training or upgraded training were a reduction in confidence, competence, and comfort in dealing with more serious offences or situations, such as those involving intimate partner violence.

Most participants felt that they and their staff were adequately trained to serve as effective facilitators; however, training and training opportunities had decreased in the aftermath of the COVID-19 pandemic. In part, this was the result of budget constraints, but it was also due to the challenges of having everyone who needs training available at the same time to participate in it. Taken as a whole, the general sentiments were that restorative justice programs were operated by people who had the necessary training to serve as facilitators for less serious offences, but that there was a need for more resources to support training that is **sustained, comprehensive, standardized, and addresses emerging issues and trends.** Participants acknowledged that it was always better to have more and consistent training because no two cases were exactly alike.

Each case came with its own unique challenges and problems. **Additional training and more frequent training were viewed by all participants as important in ensuring that their restorative justice programs remained effective and responsive to the needs of victims, offenders, and the community.**

THE OPERATION OF RESTORATIVE JUSTICE PROGRAMS

As expected, when asked for the ways in which cases were referred to their restorative justice programs, nearly all participants indicated that the overwhelming majority of referrals came from the police. Still, there were other ways that referrals were received by restorative justice programs. Some participants indicated that a fair number, if not the majority, of their referrals were from Crown Counsel and from schools. Several participants also reported that their restorative justice programs received referrals from Federal and Provincial Corrections, adult and youth Probation Services, First Nations community leaders, local health authorities, bylaw officers, the Insurance Corporation of British Columbia (ICBC), the Ministry of Children and Family Development (MCFD), community business associations, and local businesses. Most participants also reported that they took community-based referrals, such as resolving neighbour disputes, and referrals directly from victims and offenders. Here, several participants indicated that their restorative justice programs had experienced an increase in the number of victims or offenders reaching out to them directly, post the COVID-19 pandemic, and reporting that they either experienced some harm or committed some harm. In these instances, victims wanted their harms addressed and responded to but, for whatever reason, did not want the police involved.

Again, while most participants indicated that most of their cases came from the police, for those restorative justice programs where this was not the case, the majority were either from Crown Counsel or Probation Services. Moreover, most participants reported that they did not receive a lot of referrals from schools, even though they had delivered presentations to schools in their jurisdiction to educate staff and students on restorative justice principles and the existence of their program or had former schoolteachers as volunteer facilitators as part of their restorative justice program. One participant suggested that the presence of school liaison officers in schools contributed to their restorative justice program receiving school-based referrals. Again, as expected, when focusing on the use of restorative justice at the pre-charge stage, those who provided the most referrals were the police and Crown Counsel.

For the most part, the reasons why cases were referred to participating restorative justice programs were somewhat similar and consistent across the sample. While which specific type of offence was the most prevalent was not the same for every restorative justice program in the sample, the top four offence types, in no order, were theft under \$5,000.00, assault, mischief, and vandalism. It was not surprising that nearly all participants indicated that theft under \$5,000.00 was very common, as this category included shoplifting. Other types of offences that these restorative justice programs addressed included vandalism of property, graffiti, cyberbullying and harassment, break and enter, possession of stolen property, uttering threats, driving without consideration, online fraud, and a small number of hate crimes.

When asked if there were any types of files that they did not accept, some participants indicated that they do not have any restrictions; however, some participants indicated offences involving power-based crimes, such as incidents of domestic violence, and cases involving sexual assault were not accepted by their restorative justice program because their program was not approved to handle these types of offences or because those responsible for the program did not feel that their facilitators had adequate training in these areas. In contrast, some participants indicated that they had received approval from RCMP “E” Division to accept power-based offences after the police have had an opportunity to review the file and approve it for restorative justice. It was interesting to note that one participant indicated that there were no restrictions on the types of offences that their program could accept, but they still had concerns with certain cases based on the degree of harm caused and the nature of the offence, such as incidents of sexual assault, assault with a weapon, and homicide. Two participants indicated that their program was hesitant to take on cases where there was a significant mental health challenge. The reason why these restorative justice programs would not accept a case involving significant mental health challenges was because of their belief that restorative justice requires open and honest communication between all parties and, if an individual was suffering from a significant mental health problem, they likely would be unable to meet these requirements and meaningfully participate in the restorative justice process.

Given the geographic diversity of the sample, it was expected that there would be a large range in the average monthly number of referrals that each restorative justice program received. In very general terms, the range for this sample was from between one to two referrals per month to as many as 25 referrals per month. The mean was around seven or eight referrals per month. A more consistent comment was that referrals declined during the COVID-19 pandemic but that the number of referrals had been increasing in many jurisdictions since the pandemic restrictions eased. Of note, several participants mentioned the challenges of conducting restorative justice processes over Zoom. Those who did so during the COVID-19 restrictions indicated that undertaking aspects of the restorative justice program was doable but far from ideal. It was also interesting to note that, as mentioned above, most participants indicated that their number of referrals had been increasing post-pandemic; however, one participant indicated that their number of referrals were declining prior to the pandemic and have continued to do so. They believed that this was due, in part, to the COVID-19 restrictions but has more to do with the lack of buy-in from the senior management group of their RCMP detachment. **The suggestion was that if police leaders were not supportive of restorative justice or did not believe in its principles and practices, their members would be much less inclined to refer cases.**

Given the mandate of this report, participants were asked what proportion of their cases were referred at the pre-charge stage. Most participants indicated that all their cases were pre-charge; however, there were some exceptions, such as when the case was referred by Crown Counsel. Still, one participant indicated that all their police-based referrals were pre-charge, but this only made up about 50% of their cases, another indicated that only approximately 15% of cases were pre-charge, and another indicated that about 70% of cases were pre-charge. In effect, many participants indicated that they were expanding their cases to include post-charge cases, and several spoke about receiving cases post-charge as part of an agreement between Crown Counsel and Probation Services. For the most part, it appears that participants were more than willing to also take on post-charge cases, but, for most participants, most of their caseload involved pre-charge referrals.

When asked to discuss any emerging themes or trends that are becoming more common amongst the types of referrals their restorative justice program received, there were several interesting comments. A general statement was that participants were seeing a trend towards more complex cases being referred rather than just shoplifting. Another theme was an increase in the number of people who had significant language barriers or could not participate in a restorative justice process in English. Others indicated that the number of cases they were seeing that involved either people with insecure housing or serious mental health issues, especially among young people, was increasing. As a result of insecure housing and mental health issues, participants indicated that they were seeing a lot more 'survival-based' offences, incidents of violence, hate-based or race-based crimes, sexual assaults, and public intoxication. Other emerging trends were related to technology-based crimes, such as cyberbullying and revenge pornography or the sharing of intimate photos and videos without consent. Of note, participants were not sure if these emerging trends were based on increases in the actual number of offences being committed in the community or an increase in awareness, acceptance, and confidence by others in their restorative justice programs. In other words, just because restorative justice programs saw more, or different types of cases did not necessarily indicate an increase or change in the nature of offending in the community.

RESTORATIVE JUSTICE CLIENT CHARACTERISTICS

Given the progress that many restorative justice programs have made regarding an expansion in the types of offences they receive referrals for, it was somewhat surprising that most participants indicated that either all or most of their pre-charge clients did not have a previous criminal history. While they did indicate that their youth clients were slightly more likely to have a previous criminal history and some of their youth and adult clients had at least one prior negative police contact, for the most part, participants indicated that their clients were first-time offenders. Of note, there were some participants who indicated that a greater proportion of their clients had a previous criminal history, but these clients were much more likely to be referred to restorative justice by Crown Counsel than the police or other agencies. In terms of clients' history of violence, it was noted by several participants that they **rarely received a lot of information from the police about the client** and so, unless it came up in discussions with the client or the police provided a specific warning, participants were unaware of their client's history with violence. Other participants suggested that a minority of their clients had a history of violence and that this might be because the police would be much more reluctant to refer someone with a history of violence to their restorative justice program.

The distribution of client gender depended on the specific restorative justice program. Some participants indicated that their youth clients were evenly divided between males and females, but that their adult clients were mainly males. Other participants reported that nearly all of their clients were male; however, one participant reported that more than three-quarters of their program's clients were female, and two participants indicated that they have also had a few clients who were transgendered or gender fluid. One participant provided an interesting insight by suggesting that the gender distribution of their clients varied by the nature of the offence. For example, this participant indicated that there were many more females engaged in shoplifting, but more males were involved in public mischief.

There was quite a broad age range for clients among this sample of restorative justice programs. For example, taking the estimates provided by all participants together, the age range was from eight years old to 94 years old, with the average age of clients being between 15 and 20 years old.¹¹ However, one participant suggested that their average age was slightly older at between 22 and 23 years old, and another participant indicated that their program's average client age was around 30 years old. Having clients over the age of 50 years old was somewhat rare and, according to participants, typically involved shoplifting or stealing from stores to survive, such as by stealing food. In other words, this group of clients was experiencing a degree of food insecurity. Given the historical use of restorative justice primarily with youth, it was interesting that not all participants indicated that most of their clients were under the age of 19 years old. For example, one participant indicated that only 70% of their clients were under the age of 19 years old, another reported that only 60% were under 19 years old, and there were several participants who reported an even split between those under the age of 19 years old and those older than 19 years old. In sum, clients were typically first-time offenders that did not have a history of violence, most were males, and half of more would be classified as a youth.

THE USE OF RESTORATIVE JUSTICE WITH INDIGENOUS CLIENTS

When asked about the proportion of pre-charge clients who self-identified as Indigenous, the geographic location of the restorative justice program and whether the program was affiliated with an Indigenous community played a large role. For example, most participants indicated that they either did not know or that less than 15% of their clients self-identified as Indigenous; however, other participants reported that 30% to 50% or all their clients were Indigenous. Moreover, the degree to which one's restorative justice program aligned with Indigenous views on justice and healing was also somewhat dependant on whether the program was located within an Indigenous community, the number of Indigenous people who worked or volunteered with the program, and the proportion of clients who self-identified as Indigenous. For RCMP-based restorative justice programs that did not operate in partnership with an Indigenous community, these participants indicated that there were some significant gaps in their program's alignment with Indigenous views on justice and healing. For example, one participant spoke of the different practices between how some Indigenous people viewed harm and how it should be responded to and repaired, and how the RCMP and, by extension, their restorative justice program understood and considered these issues. Another participant indicated that some Indigenous people expressed the general concern that their restorative justice program had appropriated some Indigenous practices but had not included or integrated Indigenous teaching or approaches to the spiritual meaning of healing, or that the restorative justice program had not done the necessary work to fully understand Indigenous practices, traditions, ways of knowing, and values. Other non-Indigenous based restorative justice program participants indicated that they were very careful when utilizing any

¹¹ Of note, restorative justice should only be used with youth 12 years old and older who can legally be held responsible for their criminal behaviour. Given that some programs reported using restorative justice with those under the age of 12 years old, this speaks to the need for additional information and training regarding when and with whom it is appropriate to use restorative justice.

Indigenous-based practices and, where appropriate, attempted to re-connect people back to their community, and offered access to an Elder if the client requested or desired one.

Of note, two participants spoke of their RCMP restorative justice training and how the lessons that the RCMP learned from the Māori people in New Zealand and brought to Canada formed the basis of their restorative justice program. However, some of the Indigenous-based restorative justice programs felt that this was one of the challenges or barriers to gaining more acceptance among Indigenous communities for these restorative justice models, as the current approaches to healing circles, peacekeeping circles, and restorative justice were not based on Canadian Indigenous practices and values, but those of the Māori people. Moreover, the Indigenous-based restorative justice program participants spoke of the role of Elders in their processes, incorporating the client's band history, knowledge, experiences, and practices into their restorative justice processes, and partnering with local Friendship Centres, if these align with the wishes of the client. In effect, the general themes provided by most participants were that there was much more work and learning needed, additional training was required on these issues, and establishing respectful and meaningful Indigenous partnerships was required to work safely and ethically with Indigenous communities. Some participants spoke about not being an Indigenous organization, which meant that they did not share a lived experience with their clients. They expressed the understanding that there was a lot of negative history and that they were members of a settler community, but that they were committed to understanding and working through the idea of decolonization. Participants also expressed the goal of doing this type of work as meaningfully as possible without purporting to be an Indigenous organization or representing Indigenous values.

While several participants indicated that their programs were quite successful in achieving positive outcomes with Indigenous clients, one challenge in resolving conflicts involving Indigenous offenders, victims, and their communities was based, in part, on a colonial understanding of how issues, especially criminal acts, should be resolved, even within a restorative justice process. In part, this is based on the longstanding tension between the desired outcomes of restorative justice processes in contrast to the Canadian Criminal Justice System's emphasis on punishment. In other words, there remained a challenge in achieving the restorative justice goal of having an offender accept responsibility for the harm they caused and making direct amends to those affected with the criminal justice system's objective of achieving a guilty verdict. There is also the inherent challenge of some restorative justice programs being physically based in an RCMP detachment. There is stigma, discomfort, and general trauma for many Indigenous people connected to their direct or indirect experiences with the RCMP that manifests as a significant challenge for some communities to accept an RCMP-based restorative justice program. Some participants felt that if they were an Indigenous-based program, it would be far easier to establish positive relationships with Indigenous communities.

There were also some practical challenges that participants identified when working with Indigenous clients. One important issue, particularly for RCMP-based restorative justice programs, was that they had to follow RCMP safety protocols. This includes not going to see client in their homes. Several participants indicated that not being able to do 'house calls' with clients and requiring clients to come to the RCMP detachment was a significant barrier to restorative justice participation. One way to address this safety concern was to meet in band offices or community

centres, but this might come with the challenge of not provide a sufficient degree of privacy. One participant expressed that this concern was more pronounced with youth who refused to come to the detachment office to meet with restorative justice facilitators. Another challenge was that many RCMP-based restorative justice programs did not have any Indigenous staff, volunteers, or board members. Increasing the number of Indigenous people in these positions was viewed as a positive step to developing meaningful and lasting partnerships, as well as trust, between the restorative justice program and the community.

OUTCOMES OF THE RESTORATIVE JUSTICE PROCESS

Pre-charge referral outcomes can be unique to each case, largely because each outcome is a result of the needs of the individuals involved and because each outcome is specific to where the harm lies. However, participants outlined several common outcomes of their restorative justice programs, such as letters of apology, community service, counselling, direct restitution to victims, and re-education programs. That said, most participants emphasized that their facilitators were not the ones deciding on appropriate outcomes, rather they just facilitated the victim and offender reaching an understanding with respect to a resolved agreement about what was to be expected from those involved in the process. In effect, the overall objective was to get the victim and offender to engage with each other and reach an agreement about what would be the most sustainable approach for everyone to be able to move forward in a healthy and safe manner.

Due to the uniqueness of each individual case, participants indicated that there was not a common amount of time that it took to complete each case. In general, participants reported that some cases might be opened and closed within just a few months; however, some cases took much longer based on the severity and complexity of the situation. Still, **participants agreed that it was important for cases to be addressed and concluded in a timely manner**, but that it was equally important to allow time for healing and reconciliation to take place. Of note, participants indicated that unforeseen challenges, such as the COVID-19 pandemic, played a role in increasing the time it took to complete cases.

When asked to specify what success looked like from the perspective of their restorative justice program, there were several main indicators or themes that emerged. Common indicators included getting to a place where both the victim and offender voluntarily agreed to participate in the process, getting to where the victim was given a chance to express themselves and address the harm created by the offender, getting to where the offender accepted responsibility and was accountable for their actions, getting to a resolution agreement, and getting to a place where the harm done by the offender was addressed and healed for both the victim and offender. Participants also reported that another important indicator of success was whether an offender re-offended. On this issue, participants reported that very few offenders who participated in their restorative justice program had, to their knowledge, recidivated. To this point, **participants stated that their programs had a high degree of success at reducing recidivism at the pre-charge stage**. On average, practitioners saw a 90% or higher success rate in those individuals who completed the mediation process and reached an agreement resolution. One respondent noted that of the approximately 10% of individuals who did go on to reoffend, typically the reoffending was less

severe in nature. It is important to note here that many participants indicated that they are not informed by the police directly about client recidivism, but based this assessment on the fact that they did not see many of their clients again for a subsequent restorative justice process for a new offence. While understanding the need to ensure privacy, **better communication between coordinators or managers of restorative justice programs and the police regarding outcomes of the restorative justice process generally would be beneficial.**

In terms of what elements are most common in successful interventions with pre-charge clients, participants discussed several important factors. Participants stated that they approached each case by assessing their client's needs carefully. Such an assessment was critical for ensuring that the restorative justice program had the necessary resources, training, and abilities to tackle the needs of victims and offenders. Additionally, this assessment process allowed all parties involved to gain a thorough understanding of the restorative justice process. As indicated above, the assessment can also be critical in determining the client's willingness to repair harm and the victim's willingness and ability to participate in this process, which participants indicated was important to a successful intervention. Of note, it was not clear from the interviews whether there was a standard approach to how restorative justice programs do this assessment. Participants also noted that it was important to ensure the victim and offender had proper access to resources, such as counselling, youth outreach, housing, financial support, communications, or any other program specific to their needs to increase their likelihood of success. Lastly, participants stated that it was important to establish a strong and respectful relationship with all parties involved because if there was not a sense of trust and respect established at the outset, it was difficult to have a successful intervention.

Participants stated that there were several noticeable patterns and characteristics they felt were associated with a client's success in the restorative justice process at the pre-charge stage. However, participants again noted that each case was unique and, as such, at times, patterns or characteristics of success differed from case to case. That being said, as mentioned above, participants stated that offenders who were open and willing to take responsibility for their actions and were committed to addressing the harm they caused were most likely to succeed. In addition, participants noted that to have a successful outcome, it was important that the victim also be willing and committed to participating fully in the restorative justice process. Participants also noted that clients with good support systems, such as family, friends, and community members, who could help facilitate the restorative justice process increased the likelihood of success. This was especially true with youth offenders as it was felt that youth with strong parental support, and parents who were supportive of the restorative justice process were typically more successful.

Participants also identified several interventions that they perceived as being less successful with their pre-charge clients. While there was not consensus on these issues, some participants mentioned that it was challenging to work with clients who did not want to be part of a restorative justice intervention or who were not committed to the process. It was felt that there were some clients who agreed to a restorative justice process simply to avoid the court process. In effect, the participants perceived that having a client who was not dedicated, committed, and/or honest about their motivations to participate in a restorative justice process commonly resulted in the process and subsequent interventions not being successful. Participants also felt that the screening or initial meetings with the offender and victim were critical to assessing motivations and identifying those

who were compatible with restorative justice goals. Another issue that interfered with achieving one's restorative justice objectives was that **some participants believed that they were not adequately trained or educated on how to handle extremely complex cases**. This lack of expertise, knowledge, or experience in handling certain types of cases or individuals could result in restorative justice interventions being less successful.

In terms of intervention approaches, strategies, or resources that were needed, but were lacking for pre-charge clients, participants stated that, for the most part, they were doing the best they could with the resources available, but as expected, **more funding and more long-term funding would improve their ability to meet the needs of offenders and victims**. As highlighted above, some participants also emphasized the need for more staff, a reduction in an overall reliance on volunteers, ongoing and timely access to training, and enhancing the mentoring capacity within the field of restorative justice. Further, many participants emphasized the need for **more community resources, greater access to community resources, and increased opportunities for individuals who go through the program** to ensure they have the best chances at being successful once they complete the program. In particular, participants mentioned the need for additional mental health, substance abuse, Indigenous, housing, and employment services.

Of course, not all clients successfully complete the mediation portion of the restorative justice program, reach the stage where they have made a resolution agreement, or fulfill all elements of their agreement. Most participants stated that if an offender did not complete the resolution agreement as part of the restorative justice process, the program would try repeatedly to revisit and connect with the individual to determine the reason(s) for noncompliance and to address any issues that may be preventing the client from fulfilling their obligations under the agreement. However, participants said that there were rare instances where it may be necessary to refer the client back to the police of jurisdiction and the formal criminal justice system for further action because of non-compliance with the restorative justice program. Participants acknowledged that if a case was referred back to the criminal justice system, it was unlikely to receive any more attention from their restorative justice program and was essentially considered a closed case.

BENEFITS OF AND BARRIERS TO MAKING REFERRALS TO RESTORATIVE JUSTICE PROGRAMS

Participants outlined a range of benefits that they believed resulted from participation in the restorative justice process for offenders, victims, and communities. For the offender, participation in a restorative justice program provides an opportunity to take responsibility for their actions and understand the harm they have caused. Further, it gives them a chance to repair the harm and make amends to the victim and the community without receiving a criminal record. It also provides the offender with improved conflict resolution skills and builds their ability to effectively communicate and control their emotions. It may also facilitate access to necessary community programs, resources, or services. For the victim, the restorative justice process provides an opportunity to have their needs and concerns heard and addressed in a safe and controlled manner. Additionally, the restorative justice process can provide a sense of closure and resolution that is not always obtainable through the formal criminal justice system. Participants also stated that there were benefits to the community when people completed a restorative justice program. These benefits

include improving relationships and communication amongst the offender and community members that, in turn, can create and foster a sense of social cohesion and trust. These outcomes can enhance a community's social capital and contribute to lowering recidivism. Another advantage stated by participants was that restorative justice programs were much more cost effective than the criminal justice system's penal outcomes, while providing opportunities to address the root cause of conflict and crime. Importantly, participants stated that the benefits to victims, offenders, and communities may vary depending on the specific circumstances of each case and the quality of the restorative justice process, but that, overall, restorative justice programs can have wide reaching benefits to all parties involved.

These benefits are only achievable if community organizations and public safety agencies refer clients to restorative justice programs. On this issue, most participants stated that their restorative justice programs were effective at mobilizing support for referrals and outcomes. Most participants noted that they felt the police and Crown Counsel were supportive of the restorative justice initiatives within their jurisdictions; however, as indicated above, some participants felt that more work was needed to get schools to refer youth to their programs. As expected, participants indicated that the most important element to gaining and maintaining support for their restorative justice programs among their partners was achieving positive outcomes for victims and offenders and **ensuring that partners understood the strengths and limitations** of restorative justice.

However, a common critique from participants was that it was sometimes difficult to build a strong working relationship with police officers simply because there is so much internal turnover and movement within policing and its leadership. It was not uncommon for participants to indicate that it took time to build rapport and a trusting relationship with the police, but that once this was achieved, the member was promoted, transferred, or moved on and the entire relationship process had to begin over with someone else. Additionally, participants noted that some police officers who were new to restorative justice programs were not entirely convinced of restorative justice's effectiveness and were, therefore, more reluctant to refer individuals to the program. In effect, for most participants, there was room for improvement when it came to breaking down stereotypes and educating agencies, the community, and victims on the effectiveness and benefits of restorative justice. In considering ways to overcome these barriers, participants highlighted that **it was important to continually nurture relationships with agencies**. Doing so helped to ensure that everyone was working together to use restorative justice programs more frequently.

In addition to those previously mentioned, participants outlined several systemic barriers and community perceptions that increasingly made it more difficult to access restorative justice programs. A frequent response from participants was that there was a general lack of knowledge within the community about what restorative justice was and its effectiveness. It was felt that there were many among public safety agencies and the public who felt that restorative justice was soft on crime, an easier path for offenders that allowed them to escape justice, and lacked adequate punishment, even though restorative justice has been shown to be effective at reducing recidivism. Some participants believed that these kind of misperceptions or misinformation resulted in a lack of support and insufficient funding for restorative justice programs that, in places, could be exacerbated further by a lack of local political support. In fact, several participants stated that some

local political candidates fear not getting elected or re-elected because supporting restorative justice would result in them appearing to be weak on crime for some people.

Given this, nearly all participants agreed that **adequate funding would greatly improve their ability to engage and educate the community on the realities of restorative justice programs**. Several participants reiterated that inadequate funding posed the greatest challenge to the success of their restorative justice programs, emphasizing that restorative justice programs were non-profit organizations that received some government funding, but were largely reliant on grants and donations. Beyond funding and a lack of understanding about what restorative justice was, how it operated, and its outcomes, most participants agreed that there were very few other barriers or community perceptions that posed a challenge to achieving their objectives. However, some participants made the point that their restorative justice program could only be successful to the extent that they received referrals from the police and Crown Counsel. For the most part, participants viewed the police as the gatekeepers of their restorative justice program because, in many jurisdictions, it was ultimately up to the police to refer offenders to restorative justice. Participants suggested that this concern could be mitigated through **increased education and awareness of their restorative justice programs and by building strong, positive, and meaningful working relationships** with police. Similarly, the consensus of participants was that many of the challenges facing restorative justice programs could be overcome by increasing awareness of restorative justice initiatives, **building stronger rapport and partnerships with stakeholders**, adding additional support for offenders once they have completed the program, and working with local and provincial government to establish effective policies and legislation that foster a wider acceptance of restorative justice practices. However, most participants agreed that the capacity to overcome these challenges was based largely on how much funding they received and their ability to access additional community, provincial, and federal resources.

THE USE OF RESTORATIVE JUSTICE FOR POWER-BASED OFFENCES

Nearly all participants stated that utilizing restorative justice practices would be acceptable for power-based crimes, such as hate crimes, intimate partner violence, and sexual violence; however, restorative justice's application for these types of offences would largely depend on the victim's willingness to engage with the offender and participate in a restorative justice process. Participants agreed that it was critical that any victim in a power-based crime be well-informed, willing, and feel safe to participate in the restorative justice process. That said, one participant did note that sometimes only one party in the incident (victim or offender) needed to participate for it to be a successful undertaking. In other words, it was possible to use a restorative justice process with just the offender or just the victim; however, this was not considered ideal.

While the views of participants were mostly positive towards the use of restorative justice for power-based crimes, a small number of participants stated that not all offenders who engaged in power-based crimes should have access to restorative justice programs. For example, one participant described how some intimate partner violence crimes were very difficult to navigate with restorative justice because of the complexities of the relational violence between the victim and offender. Additionally, some participants noted that, in cases of mental illness, substance abuse,

instances of extreme violence, or where public safety may be at risk, restorative justice may not be an appropriate approach. In effect, participants highlighted two main concerns with using restorative justice as an alternative to criminal justice responses when dealing with power-based crimes. Primarily, participants stated that public safety was paramount when considering whether it was appropriate to use a restorative justice process instead of the formal criminal justice system. In other words, these participants did not feel that restorative justice should be used in all cases of power-based offences but should be considered on a case-by-case basis. Participants also stated that since there was no enforceable order or a memorandum of understanding with the local police agency when an offender was referred to restorative justice, it must be conceded that there was no guarantee of offender accountability. In effect, as discussed above, client suitability or appropriateness for restorative justice needed to be considered, in addition to whether the offence-type was suitable or appropriate for restorative justice. The second major concern with utilizing restorative justice when dealing with power-based crimes was **a lack of training amongst restorative justice practitioners to adequately handle these types of cases**. Most participants noted that they did not have the necessary training, skills, education, or abilities to handle all instances of power-based crimes and that more funding and training would be needed to ensure they had the proper education to handle such cases safely and properly.

Even with these concerns, participants outlined several benefits of utilizing restorative justice in place of the punitive criminal justice system when dealing with power-based crimes. The most frequent response was that restorative justice offered enormous benefits in terms of healing both victim and offender because it allowed both parties to address the trauma in a supported, educated, and safe manner. In restorative justice, the victim has an opportunity to tell their story and express to the offender how the offender's actions negatively affected the victim's life. Furthermore, restorative justice gives the offender a chance to reconcile and identify their wrongdoings in ways that allows the offender to change their future behaviour. One participant suggested that the restorative justice process is akin to the medical system treating an ill patient in that restorative justice works with the victim and the offender until they are no longer "ill" and can regain their life prior to victimization. Additionally, participants stated that restorative justice could help reduce the overall cost on the criminal justice system.

Of note, most participants stated that they did not accept referrals for power-based crimes, largely because their agreement with the provincial government did not allow them to accept these kinds of referrals. Furthermore, RCMP policy typically restricts referrals to restorative justice programs that involve power-based crimes. **However, nearly all participants agreed that their restorative justice program would be receptive to accepting referrals associated to power-based crimes if they had the support of the provincial government and police to do so**. That said, some participants did note that they did take on a small number of cases that involved power-based crimes but that this only occurred under very special circumstances where they had an expressed willingness from the parties involved to do so and typically the approval of the police or Crown Counsel.

Participants stated that each case required special attention and that a one-size-fits-all approach did not work when dealing with power-based crimes due to the complexity of issues involved. Typically, cases involving power-based crimes required a much longer planning phase that went

much deeper into the specific nuances of the case and provided each party with more information, supports, and resources. Participants stated that this helped create a greater sense of security and safety for both parties in the forthcoming process. Additionally, some participants stated that they tried to match facilitators to the specific needs of each case to help ensure the greatest outcome was achieved for both victim and offender. One common challenge discussed amongst participants when dealing with power-based crimes was that **it required specialized training of practitioners, such as trauma-informed counselling skills**, to handle these cases effectively and appropriately. Participants noted that they would require more funding to ensure such training was available to program staff and volunteers.

When they have had an opportunity to use restorative justice practices for power-based crimes, participants reported that the outcomes for power-based crimes were much like the outcomes of non-power-based crimes. Generally, each case had a list of objectives the participants wished to achieve and what were the desired outcomes. Outcomes tended to be focused on the personal growth of both victim and offender, which can involve healing trauma, providing short- and long-term treatment, access to counselling, letters of reconciliation and apology, no contact agreements, and further education. As one participant indicated, the desired outcomes of a restorative justice process with power-based crimes can go far beyond what normally happens in a court of law and can have tremendous meaning and value to the victim, in addition to the offender.

In terms of ensuring accountability for power-based crimes, participants emphasized that restorative justice was designed to facilitate and certify accountability at each stage of the process. Regular check ins, monitoring, and evaluations should be done until the file is completed to confirm that all expectations are being met. Furthermore, cases typically will involve a resolution agreement to which offenders can be held accountable. In effect, restorative justice does not force accountability, but implements practices to ensure all parties agree about what the next steps of the process are.

In terms of the definition of success and the ability of restorative justice programs to achieve success when addressing a power-based crime, participants reiterated that restorative justice outcomes when used for power-based crimes, in their experience, were largely successful, adding that many factors needed to be considered in determining success for each case. Examples of these factors include whether the needs of the victim were addressed, whether the offender fulfilled their resolution agreement, whether the program reduced recidivism, whether the offender attended all the programming they were required to, whether the victim felt satisfied with the resolution, whether the offender was satisfied with the resolution, and whether there was an overall sense of value derived by all those involved in the restorative justice process. Participants emphasized that, while the goal of restorative justice practitioners was to get to a place where each of these questions can be answered in the affirmative, it was always up to everyone to establish and express their own needs and expectations when going through the restorative justice process.

Qualitative Analysis of Interviews with Police

GENERAL DESCRIPTION OF POLICE SAMPLE AND THEIR RESPONSIBILITIES

Most junior participants had under ten years of total service in their respective agency; however, when it came to their role as coordinators of restorative justice, typically, participants had more than one year but less than three years of experience. In all but two agencies, their duties encompassed serving as the coordinator of restorative justice along with other community policing roles, such as youth liaison, community response, or school liaison officers. Only three of the police agencies considered their police restorative justice coordinators as full-time staff. Four agencies had full time civilian restorative justice coordinators. All the civilian coordinators had significantly more experience in this role than their police counterparts. All four civilian positions were embedded within their respective agencies and employed by the city as opposed to the police agency. As expected, the senior ranking participants had significantly more service than the junior participants, but none of them were directly responsible for restorative justice in their agency; rather the program reported to them in their managerial capacity. Still, these participants felt that they were in possession of a fulsome understanding of the programs and the challenges/successes experienced by their respective agencies, in terms of restorative justice.

All participants stated that they functioned in their respective capacities as referral agents to community-based restorative justice programs. Their primary role consisted of ensuring agency members were aware of the existence of restorative justice programs in their community, coordinating the referral flow from the front-line officers to the community program, monitoring the status of the file, and reporting back to the initial referring officer. In some cases, they participated in restorative justice meetings, if requested by the community program staff, but they indicated that they served sources of information and conduits to the community agency that conducted the actual restorative justice meetings and process. The civilian coordinators stated that they actively followed up on referrals and conducted regular training sessions at shift briefings and professional development sessions in their respective agencies.

Police participants indicated that, despite being responsible for restorative justice referrals, they did not have any detailed training other than a rudimentary understanding of the process as provided during initial police training. Most of their training for their current role as restorative justice coordinators was through direct interaction with community program coordinators, reviewing police and community policies, and prior police experience. One agency indicated that they recently implemented a mandatory program for their officers that was more cultural and Indigenous based but which would have restorative justice principles embedded in the program. Senior police participants indicated that they received some training over the years by virtue of their length of service; however, most of that was related to youth processes during the implementation of the *Youth Criminal Justice Act*. Conversely, civilian coordinators indicated that they received training through the years due to their close working relationship with community programs.

Although formal training was not consistent or readily available, participants indicated that they tried to ensure that their restorative justice program was understood within their agency through roll call training, meetings, and supervisor training sessions. However, as will be discussed below,

there were significant gaps in training for frontline officers. All police participants indicated that a **formalized provincial training program would be beneficial** for personnel working in positions related to restorative justice but, at the time of writing this report, training was mostly conducted at the agency level.

RESTORATIVE JUSTICE PROGRAM CAPACITY

Police participants were asked to provide an understanding of the number of referrals they received over the past several years. The intent was to determine if their program was progressing or if it held steady over the recent timeframe. Although there was a slight downturn in referrals from 2020 to 2022 due to the COVID-19 pandemic, most participants stated that the number of referrals was consistent to pre-pandemic levels and, in several cases, had increased. Given the sample used in this study, it was not unexpected that there was a wide range in the number of referrals that agencies made to restorative justice. Of note, the size of the police agency did not seem to have bearing on the number of referrals, since some smaller agencies had higher numbers of referrals to restorative justice than larger ones. The inference was that programs that were more established with active collaboration with the community agency tended to produce more referrals. This was likely based on the buy in of the referring officers and the support from the community-based program. Participants agreed that the number of referrals in any given month varied significantly, depending on the school year, seasonal influxes, and general workload of the agency.

Most referrals to restorative justice programs originated from general duty or patrol officers. Although there were direct victim referrals to community programs, such as shoplifter diversion and school programs, police participants were asked to only provide details and views on police-initiated referrals. For most of those referrals, the victim, the victim's family, or police initiated the process. There were only a few examples where the offender requested a restorative justice process. Senior police leaders believed that this was due to familiarity of the system rather than any desire on the part of the alleged offender to cooperate and make amends to the victim. Participants agreed that most offenders were not even aware of restorative justice programs until they were approached about it by police or their legal counsel.

On the other hand, victims tended to be more familiar with the process, usually due to direct recommendations from responding police officers or follow up investigators. The presentation of the process was an important factor since most victims were initially unaware of community programs until the responding officer explained it. Police leaders felt there was a general understanding amongst victims of property crime and some minor assaults that the court process would yield little meaningful result, so they were more interested in a referral to a restorative justice program. Restorative justice programs in Indigenous communities were notable exceptions since awareness of the process was deemed to be greater. There was support from some victims for using restorative justice in cases of intimate partner violence, since the victim often did not want to participate in a criminal justice process. However, as discussed in greater detail below, current provincial policy that requires arrest or significant police follow up is preventative of this approach. Participants agreed that the most common types of offences referred to restorative justice were for property crime or mischief, although some victims requested the process for lower-level violent

crime, such as sexual touching between youth, online harassment, and the distribution of sexual images.

EFFECTS OF PROGRAM ACCEPTANCE BY OFFICERS ON REFERRALS

Participants agreed that greater acceptance of restorative justice programs by frontline police officers had a direct effect on the number of referrals. The number of referrals was also influenced by increased training and awareness of the program. Agencies with higher referrals tended to conduct ongoing awareness training consisting of the referral process, advantages of restorative justice for victims, and community support for the process. In effect, increased understanding of the process resulted in higher referral rates. The same could be said of school districts and communities that have shown increased acceptance of restorative justice practices, either through police-led or school-led programs. To a certain extent, the **increase in community acceptance of restorative justice can reduce calls to police-led programs**. A notable example of this was for shoplifting files, where the victimized establishments dealt directly with the community program through their loss prevention officers, negating the need for police involvement. The same was said about some Indigenous communities with their own restorative justice programs.

Although the expansion of restorative justice programs into a community-referral model may have lowered the overall number of files received and then referred by police agencies, there was an observed trend among participants towards more referrals by police following the reduction of the COVID-19 pandemic restrictions. Most participants agreed that since the easing of restrictions, the number of files had risen to or exceeded pre-2020 levels. One reason for this was that restorative justice meetings returned to being conducted face-to-face, which was viewed as important. Participants explained that virtual referrals had been problematic since the face-to-face element of the process produced better acceptance and accountability. As already stated, participants also agreed that a greater acceptance of restorative justice by junior members may have been contributing to increased referrals, which may reflect greater efforts to educate members on the potential use of restorative justice post-pandemic. This was further bolstered by increased acceptance in communities with established programs. All participants agreed that established programs with police support increased the likelihood of referrals being made by the police agency, especially when there was dedicated support in terms of practitioners and training. This not only required frontline support, but support from agency and community leadership to emphasise the importance of the restorative justice process.

CHARACTERISTICS OF REFERRED FILES TO RESTORATIVE JUSTICE PROGRAMS

Most police agencies indicated that they did not have specific referral numbers based on demographics, such as gender, ethnicity, or age. They explained this as due to practicality and relevance. Referrals were usually on a case-by-case basis, directed towards mutual resolution as opposed to statistical relevance typically seen in criminal justice system reporting. Given this, while restorative justice referrals did not focus on demographics, participants indicated that the original police file may have captured demographic data, but that this was not always forwarded to the restorative justice database of the respective agency. Most participants agreed that their programs

tended towards a younger demographic, particularly in the 15- to 17-year-old range. Participants indicated that adults referred to restorative justice programs tended to be in their late teens or early twenties; however, for property crime and neighborhood disputes, most participants indicated they have also referred adults into their forties. Although there was no specific tracking of general activity, most participants agreed that there was an even distribution by gender among their youth referrals, while adult referrals tended to include more males than females.

With one exception where the police-coordinated restorative justice program was specifically geared towards an Indigenous community, participants stated they did not track Indigenous participation. In part, this was due to separate Indigenous restorative justice programs in their community receiving direct referrals and a perceived lack of need to track this specific data. As indicated above, most participants stated that every referral was done on a case-by-case manner, regardless of the alleged offender's demographic, and that they were no more likely to refer an Indigenous offender to restorative justice than a non-Indigenous one. This was an interesting response, given that the criminal justice system is under pressure to reduce the overincarceration of Indigenous offenders, and it **raises questions about whether police officers should be required to consider a possible pre-charge diversion of Indigenous offenders to restorative programming**, similarly to how the *Youth Criminal Justice Act* requires that police must first consider whether a youth can be held accountable through Extra Judicial Measures, including restorative justice responses.

There was some consensus that the use of restorative justice was appropriate for certain power-based crimes; however, most participants indicated that referrals were usually for property offences and some minor violent crimes against persons, particularly when it occurred in a youth context. The most common property crimes referred were minor thefts, shoplifting, and mischief. On the persons side, the primary referrals were for online bullying, youth level assaults, and harassment. Participants indicated the lower-level violent crime that was referred was usually reserved for youth while the adult referrals were more commonly related to property crime. Participants agreed that there was no specific policy preventing more serious types of crime from being referred to a restorative justice program, especially if the matter was discussed with Crown Counsel prior to charge approval, though as will be discussed below, there were some concerns regarding the appropriateness of restorative justice with some power-based crimes, particularly intimate partner violence and sexual assault where violence occurred.

Participants indicated that referrals were most common for first time offenders. Although there were cases where repeat offenders were referred to restorative justice due to the relatively minor severity of the alleged offence, particularly if the original offence was more serious in nature than the re-offence, police perception was that restorative justice is most appropriate early in a person's interaction with law enforcement. Participants did not indicate that a prior history of police interaction or charges was a negating factor in making a referral, only that they felt the more interaction a person had with the criminal justice system, the less likely they would have a successful outcome through restorative justice, and the more serious the police needed to respond. Participants were clear that they would look at each case on its own merits, but referrals tended to be more successful if alleged offenders had little to no prior police history.

When asked if any offenders had a history of violence, most participants indicated that this was unlikely, especially since most referrals to restorative justice were first time offenders. Again, this did not preclude a history of violence or negative police interaction, only that it was rare. Participants felt if an alleged offender had a history of violence, they would be less likely to cooperate with victims and the restorative justice program. Furthermore, depending on the type of offence, the need for conditions and protective measures could outweigh the desire for a restorative justice referral, particularly if the outcome did not ensure ongoing safety for the victim. Participants also expressed concern for the safety of the staff and volunteers who ran the interventions, since many of the meetings did not have a police officer present because of resource pressures or at the request of the parties present at the meeting.

Participants indicated that most successful referrals involved an offender who showed remorse and an admission of responsibility or guilt. Successful referrals involved an offender who was willing to change their behaviour and accept accountability measures, as opposed to someone who was just trying to make the issue go away or avoid charges. In cases where the alleged offender was indifferent to the incident, participants agreed that restorative justice would likely have little positive affect on the overall resolution, so it was important for the offender to be sincere and all parties to be receptive to the process. Several participants indicated it was important for the alleged offender to understand the process and what it meant to be held accountable for their actions. This was influenced not only by their individual ability, but also by socio-economic influences, vulnerability in their own lives, and cognitive awareness. If the offender was not able to understand the offence, it was deemed unlikely that restorative justice would be effective or even warranted, as opposed to using a more structured approach, such as alternative measures through the criminal justice system. Participants mentioned that family dynamics also played an important role for the alleged offender and the victim(s). Having a supportive environment to work through the complexities of an incident and what it meant to both parties was an important aspect of a successful resolution, particularly for youth offenders.

BENEFITS TO USING RESTORATIVE JUSTICE INSTEAD OF THE FORMAL CRIMINAL JUSTICE SYSTEM

Participants agreed that, in certain cases, restorative justice could be more effective than the criminal justice system, particularly when the offender had no prior interaction with the criminal justice system. In cases where nothing else had worked, it could also be appropriate to attempt a referral, even if the offender had a criminal record or significant negative history with police. Again, participants stressed the importance of each referral being made on a case-by-case basis, with the intent to expose the offender to the ramifications of their behaviour in the hopes of gaining understanding of the need to change.

There was also agreement that restorative justice was a faster process than the court system and, as such, could be more effective in assisting victims in healing and offenders in changing their behaviour. Participants agreed that many offenders committed crime due to their socio-economic status or vulnerability in society. Given this, participants believed that referrals were more appropriate than using a charge through the courts that often did not address the root causes of the issue in the first instance.

Participants agreed that the restorative justice model was successful in principle, even though it was generally only used for lower-level property crime offences and primarily with youth. There was agreement the program could be expanded for more serious offences, but only with increased understanding and acceptance in communities and police organizations. In this case, success was measured not only by the number of referrals, but through a feeling of community safety when victims felt their concerns were effectively addressed. Although there was room for improvement in the number of referrals, participants felt this was more due to awareness of the existence of restorative justice programs than a result of lack of willingness to use the referral process, leaving a positive environment for increased utilization.

Police believed that the concept of restorative justice was good and that it supported community perceptions of safety but felt there was significant work to be done in resourcing and raising awareness. **In their own agencies, they expressed a desire to create a common approach to restorative justice, even to the point of consistent guidance or legislation to ensure that restorative justice was used more as a primary response** than as an afterthought to charge approval. Though not strictly a success, the attitude of participants was supportive and encouraged the expansion of the program. Support for restorative justice was particularly strong amongst senior officers, although this did not always translate to their subordinates who were tasked with making the referrals. Again, this is reflective more of the **need for increased awareness among officers** as opposed to a lack of support for the program.

Participants were asked to define what a successful outcome of a restorative justice referral looked like. Most agreed that it involved satisfaction on the part of the victim that they had been heard, which, in turn, resulted in an increased feeling of safety on the community level. From the offender perspective, a lower rate of recidivism was the desired outcome or, at least, an understanding of the effects of their actions with a commitment to changing behaviour. Participants agreed that most restorative justice referrals were effective in meeting these outcomes, since offenders and victims were usually compliant and interested in engaging with restorative justice to begin with. Participants felt they were effective at vetting offenders and victims who would not do well in the program, which was further bolstered in agencies with knowledgeable restorative justice coordinators and established restorative justice community programs.

Success was also measured by a reduction in cases referred for charge approval, especially for lower-level offences that did not involve repeat or prolific offenders. Participants felt that an increase in referrals would ease the court system, allow officers to devote more time to serious offences, and free officers up to perform general police work. There was consensus that the restorative justice approach was less costly than a court process, especially for police and Crown Counsel. A restorative justice approach was deemed especially important for first time offenders or those who were early participants in criminal activity to give them exposures to community supports designed to prevent a criminal lifestyle.

Although decreased recidivism was deemed a desired outcome of restorative justice programs, police participants agreed that there was insufficient tracking and data collection at the detachment or department level to make a truly informed assessment of success. Although they agreed referrals tended to be successful in meeting victim satisfaction and offender remorse, there was little to say if the offender changed their behaviour in the long run, especially since results were not translated to

police databases, such as PRIME. Despite this lack of data, participants believed that their referrals to restorative justice programs were anecdotally successful in preventing further criminal behaviour, especially for youth. In two large agencies, tracking data was available out to three years post offence. Both agencies agreed that recidivism was very low for youth and adults who participated in restorative justice, although they did not have data beyond three years.

Police participants also agreed that the most important part of community restorative justice was increasing awareness. This was most successful in agencies that had a dedicated restorative justice coordinator or one who was at least primarily tasked with managing referrals. Increased awareness was especially successful through ongoing shift briefings and professional development in the police agency. There was support for direct referral processes, such as loss prevention officers conducting direct referrals to community programs without needing a police referral. This was also supported for schools, wherein counsellors or school district staff could make a referral. Offences that were the result of mental health were also deemed appropriate for a restorative justice referral provided that the offender understood the consequences of their actions and how the restorative justice process worked.

BARRIERS TO SUCCESS FOR RESTORATIVE JUSTICE PROGRAMS

There was consensus that restorative justice programs had the capacity to accept an increased number of referrals, but that the biggest hurdle was awareness. From a police perspective, frontline officers often forgot to use restorative justice, either due to lack of awareness or misunderstanding of when it can be used. Even though referrals were handled, in most cases, by a restorative justice coordinator or directly to the community program, frontline officers may be reluctant to use the program due to a belief that there is more work involved in coordinating the process, thus creating a missed opportunity for a more effective outcome. This was sometimes compounded by a police mentality to send reports to Crown Counsel to avoid liability and potentially increase the level of offender accountability. Crown Counsel alternative measures were often viewed as more robust, with ramifications if the alleged offender did not comply. **Most participants stated that increased accountability measures should apply to pre-charge restorative justice referrals, such as submission to Crown Counsel if the offender reneged on the agreement to participate;** however, this was not always consistent among those interviewed for this study. In effect, some participants reported that they allowed a failed restorative justice process to move forward to charge approval if the offender was uncooperative. In part, this was due to agency policy and agreement by the respective Crown Counsel office. Other participants were frustrated that the 'all or nothing' approach imposed on them made it difficult for officers to make a referral if they believed there were no repercussions if the offender did not cooperate. This was particularly relevant to officers if they felt the alleged offender required conditions in more serious incidents, such as no contact orders. Participants agreed that if conditions were required, especially to protect a victim of violence, or to prevent an alleged offender from being in a specific geographical area, then charges would be most appropriate. They felt that once that was done, there was no point in returning to a restorative justice proceeding, as it would be better to use Crown Counsel alternative measures. **The inability to return to a restorative justice process after a requirement for conditions was cited as a major barrier to full application of the program.**

As discussed below regarding power-based crimes, participants were particularly adamant that more serious incidents, such as intimate partner violence and sexual assault, could only be referred to a restorative justice program if there were conditions in place to protect the victim. Since this was usually only possible because of charges, some participants were uncomfortable with the use of a pre-charge referral. These participants felt the liability of releasing someone involved in a high level of violent crime could be detrimental to the administration of justice and the duty of police to protect the community. Using a referral was also deemed contrary to provincial policy on intimate partner violence that typically requires an arrest or repeated follow ups with an alleged offender and victim outside of a referral process. Although most participants agreed that restorative justice could work with certain power-based crimes, they felt they were obliged to follow the provincial policy with respect to intimate partner violence rather than risk a negative outcome.

The British Columbia Prosecution Service was not interviewed for this study; however, police participants stated that it was unlikely that Crown Counsel would direct the use of a pre-charge restorative justice referral, except in rare cases when police introduced the discussion due to their own investigative concerns. Furthermore, Crown Counsel has access to their own diversion programs and extra judicial options that would, by necessity, occur after charge approval. There were examples where investigators discussed a case with Crown Counsel where the result was a pre-charge referral, but that was through consultation as opposed to a direct recommendation from Crown Counsel. Participants indicated that they do consider referrals after Crown Counsel declines to approve charges, but there was a lack of consistency in the province. Some participants believed that it needed to be an 'all or nothing' approach requiring charges or referral in the first instance, while others believed it was appropriate to initiate a referral after rejection of charges by Crown Counsel. The concern in this case was frustration on the part of police officers since most of the work had already been done to support what they viewed was an appropriate chargeable offence.

Participants agreed that Crown Counsel was becoming more supportive of using pre-charge referrals for vulnerable populations due, in part, to direction from the provincial government and because of capacity. A recurring theme preventing the more frequent use of referrals, especially for more significant crimes, was the belief that a referral could only be made prior to charges being approved and once that occurred, then restorative justice was no longer an option. This was not a unanimous view, rather it was indicative of a lack of consistency across the province in the application of restorative justice.

Participants agreed that the presentation of the restorative justice process was just as important as the implementation of a referral. It was important for the referral agent to ensure all parties understood the referral was not a "get out of jail free card," but an effective means for the offender and victim to understand each other and for the offender to take responsibility for their actions. Since most referrals were for youth, participants agreed that early intervention, even in more serious incidents, was important to effective resolution, especially when the criminal justice system typically took more time to come to a resolution. The importance of the presentation of the restorative justice program was not only in reference to offenders and victims, but also for police officers. Participants agreed that more work needed to be done to create the conditions where **officers routinely referred incidents at the pre-charge stage to restorative justice, as opposed to going forward with charges.** Participants believed that this did not happen because of

a lack of understanding of the restorative justice program and because many officers believed that a referral to a restorative justice program would increase their workload. If that was the perception among officers, participants believed that officers would most likely forward a request for charges to be finished with the matter rather than participating in what the officer perceived to be a longer referral process, even though this was not the case.

Voluntary participation in restorative justice programs was also viewed as a barrier. The offender must be willing to take responsibility and accept consequences, and the victim must be supportive of the approach from the outset. Although most referrals moved forward, participants mentioned that they were sometimes reluctant to use a restorative justice approach if they felt the offender would withdraw at some point in the process, or if they had previous interactions where the offender was not cooperative. There were various approaches across agencies when an offender did not follow through with the process. Some participants indicated that their police agencies did not have a desire to proceed with charges once the process began, even if it failed. Conversely, there **was confusion with respect to entering a restorative justice process once charges were forwarded to Crown Counsel but not approved** or stayed because there does not appear to be a consistent policy related to this in British Columbia.

Staffing restorative justice programs on the police and community side was also considered a barrier. Senior police officers indicated that low pay and benefits for the Executive Directors and staff could prevent positions from being filled. Furthermore, if there was to be an increase in referrals, additional staff would be required, especially when the community-based program was run as a non-profit or volunteer-based system with full time staff support. Similarly, on the police side, there was concern that there would not be a full-time restorative justice coordinator given staffing pressures in their agencies. This was less of a concern in larger police agencies with a civilian coordinator that tended to have longer tenure in the role. This was further complicated by a lack of training for the coordinators specifically and the police officers in general. As previously mentioned, **the lack of training and awareness of the program in police agencies was considered one of the largest deterrents to increasing referrals** in their respective communities.

There was also consensus that a lack of education and awareness of restorative justice programs were two of the greatest barriers to increasing referrals. On the community level, participants felt that the public was not aware of the restorative justice programs in their community or were of the belief that the traditional criminal justice system yielded better public safety results. This was mirrored on the police side when officers were not fully conversant with their restorative justice program believing that it was easier to simply forward charges than to make a referral. In both cases, **coordinators believed support from police senior management and community leaders was needed to increase the prevalence of restorative justice referrals in the community.** This was not just in terms of awareness, but also support for increased training and integration of the program into normal day-to-day operations as a primary consideration.

Finally, documentation or record keeping and sharing was also considered a barrier to increased use and acceptance of restorative justice programs. Since the outcome of a referral was not indicated on PRIME or court systems, the only outcome reporting was with the coordinator or community program staff. Although it was felt that they did maintain records, this information was

not readily available to frontline members, nor was it consistent among police agencies, even if they were using the same intake forms. As part of documentation, **some participants stated that regular updates were as important as education in ensuring acceptance of the restorative justice program.** Again, this was important for police officers who did most of the referrals, but also for the parties involved in interventions to ensure ongoing cooperation and effective outcomes.

POLICE/RESTORATIVE JUSTICE PROGRAM RELATIONS

Most participants indicated that the relationship between police and community restorative justice practitioners was positive. They stated it was important to continue to build understanding amongst police, who were the primary referral agents, as well as the community to make restorative justice more prevalent. This was not meant as a criticism of restorative justice programs, only as an indicator of work to be done to raise awareness. **Participants agreed that the program should be used more,** including in circumstances where expressing remorse and acceptance of responsibility would create a more effective outcome than court proceedings, even for more serious property crime or violent crime without a specific power dynamic.

Most suggestions about improving access to restorative justice programs and acceptance on a broader level were around funding and resourcing. Police participants agreed that more resources for both the community and criminal justice agencies would be beneficial to restorative justice program success and overall community safety by reducing the burden on the courts and increasing positive outcomes. Although the volunteers in community programs were usually dedicated and professional, **police participants felt more paid staffing on the community-based side could improve interaction between practitioners.** More staff could also increase prompt response times, which was deemed vital for the overall acceptance of the program. Police coordinators indicated that they could do more referrals if there was more focus on their position and the need for a dedicated coordinator in their respective agencies. Although some larger agencies had a full time sworn or civilian employee as a coordinator, as mentioned above, most small to medium agencies had the coordinator doing multiple job functions, usually associated with youth sections.

The ability to share information accurately and effectively between partners was cited as an important step toward increasing awareness and interaction between police and restorative justice programs. Several participants agreed that information sharing was hampered by policy decisions limiting the sharing of file information with community practitioners who conducted the interventions, whereas, in other cases, police coordinators actively shared this information. Some police agencies allowed community program staff to view the basic PRIME information while others restricted information sharing to just the basic referral form information, which usually only included the file synopsis, but little to no investigative information. A concern with this approach was that the community practitioners either did not have enough information, or they needed to involve the referring member more than necessary to get information. Larger agencies with full time coordinators were able to share more information with the community program since the coordinator could usually access PRIME data, thereby limiting the need to involve the referring member, unless they were to be part of the actual restorative justice meeting. Part of the concern with information sharing involved the logistics of making a restorative justice referral. In most

cases, the referrals were done on paper and were either scanned or faxed over to the coordinator and/or the community program intake. This process was considered arduous by most officers who preferred the whole process to be electronic, which would also make it easier to track the progress of files and file outcomes.

A need for increased communication between all parties was also highlighted by police participants. They stated a need to make restorative justice programs more mainstream as a primary response that included support and understanding from Crown Counsel, management, and community leaders. They did not view this solely as the responsibility of frontline leaders, but also that it be considered at senior governmental levels for greater acceptance. From a frontline perspective, participants felt it was incumbent on agency leadership to support restorative justice so that referring officers, who are typically more junior in service, were using referrals more effectively and with a broader range of files.

Overall, participants felt that their police agency had a good working relationship with community restorative justice programs. Their **concerns were not typically around relationships, but more about policy interpretation and overall acceptance of referrals as a primary response from police officers. Participants emphasised the need for clear policy direction**, such as a memorandum of understanding between the agency and community restorative justice programs so that expectations were clear and responses were consistent. There was agreement that a positive relationship was necessary to ensure effective information sharing and credibility of the restorative justice program with officers. It was important for officers to receive updates on outcomes of the restorative justice process to bolster their understanding and acceptance of the program.

Participants agreed that increased interaction between frontline members who completed most of the restorative justice referrals and community practitioners was necessary. While the relationships were generally positive, officers tended to ease away from a restorative justice approach unless they were regularly reminded and encouraged to use the program. The lack of consistency of application sometimes hampered this interaction, especially with RCMP officers who experienced different approaches in different detachments. Training was also mentioned as an important component of interaction. Although this was usually done during patrol briefings or through professional development sessions at the agency, standardized training was identified as a positive step forward, if it was consistent and encouraged at the management and governmental level.

In police agencies that had designated coordinators, communication and interaction between the police and community restorative justice programs tended to be much more consistent. Coordinators, often with senior management of the police agency, would meet with the community program director or board on a regular basis. Although this was hampered to a certain extent by the COVID-19 pandemic, most participants stated that this was changing as operations normalized. In some agencies, the meeting schedule was less frequent; however, participants stated it was on their list of action items to increase face-to-face meetings and coordinate accountability structures.

APPLICATION OF RESTORATIVE JUSTICE TO POWER-BASED CRIMES

Participants were asked about the use, or potential use, of restorative justice with power-based crimes. Power-based crimes were explained as including intimate partner violence, sexual assault, or elder abuse; however, some participants included other definitions, such as hate crimes. Importantly, participants believed that restorative justice could be an appropriate approach for power-based crimes. Many participants avoided giving a direct no or yes perspective on this question. They felt that files should be looked at individually and that restorative justice should be used when appropriate for the incident or situation. There were a variety of ways that participants explained this point of view. Some participants felt that a restorative approach may be useful as a later response to the crime, rather than at the initial stages of the criminal justice process. For example, once the file had been dealt with through the court system, restorative justice may provide opportunities for further discussion and healing. Alternatively, some participants felt that, while a pre-charge diversion to restorative justice would often not be appropriate for certain power-based crimes, they had fewer concerns with Crown Counsel choosing to divert a file and may even recommend that they consider doing so in some of their Reports to Crown Counsel. In other words, when it came to power-based crimes, many participants were more comfortable with the idea of post-charge diversion by Crown Counsel as opposed to pre-charge diversion by police.

While several participants did not feel that restorative justice would ever be appropriate with power-based crimes, many felt that restorative justice could potentially be used for some types of power-based crimes, but not others. For example, several participants felt that restorative justice could be used in situations involving hate crimes or lower-level sexual offence files, but that it should never be used with intimate partner violence. Others felt that restorative justice could be used with many different forms of power-based crimes, but that it would depend on the totality of the file. For example, restorative justice might be acceptable with intimate partner violence files where it was a first-time offence with underlying causes that could be effectively addressed through a restorative approach.

Similarly, some participants were uncomfortable with the thought of using restorative justice in response to files involving sexual offences. On the other hand, many participants were open to using restorative justice when the perpetrators in these files were youth as restorative justice may offer educational opportunities not available in the formal criminal justice system. Particularly when the offence involved a youth perpetrator, participants saw the value in addressing the root causes of the behaviour through restorative approaches, educating them about the effects of their behaviour on the victim, and giving them tools and strategies to resolve conflict more effectively or engage in healthy relationships in the future. One participant contrasted the difference between a 30-year-old adult who perpetrated a sexual assault or the distribution of intimate images and who knew what they were doing was illegal compared to a 14-year-old youth who, perhaps as a result of peer pressure, made a bad decision that hurt someone. While they saw the first example as not a viable candidate for restorative justice, they saw great value in being able to directly address the bad decision and its effects with the youth perpetrator. Another participant gave a similar example by stating that some youth did not have a very good understanding of consent, and restorative justice might be a good way to educate them about the importance and need for consent. These

participants indicated that sexual offences that did not involve overt forms of violence, such as sharing intimate photos of others, may be appropriate for a restorative justice approach.

For some participants, whether restorative justice was appropriate for use with power-based crimes came down to the perpetrator's characteristics. In certain situations when the perpetrator genuinely felt remorse and had the capacity and willingness to acknowledge and atone for the harm they caused, those power-based crimes could potentially be diverted to restorative justice. This is another reason why participants felt they could not provide a specific answer about the appropriateness of a restorative approach to power-based crimes, as it would depend on the totality of the situation. Some files involving power-based crimes may be appropriate for restorative justice whereas others would not, depending on factors such as whether there was a prior history, the nature and severity of the offence, the circumstances leading up to the offence, and the capacity to accept responsibility.

Several participants very clearly stated that they would not consider referring power-based crimes to restorative justice in any circumstance. Others indicated that they would support Crown Counsel referring a file to restorative justice and may recommend to Crown Counsel that they consider a referral, but that they would not use restorative justice for power-based crimes as a pre-charge response; this was primarily a concern for intimate partner violence, especially as some participants indicated that there were policies that prevented them from referring power-based crimes to restorative justice as a pre-charge process. However, overall, most participants were careful to mention that they could not definitively say that restorative justice was or was not appropriate as a pre-charge response in files involving power-based crimes, such as intimate partner violence or sexual assault, but that it would depend on the file and require a case-by-case decision.

POLICE USE OF RESTORATIVE JUSTICE WITH POWER-BASED CRIMES

Given the number of concerns raised about the appropriateness of restorative justice for power-based crimes, it was not surprising that several participants said that neither they nor their agency, as far as they knew, had ever referred power-based files to restorative justice. Others gave examples similar to the ones presented above, primarily involving youth. For example, one participant referred files involving youth involved in a more minor sexual offence who they perceived would benefit from the process. In another example, a participant shared that they had referred a file involving a couple to restorative justice, and, in their view, this was a success because the perpetrator was extremely remorseful and willing to follow the plan that was decided upon, while the victim believed this was a singular event that was unlikely to happen again. Some participants stated that they would talk with Crown Counsel to get their approval or would forward charges to Crown Counsel for review and recommend that Crown Counsel consider referring the file to restorative justice. Overall, with a few exceptions involving youth who committed a sexual offence where the primary factor appeared to be a lack of understanding or poor decision making, participants were not currently referring most power-based crimes to restorative justice at the pre-charge stage.

BENEFITS OF USING RESTORATIVE JUSTICE WITH POWER-BASED CRIMES

Addressing the Root Causes of Behaviour and Offering Opportunities for Healing

A potential benefit acknowledged by many of the participants of using a restorative justice response to power-based crimes was that it could potentially address the root causes of the behaviour. One example was given by a participant where an incident of intimate partner violence was specifically attributed to substance abuse by the perpetrator. While the police followed policy and recommended charges, Crown Counsel was willing to stay the charge once the perpetrator completed a substance abuse treatment program. While this was not a restorative response to this crime, it demonstrated the potential for more flexible approaches in addressing the causes of intimate partner violence and presented a situation that could potentially be resolved through a pre-charge referral to restorative justice. The benefit of expanding this type of situation to a more restorative approach would be that the victim/survivor's voice would be represented and factored into the decision making about how to hold the perpetrator accountable. In addition, the process could increase the likelihood of healing the harm caused, and it would reduce future risks for repeat behaviour. Several participants acknowledged that when power-based crimes were dealt with through the criminal justice system, nothing changed in terms of rectifying the power imbalance, as the underlying reasons for the offending behaviour were typically not effectively addressed. In contrast, they observed that restorative processes allowed the root causes of the behaviour to be identified and addressed. For example, if the person who committed the offence themselves had been hurt in the past or lacked resources/supports or a social circle, these were all factors that might have contributed to the offence they committed against another person. Addressing these factors could be healing for all those involved in the process, as it could explain the behaviour and identify resources or ways to address these contributing factors. This could help the victim obtain closure that they might not normally get through the formal court system. Similarly, having the opportunity to slow down the conversation and focus on what went wrong or what led to the situation may allow for greater healing and reconciliation.

Similarly, one participant reflected that when it came to hate crimes, restorative justice could offer education that would help the perpetrator understand the effects of their words and actions on others. Through restorative justice, they felt there could be an increase in understanding and empathy building. Another participant supported this notion suggesting that by opening themselves up to responsibility for their actions, it can begin a journey where the perpetrator is supported in exploring what went wrong and provided with an opportunity to participate in designing the response. In this way, restorative justice participation provided opportunities for self-realization and healing by the perpetrator. Several participants perceived that restorative justice may, therefore, provide opportunities to **prevent future crimes from happening as they have more directly addressed the causes**. Similarly, one participant suggested that rather than just fix the immediate issue, restorative justice provides participants with tools that they can use in the future to address conflict.

Quicker Process with Ongoing Support Compared to the Formal Criminal Justice System

As indicated above, another potential benefit of using a restorative justice approach for power-based crimes is that the offence can be dealt with more quickly than through the formal criminal

justice system where, if charges are not stayed or plea bargains made, it could take more than one year before the case appears before the court. This is particularly relevant in situations where the offender would otherwise attempt to extend the court process, such as by firing their lawyer or applying for their conditions to be changed. This is likely more common among perpetrators of power-based crimes given their tendency to attempt to coerce, manipulate, and dominate others, which includes using the criminal justice system to engage in legal abuse of the victim (Gutowski & Goodman, 2023; Tutty et al., 2023).

Related to this, participants indicated that they would be able to provide supports to the victim not only more quickly but also over a longer-period of time than would otherwise be possible through the formal criminal justice system process. An additional benefit of using a restorative justice approach in place of the traditional criminal justice system was that it would remove some cases from the court system, thus alleviating some of the caseload pressure on the court system. An increased use of restorative justice would also allow for ways to more quickly address the harms that occurred and the perpetrator's role in causing those harms without resulting in a criminal record that can put more pressures and strain on the family, for example. Similarly, restorative justice offers the victim and perpetrator solutions in contrast to the existing criminal justice system process where many crimes, including intimate partner violence, result in a stay of proceedings without the harms or causes of the behaviour being addressed (e.g., McCormick et al., 2022).

While police participants had concerns about liability, particularly with respect to intimate partner violence, a side benefit of referring a file pre-charge to restorative justice would be reduced pressure on both police and Crown Counsel concerning disclosure policies. Given past court decisions, there is a substantial amount of work on the police associated with disclosure of evidence relevant to the file, which is often required by Crown Counsel as part of the charge recommendation package submitted by police (Cohen et al., 2021). While police need sufficient evidence that would otherwise support a criminal charge to refer the file to restorative justice, files that are referred pre-charge to restorative justice do not need to meet the significant disclosure burden. This should not be a factor in the decision making as to whether to divert a file to restorative justice; however, the potential for a reduced workload for officers was acknowledged by some participants as an additional benefit of this process.

Restorative Justice Processes Directly Address Power Imbalances

Providing a restorative justice option in response to power-based crimes can help to address the existing power imbalance inherent in these types of offences. Prior to bringing the victim and perpetrator together to discuss the crime and the harms that occurred, many months are spent preparing them for this moment. Through this process, the victim can regain a sense of control over the process, and, during the meeting itself, they are provided with opportunities to articulate what they would like to see happen. The victim is given an opportunity to explain how the crime affected them and hear the perpetrator accept responsibility, express remorse, and be held accountable. Several participants believed that using a restorative approach to address these crimes may put some of the power and control over the process back in the hands of the victim. One participant expressed that they routinely saw younger Indigenous female victims of sexual assault being victimized and traumatized through the criminal justice system process but found that restorative

approaches offered a faster way to resolve the file in a more collaborative way that ultimately enhanced the mental wellbeing of the victim. This process can, therefore, provide victims with a sense of empowerment, whereas the traditional court system can re-traumatize the victim, particularly when the crime involves sexual violence (Herman, 2005).

Preservation of Relationships

Restorative justice responses to power-based crimes that involve family members, such as in intimate partner violence files, may provide victims with the opportunity to preserve the family unit, and may offer more benefits for children than the formal court system. Rather than pit intimate partners against each other, some participants felt that a restorative justice process could provide everyone involved or affected by the incident with a supportive environment where they could discuss what happened, what drove the behaviour, how they were affected, and – if they desire to keep the relationship intact – what can be done to enhance the healthy aspects of the relationship. One participant remarked that they had seen intimate partner violence destroy families where access to counselling could have perhaps helped those involved to address the concerns and maintain the relationship and family unit.

CHALLENGES ASSOCIATED WITH USING RESTORATIVE JUSTICE FOR POWER-BASED CRIMES

Lack of Recourse should Restorative Justice Not Work

As discussed in an earlier section of the report, there appeared to be some inconsistency regarding files that were originally referred to restorative justice but were not successfully resolved through this process. Police participants in several jurisdictions expressed that if the perpetrator initially agreed to restorative justice but then failed to meaningfully engage in the process, the restorative justice **file would be closed, and the police would no longer have the option to recommend the file back to Crown Counsel** for charge review. In contrast, participants in other jurisdictions did not express this concern and noted that if the restorative justice referral was not successful, they would be able to refer the file back to Crown Counsel for charge review. This discrepancy might be the result of a lack of clear policy at the Crown Counsel level. Conversely, it could be an outcome of the restorative justice organization's practices when it comes to screening and accepting files. For a file to be accepted by a restorative justice agency, the perpetrator needs to accept responsibility for the crime. Therefore, if a file is referred to a restorative justice agency that accepts the file and begins working with the victim and perpetrator, the file may not be able to be referred back to Crown Counsel as the perpetrator has already admitted their guilt, and, therefore, the principle of innocent until proven guilty that the Canadian legal system is built upon would be in jeopardy. What this means is that the screening process for the restorative justice agency must be robust, where both the victim and perpetrator are genuinely participating in the process, screening out those who appear more likely to manipulate the system, such as by withdrawing from the process and avoiding subsequent criminal charges. **For those who are screened out of the process, police officers should retain the option to then forward the file onto Crown Counsel with recommended charges.**

Similarly, if the restorative justice resolution involved an agreement that the offender attend programming, such as counselling or addictions treatment, there were concerns raised by police participants about how to hold the perpetrator accountable to follow through with the agreement. Without the court's involvement, participants felt there was nothing binding the perpetrator to this agreement because reverting back to criminal charges if the perpetrator failed to follow through was not an option. Adding to this, files that were referred to restorative justice would not normally involve any police issued conditions, which could increase the risk posed to the victim in the community, particularly if the perpetrator failed to follow through with the restorative justice process.

Police Liability and Victim Safety

Understandably, given the primary role that police officers play in providing safety for victims following an act of violence, police participants were **very concerned about the potential implications of not following policy**. This concern was specific to intimate partner violence, where police are expected to arrest the primary aggressor if there is evidence that a criminal offence has occurred. In most cases, the police investigation results in charges being recommended to Crown Counsel (Cohen et al., 2017; Dawson & Hotton, 2014). In the interim, the police may have released the offender on conditions, such as not to contact the victim and not to go in or near the shared residence. Some of the police participants were concerned that if they did not immediately proceed to charge recommendations, they would need to release the offender **without being able to attach any conditions. Currently, police can arrest an offender and then release them on an undertaking to appear where they attach conditions that provide protection to the victim**, including no contact orders. This is typically done in conjunction with a Report to Crown Counsel being submitted for Crown review and approval that initiates the timeframe during which the file must be concluded at court or charges stayed (see *R. v. Jordan* 2016; Cohen et al., 2021). More clarity is required with respect to releasing an offender on conditions prior to charge approval. Currently, any such conditions would be voided if charges were not forwarded to Crown Counsel in favour of a restorative justice referral.

Related to this point, another concern was that if police referred the file to restorative justice and the victim was later injured or killed by the perpetrator, the blame would be laid on the police, rather than the restorative justice program or Crown Counsel for not following proper protocol. Therefore, there were meaningful concerns by the police participants about the liability that police would face if, rather than proceeding to recommend charges, participants referred a file involving intimate partner violence to restorative justice and something went wrong. This led one police participant to express that when it came to intimate partner violence files, they would always be forwarding charges to Crown Counsel. That said, police officers could still note in their Report to Crown Counsel that they want to explore alternatives to charges; however, the police, at this stage, have done their due diligence by investigating the file and moving it through the criminal justice process into the hands of Crown Counsel.

Victim safety was another common concern among police participants. Some police participants felt that it was putting far too much pressure on frontline police officers to definitively determine if the victim was safe enough for the file to be referred away from the criminal justice system. They felt that police officers needed to follow existing policy, put conditions in place as needed to provide the

victim with a degree of safety, and let Crown Counsel decide whether to refer the file to restorative justice once they received and reviewed the file.

Related to this point, protecting potential victims from the perpetrator was another substantial concern. In some cases, it was felt by participants that the formal court system would result in a criminal record for the perpetrator, thereby restricting their access to vulnerable populations in the future. It was interesting to note that one participant expressed concerns over the perpetrator's safety by going through restorative justice, as they felt that the perpetrator might share information about themselves that increased their own vulnerability, and which other attendees at the meeting (e.g., other family members) may use to harm them following the process.

Some police participants also expressed concerns that if they were to refer sexual assault files to restorative justice, they would be viewed as not doing enough to take these files seriously. One participant argued that if they had sufficient evidence that a sexual offence had occurred, they should proceed with it criminally as this demonstrated to the community that they are taking this type of offence seriously and believing the victim. The exception, as noted above, was with more minor level sexual offences involving youth who would benefit from education and a restorative justice resolution.

The Ability of Restorative Justice to Adequately Address Power Dynamics

Concerns were also shared about the power dynamics in files involving intimate partner violence. For some police participants, this took the form of victims being pressured by their abusive partners to ask for charges to not be pursued. Participants reflected that the intimate partner violence arrest policies exist for this reason, namely to take the pressure away from the victim who may otherwise be coerced by their partner to not comply with the investigation. Participants spoke about how common it was for the victim to call the police or Crown Counsel in the weeks following the incident to recant their statement. This was understood by the police and Crown Counsel because of pressure being placed on the victim by the abuser. In this scenario, while not ideal, Crown Counsel may have sufficient evidence to proceed with charges without the victim's direct participation. However, if the victim was unwilling to participate in a restorative justice process, this would end the proceedings with no further recourse available to police or Crown Counsel. Similarly, there was a concern about using restorative justice with sexual assault files because of the potential to re-traumatize the victim. Having to meet face-to-face with the person who assaulted them was not viewed as appropriate. This may be true in some sex assault files; however, it is important to reiterate that typically many months of preparatory work is engaged in by the restorative justice program with the victim to prepare them for the meeting, and the meeting does not occur unless or until the victim is ready and sufficiently prepared. Overall, power dynamics complicated participants' willingness to consider restorative justice with many power-based crimes, as they felt the victim may be pressured into accepting or agreeing with the proposed resolutions even if this was not what they wanted to appease the perpetrator who they may be dependent upon or due to continued pressure to recant.

The Need for Advanced Training for Restorative Justice Programs to Address with Power Based Crimes

Another concern about referring power-based crimes to restorative justice was the need for appropriate training for restorative justice staff. Participants expressed that with power-based crimes, they could expect a substantial amount of psychological aftermath following the meeting and were concerned about where or how the victim would express those feelings and whether the restorative justice personnel would be prepared to handle it. However, it is important to note that once the meeting between the victim/perpetrator has occurred, the program does not stop supporting the victim. They will not hold the meeting until both the victim and perpetrator have been sufficiently prepared and will continue to support them through the subsequent stages of the restorative justice process. Participants were also concerned about how these conversations and subsequent emotional responses might traumatize an inexperienced volunteer. Similarly, concerns were expressed that the **volunteers needed specialized training to be able to directly address and manage any power imbalances that presented during the process.**

CAN RESTORATIVE JUSTICE BE USED WITH POWER-BASED CRIMES

For restorative justice to be offered as a response to power-based crimes, several concerns would need to be addressed, particularly for intimate partner violence and some sexual assault files. There would need to be clear expectations and guidelines established regarding what kinds of power-based crimes could be considered for a pre-charge referral, and what kinds of offences would more appropriately be referred to Crown Counsel for charge review, potentially with a recommendation that Crown Counsel consider diversion to restorative justice. To support this work, a **rigorous screening tool or process would need to be developed** to assist both police and restorative justice programs in determining which power-based files could and should be referred to restorative justice and at what stage of the criminal justice process.

Of concern to some participants was that there would be legal barriers to using restorative justice with some forms of power-based crime as there are currently government policies that require police to take certain steps, such as forwarding charges for charge approval by Crown Counsel in files involving intimate partner violence or more severe forms of sexual assault. Even if liability concerns were addressed for police regarding their ability to make pre-charge referrals in intimate partner violence files, some participants indicated that they would still not support this occurring. In addition to what has already been discussed, another reason for this was a concern about how frontline police officers would be affected if they were to refer what they perceived as a low-level intimate partner violence to restorative justice only to have it become a high-risk situation where someone is hurt. Obviously, there is no guarantee against this situation unfolding; however, the likelihood can be reduced through the introduction of rigorous and validated screening procedures.

When considering which files to refer on a case-by-case basis, participants indicated that some of the issues needing consideration included the totality of the circumstances, whether the perpetrator was likely to continue being violent, the victim's wellbeing, whether the situation was best dealt with via a court intervention, the degree of physical, emotional, or psychological harm that was experienced as a result of the offence, the typology of intimate partner violence, if the

perpetrator was remorseful and open to receiving help, what previous interventions had been previously attempted, or whether the public felt safe if the file went through restorative justice rather than the formal criminal justice system. Ensuring that the victim was supportive of the restorative justice process in and of itself and not just because they feared the alternative, such as court, also needed to be validated.

BARRIERS TO USING RESTORATIVE JUSTICE WITH POWER-BASED CRIMES

Two main barriers to using restorative justice with power-based crimes were identified: **policy and education**. As previously discussed, policy exists requiring police to arrest and recommend charges against the primary aggressor in most instances of intimate partner violence. Participants felt that to keep victims safe, they needed to arrest the perpetrator and put conditions on them. The perception that police were aware of violence in a relationship but did not do anything to stop it, as they referred the file over to restorative justice rather than move forward with criminal charges, is something many police participations struggled with, even if this process is something that victims wanted and agreed to. The perception was that police were not doing their job and keeping people safe if they did not respond seriously to these kinds of files by recommending charges to Crown Counsel.

With regards to education, participants felt that many people in society still did not have a good understanding of what restorative justice involves, which affected their ability to understand why or how it was so powerful or when it could be appropriately used. Education also needed to be more routinely given to front-line members, so they would understand why and how restorative justice could be a viable alternative to criminal charges, even in some files involving power-based crime.

SUMMARY OF THE POLICE PARTICIPANT INTERVIEWS

Participants supported the use of restorative justice referrals for a wide range of offence types, although many acknowledged that restorative justice was most commonly used with youth and with files involving property offences or minor assaults. Participants were generally in favour of using restorative justice with a wider range of more serious offences; however, there was a lack of consensus regarding the appropriateness of using restorative justice with specific types of power-based crimes. Broadly speaking, this resistance was because police had specific policies to follow with respect to intimate partner violence files and were concerned about the effect on victim safety and police liability if they did not follow these policies in favour of making referrals to restorative justice programs. Some participants felt that they would be open to using restorative justice with some intimate partner violence files if the policy allowed for this, but many participants felt safer submitting the file to Crown Counsel and letting Crown Counsel decide how best to handle the file. Participants felt reassured by being able to attach conditions to the offender when they moved forward with recommending charges, which they felt enhanced the safety of the victim.

Generally, police participants felt the same way about sexual assault files. They felt that the public may perceive them as not taking the files seriously if they were to refer these types of cases to restorative justice at the pre-charge stage, rather than referring charges for Crown Counsel to

consider. However, there was an exception with youth offenders, as restorative justice was viewed as an effective way to educate youth about their decision making, help them understand the effects of their behaviours on others, reconnect them to their community and society, and prevent future crime from occurring. While several police participants were adamant that restorative justice should not be used pre-charge with power-based crimes, others were more willing to consider the idea, though acknowledged that for some of these files, significant policy changes would need to occur. Should restorative justice be adapted pre-charge for lower-level, first time offenders engaged in power-based crimes, this would require a rigorous screening process, enhanced training for personnel, and clarity on at what stage it becomes too late to revert the file for criminal charges.

Recommendations

This report identified several benefits and challenges associated with restorative justice in British Columbia. The data and interviews with restorative justice executive directors or managers and police officers responsible for restorative justice identified several consistent themes related to process, procedures, policies, and outcomes of restorative justice. While there were several suggestions highlighted throughout this report, this section focuses on several key recommendations.

FUNDING FOR RESTORATIVE JUSTICE PROGRAMS

It is difficult to envision how restorative justice programs throughout British Columbia would be able to enhance their capacity to increase their number of referrals or expand to accept more complex files, such as those associated to power-based crimes, without additional financial support. In this regard, many of the program directors interviewed for this project cited funding as already being their biggest challenge. The issue of limited funding also hindered their ability to professionally train staff and volunteers and their ability to create more community awareness about restorative justice and its benefits, which will be discussed in a separate recommendation. Exacerbating this challenge was that most restorative justice programs operate on grant money, which comes with a degree of uncertainty and continued dedication to grant writing. In effect, the need for more specialized training, more community awareness, and more qualified staff makes the current level of financial support insufficient to support everything that restorative justice programs do and can do moving forward.

It is also important to keep in mind that the results of our analyses of recidivism rates imply that because of restorative justice's ability to reduce recidivism compared to the formal criminal justice system, restorative justice programs in British Columbia are already saving taxpayers a significant amount of money. More specifically, it is clear from the analyses presented in this report that restorative justice programs are significantly reducing the number of individuals coming in conflict with the criminal justice system downstream. Notwithstanding the effect on non-monetary costs associated with victimization, there are significant cost savings associated with reduced numbers of offenders drawing on police, court, and correctional services as they are processed through the formal criminal justice system. Given this, it is recommended that British Columbia commit to

providing a more significant level of funding to restorative justice to allow them to adequately fulfill their current mandates, increase the number of files they can accept, and to provide the necessary resources and support to work on more serious crimes.

Moreover, to increase the use and acceptance of restorative justice, especially in smaller communities with limited resources, there is a need to prioritize and commit funding to the program with consistency across the province. Senior police officers and managers of restorative justice programs indicated that low pay and benefits for senior positions and staff of restorative justice programs prevented positions from being filled and from retaining talented and qualified people. Furthermore, if there was an increase in referrals or an expansion of the types of crimes that restorative justice programs could address, additional staff and training would be required, especially when the community-based program is run as a non-profit or volunteer-based system with full time staff support. Of note, again, the authors of this report believe that an increase in funding should be offset by savings achieved through what would otherwise be significant downstream criminal justice system costs. It is also recommended that British Columbia undertake a cost-benefit study to provide an exacting figure of how much money is saved because of the lower recidivism rates achieved through restorative justice programs.

RESTORATIVE JUSTICE TRAINING FOR RESTORATIVE JUSTICE PROGRAMS AND POLICE OFFICERS

As outlined throughout this report, the training of staff and volunteer is an essential requirement of restorative justice programs – even without consideration to the possibility of adding referrals associated to power-based crimes. Providing training can be an on-going challenge not only because of volunteer turnover, but due to issues related to the accessibility of training, such as costs, travel requirements, the availability of training, and the availability of staff for training. Accordingly, it is recommended that British Columbia undertake a review to examine how it might better facilitate the basic training and professional development needs of restorative justice program staff and volunteers. Further, as discussed in more depth in a subsequent recommendation, it is recommended that British Columbia establish an accredited specialized and required training program for staff and volunteers to give them a readiness to consider and work with offenders and victims associated with power-based crimes.

Moreover, it was very apparent from interviews with both police and restorative justice program directors that not all police officers have a full understanding of the aims, processes, and benefits of restorative justice. It was also apparent that not all police officers have an appreciation for which offences and offenders should be considered for referral to restorative justice programs. Given this, more formal training is required for police agencies to encourage the use of restorative justice. Doing so will improve consistency of application and promote broader awareness and acceptance of the program. Currently, police agencies offer little in the way of restorative justice training at the academy level. Instead, most training is delivered at the front-line level during patrol briefings or dedicated training sessions to front line personnel. Further, there was little in the way of feedback provided to officers who did make referrals, and so they may lack awareness regarding the effectiveness of this process.

Therefore, it is recommended that frontline police officers receive more standardized training about the rationale for restorative justice, the process involved in making a referral, what happens once a referral has been accepted, and the common outcomes of referrals. Including some successes to demonstrate how restorative justice has increased victim satisfaction, addressed the underlying needs of the offender, reduced recidivism, and contributed to public safety would be beneficial to help clarify to officers why and how they should be making greater use of this program, including with adult offenders. While it is beneficial to have local restorative justice programs present to police officers during watch briefings, as this solidifies the connections between the frontline officers and their local restorative justice personnel, we recommend that police have access to standardized training about restorative justice more generically. A restorative justice course was recently made available via the Canadian Police Knowledge Network (<https://www.cpkn.ca/en/course/restorative-justice/>). While the authors of this report did not review this training and cannot speak to its content or quality, it would be beneficial to review whether frontline officers should be required to complete this course as part of their professional development. This training requirement could be articulated in a Provincial Policing Standard for Restorative Justice to ensure a consistent approach to the training and use of restorative justice throughout the province. Moreover, we recommend that a second level of more comprehensive restorative justice training be given to those holding the restorative justice role portfolio at police agencies. Rather than the general training given to all officers, this training would be more specific to the particular community where the police agency is located, and should involve working directly with the restorative justice agency to become familiar with their processes and practices. In addition, given that there was inconsistent use of the RCMP “E” Division restorative justice template, this training should review why and how to document referrals made by police officers to their local restorative justice program. This would enable better tracking of the number of referrals. Better communication between the police and the restorative justice program would also allow for documentation of restorative justice outcomes, so the police agency would have access to data regarding the success of their referrals, which may encourage greater use of the program among frontline officers.

In effect, more training and awareness is required for police agencies and practitioners to encourage the use of restorative justice, to have restorative justice programs developed to where they have a more prominent place in how police move forward with chargeable offenders, and to dispel many of the incorrect assumptions associated with restorative justice, such as that it is appropriate only for young offenders, those who have committed a minor offence, first-time offenders, or that referring someone to restorative justice will result in much more work, on the part of the officers, than using the formal criminal justice system. With an increased emphasis on the value of restorative justice, combined with increased funding for restorative justice programs to enhance their ability to accept more referrals, as will be discussed in a separate recommendation, restorative justice should be considered a mandatory approach to certain crimes to improve consistency of application and acceptance of restorative justice.

INCREASING THE NUMBER OF PRE-CHARGE REFERRALS TO RESTORATIVE JUSTICE PROGRAMS THROUGH INCREASED AWARENESS AND FORMAL RECOGNITION

In terms of program referrals, while the COVID-19 pandemic likely played a role, there was some indication from participants in this study that there has been a decrease for some communities in the number of restorative justice program referrals in recent years. Because programs differ in terms of when referrals can be made and the types of cases they can accept, it is difficult to ascertain exactly what influences the referral rates to restorative justice processes. To improve referral rates, it is necessary to address two issues; (1) the willingness of the police, Crown Counsel, and other organizations, such as schools, to refer people to restorative justice programs, and (2) the public gaining a better understanding of what restorative justice is and is not and increasing their willingness to accept restorative justice for a wider range of offenders and offences.

To the first issue, there needs to be continued efforts to raise awareness among key criminal justice system partners, such as the police, Crown Counsel, and victim services about the value, outcomes, and contributions of restorative justice to public safety, directly addressing the needs of offenders and victims, and reducing recidivism. It is recommended that restorative justice programs assist with developing training for criminal justice system professionals to better equip them with the knowledge and resources needed to increase referrals to restorative justice programs. Moreover, it is critical that managers of restorative justice programs gain a better understanding of what influences the decision to make a referral at the various stages of the criminal justice system process, and what situational factors, including the victim and offender characteristics, hold the greatest weight when criminal justice system personnel or community service professionals make their determinations to refer or not refer a case to restorative justice.

Another way to encourage more consistent use of restorative justice by frontline police officers is to acknowledge it as part of their annual performance plan. While it is important that victims and offenders consent to this process, and so assessment should not be based on the number of referrals made, evaluating police officers on this standard could be achieved through evidence of access to restorative justice training, documentation that restorative justice was explained and offered as part of the police response to the file, and evidence of participation in restorative justice conferences, when appropriate for the police officer to participate. These measures should form part of annual police officer and police agency performance plans to ensure consistent tracking, accountability, and effective communication to local government, communities, and participants. Once again, this would require standardized policy across the province that would need to go beyond police agencies to the restorative justice practitioners and societies. Performance metrics would assist funding applications, grants, and overall acceptance of restorative justice principles in the community.

With respect to the second issue, it is recommended that restorative justice staff and criminal justice system professionals develop materials and presentations to community leaders and stakeholders, as well as the public, to explain the purpose, process, and outcomes of restorative justice to increase support of its use, to gain support for using restorative justice with more offenders, and for its use with a wider range of offences. These community outreach presentations should be designed to raise awareness of restorative justice and to increase the acceptance of the use of restorative justice for more than minor offences committed by first-time young offenders.

Again, to be most effective, community outreach should be conducted in partnership by restorative justice practitioners, police agencies, and local government representatives to demonstrate that restorative justice is supported by the local and provincial government, as well as those working in the criminal justice system.

CREATE A POLICING STANDARD EMPHASIZING RESTORATIVE JUSTICE AS A PRIMARY RESPONSE

Given the effectiveness of restorative justice as a pre-charge diversion strategy, it is recommended that restorative justice be used more routinely and consistently with a wider range of offences. Restorative justice should become the standard police response to much of the crime reported to the police. Offences of a serious nature will be addressed in a separate recommendation; however, even with more minor offences, there was a lack of consistency in referrals being made by agencies in different communities. For instance, some participants relied heavily on restorative justice when it came to youth crime, but used restorative justice less routinely, if at all, as a response to crimes committed by adults. From a police perspective, frontline officers were often reluctant or forgot to use restorative justice, either due to lack of awareness or misunderstanding of when it can be used. Creating a policing standard to emphasise the importance of restorative justice would encourage police to make the decision to consider referrals prior to the default of forwarding charges.

The average number of occurrences reported per year to the BC RCMP between 2017 and 2020 was 1,225,235 (De Jager, 2021). Of these occurrences, less than 20% fell into the categories of violent, property, and Controlled Drugs and Substances Act offences. In effect, most *Criminal Code* occurrences during this period were for property crimes, although that category had the lowest clearance by charge compared to violent crime and other *Criminal Code* offences. The most reported property crime occurrence was theft from automobile, followed by mischief to property, theft under \$5,000, mischief loss of enjoyment of property, and shoplifting under \$5,000. Fraud, break and enter, and theft over \$5,000 completed the top 15 property offences reported (De Jager, 2021). All these occurrence types are amenable to the use of restorative justice. Thus, to increase the use of referrals and reduce demand on the criminal justice system, we recommend that restorative justice be considered a primary response to certain offences, particularly at the lower level of property crime and for first time or non-repeat offenders, as well as with Indigenous offenders.

The results of the current study suggest that a greater reliance on restorative justice referrals as a primary response to many of the offences coming to the attention of the police would be an effective way to engage in crime reduction. Certainly, for some offences, such as most property crimes and files involving low levels of violence, and some offenders, including first-time offenders, Indigenous offenders, or low-rate offenders, restorative justice could be promoted as the standard response, with charges moving forward only in situations where the officer articulates a rationale for formal criminal justice system processing. In other words, it is recommended to shift the status quo from formal criminal justice processing and a general consideration being given to whether a file can be diverted to assuming the file will be referred to restorative justice. Of course, this will also depend on the capacity of restorative justice agencies to handle all the files that may be referred to them, which is again where more consistent dedicated funding would be critical.

One interesting finding from the current research was that police officers did not appear to put any more effort into diverting offenders who identified as Indigenous. Rather, they viewed the case circumstances as a whole and did not single out any individual case for referral due to personal characteristics, apart for youth cases, as mandated by the *Youth Criminal Justice Act*. However, given overrepresentation of Indigenous peoples in the Canadian criminal justice system, it is essential that both police and Crown Counsel specifically consider alternative options to charges and prosecution. It is recommended that police should be required to assess whether referral to restorative justice is an option in all files involving Indigenous offenders. If there are reasons that limit this as a pre-charge option, they can recommend that Crown Counsel consider diversion to restorative justice when forwarding their Report to Crown Counsel, as under Crown Counsel's Alternatives to Prosecution – Adults policy (ALT 1¹²), where Crown Counsel are specifically directed to consider whether the offender is Indigenous and whether there are suitable options for diversion. At all stages of the formal criminal justice system, alternatives to prosecution must be considered for Indigenous offenders, and greater efforts made to follow through with diversion to restorative justice programming.

EXPAND THE USE OF RESTORATIVE JUSTICE TO MORE SERIOUS OFFENCES

Participants in this study were comfortable using pre-charge diversion to restorative justice for a range of offenders and offence types, and many felt that restorative justice could similarly be effectively used with more serious crimes, including those where violence had occurred. Of note, this perception was supported by the quantitative analyses comparing the criminal recidivism of offenders referred to restorative justice to those processed through the formal criminal justice system. As articulated by participants, restorative justice offers the potential to address the causal roots of criminal behaviour, provides an avenue for the victim to share how they have been impacted by the offender's behaviour, and offers meaningful opportunities for the offender to repair the harm and engage in rehabilitation. Given this, it may offer more meaningful resolutions than the formal criminal justice system, even when the offence is more serious in nature. Power-based crimes aside, which will be addressed in a subsequent recommendation, there is a clear need to expand the use of restorative justice beyond the typical file involving a youth or young person who has committed a property offence. As mentioned above, the ability of restorative justice programming to be an effective intervention for more serious offenders needs to be communicated to police officers to encourage more referrals of this nature. This may include files where violence has occurred (e.g., an assault) or files where the alleged offender has a prior history of violence. Again, the applicability of restorative justice in these cases should be integrated into future public awareness or educational/training curriculum for police officers, using case studies where possible to demonstrate the successes that are achievable and to encourage greater uptake of referrals for files not traditionally viewed as appropriate for restorative justice.

¹² <https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/criminal-justice/prosecution-service/crown-counsel-policy-manual/alt-1.pdf>

ESTABLISH STANDARDS FOR THE USE OF RESTORATIVE JUSTICE IN SEXUAL OFFENDING AND INTIMATE PARTNER VIOLENCE CASES

As noted at several points in this report, restorative justice can be used with power-based crimes, including intimate partner violence. However, there needs to be careful consideration and rigorous protocols implemented to screen out cases where the use of restorative justice may pose more harm than good (Ending Violence Association of BC & Just Outcomes, 2021). In New Zealand, restorative justice can only be used in family violence cases where there is no evidence of coercive controlling behaviours, and where formal risk and lethality assessments suggest the risk of revictimization is low (Ministry of Justice, 2019). There is a requirement that risk levels are continuously monitored, that re-assessments of risk occur as needed given that risk is dynamic, and that safety plans and case management are updated to reflect current levels of risk. Family violence service providers should be involved with the process, and the conference should end with clear actions for the offender, such as to participate in programming that will subsequently be monitored by the facilitator. A similar set of standards should be developed by the British Columbia provincial government for use by restorative justice programs that wish to provide services in power-based cases.

While the New Zealand Ministry of Justice released the findings of a review of the use of restorative justice in 2023, there was little information given specifically regarding family violence cases. It is recommended that should the provincial government implement a similar standards document to guide the application of restorative justice in intimate partner violence files that they include a formal assessment of the process and a validation of the risk assessment tool within a few years of the implementation of this practice. It is also recommended that the government commit funding for a longer-term evaluation of the outcomes of these cases.

EXPAND THE USE OF RESTORATIVE JUSTICE WITH POWER-BASED CRIMES

Non-Intimate Partner Violence Files

The main resistance to using restorative justice for power-based crimes addressed by participants centred around its application to intimate partner violence files and concern about breaching policy and being left liable if the offender revictimized the victim. These concerns will be addressed in more depth below. In contrast, there was much less resistance to using restorative justice with other forms of power-based crimes, including hate crimes and some sexual offences. Some jurisdictions were already referring some of these offence types to restorative justice, particularly if they involved a youth offender; however, there is potential for restorative justice to be used much more consistently with these types of criminal offences with both youth and adults, whether as a form of pre-charge diversion or as a process complementary to the formal criminal justice system processing of the file.

As discussed in the literature review, several models of restorative justice programming to address sexual offences exist elsewhere. For example, for nearly two decades, Project Restore in New Zealand has exclusively accepted referrals for offences of a sexual nature, whether there is formal police or court involvement in the file, while The CHAT Project in California offers a non-law

enforcement non-criminal response to domestic and sexual violence files (Kim, 2022). There appears to be increasing support for using restorative justice to address these kinds of offences, particularly given the challenges with seeing meaningful outcomes via traditional criminal justice system processing (e.g., Burnett & Gray, 2023; Ending Violence Association of BC & Just Outcomes, 2021; Goodmark, 2018; Randall, 2013). However, as documented by the Women's Legal Education and Action Fund (LEAF; Burnett & Gray, 2023), many provinces, such as Nova Scotia, Alberta, and Ontario, have established moratoriums that prevent the use of restorative justice in cases involving sexual violence. In contrast, British Columbia, New Brunswick, and Saskatchewan already allow restorative justice to be used in certain sexual offence files, such as sexual assault or sexual assault causing bodily harm (Burnett & Gray, 2023). Still, not all programs are prepared to accept referrals of this nature. It is essential that restorative justice practitioners who accept referrals for offences of a sexual nature receive additional training that is trauma-informed and survivor-centred, acknowledges the unique challenges posed by the nature of the relationship between many victims and offenders in these crimes, and training that reflects an understanding of the power imbalances in this type of offending (Keenan, 2018). For example, some practitioners who work with sexual violence files will only accept the file if it is survivor-led, rather than initiated by the offender (Burnett & Gray, 2023). Additional safeguards may also need to be put into place to support the victim's physical and emotional safety, such as risk assessments and safety plans, no contact orders that prohibit communication between the offender and victim outside of the restorative conference, and the involvement of professionals as part of the conference (Burnett & Gray, 2023; McGlynn et al., 2012). Additionally, to accept referrals of this nature, the restorative justice program should have established working relationships with programs designed to address the needs of these victims and offenders, such as sexual violence treatment programs and counselling. Finally, Keenan (2018) recommended that restorative justice practitioners who worked with sexual violence files also receive training on how sexual offending can traumatize and leave lasting effects on the victim, offender psychology, and the dynamics of sexual offending.

Intimate Partner Violence Files

While the focus of this study was primarily on pre-trial diversion to restorative justice, as discussed in the literature review, jurisdictions elsewhere have successfully implemented restorative justice diversion at the Crown Counsel or court level for lower-risk intimate partner violence files. In the New Zealand model, referrals to restorative justice for family violence typically occur via pre-sentence referrals made at court by a judge; however, the Ministry does not prohibit the use of restorative justice at earlier points (Ministry of Justice, 2019). At this stage, given the lack of research on police-based referrals to restorative justice and the existence of policy that limits options for police when responding to intimate partner violence files, it is recommended that priority be placed on increasing the use of post-charge approval Crown Counsel diversion to restorative justice for appropriate cases of intimate partner violence. Referring post-charge approval to restorative justice allows for conditions to remain in place to enhance victim safety and reduce offender risk. Charges could potentially be stayed or declined by Crown Counsel following successful completion of a restorative justice agreement.

If the police have arrested an individual for an offence relating to intimate partner violence, they will, in most cases, need to release the individual from custody, ideally with conditions attached,

unless they can articulate a need for longer detention, such as if there is a significant risk for violence or further victimization that cannot be reduced through conditions or there is reason to believe the individual will not abide by release conditions. In most cases, the preference is to release the accused with conditions attached (Government of British Columbia, 2010). These conditions may include a no contact order for the victim and children, a no go order preventing the accused from accessing the family home or other locations where the victim or children are likely to be, surrendering any firearms, and reporting to a bail supervisor (Government of British Columbia, 2010). During this period, if the officer has not already forwarded a Report to Crown Counsel, they will complete their investigation and recommend charges for Crown Counsel to review for charge approval. The conditions will remain in place until the individual's next appearance in court, which commonly occurs in approximately one month. Either following arrest or the issuance of an appearance notice (no conditions) or undertaking to appear (conditions), the police will forward a Report to Crown Counsel outlining the recommended criminal charges and available evidence to support those charges. Once charges have been forwarded, Crown Counsel will review and decide whether to approve and move forward with prosecution. At this point, the authors of this report recommend that Crown Counsel consider whether the file is appropriate for restorative justice. Of note, at this time, the authors of this report are not recommending that police refer the file to restorative justice as an alternative to criminal charges being recommended to Crown Counsel. However, the police can include a recommendation that the file be considered for restorative justice in their Report to Crown Counsel and can include justification for why they would recommend this.

The Alternatives to Prosecution – Adults Crown Counsel policy (ALT 1) states that, before approving criminal charges, Crown Counsel should first consider whether there are any alternatives to prosecution, such as diversion to a program, particularly when the file involves an Indigenous offender.¹³ Files involving power-based crimes, such as hate crimes, sexual violence, and intimate partner violence, are not prohibited from being referred to alternative measures; however, they require approval of the Regional Crown Counsel before the referral is made (ALT 1 policy). The Crown Counsel policy on intimate partner violence (IPV 1) specifically states that alternative measures can be used with intimate partner violence files so long as this option allows for the primary objectives of prosecution to be met. However, it limits the range of files where this is a suitable option by stating that it is best considered for use in files where there is not a history of prior intimate partner violence, where significant physical injuries have not occurred, and where the risk for revictimization is low, and it recommends that Crown Counsel first approve the charges before making the diversion, to allow for conditions to be placed on the offender. Of note, Crown Counsel policy (ALT 1) specifically prohibits making a referral to the BC Corrections Respectful Relationships Program as a form of diversion. What the authors of this report are recommending here is that, while some jurisdictions already do this, Crown Counsel more routinely divert appropriate files post-charge approval to an approved restorative justice agency (a memorandum of understanding should exist), and that part of the resolution that is discussed by the victim,

¹³ Of note, according to ALT 1 policy, the preference is for files involving Indigenous victims, especially if they are female, to be prosecuted.

offender, and any others attending the conference includes an agreement for the offender to participate in relevant programming concerning violence in relationships.

When police forward their Report to Crown Counsel, it is recommended that they should always include a copy of the British Columbia Summary of Intimate Partner Violence Risk (SIPVR) form. While not a formal risk assessment tool, this document can provide Crown Counsel with some insights into the risk factors that were present at the time the offence occurred. This information can provide some initial guidance to Crown Counsel regarding the appropriateness of the case for a restorative justice referral. For example, cases involving particularly high-risk factors, such as cases involving strangulation, coercive control, or recent escalations of violence, all of which are documented on the SIPVR, should signal that the case is higher risk and not appropriate for a restorative justice referral. A review of the case circumstances must also be conducted as part of the assessment of whether to refer the file to restorative justice. For example, this approach may be best used in situations where there has been a recent change in circumstances that has contributed to the current situation, such as a recent job loss or increased use of substances. In these cases, the underlying causes of the behaviour could potentially be effectively addressed through agreements to attend programming, such as counselling or programs that address the use of violence in relationships.

A best practice framework should be developed for British Columbia that provides examples of when and how to review intimate partner violence cases for potential referral to restorative justice, with examples of the types of cases that should be considered. Examples of appropriate programming that may commonly form part of an agreement in these cases would also be beneficial to include. While it is important that the victim and offender work together with the facilitator to create an agreement that is meaningful and addresses their unique situation, with intimate partner violence files, it is essential to connect the offender to relevant programs that address the risks present. There are some perpetrator abuse programs that show promise in reducing risk for revictimization. For example, using a small sample of participants, Wong and Bouchard (2020) found that a '*Men in Healthy Relationships*' program in British Columbia was associated with a reduction in physical and psychological abuse, while the '*Respectful Relationships*' (both names are pseudonyms) program reduced physical, but not psychological, revictimization (Wong & Bouchard, 2021). Research with the Strength at Home program in the United States has also documented successful reductions in physical and psychological re-victimization (Creech et al., 2023; Taft et al., 2013). These programs are cognitive-behavioural in nature, for example, addressing communication skills and calming techniques that teach the individual to pause before acting on their anger or frustration. However, while these programs have demonstrated some successful short-term outcomes, it is not clear how many of these types of programs operate in communities across British Columbia or what the waitlist for these programs might be. Notably, lack of relevant programming was cited as a concern in the study conducted by the Ending Violence Association of BC and Just Outcomes (2021). Further, while they demonstrated some short-term effectiveness, additional research is needed to examine long-term outcomes. Furthermore, the methods used and concepts addressed by programs addressing violence in relationships across British Columbia likely differ. Conducting an inventory of intimate partner violence programming across the province, like the study by Giesbrecht et al. (2023) in Saskatchewan would be useful.

While it is not recommended that police-based referrals to restorative justice are made at this time, given concerns about the inability to hold an offender accountable without criminal charges being approved and concerns about lack of recourse should the offender withdraw from the restorative justice process, it is recommended that further consideration be given to this practice in the future and that British Columbia explore options for offender accountability should a pre-charge referral to restorative justice be desired by both the victim and the offender. The research literature on use of restorative justice with power-based crimes and gender-based violence is still quite limited, and clarity on which type of files are most effectively resolved through this approach is not yet available. However, the findings of the current study are very promising in terms of the outcomes of restorative justice referrals, even when the files being referred involve adult offenders who have committed more serious offences. Given the repeat nature of intimate partner violence, effectively addressing the root causes of this behaviour may result in even greater reductions in future offending.

For police to refer select cases to restorative justice programming, there needs to be a clear framework available to support their decision making with reasonable checks and balances. For example, police officers would need to follow a screening process to determine whether a case meets the criteria for a restorative justice referral. They would then need to have a supervisor with relevant training and expertise review their recommendation before the file could be referred. In some jurisdictions, files will only be referred for this consideration if it is requested by the victim; however, the information collected for this report indicated that most referrals to restorative justice were a result of the police making this suggestion, rather than being requested by the victim or offender specifically. As part of the referral framework for files involving intimate partner violence, it would be important for the police officer to meet with the victim first to discuss whether restorative justice would be of interest to them before approaching the offender to gauge their interest. As part of these discussions, the police officer should consider current risk factors and safety measures in place, keeping in mind that risk is dynamic. It is important that the police officer work closely with their restorative justice programs during these early stages of a potential referral to ensure that communication with both parties remains a priority during the process of being handed over to the restorative justice agency. The results of the current study found that once a referral is made to a restorative justice program in British Columbia, there is little subsequent communication about the file between the restorative justice program and the police, and/or Crown Counsel. There are unique aspects to intimate partner violence files, for example, the ongoing and potentially dependent nature of the relationship between victim and offender, that suggests that it is imperative that communication continue to flow throughout the entirety of this process, to ensure that risk and safety considerations are always front of mind.

Adjustments would also need to be made to policy to allow for pre-charge police referrals of intimate partner violence files to restorative justice. One of the consistent concerns expressed by police participants was the inability to leverage conditions to restrict the offender's behaviour while in the community if the file was diverted to restorative justice. To support victim safety and manage the offender risk during this process, there would need to be a process to allow for conditions to remain in place during this process. Should the referral not be successful, whether this be due to the program not accepting the file, the victim or offender withdrawing at any point during the referral, or the offender failing to complete the agreement, Crown Counsel can then

proceed with approving the criminal charges and laying the information against the accused, re-initiating the formal criminal justice system response. This protocol could be legislated if British Columbia were to introduce a standards document or a *Restorative Justice Act* outlining where and when restorative justice must and should be considered for use in the province, and how to ensure offender accountability and provide for victim safety during this process.

ACCREDIT AND PROVIDE ENHANCED TRAINING FOR POWER-BASED RESTORATIVE JUSTICE SPECIALISTS

While not all restorative justice programs or practitioners may be willing to become involved in intimate partner violence files, like the recommendations above on training generally and on sexual violence more specifically, it is imperative that comprehensive and rigorous training be given to those who do decide to accept intimate partner violence files. This training should review the dynamics and unique aspects of abusive relationships, including the cyclical nature of abuse, common barriers to help-seeking, an understanding of common causes of abuse in relationships, the effects on victims and their children, the risk factors for re-victimization and lethality, and how to conduct a risk assessment and develop a case management plan. In particular, training should address coercive controlling behaviours given the threat this can pose to effective restorative justice processing and the need to screen out cases where coercive control is present. In addition, for a variety of complex reasons, not all victims of abuse necessarily want to leave their abusive relationship and may withdraw from services should they experience pressure to do so. The training should, therefore, consider ways to empower victims and increase their safety, supports, and resilience, as well as to reduce the risk posed by the offender through available programming and services.

The goals of restorative justice programming in cases of intimate partner violence should include increasing the victim's short- and long-term safety, holding the offender accountable through genuine expressions of remorse and actions taken to reduce risk, as well as the overarching goal to create healthy and safe families through early and effective interventions. For this to occur, it is imperative that the practitioners have a thorough understanding of intimate partner violence, and that a system of certification be implemented to ensure adequate training and comprehension (e.g., see the discussion by Keenan, 2018 in relation to sexual violence accreditation). While the authors of this report are not proscribing any particular method of training and certification, examples that are currently available in British Columbia include B-SAFER or SARA risk assessment training courses and certification, or the training course available online through the Canadian Police Knowledge Network on investigating and managing intimate partner violence files. While this latter course is specific to police, a similar course could be developed for restorative justice practitioners. While these types of training courses can provide added insights regarding the dynamics of intimate partner violence, it is also recommended that training involve opportunities to more actively engage in case scenarios with experts who can provide feedback, such as on the ability to manage the power dynamics during the conversation. Those who have completed the training and received their certification can subsequently be designated as accredited restorative justice intimate partner violence specialists. Similarly, those who have been "endorsed" to work on family violence cases in New Zealand are designated as specialists who have the capacity to conduct the

appropriate risk assessments, engage in safety planning and risk management, and partner with relevant service providers (Ministry of Justice, 2019). British Columbia may also want to consider requiring an added level of quality control, similar to New Zealand's, where an expert on intimate partner or sexual violence is required to supervise the work of specially accredited facilitators who work with family violence referrals. In this case, re-certification through a review process conducted once every two years may be a less onerous way of ensuring quality control. Finally, it is recommended that the province consider outlining in its standards when it would be beneficial or recommended to have others attend the conference. For example, it may be beneficial to have an expert on intimate partner violence attend restorative justice conferences where relationship violence is being addressed so they can speak generically to the common effects of violence on victims, as per the example discussed by McGlynn et al. (2012) regarding sexual violence. In addition, it is recommended that the police attend restorative justice pre-conference meetings or conferences themselves in certain cases, such as if the offender has a history of violence and/or if there are concerns about their potential risk.

ESTABLISH CONSISTENT PROTOCOLS FOR UNSUCCESSFUL RESTORATIVE REFERRALS

While the findings of this report provide support for restorative justice as an effective intervention to reduce re-offending, not all referrals to restorative justice are successfully completed. The interviews with practitioners and police revealed inconsistencies with the processes that followed an unsuccessful referral. In some jurisdictions, if the file was referred to restorative justice and it was either denied, or initially accepted but then failed at some point during the initial stages of the process, the police officer would then forward the file to Crown Counsel with recommended charges. In other jurisdictions, the moment that a referral was made, there was no other alternative, as according to the participants, Crown Counsel would no longer accept the file. This led to some concerns with using restorative justice with more serious offences, as some participants felt that offenders may be more willing to ask for or accept a referral to restorative justice to avoid criminal justice consequences, only to withdraw from the process once the referral was made. It is unclear where these inconsistencies in practice originated from, though it was implied by participants that regional practices by Crown Counsel were what differed. Of note, the Crown Counsel policy on alternative measures for adults (ALT 1) specifically states that “the use of alternative measures is not a bar to a subsequent prosecution, particularly when the accused fails to comply with the terms or conditions of the alternative measures plan” (page 4). This suggests that files that are initially referred pre-charge for consideration of a restorative justice resolution can subsequently be sent back to Crown Counsel for prosecution if the file is rejected by the restorative justice agency, including up to the point where the agreement is being carried out. However, the results of the interviews suggested that this policy was not being consistently upheld across the province, and so further education and awareness, and a more consistent approach to following this policy is imperative.

Certainly, files that are referred to a restorative justice program and screened out at the early stages should be returned to the police who can then proceed with the file through the formal criminal justice system. It is also recommended that this process be followed even if the restorative justice process has begun, for example, during the initial pre-conference meetings. This removes

the incentive for an offender to manipulate the process. In some of the examples of programs operating elsewhere, failures at any point in the diversion process will result in the file being returned to the police for subsequent criminal justice processing. For example, the New Zealand Police Adult Diversion scheme stipulates that if an offender fails to complete the formal agreement within the agreed upon time frame, the file will be returned to the police to continue with the formal criminal justice process. Similarly, the RESTORE project in Arizona, which involved referrals by Prosecutors, would return the file to court should the offender fail to complete their agreement. Given this, it is recommended that British Columbia emphasize to Crown Counsel across the province that the Alternative Measures policy clearly allows for files that were unsuccessfully diverted to be re-routed back through the formal criminal justice system.

DATA STANDARDIZATION

This current report is one of the first in British Columbia to quantitatively evaluate the outcomes of restorative justice referrals using a matched sample of non-referred files to draw conclusions about the effectiveness of restorative justice. Beyond the data presented in this report, little data was available to quantitatively describe the programs operating across the province. When asked to share data, such as the number of files referred, proportion of files involving offenders with varying characteristics, proportion of files accepted by the agency, and outcomes of the restorative justice referral, many participants reported that this information was not readily available. While the “E” Division RCMP have provided a referral form that agencies are expected to fill out as part of the referral process, not all agencies were consistently using this form, and it was not clear what happened with the information that was collected on the form. In effect, there is a lack of data being collected by restorative justice programs and the police, and any data that was being collected is not being done in a standardized manner. For example, several participants indicated that inconsistent tracking of the success of restorative justice was a result of lack of standardized reporting metrics and information sharing between the police and restorative justice programs. Since each agency or jurisdiction has created specific policies to link with community practitioners and local or regional Crown Counsel, several reporting systems are in place. Some agencies link restorative justice referrals to the initial PRIME file, while others have created an entirely different tracking mechanism, such as using spreadsheets and paper filing.

Given this, it is recommended that a standard method of data collection be designed and implemented across British Columbia to capture the quantity and nature of restorative justice referrals, participation rates, and short- and long-term outcomes. Participants indicated the need to modernize referral processes to include a provincial database that would capture referral data consistently across jurisdictions, including linkage to the initial PRIME file. There were several examples where a lack of consistent reporting has proved problematic. For example, when there are direct referral agencies, such as Loss Prevention Officers in stores, depending on the jurisdiction, a police file is not always created. If the store is not reporting to police or getting a file number, then there is no record, at least held by the police, that a crime has occurred and that it has been addressed through a referral to restorative justice. It would be possible to obtain data from referral agencies, but this could create privacy concerns and would be inefficient in terms of total acceptance of the program. A second area where this has created challenges is with performance

assessment. Police agencies rely on officer input for performance assessment. In part, this is captured by performance metrics, such as call response, number of files investigated, and file outcomes. Failure to recognize an officer's contribution to restorative justice by not capturing referrals is detrimental to the officer and could result in a lack of acceptance or desire to use referrals as opposed to trackable files. As discussed above, it is recommended that restorative justice form an official component of the annual performance plan, both for the individual officer and for the police agency. While not assessing the officer based on the number of referrals made to restorative justice, this information should be tracked, collated, and reported annually to the province as evidence of the frequency and range of files where restorative justice has been offered. Finally, there is a lack of information from the victims and offenders who access restorative justice, in terms of their satisfaction rates, the number of files that are successfully resolved, factors associated with unsuccessful completion of a restorative justice referral, the timelines for this process, and the long-term outcomes following the conclusion of a referred file. It is recommended that British Columbia commit funding to support more routine evaluations of restorative justice programs. Standardizing data collection and more routinely evaluating outputs and outcomes, such as through the submission of annual reports to the province, would also enable a better understanding of where restorative justice is being used effectively in the province, and where there may be a need to concentrate more training or resources.

FURTHER RESEARCH

This report answered important questions about the effects of pre-charge restorative justice referrals in British Columbia. However, it also raised several questions that should be addressed through future research. The results presented in this report related to offender outcomes suggest that future research should focus on changes in offender behaviours, including re-offending, over longer periods of time after participating with restorative justice. If restorative justice processes are to be seen as successful by communities and the criminal justice system, they must be shown to create lasting changes in offender behaviours. To understand how restorative justice effects offenders, it would also be prudent for researchers to examine which components of the restorative justice process have the greatest influence on offender outcomes. Is it the result of having to take responsibility for their actions? Are offenders most influenced by the presence of or input from the victim(s)/community? Are restorative justice referrals involving offender-only conferences less effective than those that involve the victim directly? Does the restorative justice process ensure there are sufficient support services provided to the offender? A closer examination of how restorative justice leads to different outcomes would prove useful for identifying the value-added using these types of alternative measures.

In particular, we recommend that research further explore the profiles of those who succeeded in their restorative justice referral and those who did not, in terms of future recidivism. An interesting finding in the current study involved the small group of offenders who were referred to restorative justice following a shoplifting offence who went on to commit a personal offence, often a common assault. There is need to better understand who composes this group and why this small pattern of offending progression emerged. In general, there is a need to better understand factors associated

with restorative justice failures and determine what those factors are and whether and how they can be effectively managed during the restorative justice process.

Finally, a rather large gap in the literature involves a lack of research dedicated to understanding the role of victims in the restorative justice process. Criticism often stems from a perception that restorative justice processes focus more on the rehabilitation of offenders as opposed to addressing the needs of victims (e.g., Gaudreault, 2005). Focused primarily on offender outcomes, particularly re-offending, the research has also favoured the offender component in the restorative justice process. Provided that one of the major goals for restorative justice is to repair harm, it is essential to understand how the restorative justice process addresses the needs of victims. In terms of preparations and referrals, researchers should seek to better understand what influences a victim's decision to participate in the restorative justice process. Are victims influenced by who approaches them, such as a police officer, a Crown Counsel, or a community service provider, or the timing of the request for participation (i.e., in the immediate aftermath of the offence versus at a later stage of the criminal justice system process)? Do victims understand what is expected of them in terms of their role in the process or their level of involvement, for example? What are the circumstances that make victims more or less willing to engage with the restorative justice process, and does their desire to engage with the process change over time? In addition to the preparatory stage, research is needed to better understand the long-term effects and outcomes associated with participating in a restorative justice process. There is a lack of post-restorative justice participation follow-up to determine whether victims receive sufficient, appropriate, and continuing supports. To develop best practices and ensure restorative justice processes are geared toward addressing the needs of victims, there is a need for more research dedicated to understanding the victims' views of restorative justice and the long-term outcomes associated with participating in these processes.

Conclusion

This report used quantitative and qualitative data to study restorative justice programs across British Columbia with the purpose of understanding the benefits and challenges with using restorative justice as a response to a wide variety of offending, including its potential use with power-based crimes. The quantitative data analyses clearly demonstrated the benefits of restorative justice on recidivism for different offence types. The qualitative information aligned well with the data and spoke more directly to restorative justice's potential benefits for more serious offending. Notwithstanding some of the challenges associated with expanding the use of restorative justice more broadly and specifically with power-based crimes, as discussed in this report, the conclusions reached support the notions that restorative justice programs succeed in involving victims, offenders, and community members in a collaborative approach to resolving crime, provide an opportunity for offenders to take responsibility for their actions and to understand the effects of their behaviour, reduce recidivism, and contribute to public safety. Given this, communities, school boards, business associations, police agencies, and Crown Counsel should consider restorative justice as the primary response mechanisms for more crime types and offenders than is the current practice and pilot project sites should be established to better test the utility of restorative justice for power-based crimes. No longer should restorative justice be used

exclusively or primarily with young offenders, first-time offenders, or those who have engaged in a minor property crime. Instead, with the proper funding, training, and education, more victims and offenders should be able to benefit from the powerful outcomes possible with restorative justice, while freeing up the formal criminal justice system to address the most serious offenders or those unwilling to participate in a restorative justice process.

Appendix A

Offence	CSI Weight
Arson	144.85
Assault, level 1	79.37
Assault, level 2, weapon or bodily harm	23.43
Breach of probation	33.29
Breaking and entering	186.99
Child pornography	160.21
Criminal harassment	45.36
Criminal negligence causing bodily harm	58.31
Disturb the peace	8.92
Extortion	229.22
Fail to comply with order	24.30
Fraud	108.74
Identity fraud	87.35
Impaired operation of motor vehicle, vessel or aircraft	13.44
Impaired operation, failure to provide breath sample	22.75
Indecent or harassing phone calls	17.34
Intimidation of a non-justice participant	66.52
Invasion of privacy	41.77
Mischief	29.73
Obstruct public or peace officer	28.81
Offences against rights of property	185.49
Pointing a firearm	583.32
Possession of weapons	88.41
Possession, cannabis	6.71
Possession, cocaine	10.67
Possession, heroin	10.67
Robbery	583.32
Sexual assault, level 1	210.98
Sexual interference	210.98
Shoplifting \$5,000 or under	37.41
Shoplifting over \$5,000	139.45
Theft \$5,000 or under	37.41
Theft over \$5,000 *2130*	139.45
Trafficking, cannabis	52.82
Trafficking, cocaine	136.04
Trafficking, Methylenedioxyamphetamine (ecstasy)	173.37
Utter threats to property or animal	29.33
Uttering threats	46.39
Voyeurism	85.52

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