Jessica Ames
Restorative Justice: Including
Victims, Offenders and
Communities in Criminal
Justice Dialogue

ABSTRACT

Restorative justice (RJ), an alternative to the dominant retributive justice system,

is a more holistic approach that encompasses the victim, offender and the community.

This study supplemented existing research by exploring the perceptions of RJ experts and

facilitators on the impact of RJ practices on offender reentry, as well as victim and

community satisfaction. The study addressed the following questions: What is restorative

justice? What are the major outcomes and challenges? What is the role of social work?

The review of the literature compared the retributive justice model with a

restorative justice framework for responding to crime. As restorative justice is a relatively

new area of research, the study used a flexible research design to understand the

emerging phenomenon. Data were gathered through narrative interviews with ten RJ

experts and facilitators, including several pioneers in the field.

Restorative justice is not simply victim offender mediation, although they often

get confused. Fully restorative practices, which involve the victim, offender, and

community, have several different applications including victim-offender meetings for

less serious crime, serious and violent crime dialogue, circle processes, and community

accountability boards. Partly restorative practices, which do not include all the

stakeholders, include contacting victims, community service and defense outreach. The

study's most significant finding, however, was that specific programs are far less

important than the philosophy and principles associated with restorative justice.

Study participants reported several outcome criteria including victim and community satisfaction, offender recidivism rates, offender satisfaction, restitution payment, and story-telling. Seven out of ten noted that restorative justice interventions were mostly positive, and struggled to come up with a single negative example. The two factors most likely to contribute to negative outcomes were lack of preparation on the part of the facilitator(s) and inappropriateness of a participant.

Although funding was seen as a major challenge, the most significant challenge participants noted was creating a paradigm shift in the way criminal justice is viewed. The U.S. justice system is based largely on a punitive approach, while restorative justice requires systems thinking in which the offender, victim and community all play an important role.

Participants felt that a balanced approach—both top-down and bottom-up—was needed to grow and sustain the restorative justice movement. Created largely through grassroots, volunteer efforts, field workers need to collaborate more to share best practices, advocate for greater funding, and educate the public. At the same time, if restorative justice is going to have lasting impact on the justice system, it needs government involvement to provide additional legitimacy, funding and support. Additional research is also needed, along with clearer benchmarks of successful outcomes.

Restorative justice values greatly mirror social work values of self determination, individuality, acceptance and accountability. To keep ordinance with the Social Work Code of Ethics, social workers should be aware of this philosophy so they may positively advocate for clients as well as more just and principled statewide and national policies.

At the same time social workers should be aware that mixing the roles of therapist and restorative justice facilitator could be detrimental to restorative justice outcomes. Those who wish to facilitate victim offender dialogue should do so carefully.

RESTORATIVE JUSTICE: INCLUDING
VICTIMS, OFFENDERS AND COMMUNITIES IN
CRIMINAL JUSTICE DIALOGUE

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Jessica Ames

Smith College School for Social Work
Northampton, Massachusetts 01063

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TABLE OF CONTENTS

CHAPTER I

INTRODUCTION

Over two million people are currently incarcerated in the United States, making

up the largest prison population in the world, (Pager, 2003). Of the 500,000 individuals

released annually, between 30 to 60% return to prison within two years (Morgan, 1993).

This phenomenal statistic suggests that the United States justice model is struggling in its

ability to integrate formerly incarcerated individuals into communities. Additionally,

victims and communities are currently overlooked as stakeholders in the aftermath of

crime, which contributes to an overarching feeling of fear in communities and a feeling

of isolation by victims (Bazemore & Schiff, 2005; Herman, 1992).

An alternative to the dominant U.S. retributive justice system, restorative justice

has been suggested as a more rehabilitative criminal treatment model and is regarded by

advocates as a social movement with principles that support ethical treatment across

government and community systems (Pranis, 2005; Zehr, 2002). Restorative justice

proponents suggest that all individuals affected by a crime should have an opportunity to

heal, which in turn creates safer communities and more positive outcomes for both

victims and offenders (Zehr, 2002).

Restorative justice includes practices such as victim-offender mediation and

peacemaking circles in which victims, offenders and communities are encouraged to talk

in development of appropriate responses to crime (Bazemore & Schiff, 2005; Umbreit

2000). Restorative practices have existed for centuries, particularly within indigenous

cultures that use talking circles as a way to communicate group issues (Pranis, 2005). Its

emergence in the United States in the 1970's was a result of pioneering efforts by

restorative justice (RJ) advocates who recognized the need for a different way of

responding to harm (Zehr, 2002). While the restorative justice term was coined in the

late 1970's, there was a real surge in RJ programs and RJ practice in the 1990's due to

increased incarceration rates (Western, Kleykamp, et. al., 2006), community

dissatisfaction and a government mandate that juvenile offenders be rehabilitated more

effectively (Bazemore & Schiff, 2005). Between 1992-1996 "all but ten American states

legislatively excluded large categories of young offenders by type of crime, age, or some

combination of both and generally made it much easier to prosecute juveniles in criminal

court" (Bazemore & Schiff, 2005, p. 5).

    The questions proposed for this study were: How did US pioneers of restorative

justice move the philosophy forward and What are experts' concerns about (1) issues

related to its diverse enactment and (2) hindrances to the movement's progression?

Experts in the field were asked to give detailed accounts of restorative justice outcomes

and to explain what practices are currently being used. The purpose of the study's

questions was to gain a clearer picture of a fast-growing movement.

    For example, the restorative justice movement has grown significantly since its

grassroots beginnings in the 1970's with over 1200 worldwide Victim Offender

Mediation Programs currently in existence; eight times as many programs as there were

the 1990's (Victim Offender Mediation Association, 2007). However, according to

participants in the current study, 99% of RJ practitioners are still working voluntarily

without pay and the movement lacks the funding necessary to fully support its practice

and research (Strehorn, 2004). The current study intended to supplement existing RJ research by exploring RJ experts and facilitators' perceptions on whether RJ practices impact offender reentry and victim and community satisfaction, and what needs there are locally and nationally for restorative justice to grow successfully as a movement.

Multiple theoretical and empirical studies informed the current study. Empirical research on recidivism rates and risk factors helped determine the need for alternative forms of justice (England, 1955; Morgan, 2003), and psychological and sociological theory allowed for an analysis of positive and negative outcomes for RJ participants (Braithwaite, 1989; Rothbaum & Foa, 1999). Some studies reviewed took place overseas as there are other countries, such as New Zealand, that are more fully engaged in restorative practices (Sherman, et. al., 2005). The current study supplements international restorative justice research by investigating the phenomenon domestically. The current study also looks at multi-modal interventions as opposed to focusing solely on the practice of Victim Offender Mediation, a tendency of other restorative justice studies (Sherman, et. al., 2005).

To examine restorative justice in real-life settings, a qualitative design with flexible methods was used. Conference facilitators and restorative justice experts were interviewed face-to-face and on the telephone. Sample participants came from a variety of professional backgrounds, including law, social work and the clergy. All interviews took place at a mutually convenient time and place and were audio-recorded for transcription and a narrative analysis of the data.

By understanding the restorative justice philosophy and principles, social workers may be able to advocate for more effective judicial practices and appropriate legislation.

"Social workers can collaborate with lawmakers and other professionals to develop and implement laws and policies that maximize… therapeutic outcomes" (Madden, 2003, p. 44). Additionally, social workers' direct expertise working with victims and offenders may shed light on ways to enhance positive outcomes of restorative justice practices. Clinicians' experience working with trauma survivors may also benefit restorative justice facilitators by helping to impart appropriate safeguards to avoid causing further harm.

In order to advocate for more ethical treatment of the stakeholders involved in crime, it is important to understand what the current justice practices are and what needs continue to exist in the field. Unfortunately, there "have been no definitions that provide an objective standard for evaluating the quality and strength of a restorative intervention" (Bazemore, 2005, p. 28). However, the following study will also examine expert perceptions of the various standards in existence and review expert suggestions for alternative methods of measurement.

CHAPTER II

LITERATURE REVIEW

The following review of the literature will compare and contrast the retributive justice model with a restorative justice framework for responding to crime. Both retributive and restorative justice will be reviewed in terms of their history, theoretical purpose and outcome literature. First, the psychology behind retributive justice will be examined. As this is the predominant justice model operating in the United States, U.S. prisoner demographics will also be described in this section. Risk factors for imprisonment and recidivism will then be reviewed to reveal the disproportionate amount of minority individuals incarcerated in the U.S. penal system (Morgan, 1993; Western, Kleykamp & Rosenfeld, 2006) and to consider factors impacting the likelihood of being incarcerated after release from prison.

The next section examines the philosophy of the restorative justice movement and pioneering efforts to enact RJ practices in North America. Specific restorative justice principles and guidelines to promote effective practice will be discussed and restorative justice outcomes will be reviewed using trauma and re-integration theory (Braithwaite, 1983; Herman, 1992). Finally, current standards for measuring restorative outcomes and future RJ research needs will be described (Bazemore & Schiff, 2005).

In general, this review of the literature is intended to offer a framework for understanding the restorative justice movement and its emergence in response to the disadvantages of the retributive criminal justice model. The goal of the current study was

to examine perceptions of restorative justice experts and facilitators on current needs, goals and challenges within the movement. This review of the literature was designed to organize the concepts of retributive and restorative justice for those not expert on the topic.

<div style="text-align:center">Criminal Justice: A Compensatory and Retributive Model</div>

This section describes the psychology of retributive and compensatory justice in the current U.S. justice system. By examining why retributive and compensatory justice subsist, insights into resistance to the restorative justice movement might be gained. The current U.S. prison population will be then be described, as will the increasing disparity of those incarcerated to inform the need for a more ethical and nondiscriminatory justice model. Additionally, this section will detail various classifications of crime, and consider offender psychology to benefit the understanding of how and why people react to and commit crime. Finally, recidivism risk factors and reintegration issues will be explored.

<div style="text-align:center">*Retributive and Compensatory Justice*</div>

The Current U.S. Justice System

"For some hundreds of years the legal system of our culture has faced the necessity to hear real cases of harm and to decide what punishments the perpetrators may deserve and what compensations are required of them for the damages they caused" (Darley, & Pittman, T., 2003, p. 329). Using psychological theory, research and a review of the U.S. criminal justice system, Darley and Pittman (2003) defined and described the psychological response to harm as a feeling of blame promoting a belief that an offender should receive punishment; and/or a feeling of responsibility to the victim promoting a belief that the victim should be compensated for the harmful act.

According to Darley and Pittman (2003), justice entails emotional and reasoning components that affect the two forms of justice-providing actions existing in the US; compensatory and retributive justice. *Compensatory justice*, as the phrase implies, centers on compensation for the victim and is often the focus of civil court proceedings. Compensatory justice may constitute a monetary or material reimbursement, which can be difficult to ascribe; for example how does one decide the monetary equivalent for a prized horse or a beloved father (Darley and Pittman, 2003)? *Retributive justice,* in contrast, is the primary focus of criminal court proceedings. Its psychological purpose is an attempt to deter offenders and community members from committing crimes, to provide offender rehabilitation, or to solely punish punitively as in "an eye for an eye" (Darley & Pittman, 2003, p. 329).

"Moral philosophical underpinnings of criminal justice offer several reasons why people might seek to punish wrongdoers" (Darley & Pittman, 2003, p. 329). For example, the most significant motive, according to Darley and Pittman (2003), is the feeling that punishment will deter future crime by the offender and the community, who will see that the positive outcome of a crime does not outweigh its punitive outcome. The understanding of incarceration as prevention for future crime may be considered a pessimistic understanding of the U.S. justice model; a more optimistic understanding being that incarceration offers offenders the opportunity to adjust attitudes which thereby enhances their ability to integrate into communities (Darley & Pittman, 2003). However, while rehabilitative programs were a prime focus in U.S. prisons during the 1980's, most of these programs lacked adequate funding. Thus, the outcome is a currently model functioning primarily under the punitive philosophy (Darley & Pittman, 2003).

Psychology of Retributive Practice

The motive of punishment described by Darley and Pittman as a feeling of "just deserts" (2003, p. 329) is the sentiment that punishment is not solely implemented to keep communities safe from future crimes nor is punishment implemented to rehabilitate the offender, but rather it simply penalizes perpetrators for past behaviors. This perspective which is often called "retributive" and perceived as "vindictive" has philosophical and psychological justifications (Darley & Pittman, 2003, p. 33).

Many psychologists, for example, have emphasized the significance of an individual's worldview, which is learned in early childhood, remaining stable so that environment and daily living remain predictable and controllable (Darley and Pittman, 2003). Threats to an individual's worldview, such as a violation of laws or rules, may be perceived as threatening the "fabric of society" and may lead to learned helplessness, cognitive dissonance and disequlibration (Darley & Pitman, 2003, p. 330). Additionally, worldviews, which are a powerful part of an individual's personality, are "likely to be defended with real vigor when threatened" (Darley & Pitman, 2003, p. 330), resulting in the belief that those that deter from the norm must be punished in order to keep society predictable and controllable.

Compensatory versus Retributive Justice

According to Darley and Pitman (2003), whether punishment, compensation or both are utilized depends on the moral outrage of the community and whether there is an assumption that the offender intended their actions. The need for punishment diminishes when the moral outrage and belief of intent are less severe; cases wherein compensation is often felt as most appropriate (Darley & Pittman, 2003). How individuals and

8

communities respond psychologically to crime is important if we consider which crimes and perpetrator characteristics evoke high moral outrage. Reactions to crime have been described as visceral and the extent of these reactions are dependent on whether harm was foreseeable or unforeseeable. Critics suggest that there are deep-rooted feelings about punishment and crime responses, helping the retributive system survive even while critics continuously reflect its flaws (Darley & Pittman, 2003).

Moral outrage and a feeling of just deserts, according to Darley and Pittman (2003), also have an impact on sentencing. They noted two reasons for incarceration and punitive sentencing in the U.S.: (1) deterrence, that imposing sentences will decrease perpetration for fear of punishment and (2) incapacitation, that perpetrators that are incarcerated will no longer be a threat to the community. Darley and Pittman (2003) argued that it is the latter that is the most widely ascribed reaction of punishment in the U.S., an implication that fear on the part of society impacts sentencing and criminal punishment of offenders of crime.

Darley and Pittman's (2003) research informs the current study in that face-to-face meetings and considering offenders' remorse may decrease moral outrage of the community and thus the psychological need to impart punitive sentencing. Additionally, Darley and Pittman's (2003) research suggests that clarifying offender intent may be important to the victim and the community; that the more opportunity victims and communities have to see that an act was unforeseeable or to explain what harm resulted from the act, the less restrictive and more appropriate the punishment may be.

Probation: An Attempt to Decrease Punitive Sentencing

Like restorative justice, probation emerged as a result of community dissatisfaction towards an excessively punitive judicial system (New York City (NYC) Dept. of Probation, 2006; Strehorn, 2004) and may be considered a similar attempt to offer offenders a less restrictive punishment. *Probation* has its roots in the middle ages and is derived from the Latin word, "probare," which means to prove oneself (NYC Dept. of Probation, 2006). The practice of probation allows offenders who would otherwise be incarcerated avoid imprisonment by adhering to other provisions.

Probation, however, has been greatly criticized for its failure to rehabilitate and deter offenders (Morgan, 1993). While empirical studies on probation outcomes report a diversity of recidivism rates, several studies suggest that there is a significant risk for re-offending when ex-offenders receive probationary sentencing. Studies conducted in the 1970's and the 1980's analyzing over 1,000 probation cases across the U.S. found either a 33% or 50% rate of recidivism, which was defined as arrest, conviction or revocation of the probation sentence within two years of fulfilling the probation sentence (Morgan, 1993). Tippman and Rogers (1976; 1981) found probationers even more likely to recommit a crime than non-probationers and attributed this to the shaming of the probationary experience (Morgan, 1993). Others have argued that the reason probationers were more likely to be incarcerated than non-probationers was due increased inspection and lack of anonymity (England, 1955).

The US Prison Population

A Skyrocketing Incarceration Rate

In 2003, over two million people were incarcerated in the United States, making up the largest prison population in the world (Pager, 2003). While the U.S. has historically maintained a significantly large prison rate per population, this number is particularly significant as there were only 1.3 million individuals incarcerated in the late 1990's. The U.S. prison population has grown more than four-fold in the past 40 years (Western, Kleykamp, et. al., 2006) with the incarceration rate averaging about 100 per 100,000 individuals between 1920 and 1970 versus approximately 470 per 100,000 individuals in 2001 (Western, et. al., 2006).

To examine the cause of the prison boom of the late twentieth century, Western et. al. (2006) used annual data from 1983 to 2001 to examine men's probability of being imprisoned in relation to age, race and education demographics. Researchers questioned whether the boom was due to rising income inequality occurring from the mid 1970's to the 1990's or whether it was due to other factors. To investigate this question, Western et. al. (2006) compared racial differences, and economic and educational experiences prior to imprisonment. Theories and prior research assumed that rising poverty increased crime rates, and that economic dislocations produce anxieties among the rich about increased crime rate, thus producing a trend in "criminal justice policy that draws those on the margins of the labor market into the penal system." (Western et. al., 2006, p. 2294).

Using a regression analysis of detailed admission rates, researchers found that imprisonment risks did shift during this time period across level of education and race but

not across age groups. Most of the growth in risk for imprisonment was concentrated among Black men who had less than a high school education. While the economy grew in the 1990's Black men without a high school education experienced the largest losses in employment and the largest growth in imprisonment rates (Western et. al., 2006). Also noted was that intensified punishment, rather then increasing crime, was the likely mechanism for increased incarceration (Western et. al., 2006). This economic inequality not only affected higher rates of imprisonment, it also promoted inequality due to imprisonment. "Because the official criminality conveyed by a prison record affects a variety of life chances and citizenship rights, and imprisonment is increasingly concentrated at the margins of economic life, the prison boom reinforces lines of social disadvantage" (Western et. al., 2006, p. 2292).

Prisoner Demographics and Risk Factors

Researchers have shown that numerous factors impact a formerly incarcerated individual's ability to reintegrate into the community. One of the ways this reintegration has been measured is through recidivism rates with findings demonstrating that race, criminal history, and age impact the likelihood of re-offending (Moran, 1993). In analyzing how and whether restorative justice is successful in increasing reintegration into communities and decreasing recidivism, it is important to note what risk factors formerly incarcerated individuals face when making their attempt to assimilate back into society.

According to Western, et al. (2006), the spike in incarceration rates has had a greater impact on certain segments of the U.S. population. "The prison admission rate rose little among the college-educated" whereas the percentage of Black and White men

(ages 20-39) without high school diplomas rose considerably from the early 1980's to the

late 1990's (p. 2293, 2006)). For White males without high school diplomas,

incarceration grew from 1.55% to 3.37%; for African American males without high

school diplomas incarceration grew from 7.09% to 16.3%. Not only was a Black male

without a high school diploma more likely to be incarcerated than a White male with a

similar education, African Americans were found to be five to ten times more likely to be

incarcerated than Caucasian males with "the combination of racial and educational

inequality strikingly [affecting] young black male dropouts" with an estimate of one in

six entering prison every year in the 1990's. (Western et. al., 2006, p. 2293).

According to Pager (2003), incarceration greatly affects an individual's likelihood

for future employment and this chance for employment is even more affected by race. In

Pager's (2003) study where three hundred and fifty employers were approached by either

a Black or Caucasian applicant, thirty-four percent of Caucasian applicants without

criminal records received callbacks versus 17% with criminal records. African-American

applicants were at a much greater disadvantage finding employment post-incarceration as

14% of African American applicants without criminal records received callbacks versus

only 5% with criminal records.

Peerson, Sigurdsson, et. al.'s (2002) evaluation of 461 Icelandic prisoners found

that that almost half (48%) of the prisoners re-offended within five years of release from

prison. Participants in this study were categorized into two groups, recidivists and

desisters, with desisters being individuals who did not commit a crime within five years

of release from prison and recidivists being those individuals who did. Peerson, et. al.

(2002) found that recidivists were more likely to have committed their first crime at a

younger age and to report a more extensive criminal history; and also found that recidivists had more significant drug use histories than desisters, reporting using marijuana, cocaine, alcohol, amphetamines and other drugs more than the desisters.

Types of Crime and Offender Psychology

To understand the levels of crime used in the current penal system and how they are also distinguished in restorative justice practices, this section classifies levels of crime using Godfrey and Schulman's (1972) three-tiered organization. It should be noted that crime classifications vary depending on institution and research model. Godfrey and Schulman (1972) found this three-tiered classification as an optimal solution to classifying penal crimes for scientific research. These tiers include (1) Crimes Against Persons; (2) Crimes against Property and (3) Pencil and Paper Crimes.

Specific crimes are assigned to each tier within the model. *Crimes Against Persons* includes manslaughter and murder, first-degree burglary, assault with intent to commit a felony, statutory rape, rape, kidnapping, attempted murder, robbery, attempted robbery, maiming and wounding another, child molestation, child abuse and assaulting an officer (Godfrey & Schulman, 1972). *Crimes against Property* includes second and third-degree burglary, grand larceny, shoplifting, receiving stolen property, pick pocketing, and arson (of an unoccupied building). *Pencil and Paper Crimes* include forgery, embezzlement, and obtaining money under false pretenses. Godfrey and Schulman (1972) noted that there are other crimes that do not fit into any of the three categories listed above.

Using the three-tiered model of crime, Godfrey and Schulman (1972) evaluated potential characteristics of individuals in each of these three categories. By administering

and evaluating a group test battery to 178 California inmates, Godfrey and Schulman (1972) identified common characteristics of offenders.   The tests, administered upon prison admission, included the Revised Beta examination (1946 edition); tests of educational progress in reading and mathematics; a general aptitude test battery; the Minnesota Multiphasic Personality Inventory; the Kuder Preference Record; and the Graham Kendall Memory for Designs test (Godfrey & Schulman, 1972).

Results showed that personality characteristics correlated with type of crime committed and prior criminal history correlated with type of crime committed in the future. For example, individuals committing the most violent offenses such as manslaughter or murder were often in prison for the first time. Additionally, if released, these individuals were not likely to be readmitted for a violent crime of the same intensity (Godfrey and Schulman, 1972). The findings also showed that much younger individuals were often incarcerated for committing crimes against property and these individuals often committed crime as a result of "peer-group pressure, financial problems, alcohol, drugs, or as overt expressions of anger" (Godfrey & Schulman, p. 339, p. 1972). Personality characteristics of paper and pencil offenders were generally more passive and dependent than personality characteristics of offenders committing other types of crime (Godfrey & Schulman, 1972).

While it is apparent that not all individuals who commit property crime are youths and not all individuals who write fraudulent checks are passive in personality, Godfrey and Schulman's findings do describe motivations and characteristics specific to crime classification and offender-type, and suggest that the current U.S. justice system has not acted responsibly in response to these differences. For example, prisoners of varying

ages committing crimes of varying degrees are often grouped together in the same jail cell or prison environment which may then have a negative impact on rehabilitation potential (Godfrey and Schulman, 1972). These prisoners may lack the opportunity for support that might be gained by living with individuals with more common histories and age demographics. The current study examined whether RJ, a more individualistic approach to responding to harm, was more effective in responding to offender needs.

Restorative Justice: A New and Old Movement

This section describes the emergence of Restorative Justice in the United States, a grassroots movement that started in the 1970's that gained significant momentum in the 1990's: in part a response to increasing juvenile violence and increasing incarceration rates. While the restorative justice term was coined in the 1970's restorative practices have been in existence for centuries, having been used by indigenous cultures across the world (Pranis, 2005). This chapter will first introduce the emergence of restorative justice in the United States relaying a brief history of its philosophy.

History and Emergence of Restorative Justice

While current North American restorative justice practices began in the 1970's the movement was not widely implemented until the 1990's (Bazemore & Schiff, 2005). Restorative justice began with an experimental program in the Minnesota Department of Corrections in 1972 which used victim-offender meetings with adult inmates who were eligible for early release from prison (Bazemore & Schiff, 2005). "Restorative justice advocates were concerned about needs not being met in the usual justice process" (Zehr, 2002, p. 13). At that time, the practice was called *Victim Offender Reconciliation*.

However, "the idea of bringing together a victim of a crime and the person who committed that crime is based on age-old values of justice, accountability, and restoration" (Victim Offender Mediation Association, 2007). In 1990, there were approximately 150 such programs; in 2000, there were more than 1200 programs world-wide" (Victim Offender Mediation Association, 2007).

Restorative Justice Philosophy

"In many communities in various parts of the world, citizens and juvenile justice professionals are engaged in new and distinctive encounters with… offenders, their victims, families and supporters" (Bazemore & Schiff, p. 3, 2005). There are numerous ways these encounters occur and are named according to methodology (Bazemore, 2005). We will discuss distinctions across face-to-face meetings later in this section. First, restorative justice principles will be discussed to inform the understanding of the values implicit in its practice.

According to Howard Zehr (2002), "restorative justice is based upon an old, common-sense understanding of wrongdoing" (p.19.), including the principle that crime is a violation of relationships which creates the obligation to right the wrong. *Interconnectedness* is a theme associated with this wrongdoing and is notable in cultures across the globe. For example, "in the Hebrew scriptures, this is embedded in the concept of *shalom*, the vision of living in a sense of "all-rightness" with each other, the creator and the environment (Zehr, 2002). The Maori express the notion of interconnectedness using the word, *whakappa*; Native Americans use the word *hozho;* and *ubuntu* is a used by many Bantu speaking Africans (Zehr, 2002).

From this perspective, crime is a wound to the community, is harmful to

relationships and has a ripple-effect, impacting the whole society. This view implies that

obligations must be met to undo or repair this ripple-effect and that all stakeholders (the

offender, the community and the victim) should be part of this process. According to

Howard Zehr (2002), the restorative justice movement emerged as a way to respond in

new ways to needs resulting from crimes and to rethink "the roles implicit in crimes"

(p. 13). Restorative justice pioneers did not feel that crime victims' needs were being

met adequately in the usual retributive justice system. Zehr (2002) noted that the way the

criminal justice process operates, four types of victim needs were often neglected: 1)

information, 2) truth-telling, 3) empowerment and 4) restitution/vindication. *Information*

refers to victims' needs for answers to why the crime happened and the outcome for the

offender post-crime. Rather than this being offered in a systemic way, Zehr (2002)

proposed that "real" information is most often received when a victim has direct or

indirect access to the offender(s). *Truth-telling* was described as a way to heal and/or

transcend harm caused by a crime. Often victims feel that it is important to tell and re-

tell their story, (a phenomenon that will be examined later in this literature review as it

relates to trauma theory and healing). Zehr (2002) suggested that truth-telling is critical

because crime upsets [the victim's] views of the self and the world. Thus, it is important

to tell the story and "restore" the experience in settings where the individual is

acknowledged. Third, *empowerment* is a need for victims as they often feel out of

control or feel that control has been taken away from them in response to a crime.

Allowing victims to participate in the justice process may restore a feeling of control.

Finally, *restitution* may positively impact actual losses, but it also symbolically implies

that an offender has taken responsibility for the crime as opposed to the victim being held accountable. Restitution, according to Howard Zehr (2002) is actually a "symptom" of the need for vindication (p. 15.).

Another stakeholder who benefits from restorative justice principles, according to Howard Zehr (2002), is the offender. In addition to positive outcomes resulting from being held accountable for the harm caused, restorative justice proponents suggest that offenders benefit from encouragement to "experience personal transformation" and support with reintegration into the community (Zehr, 2005, p. 17). For some individuals temporary restraint is also a need (Zehr, 2005).

Finally, community members not only have needs resulting from harm caused in their locality, they have a role to play in enacting appropriate outcomes for stakeholders (Zehr, 2002). Restorative justice philosophers argue that that the current system, in which the government sentences individuals in the name of the community without true community input, undermines the sense of community. RJ proponents suggest that communities require attention to their "concerns as victims" and communities should be given the opportunity to "build a sense of mutual accountability" by being encouraged to "take on their obligation for the welfare of their members… and foster the conditions that promote healthy communities (Zehr, 2002, p. 18).

Howard Zehr (2002) described the principles of restorative justice and their difference from retributive principles in identifying which questions restorative justice asks. For example, while criminal justice asks: What laws have been broken? Restorative justice asks: Who has been hurt? While criminal justice asks: Who did it?

Restorative justice asks: What are their needs? And while criminal justice asks: What do they deserve? Restorative justice asks: Whose obligations are these? (Zehr, p. 21, 2002).

Zehr (2002) identified three principles of restorative justice in addition to the identification of three stakeholders. The first, *harms and needs*, focuses on the importance of identifying victims' needs first and foremost. The objective is to repair harm as much as possible using both symbolic and concrete methods. This means that victims' needs should be considered even when there is no offender identified. The second principle described by Zehr (2002) is that harm results in *obligations*, which means that the offender's accountability and responsibility should be a main focus of restorative interventions. Rather then the retributive stance in which accountability equals punishment, restorative principles infer that offenders must be held accountable in order to better understand the harm caused so they may take responsibility and make amends. Finally, the third restorative principle described by Zehr (2002) is that interventions should promote *engagemen*t by the stakeholders; those affected by the crime should have a role in the justice process. In some cases this means dialogue between parties; in others indirect communication or other involvement is suggested.

Rather than punitive, court ordered sentencing, restorative justice favors inclusive, collaborative processes and consensual outcomes (Zehr, 2002). Current RJ interventions will be reviewed in the following section, followed by an assessment of restorative justice outcomes.

Restorative Justice Interventions

Restorative justice may happen pre-adjudication or post-adjudication; *adjudication* refers to a judicial decision (Merriam-Webster, Incorporated, 2005). In

20

some cases, victim offender mediations are held after a case is referred to court but before an official fine is charged as a form of deterrence (Bazemore & Schiff, 2005). Peacemaking circles may be used in order to prevent crime from erupting in emotionally charged communities and offer a place where different perspectives can be heard in a safe space regarding community issues. *Serious and Violent Crime Dialogue* refers to some meetings held post adjudication in which a victim or his or her family meets face to face with the offender regarding more serious offenses such as murder and assault. Additionally, newer forms of RJ practices are emerging in the U.S., including the use of circles within schools and job sites as a means to discuss conflict (Pranis, 2005). The following section will detail some of these practices in more detail.

Victim-Offender Conferencing and Mediation

     Victim offender conferencing (VOC) is "a process of dialogue, negotiation and problem solving involving those most directly affected by [a] crime" (Schweigert, 1999, p. 29). While conferences vary in size and makeup, the main focus of these VOC meetings, that offer a mediated space where victims, offenders, community and family members can discuss a crime and its impact, appears consistent across programs (Schweigert, 1999; Strehorn, 2004).

     Theoretical literature is useful in understanding the purpose of victim-offender dialogue. Restorative justice and interaction ritual theorists suggest that face to face encounters are essential in promoting successful outcomes in the aftermath of crime and these meetings should focus on emotion, understanding and agreement (Collins, 2004; Van Ness, 2001). *Amends*, defined as the offender repairing harm through acts of

apology or restitution, is also an essential component of VOC as are clearly-defined boundaries and an agreed upon purpose (Collins, 2004).

In some meetings, only the victim, offender and mediator are present. These are often called *victim-offender mediations*.   In other meetings community and family members attend as well (Schweigert, 1999; Strehorn, 2004) which may be referred to as *family group conferencing*. It is important to note that while victim-offender dialogue is considered a form of mediation, the process differs greatly from other forms of mediation in that it does not serve as a forum to discuss guilt. The offender has clearly been charged with a crime and the victim has been clearly affected by this crime. The purpose of these meetings is to serve as a therapeutic and rehabilitative process for victims, offenders and other individuals affected by crime (Zehr, 2005). The process usually begins with participants discussing the incident from their points of view, then discussing issues arising in the aftermath, and exploring ways to solve problems and perhaps arrive at a settlement by consensus. It is important to note that restitution is not a necessary part of this conversation. The outcome may or may not include financial restitution, community service, or counseling for either party (Schweigert, 1999).

As previously mentioned, amends is noted as integral to victim-offender dialogue (Van Ness, 2001). In recent years, legal researchers have studied the ability to avert lawsuits and promote settlement through apology; and have found that apologies not only divert the need for legal proceedings, they create situations therapeutic for both parties (Robbennolt, 2003). In victim-offender dialogue, inclusion resulting from positive amends may be affected by the strength of the amends. For example, in an experimental study where participants were given similar injury and settlement scenarios, their

willingness to accept a settlement offer was significantly affected by the type of apology received. In this study "the nature of the apology offered was varied to compare the effects of a partial apology, in which the other party merely expressed sympathy for the potential claimant's injuries, with the effects of a full apology, in which he or she also took responsibility for causing the injuries" (Robbenolt, p. 484, 2003). While 73% of participants agreed to settle after receiving what was described as a full apology, 52% agreed with no apology and only 35% agreed with a partial apology (Robbenolt, 2003). Not only were full apologies seen as significantly more effective in promoting settlement, partial apologies were more detrimental than the absence of an apology due to respondent confusion (Robbennolt, 2003). Robbenolt's (2003) study suggests that the outcome potential for both offenders and victims may be impacted by the extent of apology offered by the offender.

According to Mark Umbreit (2000), there are important needs in creating a safe and perhaps even sacred place for victim-offender dialogue. For example, non-judgmental attitudes toward participants and appropriate preparation of the parties are essential and parties should not be surprised upon the start of the meeting having been given some choices about when and where to meet and who will be there (Umbreit, 2000). Also, the mediator must do their best to separate personal agendas from meeting topics and should set a tone of respect including ensuring there are no significant distractions and the environment is conducive to feeling comfortable (perhaps adding music or a moment of silence before beginning).

Umbreit (2000) also described some issues that may impede a feeling of safety for meeting participants. Some people may feel unsafe with any form of touching, religious

rituals and language, judgmental language and assumptions by the mediator that what makes them feel safe makes others feel the same. Attending to these issues is what informs a humanistic form of mediation, rather than the classic problem solving mediation types. Umbreit reiterated (2000) the importance of moments of silence, encouragement of emotional expression, appropriate preparation, and a primary goal of mutual aid as opposed to the secondary goal of written agreements to enact this humanistic mode of mediation. The current study aimed to garner more descriptive information on what pre-meeting processes were like in the field, to gather specific stories regarding victim-offender dialogue (both positive and otherwise), to offer insight into the processes and assess whether multiple facilitators use similar approaches.

Peacemaking Circles

Peacemaking circles draw on an ancient Native American tradition called the *Talking Circle* in which indigenous North American people gathered centuries ago to discuss community issues. Talking Circles also arose in contemporary U.S. culture approximately thirty years ago in conjunction with the restorative justice movement; women's groups made particular use of circles during the women's movement to discuss personal journeys in a supportive environment (Pranis, 2005). For the purpose of this research, I will discuss peacemaking circles' use within the criminal justice arena, but assert that these circles have been acknowledged to be highly effective in more and more environments, including schools and workplaces (Pranis, 2005).

There are fundamental values and principles associated with the circle process (Pranis, 2005). "The philosophy of Circles acknowledges that we are all in need of help and that helping others helps us at the same time" (Pranis, p. 6, 2005). Circles may be

24

used for talking, understanding, healing, sentencing, community-building, reintegration and celebration. They often use personal experience rather then focus on advice to heal and "assume that a universal human wish… is to be connected to others in a good way." (Pranis, 2005). Thus, this intervention operates from a more strengths-based perspective then typical criminal justice dialogue. Circles are held on the presumption that all individuals participating in a circle are equal, from the judge to the offender. This is the symbolic purpose of holding these gatherings within a circle, so that no one person is shown to be more important than another. Circles do require facilitation and the circle facilitator is often called the *keeper* of the circle and maintains the role of ensuring a proper tone of the meeting. However, the keeper does not designate content (although they may offer ideas) and does not have the ability to make decisions for the group (Pranis, 2005).

One of the core purposes of peacemaking circles, is to "use structure to create possibilities for freedom: freedom to speak our truth, freedom to drop masks and protections, freedom to be present as a whole human being, freedom to reveal our deepest longings, freedom to acknowledge mistakes and fears, freedom to act in accord with core values" (Pranis, 2005, p.11). In the criminal justice system and restorative justice movement, this approach has been extremely useful (Pranis, 2005).

Applications of Peacemaking Circles within the restorative justice movement include supporting victims of crime, sentencing for offenders, and reintegration of inmates into communities, addressing neighborhood disagreements and managing conflicts in schools (Pranis, 2005, p 17). Because the circle demarcates a safe and equal space for participants, people often feel that they have equality. Additionally, story-

telling and self reflections are the main sources of insight in Circles. Some circles greatly

benefit from a structured format in which conversations before meeting are necessary

prior to convening (Pranis, 2005).

<div align="center">*Restorative Justice Outcomes*</div>

Successful outcomes of restorative justice have been defined in several ways.

Inclusion has been defined as the overarching goal of restorative justice and refers to the

healing of all parties involved in the process. *Reintegration* is a feeling experienced by

the offender of being accepted back into the community (Van Ness, 2001). And *social*

solidarity is defined as the feeling a shared experience which then positively impacts

longer-term emotional experiences (Collins, 2004).

In the current study, a benefit-analysis will use all of these outcome definitions to

assess how and whether facilitators have witnessed restorative justice as creating

successful outcomes. Interactionist and restorative justice theory (Collins, 2004;Van

Ness, 2001) will guide the current study's questioning of outcomes and approaches

witnessed and used in the field.

Trauma Theory

"Traumatic events overwhelm the ordinary systems of care that give people a

sense of control, connection and meaning" (Herman, 1992, p.33). Post Traumatic Stress

Disorder (PTSD) was first included in the Diagnostic Statistical Manual (DSM) in 1980

and may result from experiencing a traumatic event or a pattern of traumatic events

(Herman, 1992). Traumatic events often involve threats to bodily harm, life or are an

encounter with violence or death and responses to trauma are often represented by

symptomotology including 1) hyperarousal 2) intrusion and 3) constriction (Herman, 1992).

After trauma, the "human system of self preservation seems to go on a permanent alert as if the danger might return at any moment" (Herman, 1992, p. 25). Hyperarousal might cause an individual to startle easily and react irritably to small provocations. Also, they might sleep poorly due to remaining in a state of vigilance. War veterans returning to the United States provoked Kardiner's development of the *fight or flight* concept; that, in response to danger, a person might either respond aggressively or attempt to escape (Herman, 1992). Pycho-physiological changes in persons experiencing hyperarousal have been suggested as enduring and may lead to generalized anxiety or specific fears; these individuals might have an "elevated baseline of arousal" (Herman, 1992, p. 36).

After the traumatic event and the danger have passed, traumatized individuals may relive the event as though it were still happening, thus impeding the normal course of life events. Psychoanalysts Freud, Janet and Kardiner noted that trauma arrests normal development due to repeated *intrusion* into victims lives with victims becoming fixated on the trauma (Herman, 1992). Traumatic memories are not encoded in the same way as other memories that fit into a verbal, linear story. Instead, traumatic memories often have a "frozen and wordless quality" and lack narratives; instead they are "encoded in the form of vivid sensations and images" and may resemble memories of young children (Herman, 1992, p. 37-38). Experiments on animals have shown that "when high levels of adrenaline and other stress hormones are circulating, memory traces are deeply imprinted" and these memories may be relived in thoughts, dreams and actions" (Herman, 1992, p. 39). Additionally, while children might engage in repetitive play

adults may recreate the moment of terror literally or in a disguised way. They might have fantasies about a different outcome or might put themselves at risk for future harm; what Freud termed the "repetition compulsion" (Herman, 1992, p. 39).

When rendered powerless, people may feel the system of self defense completely shut down forcing surrender. Like animals sometimes freeze when attacked, consciousness is attacked in a numbing, *constricted* form (Herman, 2992). Terror might impart rage, but it might also might impart a "state of detached calm" in order to dissolve traumatic emotions of terror (Herman, 1992, p. 40). In this way, the event might be slowed or not feel like reality and may impose a feeling of "profound passivity in which a person relinquishes all initiative and struggle" (Herman, 1993, p. 43). Trauma survivors, if they cannot spontaneously disassociate, may use substances such as alcohol or drugs to promote a similar effect (Herman, 1992). While substance use might be adaptive at the moment, it may become maladaptive later as altered states do not allow the individual to integrate the event into the psyche, preventing the healing process to begin (Herman, 1992). In addition, traumatized individuals may find themselves lacking a feeling of balance due to the opposite presentations of constrictive and intrusive symptoms. The individual may be caught between extremes of reliving and forgetting, thus exacerbating the feeling of unpredictability and uncontrollability (Herman, 1992).

Core experiences of psychological trauma include "disempowerment and disconnection from others" (Herman, 1992, p. 133). In this way, recovery cannot take place in isolation but occurs in a relationship or relational context. Firstly, it is important to empower the survivor; for the survivor to feel control over their own recovery is

essential. One might offer suggestions, but should not attempt to cure the individual, which would stand in the way of this much needed empowerment (Herman, 1992).

Judith Herman described (1992) three stages of recovery for trauma survivors 1) safety 2) remembrance and mourning and 3) reconnection with ordinary life. The complexity of the "turbulent and often dialectic" healing process does not assume that these stages are straightforward or simple. However, "in the course of a successful recovery, it should be possible to recognize a gradual shift from unpredictable danger to reliable safety, from disassociated trauma to acknowledged memory, and from stigmatized isolation to restored social connection (Herman, 1992, p. 155).

In order to feel safe, trauma survivors may want to seclude themselves from others or surround themselves with people all the time. They may stay home or not be able to return home as that's where the trauma occurred (Herman, 1992). In this way, it is essential to promote safety when working with trauma survivors. With remembrance and mourning, the second stage of recovery, the survivor tells the story of the trauma (Herman, 1992, p. 174). The complete, detailed recount allows for the event or events to be integrated into the life story. However, "the recitation of facts without the accompanying emotions is a sterile exercise without therapeutic effect." The individual must re-experience those feelings while "holding onto the safe connection that was destroyed in the traumatic moment" (Herman, 1992, p 175). The final stage of recovery is the return to every day life; to reconcile with oneself. It is important to have the opportunity to revisit old hopes and dreams, so the individual may decide who they want to be and to acknowledge they are "in possession of themselves (Herman, 1992, p. 202).

The culmination of recovery may be represented by a feeling of increased calmness; a letting go of intensity; and the shedding of the "victim identity" (Herman, 1992, p. 203).

For victims of trauma, Cognitive Behavioral Therapy has been shown to help decrease symptoms of *Post-Traumatic Stress Disorder (PTSD)*: "the development of characteristic symptoms following exposure to an extreme traumatic stressor involving… actual or threatened death or serious injury…" (American Psychiatric Association, 2000, p. 463). Cognitive Behavioral Therapy has been used to explain the benefits of restorative interventions and has been studied at length by Barbara Rothbaum. After noting that rape victims became less reactive to fear-provoking stimuli with repeated exposure of listening to the rape experience in a safe environment (Rothbaum and Foa, 1999), Rothbaum conducted further studies comparing exposure therapy to other clinical treatment methods. In several studies, it appeared that exposure was one of the more effective, if not the most effective practice in decreasing trauma symptoms (Rothbaum and Olasov, 2002). It must be noted, however, that exposure therapy may cause harm if not used with appropriate safeguards; such as creating a feeling of safety for the victim.

Reintegrative Shaming Theory

Reintegrative Shaming is a psychosocial phenomenon that suggests that restorative justice is able to decrease offender recidivism rates (Braithwaite, 1989). By participating in new, pro-social interactions it is suggested that offenders will be able to change their public image and gain dignity by giving back to the community (Bazemore & Jeanne, 2004). Reintegrative shaming occurs when the offender is forgiven and feels acceptance.

Reintegrative shaming is contrasted with *isolating shaming*, the psychology of being publicly branded an offender. Empirical data has linked isolating shaming to higher rates of recidivism (England, 1955) as without forgiveness, offenders are suggested as more likely to retreat into criminal circles and activity (Braithwaite, 1989). Reintegrative shaming theory suggests that offenders participating in restorative justice dialogue will be less likely to recommit crime as restorative justice promotes forgiveness by the victim thus propelling the offender to feel inclusion by society. Reintegrative shaming theory also suggests that offenders may gain self-esteem by being aware that their participation in RJ dialogue positively impacted the victim (Bazemore & Jeanne, 2004).

Evaluating Restorative Justice Practices and Future Research Needs

Experimental studies have examined perceptions of restorative justice dialogue firsthand (Sherman, 2005; Strehorn, 2004). In one of the largest experimental studies of its kind, researchers in Canberra and London enacted victim-offender dialogue with over 600 victims and offenders of middle-level offenses, including, property damage, robbery and burglary (Sherman, 2005). Sherman's findings showed not only an extremely strong willingness for offender participation, but also a very positive response on the part of victims. Of approximately 230 Canberra offenders who were asked to participate, no offender declined and 92% of victim participants in the London demographic reported being highly satisfied with the experience. On the other hand, only 61% of Canberra victims were pleased by the outcome of the meetings and offender participation may have been impacted by the opportunity to avoid prosecution, a significant ethical concern in the field of restorative justice (Roche, 2006).

Restorative justice has been defined by Bazemore and Walgrave (2005) as "every action that is primarily oriented toward doing justice by repairing the harm that has been caused by a crime" (p. 20). While there "have been no definitions that provide an objective standard for evaluating the quality and strength of a restorative intervention" (Bazemore & Schiff, 2005, p. 28), there are several models that are useful to understand and evaluate its practice (Bazemore & Schiff, 2005; Zehr, 2004). For example, Bazemore and Walgrave (2004) describe a three-dimensional model: one that names three stakeholders of restorative justice including the victim, the offender and the community. Within this model, restorative interventions are rated by their ability to offer victim reparation, effect offender responsibility, and impact care reconciliation within the community. Those deemed most restorative or *fully* restorative attend to all three goals, such as in the practice of peacemaking circles and family group conferencing. *Mostly restorative* approaches affect two of the three stakeholders and include victim-offender mediation. Finally, *partly restorative* actions are those where only one stakeholder is impacted; an example being offender community service that relates to the crime committed (Bazemore & Schiff, 2005, p. 29).

According to Bazemore and Schiff (2005), restorative justice research is needed at the micro, middle and macro levels. For example, at the micro-level, victim offender dialogue processes and outcomes would be benefit from empirical research on what theories are used in practice. To this end, Bazemore and Schiff suggest evaluating the success of healing dialogue dependent on whether the victim or the offender speaks first (2005).

Perhaps more importantly, Bazemore and Schiff (2005) noted the need for research to examine multi-model models of restorative justice. It has already been empirically demonstrated that conferencing has more positive stakeholder outcomes than court proceedings and that it has been demonstrated to have positive long-term impacts on its stakeholders. For these reasons, it is suggested that qualifying the success of conferencing is not a primary research concern at this time. Rather, exploring multi-modal restorative justice interventions is a greater research need. It is believed, according to Bazemore & Schiff (2005), that there are limited multi-model programs existing in the current environment.

Finally, at the macro-level, Bazemore and Schiff (2005) recommend contrasting multi-modal interventions with sole interventions within restorative justice programs. This comparison would help inform system-level needs and may support the need for multi-model interventions rather than unilaterally focused approaches.

In summarizing the relevance of this complete literature review to the current study, theories like interaction rituals (Collins, 2004) were useful in exploring methodology used in victim offender dialogue. Additionally, Cognitive Behavioral Theory was helpful in understanding the positive outcomes restorative justice has on victims of crime (Rothbaum and Foa, 1999), and Brathworte's (1989) Reintegrative Shaming Theory suggested that restorative justice may promote the inclusion of formerly incarcerated individuals. It is important to note that an offender's ability to participate in a full apology may increase the likelihood of a successful outcome for victims (Robbenolt, 2003) and socio-economic factors including race and employment may impact the likelihood of offender recidivism (Pager, 2003).

CHAPTER III

METHODOLOGY

The current study aimed to supplement existing RJ research by exploring RJ experts and facilitators' perceptions on how various RJ processes work, what outcomes are witnessed in the field (including whether RJ practices impact offender reentry and victim and community satisfaction), and what needs there are locally and nationally for restorative justice to grow successfully as a movement. As restorative justice is a relatively new area of research in the United States, it was important to use a flexible research design in order to understand the emerging phenomenon. Data was gathered through narrative interviews to capture experiences of facilitators. Due to the extensive nature of the data that was collected and the constraints around the time and scope of a masters thesis, the sample size needed to be relatively small in size (n=10). The content and nature of the questions evolved as data was gathered. While the overarching questions above offered a framework for the interview structure, unexpected responses did emerge and it was important to remain reflexive in the interview process.

For the purpose of this study, *victim offender dialogue* was defined as a meeting organized to bring a victim and offender face-to-face to discuss the harm caused. It was not necessary for these meetings to contain all of the components defined by restorative and interactionist theorists (Collins, 2004; Van Ness, 2001). Rather, as this study's goal was to investigate real-life restorative justice interventions, it was pertinent to investigate

whether these components were actually occurring in the process. *Amends* was defined as an offender offering restitution or an apology to the victim. This is stated as the expresser's ability to acknowledge and specify the violation; understand its consequences; express regret and concern for future relations; assure injury will not be repeated; and compensate for the occurrence (Robbenolt, 2003). *Successful outcomes* were defined by whether the offender received forgiveness; whether participants felt a social solidarity with one another; and whether the victim felt safe in the process. However, these definitions remained flexible and were expanded to include other themes arising in the data, including offenders' interest in facilitating restorative justice interventions and its perception by some participants as a sign of healing.

When offenders are offered a reduced sentence upon participation in an experimental restorative justice study, an ethical concern arises. This methodology may exploit offenders and cause harm to individuals that may have difficulty protecting themselves. Additionally, experimental restorative justice studies that include sentence reduction offer little information on what motivates offenders to participate in restorative interventions. The current study aimed to investigate the impact of sentence reductions on restorative justice participation and to examine whether it is common practice in gaining participation. In order to prevent biased participation, the current study did not offer any compensation to the sample population.

Sample

To ensure that respondents represented expert and informed restorative justice opinions, this sample included persons with at least three years of experience in the field and had some knowledge and experience facilitating victim offender dialogue.

Facilitators varied in profession which resembled the culture across the movement. A non-probability convenience sample was used, as was snowball sampling in order to gain participants. The composition of the sample aimed to meet a quota of 25% Caucasian Males and 25% Caucasian Females, 25% African American Males and 25% African American Females. Unfortunately, this was not possible due to difficulty this researcher had recruiting participants. The demographic data of participants is reviewed in more detail in the Findings chapter of this study. Race was a particularly important factor in considering the sample as racism is a notable feature within the U.S. judicial system, and this study aimed to reflect meaningful opinions regarding this phenomenon.

Again, snowball sampling was used to connect to participants. First professional and student acquaintances were contacted to inquire whether they knew any individuals working in the field of restorative justice. In this initial phase this researcher petitioned co-workers in Boston, Massachusetts; a Smith College School for Social Work alumnus; a well-known expert on restorative justice practice; and two Smith College School for Social Work law professors. These individuals were contacted either by phone whereupon they were informed of how their contact information was received and the purpose of the communication, which was to recruit for participation in this study. They were then screened for inclusion criteria if they reported interest in participating in the study.

Some interviews were obtained by this method; however, it was not as fruitful as was expected. Several online restorative justice websites were researched, such as voma.org and restorativejusticeonline.org and individuals with contact information in these public domains were contacted. During this stage, this researcher was invited to

attend a Restorative Justice conference promoted by BARJ (the Balanced Approach to

Restorative Justice) in Boca Raton, Florida in March, 2007. Six interviews for this study

were recruited at this conference. The recruitment process lasted longer then seven

months, with several individuals agreeing to be interviewed but later not able to be

contacted despite many phone calls and correspondence. For this reason, the sample was

limited to ten participants rather then the expected 12-15 participants initially proposed.

Ethics and Safeguards

This study was conducted over a twelve month period with interviews taking

place on the phone (3), or in face-to-face interviews in Boca Raton, Florida (6) and

Boston, MA (1). Each respondent was contacted prior to the meeting to discuss a

mutually agreeable location in which the interview would take place. It was important

that the interview locations were quiet and private to ensure that audio recording was

clear and respondents' confidentiality was preserved. All interviews were digitally

recorded and all data will be kept in a locked place to ensure confidentiality for three

years following the study, at which time all data will be destroyed. A Human Subjects

Review Approval Letter (Appendix A) and Informed Consent Form (Appendix B) for

participants are appended that contain details regarding ethical and consent procedures.

Data Collection

Qualitative data was collected through one on one interviews with ten restorative

justice experts/facilitators. The interview guide included questions regarding facilitators'

opinions of restorative justice outcomes, processes and participants, in addition to a

demographic questionnaire which requested information such as such as age, race, and

restorative justice training history and experience which might impact their subjective

experience of restorative justice (Appendix C).

An advantage of conducting mostly face to face interviews for data collection was

that it allowed for flexibility. Interviews were moderately structured. Approximately 10

to 15 questions were used to guide respondent narratives (Appendix D); however,

respondents had the ability to answer these questions freely and to comment on their

perceptions of restorative justice without guidance. The face to face technique of

interviewing made it possible to witness nonverbal communication thus providing greater

observational data, and allowed for immediate clarification when respondents needed

help understanding questions.

Data Analysis

In order to offer insight into current restorative justice processes and perceptions,

I used content analysis, where words and semantic categories were examined for

frequency in the data.   The next step was to summarize and describe those themes that

emerged.   After coding the data, I looked for perceptions and processes that appeared

similar across interviews. Additionally, negative case material was pertinent as this study

sought to explore all relevant information arising in restorative justice.

CHAPTER IV

FINDINGS

This chapter presents the findings from interviews conducted with 10 experts who have worked in the field of restorative justice for more then three years. This study began as a qualitative exploration of victim offender mediation. However, while interviewing the second and third participant, I was informed that I was making a key and, unfortunately, very common mistake by considering victim offender mediation to be separate from (or even the same as) restorative justice. By viewing victim offender mediation as a program and not considering restorative justice philosophy and values, facilitators and people across the country were thought to be muddying restorative justice outcomes. The study questions were therefore altered to explore this distinction, and the question: "What is restorative justice?" was added to the interview guide.

What was significant, after making this modification, was that nine out of ten respondents shared the view that restorative justice is not simply victim offender mediation, although they often get confused. Restorative justice, rather, was considered by most participants to be a social movement or a way of life. And while all participants thought restorative justice had many challenges, including a national paradigm change, most participants regarded restorative justice as hugely resilient due to the strength of its philosophy and positive outcomes witnessed in practice.

As a framework for the interviews, participants were asked to describe how they became involved with restorative justice, what their current restorative justice work

entailed, and outcomes witnessed, both positive and negative, for stakeholders involved in the process. Again, as this writer moved through the second and third interviews, it was noted that the philosophy and language of restorative justice required clarification, which then became an aspect of the study questions moving forward.

It was explained that the purpose of this research was to get a viewpoint of the work currently occurring in the field, as well as participants' expectations and hopes for the future of restorative justice in the United States.   Participants were asked to elaborate on what was most exciting and concerning about the work they were doing; they were asked to discuss specific processes that anchored them in the work; and were given space to elaborate on any questions they felt most passionate about answering.

Specifically, participants were asked whether they felt restorative justice would be better approached as a grassroots, community based movement, as a top-down government interchange, or whether both methods of growth were important. Participants were asked about their ability to collaborate with other experts in the field and questions were also structured to gain insight into the role of social work and clinical practice in the field of restorative justice.

The data from these interviews are presented in the following order: demographic data of participants; the meaning of restorative justice; history highlights; restorative justice applications; participation; outcomes and measurement; role of social work; challenges; and future needs and expectations for growth.

Demographic Data

Participant Demographics

This study was comprised of 10 participants: three women and seven men. Two participants self-identified as African American; all other participants (n=8) self-identified as Caucasian. Some participants held Masters (n=4) and Doctorate (n=4) degrees. Of the participants with advanced degrees; some (n=2) were licensed attorneys and licensed clinicians (n=3). One person was a member of the clergy. Three participants had more then 20 years of experience in the field of restorative justice; four participants had more then 10 years of experience in the field of restorative justice; and three participants had less then 10 years of experience in the field of restorative justice; the least amount of years in the field being three and the most approximately 30 years.

All participants (n=10) had facilitated at least one victim offender meeting in their careers. Some participants considered themselves primarily facilitators of restorative practices (n=2); some participants considered themselves primarily educators or consultants (n=4), and some participants stated that their work was a combination of these two roles (n=4). Additionally, several participants noted research as an important area of their work (n=3). All participants were United States citizens living in the following states: (Ohio (n=1), Virginia (n=2), Washington (n=2), Massachusetts (n=1), Minnesota (n=2), New York (n=1) and Maryland (n=1). Several participants (n=4) reported doing international restorative justice work in addition to working in the U.S.

Restorative Justice: What Does It Mean?

Nine out of ten participants talked about what the term restorative justice meant to them. Some study participants were asked to talk about the term (n=5); others (n=4) initiated the topic individually. The most common explanation (n=7) was that restorative justice was a different way to respond to crime. As one participant explained: "It's a very overarching term for a movement that's based on viewing crime as a wound within the fabric of the community… that justice requires healing and accountability; not just punishment for punishment's sake." All participants (n=10) noted that restorative justice was different from the current and prevailing U.S. justice practice. One participant said: "in our current system, we focus on who broke the law, how it was broken and how we hope to punish the offender. From a restorative justice lens we ask very different questions. We focus attention on what was the harm? What needs to be done to repair the harm? Who is responsible for the repair?"

Most participants (n=6) described the current United States as overly offender – focused and explained restorative justice as a way of responding to that imbalance. As one participant said, "I don't think anyone intended us to develop a justice system that's offender-focused, but we have one that's almost totally offender-focused." Several participants (n=4) described restorative justice as a way to bring communities and victims' needs into the justice system. One respondent said, "Restorative justice is very focused on trying to elevate the role of the victim in the justice system." And another participant explained: "It's a philosophical shift in the way of thinking about crime and the way we respond to crime… it's not called restorative unless you have victims involved, unless you have communities there…"

Restorative justice was described by participants (n=5) as a social movement; a way of life (n=3) and as both a social movement and way of life (n=3). When describing restorative justice as a social movement, two participants felt it responded to the problem of institutionalized racism. One participant said restorative justice is a "peaceful revolution" and noted the disproportionate amount of minority individuals in US prisons today: "We're talking about a couple of million people in prisons. As we speak. Almost a million of them are African American. Another 300,000 to 400,000 are Native American and Latino." Both participants suggested that decreasing the number of people in prison can attend to the problem of systematic disenfranchisement. One participant said: "Schools are set up as a way for people to be delinquent; and then the delinquents are set up to be criminals; and then you get the label and are disenfranchised. It's one of the major problems of this country and I believe that can be addressed through a movement like this." Another respondent said: "If we can reduce the number of people in the system, that's the bottom line."

Not only was restorative justice considered a social movement, it was also described by some experts (n=3) as a way of life. One respondent explained:

> Hundreds of people have told me that restorative justice is a way of life. The core is the underlying values and idea that we are interconnected... if I do something that harms you; that matters. And I have an obligation to you. I think that's what life is about for a lot of people: the value of interconnectedness, of respect.

Another respondent described restorative justice as: "Shalom, a kind of harmony" and said "I think the vision is it's possible to do more then a cease fire. It's actually possible to build something together that's going to be better then what we had before we went into this."

Most participants (n=6) wanted to make it clear that restorative justice was a way of being; a set of values and principles; rather then an individual program.   As one participant said: "Restorative justice is a good umbrella term as a social movement; quite literally, as a way of life. Not as a specific program. Restorative justice is not a specific group of programs even though they get mixed up." And another person said: "When you say restorative justice: people's minds go to: 'Oh, that's the forgiveness stuff. Oh yeah, that's where you bring the offender and the victim together and let them talk.' That simplifies it… it's so much deeper then that, and it requires so much more than just bringing people together."

The term *restorative justice*, itself was adopted in the 1970's by one of the study respondents who explained, "As far as I know I didn't invent the term restorative justice, but I am the one who adopted it." This participant said he was looking for a term that would connect with people and he chose it because it could be understood intuitively and also liked the alliteration of it being somewhat opposite of *retributive justice*, the current U.S. justice model.   This participant felt that the term has been successful because many people have really connected to it. He described it as being embraced while other terms, such as relational justice, did not have the same sticking power. However, he noted "two big minuses" of having picked the term: that "some people think they know what it is when they don't because it's intuitive and… the word restorative makes you think you could go back, but you can't really go back."

The misinterpretation of restorative justice by both the general public and people who are doing what they consider restorative work was one of the study's most significant findings. The implications of this misinterpretation will be discussed in more

detail in the section titled, "Challenges." Shifting focus, the section below features some history of the movement; specifically two themes underscored by participants as quite remarkable.

Historical Highlights

While history was not a specific question posed to respondents, most respondents (n=8) offered some information on the history of restorative practices. The two themes that emerged were 1) that restorative principles have been used for centuries by indigenous cultures; and 2) restorative justice emerged simultaneously on multiple continents.

Four respondents said that centuries-old indigenous practices have been highly influential in the restorative justice movement and restorative practices. One participant said that much of what "we've learned" is from the "indigenous people of this land… over 450 tribes." Another expert noted that "The circle is a practice that has been in existence for hundreds of years… the Native Americans have used the circle process to not only resolve problems, but to have conversations about all important matters that pertain to the tribe…" One respondent said that many West African cultures use the circle process as well in order to: "resolve all kinds of issues that are counterproductive within the village… there's no such thing as calling law enforcement for all the issues that you as a family or tribe can deal with yourself."

Three respondents initiated dialogue about restorative justice having started on multiple continents simultaneously. They each said that the practice began at the same time approximately thirty years ago with the different cultures not knowing that the others were doing the same thing. One respondent explained: "The Maori [New

Zealand] and European governments were dealing with the historic wrongs that took place a hundred years earlier; there were similar things happening in Canada; and The Truth and Reconciliation Commission was initiated in South Africa." This participant offered a tri-fecta explanation for this simultaneous emergence:

> One is that I think everybody was facing an exhaustion of the current model. It wasn't working and a few places people were beginning to ask: 'what else is there?'… Second, there was a spiritual dimension to this. One friend of mine in New Zealand who is Maori said that the Maori people were feeling that this was an era of reconciliation. That this would just be an era where people would talk to each other… The third thing is the Internet…with the Internet you began getting information quickly… family group conferencing was quickly attached to theoretical work that was being done in Australia, which got linked to the victim offender mediation work that was taking place in North America, which had previously begun in Europe. And people said there's something here…and if you put that together with Braithwaite's work on reintegrative shaming… it gave an umbrella. So I think there were things happening in different places but I also think that those things that happened all of a sudden got far more visibility and credibility. I mean… who knows… maybe other things have happened at the same time, but we never knew about it because there wasn't any way to communicate what was happening.

Another respondent believed that the emergence of restorative justice had occurred consistent with quantum physics and chaos theory. She noted: "what they say it usually takes to have a huge paradigm shift in the sciences… it's about a hundred years before the culture catches up with its institutions and structures. I think we are probably right on the timeline."

The next section will describe some restorative justice applications. These are not the only ways to apply restorative justice; rather, they are what the participants of this study reported to be doing in their work. The purposes of this section are to present some of the restorative practices currently in use in the U.S; to distinguish between partly

restorative and fully restorative practice; and to mark techniques described by participants as important in facilitating good practice.

<center>Restorative Justice Applications</center>

Respondents were asked to describe the ways in which they were doing restorative justice work. In order to gain insight into the more dynamic aspects of their work, participants were also asked what they found most interesting or exciting about restorative justice applications. While some participants responded that they used one specific application in their work (for example, two participants' main focus was circle facilitation), nine out of ten participants reported using multiple applications.

While there were commonalities within the definition of the circle application as well as victim offender meetings, there was not one uniform definition for any restorative practice by all participants. For example, one participant said: "We have what we call a victim offender meeting program… what many people would call conferencing we call large group meetings." And another respondent explained he would use the phrase "restorative justice dialogue" as the "catchall term for the most clear, vivid, distinctive restorative justice interventions… what he described as "some kind of face-to-face encounter between victims, offenders, families and support people."

Participants differed as to what process they perceived as the most vital application, what one participant called the "anchor of the movement." For one respondent, it was victim offender mediation, explaining: "It is the most widely used, empirically grounded, internationally endorsed expression of restorative justice in the world." For two participants, it was the circle process. As one participant said, "I find that the circle is the power behind all of the restorative work that you do because you

<center>47</center>

have the ability to communicate and understand the psychology of the people that you're working with." And another said, "The circle satisfied my interest in the community which the other [applications] didn't. From circles I could understand how you could get to social justice which was important to me."

All respondents (n=10) felt that restorative justice applications should be individually or community inspired. One participant said that his county's restorative practices are not necessarily what others should implement in their own communities: "Every community needs to, in some ways, figure this out for themselves. What does it mean for us as a community to work restoratively?" Another respondent explained that what some consider restorative, others might not, or vice versa: "There are such disparate applications. My students come from all over the world, take it home and do the most amazing stuff that you would never have thought of as part of restorative justice."

For the purpose of this study, restorative justice applications will be divided into two main categories; *fully restorative* practices in which the victim, offender and community are all involved; and *partly restorative* practices in which restorative principles are adhered to but not all stakeholders are included. Fully restorative practices will be called victim offender dialogue and will be separated into four applications described by participants; victim offender meetings for less serious crime; serious and violent crime dialogue; circle processes; and community accountability boards. Partly restorative practices will be separated into three applications describe by participants; contacting victims, community service and defense outreach.

Fully Restorative Applications

As previously mentioned, most participants (n=6) reported that for restorative applications to be "fully restorative" they need to include all three stakeholders affected by the crime: the victim, the offender and the community. As one participant stated, "If you've read about restorative justice, you've seen the infamous triangle of victim, offender, and community. We're totally committed to that. That to work in a restorative way you must be responding to the victim, offender and community." Another respondent reasoned why all three stakeholders should be involved: "How can we help young people understand the harm they've done if [we've] never talked to the victim?" However, this participant did not feel that all three parties needed to be present in the same room for a practice to be fully restorative. Rather, all three parties should be somehow connected. He said: "Even if we don't get the face to face meeting we can work with kids and say 'we've talked to Mrs. Smith. [We know] what effect that had on her that you broke into her home and [we'll] tell you…' so if we can't do it directly, we can still bring that humanization and make it real, as real as we can."

One participant defined restorative justice dialogue as: "Under the umbrella of restorative justice dialogue is victim offender mediation, family group conferencing, community group conferencing, talking circles, peacemaking circles and many hybrids." For the purpose of this study, restorative justice dialogue will be referred to as meetings in which victims, offenders and community members are present to discuss harm and accountability. They will be categorized into four types of meetings described by participants: victim offender meetings for less serious crimes (n=7); severe and violent

crime dialogue (n=3); circle processes (n=4); and community accountability boards

(n=1).

Victim Offender Meetings for Less Serious Crimes

The most common form of victim offender dialogue reported by study

participants (n=7) was victim offender meetings for less serious crime. Several

participants explained that this was the most common restorative justice application. As

one expert explained, "Roughly 98% of all cases that go into victim offender mediation

programs in more then 1500 programs throughout the world, in seventeen countries, are

nonviolent property offenses, minor assaults, barroom brawls, fights in schools, and

that's the area of victim offender mediation that has been strongly empirically validated."

Another respondent said that in her court mediation program, "The majority [of cases] are

assaults, fights, assaults and batteries followed by threats and destruction of property."

These cases that were often "diverted" away from the court were described by

two participants as first or second-time offenses by offenders. One participant reported:

"About half of the kids that come through our juvenile court are diverted cases. They

don't go to court… there's no sentencing." And another participant said if a person is a

first time offender committing a misdemeanor, state law requires that it be diverted from

court. In those cases, he explained: "The prosecutor cannot prosecute. We're talking

99.9 percent of those cases, even gross misdemeanors, it's a divert."

Three out of ten participants understood diversionary cases to be easier to manage

then adjudicated cases because participants had more control over the process. This is

not to say respondents preferred working with diverted cases over adjudicated cases;

rather, there was less red tape to process. For example, one participant explained: "With

diversionary cases the police reports come directly to us which means we have total

control over those cases… it's easier to bring a restorative focus."

In fact, one participant felt that because most restorative justice cases were

diversionary, adjudicated and more serious cases were not as marketable or well-received

by the public.   She said:

> Part of the problem is that we started out focusing on low-level crime just to get
> the movement going. In some sense I think we've done ourselves a disservice
> because it's hard getting people to understand this is not just for low level crimes.
> Restorative justice can be used for cases as severe as murder… it doesn't mean
> someone has to be out in the community. This can happen while someone is
> incarcerated.

The following case was reported as a positive example of a victim offender

meeting for a less serious crime:

> He and his friend had been throwing rocks after school at cars. He hit a car in the
> parking lot of a car dealership and smashed two windows. We got the referral
> from the probation department.   The young kid came in and talked about what he
> did… the victim came in and talked about what the impact was. The victim (who
> owned the car dealership) said: 'That could have been a brand-new car sitting
> there and it could've been thousands of dollars of damage. Fortunately that was
> my car.' It was a financial loss of $1000 and the complainant wanted that paid.
> The young man with his mother said, 'I don't have a job or the money to give
> you.' And so the victim says, "You can work for me after school every day.   The
> money you make will go to paying me back. But, I don't want you to work and
> not have any money, so only part of what you earn will be to pay me back. I will
> also teach you how to install stereos. After you pay me back, if you come every
> day and work hard, I will give you a job… after the kid had made $500, [the
> victim] said 'you don't have to pay me anymore' and gave him a job. That's the
> perfect outcome.

Severe and Violent Crime Dialogue

Three out of ten participants reported having facilitated some form of

severe and violent crime dialogue. One participant explained, "The work I've been doing

and specializing in the last 20 years is responding to the needs of victims and survivors of

the most brutal crimes; the most traumatic crimes imaginable." Another respondent had worked for ten years for one of the pioneering organizations that facilitated meetings between survivors and offenders of serious and violent crime.

Severe and Violent Crime Dialogue was described by one participant as "ironically… probably one of the deepest, therapeutic interventions one could imagine" but at the same time "not at all therapy." He described it, rather, as "clearing a path so people can get answers to questions they have and express concerns they have." For example:

> This one guy sucker punches the other; caught him off guard and the guy who was punched fell backward, snapped his neck, broke his neck, and died shortly thereafter. The mother of the a young man that died… she didn't want to meet with the guy to shame him or yell at him, but to express her love for her son who died and to learn more about this young man who killed him. She actually cared about him and wanted to know: 'What happened in your life that could lead you do something like that?'

Three respondents noted that severe and violent crime dialogue has been occurring for more than thirty years in the United States and two of these respondents said there have been barriers to its being accepted by many U.S. institutions. As one participant explained: "You're talking about one of the darkest expressions of human interaction and I'm not going to sanitize it by using other words… many wardens and superintendents of corrections [in the 1980's] wouldn't allow it, thinking it was going to be some big emotional blowout." Another participant noted his frustration that he could not facilitate severe and violent crime dialogue in his state:

> One of my interests is in severe violence, but our state does not have a program. We tried [to have a meeting] for a case where a state trooper was shot and his daughter wanted to talk to [the offender] in the worst way. We went all the way to the governor and talked to him on the phone… the department said it's not good for victims.

The same two participants reported that while there are still barriers to facilitating severe and violent crime dialogue in the United States, there has been a growing national acceptance of its practice. One participant said, "States around us are getting into this. I never dreamed we'd be at this stage." And the other participant explained:

> When I first began doing severe and violent crime dialogue in the 80's it was absolutely taboo. Not a single legal jurisdiction in the world allowed it… but in 1993, the first state in America set up statewide protocol. Today there are nineteen states and within the next decade I would project the vast majority of states will have protocol to allow victims of the worst crimes imaginable to meet with the offender who is in prison; nearly all the time if the offender is willing.

The Circle Process

Two out of ten participants reported the circle process as central to their work in restorative justice. Three other participants reported using circles in their work. One participant noted: "We have this saying that the power is in the circle, so we use a circle in just about every aspect of the work that we do." Another respondent explained that: "circles are profoundly democratic… [restorative justice] has never been about individual reconciliation for me; it has always been about social justice."

The circle process was used by participants in varying formats. Five types of circles were described by four of the participants: sentencing circles, reintegration circles, school circles, workforce circles and peacemaking circles. Three themes were suggested as key to the circle process. First, the circle was noted as a fundamentally democratic space in which all members have an equal voice (n=3); second: a talking piece was suggested as essential to facilitating order and a safe space within the circle (n=2); and third, the facilitator is not just the keeper but also a member of the circle (n=1). One participant noted that the circle process bears a reasonable amount of similarity across

countries. She said "the structural piece; the facilitator being a member and a participant of the circle. I think those [principles] are pretty common, at least with good practice."

According to participants (n=3), the circle fundamentally shares power, which is evidenced by its consensus decision making process. As one participant illuminated, "In the sentencing circles, judges are on a first name basis and their voices are no more important than anyone else…there's an incredible leveling…the facilitator does not walk in and say these are the ground rules."

It was noted by this participant (n=3) that it can be difficult for persons in positions of power and people accustomed to deferring to persons in positions of power to make that shift: One respondent said, "My experience is that it's very hard for people who work in court to do that. They nearly choke sometimes calling the judge by his first name. I wasn't trained to be in deference to a judge… but it was really hard for the attorneys." She added, "It's happened a number of times… with people who are absolutely committed to the process… one judge who put his career on the line to be involved would still occasionally do something that violated the shared responsibility of the circle."

A talking piece was described by two participants as essential to the circle process. It was described as an object that is passed from person to person in a circle. Only the person holding the talking piece can talk and the talking piece should go around the circle at least once so that each voice is heard. The piece was depicted by one participant as: "Anything, but should be significant to those that are in the circle. We've got an African centered approach so we might use an African walking stick or a fertility doll from a tribe. It should be something that you can identify with culturally or

something that is a reflection of everybody that's in the circle." Another participant said: "The assumption is that you're using a talking peace. It's a very powerful element… it's a different process if you're not using a talking peace."

Three reasons were offered as to why the talking piece is essential to the circle process. First, respondents (n=2) said the talking piece allows each voice to be heard, equally. One participant said that the talking piece "makes sure that all voices have an opportunity to come in." She clarified: "You can pass if you wish, but it will go through everyone's hands which makes sure that your presence is acknowledged even if you decide not to say anything." Additionally, the talking piece was described by participants (n=2) to allow for more careful communication. As one participant explained, the talking piece, "allows people to take time to pull their thoughts together… nobody can jump in." The other participant reiterated this idea, "Only the person with the talking peace is allowed to talk. … It prevents any back-and-forth between participants… so if someone says something that upset you, unless you're sitting right next to them, there's been a decent time before you get a chance to speak so you have time to reflect." And third, participants (n=2) felt that the talking piece enabled energy to flow more fully within the circle. One participant explained that in the circles he facilitates, the talking piece is passed clockwise … "the way that things flow… … so we can keep the energy flowing within the circle." The other participant said that because it goes around in a circle, the talking piece prevents "you from escalating the negative energy, which can happen when two people go back and forth at each other."

Finally, an aspect of the circle that was reported as unique (n=2) to the circle was that the facilitator is not only the keeper of the circle, she/he is also a member. As one participant illustrated:

> It would be appropriate for a facilitator to share some of their own struggles in life. That's the best technique for creating safety for others, so that they feel that they will not be judged…. it's a very powerful strategy for quickly allowing people to go quite deep with one another… to share things they did not dream they would share openly.

As mentioned earlier, five types of circles were described by participants (n=4). *Sentencing* circles were depicted as conversations where court personnel, community members, victims and offenders might talk about accountability and harm. *School* circles were described as meetings where conflict in the school or tensions building in the school environment might be discussed. *Reintegration* circles were reportedly used to talk about issues arising during an offender's return to their community after being incarcerated. *Workforce* circles were cited as beneficial for employers and employees experiencing conflict in the workplace. And finally, *peacemaking* circles where described as forums to discuss either human rights issues or racial or ethnic conflicts between groups.   To better characterize the nature of the circle process, the following is a depiction of a reintegration circle by one of the study participants:

> People coming out of prison have a lot of issues. Often they've messed over families… if they're on drugs they may have stolen from their families. When they're in prison nobody talks about it. It's too uncomfortable. So as they come out there's a lot of anger or unresolved stuff and then you have all the challenges; being unfamiliar in the world or not having a job; maybe not having a place to live; neighborhoods that might be afraid of you. So it's to have a conversation with the family; with the neighborhood, for people to think about their expectations of one another; and for the community and family to say 'this is how we're going to help…' And to aid with accountability… how this person has to live by the rules of the house; how they're going to stay off drugs when it's hard because the temptations are there.   So it comes back to the power of the circle

and the people. You say, 'OK, who's going to help them get a job? Who's going to provide transportation?'

Community Accountability Boards

The final victim offender dialogue reviewed is Community Accountability Boards. Community Accountability Boards were mentioned by only one respondent. They were described as meetings where victims, offenders and community members would meet to discuss harm and accountability and it was explained: "What harm was done is your assessment. What needs to be done to repair the harm becomes your case plan. And who is responsible for this defines the roles and responsibilities of all the stakeholders." In this way, the Community Accountability Board resembled the make up of other victim offender meetings and circle processes.   What was unique about the description of this practice was that a specific victim need not be identified to hold a Community Accountability Board meeting. When a victim had not been identified, community members might represent on the board as victims of the crime. As the participant explained, "Community Accountability Boards provide a neighborhood response to so-called victimless crimes because in fact, prostitution, marijuana smoking, aren't really victimless. The community is the victim."

Partly Restorative Applications

As previously mentioned, fully restorative applications were described by most participants as including the community, the offender and the victim. However, several participants discussed applications that included only one or two stakeholders, but were still consistent with restorative values and principles. Three applications of this type were discussed, including*:* contacting all victims; offering relevant community service;

and outreach to defense counsel, which will be discussed in the following paragraphs.

One participant explained the importance of working restoratively even when one could

not include all three stakeholders, saying that while victim offender mediation is an

"excellent practice, it's limited because very few offenders in any local jurisdiction are

going to participate in the process." The respondent elaborated saying that "even in a

jurisdiction that staunchly supports the process and actively makes it available, very few

people are interested in participating." In this participant's county, of the 3,000 victims

offered the opportunity to meet with the offender each year, approximately thirty victims

are interested. He said "For the people, who choose it, it is very important to them but

we feel there are other ways to address people's needs beyond a face-to-face meeting."

Contacting All Victims

In this participant's county, the way that they were acting most restoratively was

in identifying every victim of a juvenile crime and responding to them in a restorative

manner. This interviewee elaborated:

> If there is a juvenile identified who has caused the offense and there's a victim
> that's been identified, every one of those victims will be responded to in a
> restorative manner. There's no mystery what crime victims want from the justice
> system. Its four things. They want to be acknowledged… they want someone to
> say, 'we recognize that you've been the victim of a crime and it matters… and
> we'd like to respond to you in a way that's helpful.' In our experience that's
> huge… I don't know of any other court that does that in the way we do it.

Community Service

Five out of ten participants reported that community service was an excellent

forum in which to bring communities and offenders or offenders and victims together in a

positive way. They each said that changing the way community service transpires is

important. As one participant explained, "It's not about doing hours; it's not about the

punishment the court has given you. Young people work side by side with members of

the community because we want them to take responsibility but at the same time see that

they're integrated into the community." Another participant reported the great success

his community has had with community services: "We did over 250 community projects

last year and we've got hundreds of people in the community working side by side with

these kids." One example offered of this type of practice occurred in a community where

teenagers had vandalized a fence by tagging it with spray-paint. Rather then have the

teenagers put in hours cleaning sidewalks or highways, community members worked side

by side with the teenagers to erect a new fence.

Defense Outreach

Finally, defense outreach was described by one participant as a way to advocate

for victims. He said that the death penalty is often very traumatic for the victim's

family; the family may have contact with the court, but they likely have no contact with

the defense. Family members often wonder how they are going to be treated on the stand

by the defense and have a lot of need for the information possessed by the defense. He

said, "In court you get lawyer stories, so what we have done is train people to be a bridge.

They're called in by the defense, but are not on the defense team. They are (sometimes)

appointed by the court… to advocate for the victim with the defense… and work with

families to identify needs… their job is to get what the family needs out of this

process…"

> This respondent illustrated how defense outreach worked in one case:
>
> Several young women were murdered.... and the fellow was totally crazy.
> [Name] had authorized the death penalty, saying you can't plea this thing out.
> [The facilitator] worked with thirteen members of the family who said: 'we need

[the offender] to stop talking to the press. We need to make sure he's not out there on the streets again. Maybe we want to meet him sometime. We need to know he never makes any money off of this… and that he's in a life sentence because he's a highly dangerous guy.' The mother [later] told us 'you let us focus on my needs, not the moral issue of the death penalty.' That's just one case, but a lot of them end up like that.

International Restorative Justice

Of note, four respondents reported working restoratively in communities across the globe: One participant said, "I am working with people in Palestine and Israel: a mother whose son was killed by a Palestinian sniper. She is trying to meet the man who is now in prison that killed her son." Another participant said he was doing work with the Muslim community: "both the Somali Muslims and Palestinian Muslims. They have a growing interest in the restorative justice movement which respects their cultural heritage and can be integrated quite easily."

Participants were asked what types of cases they facilitated and who was eligible or optimal in participating in restorative justice dialogue. The following section will consider what types of cases and persons are optimal for restorative justice dialogue.

Participation

Most participants (n=6) suggested that any kind of criminal case is appropriate for victim offender dialogue. As one participant explained, the level of violence doesn't matter, rather, "I really try to look at what's underlying… if there are two or more clearly identifiable parties and something to be negotiated…" Another participant said: "Let me underline that any case is eligible for us. It doesn't matter what the crime is. It has to do with the harm that was done." One negative case example did arise in which a participant explained she did not advocate facilitation of domestic violence disputes:

"Some would argue that anything that has the hint of domestic violence is not appropriate," she said. "If the person has weapons… if I hear 'yes' to that sort of question… I'm going to say it's not appropriate even if the parties concede."

Victim Participation

Two respondents suggested that most victims do not want to participate in victim offender dialogue. As previously mentioned one respondent said that out of 3,000 cases that move through his juvenile court each year, thirty victims are interested participating in a victim offender meeting. All respondents (n=10) agreed that victim participation must be voluntary. Several respondents (n=4) mentioned that facilitators are responsible for ensuring, however, that "no further harm" was done to the victim; so that even though a victim may want to participate, it is not always appropriate and the community and/or facilitator must reserve the right to make that decision. One respondent also noted that some cases are not ideal for mediation; however they are also not so inappropriate that one could justify not facilitating them. "There have been cases that I have mediated where it was difficult for me to be neutral because I thought the complainant was too nasty, too controlling. No one's breaking the law or anything, but those are difficult cases to deal with."

Offender Participation

Four out of ten participants said that victim offender dialogue is neither voluntary nor mandatory for the offender. Rather, they described it as something in between those two factors. One participant said, "In our case if the victim requests it, the offender is referred. There's not a choice. However, we're not going to arm wrestle a kid into a meeting." He explained that rather then force an offender into a meeting which would

61

be unethical and illegal, his staff will hold a preliminary meeting with the juvenile and his family to explain the process. While most offenders were adverse to the idea of meeting with the victim initially, the participant said: "I can't think of a case in seven years where we couldn't move forward with a mediation" as a result of good preparation work. He said, "When a juvenile is told, 'Your victim would like to meet with you…' they're certainly not excited about it. Who wants to go and sit down with somebody they harmed?" But, "The idea is to shift the focus and help the juvenile see that it's their responsibility to do this… to make it right so [they] can move forward with [their] life." Another respondent said that because these are criminal cases, offenders must participate voluntarily. However, she also noted: "There is an element of coercion. If you have a criminal charge pending against you, of course you're going to do anything to get out of it because who wants a criminal record?"

None of the participants suggested that this process was unfair to the offender, although that specific question was not posed directly. One participant offered statistics on who was likely to participate in her court's mediation program. She said, when offered the opportunity, "Seventy-five percent of individuals agree…" Of the 25% of denials, "90% are victims and 10% are defendants because they really have an incentive to resolve matters."

As previously mentioned, some respondents (n=6) noted there are cases when offenders are not appropriate to participate in victim offender dialogue even if the victim wants to meet. One participant told a story about a man who exhibited "obsessive" behavior with his girlfriend. The girlfriend had filed harassment charges against the man.

She said:

> I met with each. [The victim] seemed a little bit scared of him. I said to him, 'all she wants you to do is stay away. She's known you for several years, doesn't want to hurt you, but can you stay away?' If I remember correctly, he said tearfully, 'I don't think I can do that.' I didn't follow through with the mediation. As it turned out he was eventually jailed because he could not stay away from her.

Community Participation

Three respondents mentioned the importance of the community's role in deciding whether parties should have a face to face meeting. One participant explained that as a representative of the community, one should be able to decide not to bring certain parties together: "We have a role to say we're not going to bring you together…. as a community we don't see this will build a safer, healthier community." Three participants said that the reason they were doing the restorative work they were doing was because it was the community's mandate.

There were varying responses as to how participants engaged communities in restorative justice. Three participants responded that it was a good question, suggesting this as an area of difficulty or one that requires more creativity. One participant said, "We have to be very proactive in reaching out to the community. We do over one hundred presentations a year to inform people about the restorative focus of the juvenile court, what we're trying to do, why we're doing it and that we can't do it without the community's support and participation" Another person said they would accept anybody onto their community boards, "We're not exclusive. We put the word out to our networks; little things in the paper to say: 'We're doing this and is anybody interested?'"

Finally, one participant mentioned the importance of tying in the organic resource system of the stakeholders; people in the community that know the victim or the

offender. And several respondents (n=4) expressed their gratitude and appreciation for the time that community members offer. As one person said, "I know people who meet every two weeks. They could be home watching TV. They could be doing anything else. They're not being paid."

Restorative justice outcome measurement was noted to be more complex then retributive justice outcome measurement due to the multiple stakeholders and goals involved in the movement. In a retributive system, measurement of success is often viewed as a decrease in recidivism rates and a reduction of crime within a community. With restorative justice, there are several other benchmarks of success.

Outcomes and Measurement

Measuring Restorative Outcomes

There were numerous criteria noted by participants for measuring restorative justice outcomes, including looking at victim satisfaction; community satisfaction; offender recidivism rates; offender satisfaction; restitution payment; and story-telling. Participants differed in the perception of whether restorative justice outcomes have been measured adequately to date. For example, participants disagreed on whether restorative justice research has been comprehensive and/or quantitative. One participant said, "I think that some of the research, where we're deficient in the movement, is that so much of this is anecdotal and stories. But people want hard data." Whereas another participant said:

> This is not just anecdotal stuff. There is research data suggesting this is a better approach. Victim offender mediation is probably one of the more evidence based social work interventions out there… literally over 85 studies in five countries ranging from pretty modest designs all the way up to experimental designs and

meta-analyses which have consistently shown very positive effects on victims and offenders in terms of satisfaction, fairness and reduction in recidivism.

In addition to the belief that research should evaluate diverse outcomes criteria, most participants felt that measuring restorative justice requires diversity in the research methodology (n=6). One participant felt that the research to date has been overly focused on victim offender mediation. He said: "There hasn't been a lot of money available to do research. The research that has been done has primarily been devoted to victim offender mediation programs… [which is] unfortunate because it doesn't grasp the holistic, comprehensive nature of what it means to work in a restorative way."

And another participant explained the importance of coming up with benchmarks:

> I think, overall, we're looking for satisfaction of the victim and the impact it's had on that offender; how much restitution has been paid; how much community service has been completed; those kinds of things. I think that measuring along those three: public safety; accountability; and competency development; devising a set of benchmarks in those three areas and then measuring those. They usually talk about how much restitution was ordered, but not how much was paid and that's the real measure. A judge could order $5,000 in restitution but if none of it was paid how restorative was that?

Most Restorative Outcomes are Positive

Participants were asked to explain a positive and a negative restorative justice outcome either witnessed in practice or known to them. Half of the participants (n=5) struggled to come up with a negative case example and seven out of ten participants noted that restorative justice interventions were mostly positive. "You've probably picked this up… restorative justice doesn't seem to have a huge number of failures," said one participant. And, another said,

> In crimes of severe violence, I only know of a handful of negative data and I look for that. Negative case data analysis is some of the best practice research because you can find out what's working, what's not and what can we learn from that. All

I could determine after about 60 interviews with victims and offenders… were degrees of satisfaction or helpfulness.

Five respondents reported that mediation or a restitution agreement was not what would define a restorative outcome. As one participant said, "Mediation is not the definition of success. The definition is did we serve these victims in ways that are meaningful and important to them?" Another participant explained: "The vast majority of our cases, the purpose is not to come to an agreement. It is for people to be able to talk about the harm it caused them or to talk about why the person made the decision they made…restitution does come out of it, but it's not really the key."

While it took more time for some respondents to come up with a negative case example, most respondents (n=7) were able to do so. Two factors that most notably contributed to a negative outcome were lack of preparation on the part of the facilitator(s) and inappropriateness of a participant. Preparation was noted as important for successful practice by 7 out of 10 participants. There was one negative case example where a participant said she did not do any preparation with victims and offenders before meeting: "There's no prep. I go right into the room and that's it." But for others, it was described as a place to talk to offenders about what would transpire in the meeting. As one participant explained, it is important to "not minimize their anxiety or resistance… to acknowledge it, to deal with it, but also to help them move to a place where they are willing to meet." Not only was preparation noted as important for offender participation, it was noted by four out of ten participants as essential to avoid re-traumatizing the victim. One respondent explained: "If we don't do good prep work, then we risk the possibility of victimizing that victim all over again." Several respondents (n=4) noted

that they had witnessed negative outcomes when victims were not properly prepared. As one participant explained:

> There are well-intentioned persons, correctional officials or judges, who do this work without preparation. One judge said during the civil part of a criminal proceeding: 'I want to empower you, the victim. Why don't you go meet the offender in the jury room, you talk about it, you come back and make a recommendation.' There was no preparation. It was absolutely traumatizing and re-victimizing for that person. I know of a couple of cases like that and I predict there will be more the way the field is growing.

Additional preparation was seen as important (n=2) in cases where the relationship dynamics were complex. One participant said that there are times that restorative justice fails completely to open up a safe space. While driving home from workplace circle facilitation, she realized, 'It wasn't safe. There was so much going on that I had not been able to cover at my pre-meetings. It probably needed much more time and some smaller circles among some subgroups before we brought everybody together. It probably needed a year of work." Another participant said:

> There was one circle process we did when we just did everything wrong… it was a classic case of what you don't do. We had it right after the war broke out. Arab students… they were [upset with] the media and there was tension with some of our American students. And participants came and they had no idea what the circle was about. [The facilitator] misused rituals; things that were not appropriate. And people didn't know what they were there for. He used a stone as the talking piece, which was the wrong symbolism. It was just a disaster. We should've explained what it was about. We should have talked to everyone in groups… the Arab students together and the American students together.

Positive Outcomes for Victims

Positive victim outcomes noted by participants (n=2) was a reassurance after meeting with an offender they will not be re-victimized in the future and gaining the ability to see the offender as a human being as opposed to a violent criminal (n=4), thereby humanizing the experience of the offender. Victims were noted by some

participants (n=2) to not always need a great deal of services in order to feel well served. One respondent explained: "there's no mystery what victims want from the justice system… they want to talk with someone who genuinely listens and they want choices of how to be involved in the process. In contacting 1200 victims a year, for around 90% of victims, we've found that's enough." More attention will be paid to restorative justice and its effect on trauma in the section of this chapter entitled, "Role of Social Work."

Positive Outcomes for Communities

Five out of ten participants said that one of the more dynamic outcomes of restorative applications was the facilitation of community communication. Three participants felt this was significant in a culture where people appear to communicate less and less with one another. One participant explained of restorative justice outcomes:

> The most dynamic part is that it allows people to talk to one another, which we have failed to do in recent years. When I was growing up in the Black community there was always communication. I would walk by someone's house and they would stop and talk to me. 'How's your mother? How's the family?' But people are so afraid… the circle can bring people into a conversation.

Another participant described how the circle process brings issues to light that may prevent future conflicts. She said, "There was a group of 12 kids that broke into an empty house and used it for a party and made a big mess. They handled that case in a circle and part of the conversation that came out was the kids had no place to go to be with each other, so they needed a place to get together."

Positive Outcomes for Offenders

Positive offender outcomes were described as offenders taking responsibility for their actions (n=8), having the ability to reintegrate into their community (n=6) and not committing future law-breaking (n=7)). Some participants (n=3) noted the importance of

reengaging offenders with the justice process. One participant explained: "We don't want them to be thinking about the judge, the prosecutor... what law they broke. We want them to be thinking... what is the harm? How did [I] take responsibility?" Another respondent illustrated that restorative justice's view of accountability is different then it is in the current system and thus better allows for offender reintegration:

> It's not how we can punish you for what you've done, it's about how are we going to support you and assist you with taking responsibility for your actions. The way we hold young people accountable... we actually further isolate and marginalize them. We need to hold young people accountable in ways that help draw them in and weave them into the fabric of the community.

Another positive outcome noted (n=3) was that in this healing process, offenders are more motivated to help others. One respondent said, "Once you start to heal, you start releasing the stuff that you're holding in and you want to start helping somebody else because you're releasing all of those things that have been troubling you," This respondent said that one of the offenders that worked in his agency had just finished a 16 year incarceration in federal prison and was now running circles for youth in the community: "He was committed for one murder... has admitted he has done more than that. Last night he conducted a circle for me for some young offenders we are working with... he has made such a wonderful transformation in his personal life."

Most participants (n=7) asserted that when offenders participate in restorative justice interventions, recidivism rates decline significantly. These restorative justice interventions also prevent offenders from entering the prison system unnecessarily. As one respondent explained, "A lot of misdemeanor crimes take place in the community that cause people to be locked up and charged for incidents that could have been dealt with at a community level. This process allows us to keep down arrest in our

community." However, one participant noted that even though recidivism rates do drop with restorative justice interventions, he argued that looking at recidivism rates as the indicator of success sustains an overly offender-focused posture and continues to overlook the importance of responding the harm that has already occurred. He explained:

> The research shows that young people that go through victim offender mediation, the recidivism rate drops 33% and if they do re-offend they tend to re-offend with less serious offenses which is contrary to what usually happens… [but] I'm smiling because you asked a recidivism question, which always comes up. It is a very offender focused question and it's a measurement of future harm. You could have fantastic recidivism rates, but not do anything to address the harm that's already happened… What about the victim that already exists? You don't get safe, healthy communities by leaving broken, wounded, and angry victims."

Creativity and Stakeholder Outcomes

Four out of ten respondents used the word "creative" when talking about restorative justice outcomes. For instance, two participants noted that when solutions are beyond any preconceived alternative, they can allow for new and better outcomes. As one respondent said, "A brand new solution is going to be better then win-win." He added that in win-win both parties may get what they want but it is only on one dimension; perhaps a restitution agreement or a person's charges are dropped, which is good; however, if you leave the conversation open you might come up with something neither party thought of before; something better then one that could be anticipated.

When asked about positive restorative outcomes, two participants told the same story; a case that had stuck in their minds as a great restorative outcome that exemplifies this idea of creativity. One participant told the story as follows:

> There was a couple that traveled frequently and bought souvenirs. They enjoyed showing these pieces in their home because [the pieces] often would spark conversations about their trip. The couple had been burglarized by a teen in the community who had stolen one of the souvenirs that sat on their mantle. When

the couple explained the meaning of the piece to him; that it was from London and very important to them; the teenager felt terrible. He could not replace it because it had been sold, but he said, 'There is an antique store in town. I could go and pick something out and you can decide if you like it.' They couple thought it was an interesting idea and agreed. The boy then picked out a beautiful Chinese lacquered coffee table, which the couple liked very much. Later, when people came to their house and complimented them on the table, they couple said, 'We've got a story to tell you.'

In addition to looking at restorative justice as an individual movement, this study examined the role of social work within restorative justice applications. Due to the possibility that victims experience trauma in the wake of crime, respondents were asked, "Is a clinical degree necessary to facilitate restorative justice dialogue?" Additionally, the study explored how social work as a profession has collaborated with the restorative justice movement and how experts would suggest social workers contribute in the future.

Role of Social Work

Participants were asked whether a clinical degree would benefit persons facilitating victim offender dialogue. All participants who responded to this question (n=7) said there was no clinical degree necessary to facilitate victim offender dialogue. However all respondents (n=10) reported having received training in restorative justice or mediation, and half of the participants (n=5) said that training was necessary for persons to facilitate victim offender dialogue. Training was viewed as critical because some systems require it (such as the court); but more importantly, because undergoing training teaches people to think restoratively, to know what that means, and to understand some components of trauma.

When asked what is required to facilitate restorative justice dialogue, one respondent said, "All [facilitators] go through advanced training. It's a different kind of

71

training that has to be involved because you're talking about people's safety." Another

participant talked about how training is required in the courts, saying: "You need to go

through a thirty hour training; plus mentoring and evaluation. In the free markets you can

pretty much do anything and nobody's looking… in the court system there's uniform

rules that say if you're going to mediate you have to be affiliated with a program

approved by the court." Without proper training, one participant cautioned that an

untrained facilitator might risk re-victimizing the victim: "That is part of the training. It's

a very specific series of questions, almost like a script, that you go through with the

victim to prepare them."

Most participants (n=6) reported attending multiple trainings in restorative justice,

and most participants (n=6) had developed restorative justice training manuals or trained

others. Five respondents said they attended a five-day training program and one

participant mentioned attending one two week training. Regarding the two week training,

she noted "It was extremely intensive training. It was one of the most powerful

experiences of my life being amongst all those people, some from the system, some from

the community and not-for-profits… there were 24 of us."

Eight out of ten participants said the majority of people working restoratively in

the United States are volunteers. Most participants felt this was significant in light of

how the work is done and also signaled to the kind of passion the work arouses. One

participant elaborated:

> It might be hard for many to believe but 99% of people throughout the United
> States, including myself, do this pro bono, no fees involved. Some are clinicians.
> Most are not. They come from varied backgrounds. Some are clergy. Some are
> people that have worked in different human service agencies, but not with formal

social work degrees. Some are just community folks that have intrinsically just deep skills for this kind of work.

Another respondent felt that having volunteers limits the kind of work being done, "A lot of the programs have volunteers. It's easier to train them to do small claims cases. They're easier to resolve then neighbors having a long standing dispute or brothers and sisters fighting."

There were divergent opinions as to whether the large number of volunteers in the field was positive or negative. For one participant, volunteering meant that people with passion and energy were doing the work. He said: "The development of the movement and this is so true with many movements, has far more to do with the spirit, the energy, the presence of people who have a passion for this." Whereas two other participants felt that the high prevalence of volunteers in the field was a detriment to the movement at times. "We have moved away from that model. Our experience is that it's difficult to carry out this work with volunteers especially in this kind of a paradigm shift because we have come to a place that it's not mediation."

Study participants were asked whether having a clinical degree would be beneficial to restorative justice work. Four participants said that having a clinical degree would be beneficial if the clinician was careful not to mix roles. One participant noted that having a clinical perspective was extremely important. All participants responding to this question (n=7) said that victim offender dialogue and other restorative practices are not therapy. As one expert said: "Having a clinical degree would help in many ways, but I have to be frank. It could also get in the way. Clinical degrees, if that keeps us up in our heads, in our ego, the energy of our presence will not clear the path." However, this

participant felt that good clinical knowledge was extremely helpful for the process. What he encouraged, was that people "park their ego in the background and turn off the switches of judgment and assessment… to simply allow the incredible healing power of story come out." And another expert said of clinical degrees and restorative justice work, "It can go either way and it depends on you and your boundaries on this… to know that this is not doing therapy… clinical skills are useful but you really have to be clear what your boundaries are in that role. If they need other kinds of therapy, you refer but do not mix roles."

Most participants (n=7) felt that having a clinical degree was not necessary; but being attuned to the needs of the stakeholders was very important. As one participant said, "I believe that anyone that has any relationship ability, interpersonal skills and empathy, can fully prepare a victim." Additionally, four participants said that having mediation skills and/or a law degree was not necessarily helpful. One respondent explained, "There are different skills and different personalities. Just because you're smart and at a prestigious law school doesn't mean you can necessarily be a mediator. There are very different skills; different temperaments. Even if someone is a decent mediator, they might decide they don't want to work with anything that has real, raw emotions." In fact, having a mediation background was noted by several participants (n=4) as a potential drawback: "People who are facilitating the mediations are not only understanding it as mediation… they're only trained as mediators and they don't necessarily bring the skills. Even to assess whether it's appropriate to bring those people together is a huge issue." Rather, having clinical skills was noted as important in allowing facilitators to work with more complicated cases (n=3):

Because the coordinator of our program brings so many psychological and trauma skills… he is able to work with people to identify… are there issues and concerns here? And… he has the skills to bring people to a place that even though there are issues they can meaningfully meet and have a conversation. If you don't have those skills I think there are probably a lot more cases where you need to make the decision to not bring people together

Four out of ten participants noted that therapy is often vital before and after restorative dialogues. One participant explained his process of checking in with all stakeholders about their support system prior to meeting with the other stakeholders. If the stakeholders have therapists, he also does his best to involve them in the process. He said that including stakeholders' therapists in the process helps them 1) know what restorative justice is and 2) gives assurance that the process will not interfere with the longer-term therapeutic intervention. This expert added: "The power of victim offender dialogue in deeply dramatic cases is helping people to get unstuck, but that doesn't mean they heal automatically. It has an enormously transformative effect, but lots of follow-up support is needed and that's where clinicians can be so helpful."

One participant described a case where an offender entered therapy as a way to be held accountable for his prior actions. She illustrated:

I had a case recently. It was road rage where there was a bicycle messenger… I think we all know [bicycle messengers] are like mad people on the street, like Mad Max. But there's a bicyclist in a crosswalk and a car pulled up and [the bicyclist] pounded on the hood and said, 'Hey buddy. I'm in the cross walk.' Leisurely the guy backed up… and then drove at him and hit him. Not enough that he got any scrapes, but people in offices above who saw it were enraged. They came down and said "This is outrageous. We saw him back up and then hit him…" The bicycle messenger grew up in Brooklyn, was self-described as a tough guy… said he wasn't hurt. 'I went to an attorney. They told me to go to a chiropractor and get the bills up. I'm not going to do that. What I want is him to apologize. I want him to pay for my emergency visit and I want him to get counseling.' So, in that case and the guy had a record going back some years… he agreed to pay the money, he apologized and he went to counseling.

The Role of Social Work in Restorative Justice

Five participants answered the question: "Should social workers be more involved in the restorative justice movement?" Four replied with an emphatic, "yes" and one respondent felt social work was already closely linked to restorative justice. One participant felt social work should be more involved because both social work and restorative justice shared similar holistic relational perspectives and similar ethical principles.   He said, "Victim offender dialogue is one of the most beautiful expressions of the strengths based approach to social work practice. It is literally identifying and working with and honoring the enormous strength and capacity that highly traumatized people have…" He shared his frustration of the lack of social work presence in the field, "I just think it's a sad reality, maybe paradoxical, that it has taken so long for the field of social work to even begin recognizing the presence of the restorative justice movement. Social workers have been involved from when I began in 1974; yet it is basically on the margins in the contemporary field of social work in this country." He added that only in the last few years had NASW published a feature article highlighting restorative justice as a movement consistent with social work values. Another participant said that "The care and protection field has been using family group conferences for years in this country. There's a lot of crossover and I think it would be a good thing. I'd like to see more social work programs take it on."

The following section will examine challenges in the restorative justice movement. Participants were asked one question about challenges; simply, "What are some of the biggest challenges in the field?" This, however, was a topic most

participants elaborated on at length due to the significance of obstacles faced; notably that for restorative justice to grow as a movement in the United States a major paradigm shift is required.

Challenges within the Movement

Again, participants were asked: What are some of the biggest challenges in the field? While collaboration (n=10) and funding (n=6) were the most common responses, they were not identified as the most significant challenges. The most pressing challenge noted by participants was 1) people misuse or misconstrue what restorative justice is (n=8) 2) restorative justice requires a change in thinking and a paradigm shift (n=5), and 3) restorative justice has a broad mandate or is perceived as having a broad mandate, which makes funding and resources taxing (n=3).

Several participants (n=4) said that their organizations were running out of funding and some participants (n=2) said they were trying to stretch their money as far as they could: "I'm in the last year of my funding. This is my third three year cycle except I've stretched this one out to four years." Some participants (n=3) noted that the federal government was more supportive of restorative practices in the 1990's. One participant explained that "After Columbine, the federal government decided to invest in different practices for juvenile justice." Another participant said that restorative justice funds were larger in the late 1990's but "When the administration changed in Washington, the focus on restorative justice, juvenile justice on a big scale, just was not as intense as it was prior."

Although funding was the second most frequent response regarding challenges in the movement, it was not the most significant challenge according to most participants.

Several participants (n=4) felt people in the movement should spend less time being concerned about money. One participant felt that being concerned about funding would put the quality of work at risk: "If we worry about the resources too much, if you get it from a foundation or a government, then you're a slave again to the master." Rather, he suggested that if people continue to do the work, the resources will come. As he explained: "You set your own destiny." Another respondent felt that the movement is too important to let a lack of funds stop its progress. As he explained: "One thing we were discussing tonight…we're not going to let a lack of funds stop us from doing this work because we realize how valuable it is… funding is not to keep us from doing this."

What was described as a significant challenge in the movement by half of the participants (n=5) was what two participants described as a "paradigm shift;" that to think and act restoratively on a systems, community and individual level, there has to be a major shift in the way people think. One respondent said his dream was to have restorative justice instituted on a national level but said: "We're so punitive and fragmented; I can't ever imagine getting there in this country." One participant explained: "If we look at it as a political and economic structure – it would be more like communism than capitalism. The difficult thing we're confronted with is this requires a change in our heads and in our hearts."   Another participant said that restorative justice requires more from the average citizen, making it difficult to get people invested. As he put it:

> People realize how easy it is to call 911 rather than go to your neighbor, bring a beer over or a cup of coffee, and say 'your dog's been barking a lot at night. I'm wondering if there's a problem because that hasn't happened before.' People are not inclined to do that partly because we don't know our neighbors but partly because it's just a lot easier. I think that's where people who say restorative justice is a way of being are right. It requires something more then what you

would ordinarily have done… It's a form of personalized justice or humanized justice in a world that's increasingly dehumanizing.   I think that's the big issue.

Another challenge discussed by participants was collaboration. For some participants (n=6) this question was asked directly; others mentioned collaboration individually (n=4). Most participants (n=9) felt that collaboration within the movement was a challenge. One participant identified conflict as being typical of any social movement because movements involve people with passion, and so there's ego involved: "with the restorative justice movement," conflicting ideas, "It's no different then in the civil rights movement or the women's movement or other movements that have been part of the history of this country." Another participant felt people within the movement needed to be conscious of disparate opinions:

> We've got to be conscious that as black people we are still experiencing post-traumatic slave syndrome… we fight amongst ourselves. Because we had the field Negroes that were picking cotton and the house Negroes, and the house Negroes thought they were better then the field Negroes… and it caused a lot of division. That can happen in the movement as well if we're not careful.

While collaboration was noted as a challenge by most participants and one participant was frustrated because she did not know what was happening elsewhere in the country, several participants (n=4) felt that collaboration was strong in the field, particularly considering there is not one central point of authority. As one participant put it, "We're not all on the same page, but we're all part of the same book so we don't have to agree on things."

Because restorative justice has broadened its mandate of how the justice system should respond to crime, some participants stated that the challenge is not having enough resources (n=2). As one respondent explained, "The justice system generally feels

overwhelmed with their mandate to deal with the offender. One of the challenges

restorative justice has is it's a broad mandate. It's serving the victim and community."

Another expert reported that in the realm of severe and violent crime dialogue, victims of

past crimes are not being educated on the possibility of having one of these meetings:

"They tell new victims, but the old victims don't know partly because they'd get

overwhelmed. It's partly funding – to have enough capability to respond."

A significant challenge and frustration noted by most participants (n=7) was that

people frequently misunderstand what restorative justice is. This misunderstanding leads

to a multitude of problems, such as a false expression of the work; negative outcomes for

stakeholders; and difficulty sustaining programs.

The most common misconception noted by participants (n=5) was that people

thought of restorative justice as a program. One participant said: "If you do decide to talk

about us, you would make us very happy if you did not call us a program." Another

participant expressed just how frequently people make that mistake: "I see this pretty

much across the board: people jumping to programs and not giving thought to

sustainability. That was one of the things that was really drummed into our heads. It's

not a program." And a third respondent said, "I think a huge obstacle for working in

restorative ways is that people tend to think programmatically. That it's about instituting

programs."

The concern was that in thinking programmatically, people were missing the

values and principles that are essential to the philosophy of restorative justice. Without

that, many participants (n=4) felt "programs" were bound to fail: "In truth, there are

specific programs we have introduced in our practice, but we can't work restoratively

unless it's about the mindset." Without understanding the philosophy, participants (n=3) explained the concern of facilitators not bringing in all of the stakeholders: "I can't support a program that's been being billed as restorative that isn't: if they're not including all the stakeholders, if they're just focusing on offenders."

Another misconception noted by participants (n=4) was people's belief that victim offender mediation and other forms of mediation were synonymous. Rather, participants (n=3) explained, in victim offender mediation parties are not equals as they are in other mediation practices. One participant explained why several victim offender mediation programs had failed in his state:

> Most victim offender mediation programs are run by people from a mediation background, which is not a restorative perspective. One of the reasons mediation and restorative justice have meshed to some degree is they share a lot of common values. But there are differences. I think mediators from a pure mediation standpoint often have problems working in the victim offender mediation field because some of the tenets of mediation just don't fit. The idea that two parties coming together are equals. In victim offender mediation they are not equals. Somebody has harmed the other person and there is an imbalance in that. Mediation is also a voluntary process, and our perspective is it's not voluntary for the offender. It is for the victim, but the offender has an obligation to meet with the victim if they want to meet.

The Future of Restorative Justice in the United States

Restorative Justice began as grassroots movement in the United States, but has also been implemented on a systems level in many states and nationally in some other countries such as New Zealand. For this reason, nine out of ten participants were asked whether they felt there was more strength in a bottom up, community based movement or whether a top down, systems approach would be superior for the movement to thrive in the future. Most participants (n=7) said the bottom up approach was most essential; several participants felt that the government's role was equally important (n=2); and all

nine participants felt some combination of these methods was ideal for the movement to prosper.

Bottom up Advocates

Seven out of nine respondents felt a bottom up approach was essential to the movement, even though they felt government should play a role. As one participant said: "I firmly believe in the balance of both approaches, but I put more value on the bottom up. There's too much in the movement at this point of top down policies that have little substance." Another person said that while he at one time wanted to change restorative justice on a national level, the work is far too robust for him to leave his own community. He said: "The only way we can ensure the stuff we're talking about happens is by staying home and focusing on doing the work. This is a huge task." He also said, "I have this bias that it will never be legislated by the U.S. Congress. It will never be legislated by state legislators. If it will ever happen, local communities are the ones who are going to make it happen." A third respondent said, "I'm a real bottom up guy. I've spent most of my life working with grass roots." He explained that while the New Zealand restorative justice work is somewhat top down as it is instituted nationally, it would not work there if they weren't thinking in terms of community. He said "It's not a Maori process but it encompasses their values… one of the principles is you have to make it culturally appropriate for those involved… and [in New Zealand that is] built right into the process.

Top down Advocates

Two of nine respondents felt that a top-down approach was most beneficial in furthering the movement. As one participant noted, "If restorative justice is ultimately going to have any impact on the justice system, then it has to come from within the

system and it has to be holistic." He said, "For a long time I didn't think that government

officials could actually run restorative processes because of a conflict of interest… but

they're doing it," and he explained the importance of considering government an essential

stakeholder in the process; that it's not just about the community, the offender, the

victim, it's also about government. Because, he said, while "restorative justice needs to

be done within the community, it's the government that gives the opening to do it."

One participant noted that our communities are not equipped to ensure orderly

processes on their own. "If there is chaos and riots in the streets, you bring in the

National Guard; that's government." He said:

> How do you get the people of the community to actually be restorative? It's not
> always in their nature. For example, someone walks into my office and its five
> minutes of five and I've got clients. I'm not going to stop everything and say tell
> me what happened to the victim or to the mother of the kid that was just arrested.
> I'm going to say, 'I'm sorry were closed. You've got to come back tomorrow.'
> And I'm going to do that especially if this is the only job I could get, if I'm not
> passionate about this.

This participant felt that one way to respond to the dilemma of disinterest would

be to institute evaluation tools. He said that while a person might not have restorative

values, they do "want to get a raise and keep their job. What you have to do is

understand human nature and realize that people will do the thing that gets them in the

direction they want to go… so let's try to stretch the systems." Four respondents also felt

that it was the government's responsibility to fund restorative justice practices.

A Balance of Both Approaches

As previously mentioned, all participants (n=9) who were asked whether a bottom

up or top down approach was more ideal to sustain restorative justice felt a balanced

approach was ideal. As one participant said," I don't think it being either community or

government is the perfect answer; both of them bring something and the critical thing is that role be transparent to the community." Another expert said: "It takes us all. There need to be people that work on the state and national level, but ultimately you can't mandate this. People have to catch the vision. They have to believe it." And a third respondent said, "I used to be anti-system and still am to a certain degree. But the systems are part of communities and communities are part of restorative justice so I see it as a balanced approach to social change."

<center>*Suggestions for Elevation of the Movement*</center>

When asked how the movement might grow and/or become more effective, most participants (n=8) felt marketing and education were essential. Partnering with systems was also noted as important for elevation of the movement (n=2), as was self care (n=1) and more comprehensive research (n=4).

Marketing and Education

Eight participants felt marketing and education was essential to the elevation of the movement. One participant said that promoting the movement was one of the biggest components of the work. Referring to persons working in the field, this person said:

> One of the core skills, which there's never been a training session on, but I thought of it for a number of years is schmoozing 101; the art of restorative justice development. Even though I do research, I also know that affecting legislators and making big change has far more to do with schmoozing and the power of individual stories to move people then it does on highly sophisticated research.

Another respondent felt that education within the courts was essential to getting case referrals, "I think it's a matter of education. DA's rotate in and out so it's not always constant. Just when you get a relationship and rapport there's a whole new batch." And

another respondent who educates internationally on restorative practices said what is

essential in his experience is that restorative justice be explained as a new idea but also

that it is being done across the globe. He clarified:

> People will listen to it if it's a new idea. If it's not a new idea to them they'll say, 'oh we did that' and that's the end of it. What I have found useful is that stories from other countries help you understand that this is a universal concept and not just an idea that some NGO is bringing to do here… or this is something that Minnesota's done and everybody rolls their eyes because Minnesota's flaky. But if you can say this is being done… this is part of what was behind The Truth and Reconciliation Commission in South Africa… that this is being done in these other places...

Partnering With Systems

Three out of ten participants felt that partnering with systems was essential to

sustaining and furthering the movement. As one participant stated, "I think there has to

be somebody within the justice system that's high up enough on the food chain that can

actually impact the practice and the budget of the local jurisdiction." The same

participant said his court has been successful in this way because:

> Part of that systems change is how can we make this change actually work for the system… Prosecutors let us do victim contact… instead of their own staff doing it, and they're also getting better victim service. They're getting more victims contacted and they're getting it earlier, so that's helpful to them. We help them gather restitution information so there's a payoff for them. The payoff for us is we get to make a restorative connection with victims.

Self Care

One participant felt that self care of restorative justice facilitators as well as

keeping a sense of humor was most important. He said:

> In the long haul, for the movement to thrive, however, I've been emphasizing something I never did in the early years and it's called self-care. Learning practices of mindfulness, of centering, of yoga. Of other techniques that are highly effective in caring for our souls, our bodies, our spirits, so that we can be fully present with others and then, equally important, to always keep a sense of

humor, to not take it too serious. We've got to take it very serious but also realize we can't control things.

Comprehensive Research

Four out of ten participants felt that research was central to the future of restorative justice. Two participants noted the movement would benefit from clearer benchmarks of successful outcomes. One participant elaborated on a research project he and other colleagues are currently working on called "RJ City." He explained that RJ City is a research and design project that considers an imaginary city of one million people which "responds to every crime, every victim and every offender in as restorative a way as possible." In brainstorming how the imaginary city would function, this participant and other researchers are considering how interested the public would be in participating in restorative justice applications; what kinds of standards of practice might be implemented to ensure citizens work restoratively even if they don't fully engage with restorative principles. He said in this research project they have considered:

> How does policing get done? In my community, if [someone] gets pulled over, the police officer will stay behind until at least two other police cars pull over. Now, I'm driving past and I think there's a terrorist: "That guy must've done something really bad if there are three or four police officers." They're doing it because it's a way to protect themselves... overwhelming force, however, is going to feel like a police state. A bunch of these we don't have answers to… but you would want to find some way to significantly reduce the need to show overwhelming force. You would want to protect the police officers, but there's got to be another way of doing it.

Participants differed in opinion as to whether standards of practice should be instituted for restorative justice across the country. One participant said there are debates of whether to implement standards of practice within the movement; one concern being that standards are too rigid. This participant suggested instituting ten principles to ensure

continuity of restorative justice practice and recommended modeling the principles on the

work being done in New Zealand. He said:

> Again, the New Zealand model is very influential for me because what they've
> done is establish principles; they call it principle practice, which guides them. I
> think if we could agree on some basic principles it could give us some standards.
> It's hard to get everyone to agree on these things. Some people want detailed,
> ethical things no one can remember. I'm for maybe ten basic principles.

Another participant talked about how a centralized force could negatively impact

the movement: "I'm actually glad that there's not a central organizing force, particularly

one not located in government that directs.   They would try to prescribe. What I think is

powerful about the restorative justice movement is that it's grounded in values. As long

as you stay in the value parameters you're going to keep the same vision."

The Future of Restorative Justice

Participants were asked where they felt restorative justice would be in the future.

Most participants responded (n=6) that they had an image of where they would like it to

be, but this was a "dream" and would not come true during their lifetime. For example,

two participants felt the US would never be ready for restorative justice on a national

level. One participant said:

> I don't think we're going to get to the dream. I [co-authored] a book on critical
> issues of restorative justice… and I've seen this for years… It isn't going to
> change the world overnight. Every intervention has unintended consequences and
> restorative justice is the same. Even today all kinds of people are calling things
> restorative justice that aren't restorative justice at all. I've heard the death penalty
> called restorative justice. There's all kinds of ways it can go wrong.

One participant's dream was that in practicing restorative justice applications in

small spaces, it will change the way we work together as a society: "We talk about circle

as a place to practice how to be in alignment with our best self, but the purpose of that is

not to be in circle. It's ultimately so we strengthen those muscles… so we can carry that when we go out even when others are not doing the same thing."

Resilience of the Movement

While participants did share concerns about challenges within the movement and the level to which it would be embraced nationally, all participants (n=10) felt restorative justice has incredible resilience. As one participant noted:

> It may not even always be called restorative justice, but the reality of looking at crime as a wound within the community, of providing opportunities for healing and accountability, has taken deep root and I absolutely have total confidence, regardless of what it's called, it will continue to grow. I never thought 25 to 30 years ago it would be where it's at right now." So I remain very, very confident that restorative justice will… continue to expand even though there will be enormous obstacles.

Another person compared restorative justice's growth to groundwater. She said:

> I think it's seeping into other parts of our lives, which is critical because the framework that we use around criminal and justice is just a reflection of every other place. Where we work, the church, our schools, our families. And it is it's moving out and all of those ways… If we were tying to do this alone I would say they maybe [I'd be concerned] not but we're not alone. We're just one particular expression in this field of which I think of as a deeply human impulse… I think that basically human beings are born with a restorative impulse when that is fed and nurtured. So I think it will ultimately prevail.

Summary

What was significant in the findings is that restorative justice faces major challenges; namely misconceptions of what it is and the need for a tremendous change in the way we think and work as a society. However, restorative philosophy and applications have existed and survived for centuries and while participants noted the road toward a more restoratively focused United States is going to be rocky, great progress is expected.

While participants noted that there is no centralizing force within the restorative justice movement, the philosophy was described by most participants (n=9) as the same. Also, it was noted that there is a hope for more social work involvement in this movement, and that promoting the values and principles of restorative justice will help promote effective outcomes nationally and internationally. Because restorative justice is not about punishment, rather it's about looking at strengths and interconnectedness, outcomes have been witnessed to be expansive.

CHAPTER V

DISCUSSION

The current study posed the question: What are expert perceptions of restorative justice as it is occurring in the field? Specifically, participants were asked about challenges of the restorative justice movement; participation in practice; and types of crime for which restorative justice is currently used. The purpose of the study was to gain a broader sense of the work and how it transpires as much of the prior research has reviewed specific practice and/or theories and outcomes of restorative justice, but has not offered a comprehensive description of the existing work across disciplines and environments.

As this was an exploratory investigation, this researcher did not have a hypothesis regarding restorative justice outcomes and challenges. However, prior restorative justice research and retributive justice theories were used to guide the current study and much of this literature was corroborated in the current study, including: restorative justice outcomes being viewed as extensively positive (Bazemore & Schiff, 2005; Nugent, et. al., 2004; Zehr, 2002); positive outcomes being seen as declining recidivism rates (Nugent, et. al., 2004) and reports of satisfaction by victims offenders and communities (Sherman et. al, 2005); the belief that restorative justice emerged as a reaction to limitations of retributive practice (Darley and Pittman, 2003); and the perception that the most effective restorative justice interventions include three justice stakeholders; victim, community and offender (Bazemore & Schiff, 2005). Finally, results of current study

suggested that shifting the perception of how communities, governments and individuals respond to crime is a considerable challenge of the restorative justice movement; a finding also consistent with previous research on the subject (Darley & Pittman, 2003).

It should be noted that some study participants were also authors of research discussed in the literature. This shapes the forthcoming analysis of the literature as some participant responses were used to corroborate their own research. However, as restorative justice literature is constrained by the short life span of the movement and funding limitations within the field (according to respondents of the current study), the use of participant literature was essential for this study. Additionally, the purpose of the study was not to disprove restorative justice philosophy and research, but rather to explore the movement and its operation in greater depth. As several study participants were pioneers of the 1970's restorative justice movement, it was advantageous to use their knowledge on multiple levels.

The next several sections will describe how the findings of this research matched up with previous literature; emerging themes not detailed in the prior literature will also be discussed. This chapter will then conclude with a discussion of implications for social work practice, implications for public and national policy, and a recommendation for future research.

Comparison to Previous Literature

Most study participants believed that restorative justice emerged in the 1970's as a response to limitations of the U.S. retributive and compensatory justice models. This belief is consistent with previous research that suggests that retributive justice fails to respond to harm in a holistic way (Bazemore & Schiff, 2005; Darley & Pitman, 2003)

and that restorative justice is more suited to attending to victim, offender and community needs then punitive, offender focused sentencing (Bazemore & Schiff, 2005; Zehr, 2002).

Positive outcomes were described by most participants as a reintegration of offenders into the community, which is supported by reintegrative shaming theory (Braithwaite, 1989). However, previous literature suggests that probation emerged primarily as a way to decrease recidivism rates (Morgan, 1993) whereas the findings of the current study suggest that restorative justice did not emerge primarily as a way to decrease recidivism rates. While, consistent with the literature (Pager, 2003) it was noted that restorative justice emerged in partial response to overcrowding in U.S. prisons; the main goal of the movement was not seen as to decrease incarceration rates. The implications of restorative justice were seen by most participants as much broader in scale. Many participants felt that continuing to focus solely or primarily on offenders would what is already flawed in the U.S. justice system; that it is primarily offender-focused. Rather, RJ was not seen as primarily a means for decreasing recidivism or inmate populations, but as a way to elevate the role of the victim and the community in the justice system; and it was suggested that it should not be considered solely a way to address future crime, but more importantly a way to respond to current harm.

As this was an exploratory investigation, unexpected themes emerged during the course of the investigation, including questions about how to define the term restorative justice and the purpose of the movement. As previous literature has noted, "There are a number of definitions of restorative justice, and even more ways of defining the dimensions by which one might determine the strength and integrity of a given restorative justice intervention" (Bazemore & Schiff, 2005, p.27). However, discrepancy

among restorative justice definitions was considered a crucial issue by many respondents in the current study. Much of the research and restorative justice websites did not explicitly differentiate victim offender mediation from restorative justice and vice versa (Strehorn, 2004; VOMA, 2007); an implication for restorative justice proponents wanting to clarify these distinctions.

In conjunction with the previous literature, the study's findings suggest that altering public perceptions and the U.S. judicial mandate is a difficult challenge due to the potency of individual worldviews (Darley & Pitman, 2003). As previously mentioned, findings were consistent with prior literature (Bazemore & Schiff, 2005) that three stakeholders (victim, offender and community) be included in fully restorative interventions. However, many participants in the current study were more accepting of partly restorative practices in comparison to literature suggesting this as more controversial. While fully restorative practices were still noted as ideal by participants, realistic goals were also seen as important. As not all victims or offenders are able to meet face-to-face, creativity within the process was thought to provide more illustrious outcomes.

Consistent with previous research most study participants believed the current increase in incarceration rates as compared to fifty years ago is due to economic and institutional disparity, rather then growing crime rates (Western et. al., 2006). Additionally, findings upheld data from previous literature that difficulty finding employment and drug use history were risk factors significant to recidivism (Peerson et. al., 2004).

It is notable that restorative justice was considered a social movement and a way of life by most participants. Previous research may be seen as understandably limited in its description of restorative justice applications as participants reported a changing methodology and suggested there are limitless ways to work restoratively.

Summary

Ten participants were asked to share what they found to be the most fascinating or disconcerting aspects of their work in restorative justice. Emerging from this exploration were responses about the difficulty and limiting facets of language and the exciting prospect that more and more people will have access to restorative justice philosophy and interventions. To move forward positively in the movement, participants felt that marketing and communication were essential as numerous persons did not know about the philosophy and/or were working inexpertly within the field. As restorative justice is a grassroots movement with its ancestry grounded in indigenous cultures across the world, participants felt the need for a comprehensive focus on community and cultural relevancy when working restoratively. Finally, while there was no noted authority on restorative justice practice, respondents were highly coordinated in their description of restorative justice values and practice. Reasons for this synchronization are not known by this researcher.

Implications for Social Work Practice

As part of the study, a follow-up interview was conducted with a clinician currently doing community organizing in a large US city. While this clinician had been doing community organizing for several years and detailed practices that were clearly similar to the circle process and restorative justice applications, he reported not having

heard of restorative justice until very recently. This clinician explained that he and his

agency had been looking to connect with other community organizing agencies for years,

but had not been able to locate any in their area. His explanation was that many

community mental health agencies disappeared in the 1970's due to a lack of funding and

his was one of the few remaining in the U.S. When asked why he wanted to connect with

other institutions and individuals doing this work, this respondent said that he wanted to

know more about best practices and to build an alliance in order to effect change on a

larger scale. This clinician showed great excitement when hearing that there were other

organizations (specifically, this researcher described restorative justice community

practice) conducting similar work and was looking forward to connecting with those

individuals.

By advocating for restorative justice interventions and community-building

practices, social workers are promoting a strengths-based philosophy as a response to

crime and ways in which individuals and communities interact. Restorative justice

values greatly mirror social work values of self determination, individuality, acceptance

and accountability. To keep ordinance with the Social Work Code of Ethics, social

workers should be aware of this philosophy so they may positively advocate for clients

and more just and principled statewide and national policies.

The findings of the current study suggest that social workers who wish to

facilitate victim offender dialogue should do so carefully. While clinical skills were

highly regarded by participants, it was also noted that mixing roles of therapist and

restorative justice facilitator could be detrimental to restorative justice outcomes.

Restorative justice was noted as unlike therapy, wherein a clinician enters the relationship

hierarchically with clinical boundaries and knowledge. Contrarily, restorative justice facilitation was viewed as creating a space for parties to communicate with one another without the continuous guidance of a "professional"; where facilitators are also group members with a personal voice. It should be noted that clinicians may add to the field of restorative justice through their comprehensive knowledge of trauma; and may also promote policy changes so that more victims are responded to therapeutically in the wake of a criminal act.

Implications for Policy

Funding for restorative justice was perceived as greatly limited by participants. This lack of funding has negatively affected the ability to conduct comprehensive research studies; and the ability to pay restorative justice proponents adequately. The large need for volunteers to facilitate victim offender dialogue was seen as detrimental; as volunteers often had intentions of doing mediation rather then working in line with restorative justice philosophy.

Most participants believed that the U.S. government was responsible for funding restorative justice practices. By doing so, participants suggested that the government would spend less money on incarceration and court fees, thereby making this alternative monetarily feasible. Restorative justice was noted to be less expensive then many "systems-people" might believe, with victims requiring less then public opinion might suggest. Considering ways that restorative justice programs might decrease current resource needs in the justice system may positively impact its receipt by US institutions.

To further dismantle institutionalized racism in the United States, a response to the current retributive policies is essential. The marked number of minorities

incarcerated in the U.S. is a reflection of a major inconsistency in detainment; something participants described as "disproportionate minority contact." Public policies promoting greater communication and more relevant and appropriate responses to harm are essential if we want to counter the perilous approach used in the justice system today; an approach that leaves pathways of discrimination wide open.

Recommendations for Future Research

Study participants recommended that more quantitative analyses of restorative justice outcomes be considered, and suggested creating a set of unified benchmarks to improve the value of current and future research. By defining outcomes more comprehensively, participants felt funding opportunities might be improved and further attention could be drawn to the movement. Additionally, tracking individuals and communities participating in restorative justice applications was seen as a significant need; many participants having voiced concerns that documentation was scarce due lacking funding and resources.

The current study was limited financially (no grant money was used for the writing of this thesis) and was also constrained by a tight production timeline. As the research was a requirement of a Master's Degree in Social Work, this writer was mandated to conduct all of the research and writing within one year; a year in which she was also required to fulfill significant academic and field placement requirements.

Had there been more time and money to conduct this study, this researcher would have spent additional time on recruitment in order to interview at least twelve, if not fifteen, participants as was the initial target of the study. Finding participants was not difficult initially; however, follow through with interviews was impeded by the

overwhelming nature of restorative justice work. With interviews repeatedly falling through, this interviewer was required to spend a significant amount of time on recruitment and traveled to another state to gather several of the interviews for this study. Due to the robustness of restorative justice work and the lack of funding within the field, this writer hypothesizes that restorative justice experts are difficult to interview not due to disinterest, but rather a lack of time. Additionally, the study would have benefited from additional time to analyze data and summarize findings.

Without the aforementioned constraints, this researcher would have wanted to shift the study-focus more frequently; specifically, when responses from participants informed the need for clearer benchmarks in research and more national and statewide funding. Future research might explore current funding sources for restorative justice and criteria necessary for receiving grant monies. In doing so, researchers might also examine whether legislators are adhering to and/or comprehending the restorative justice philosophy and values described by the pioneers and experts interviewed in this study.

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Appendix A
Human Subjects Review Approval Letter

January 18, 2007

Jessica Ames
368 Broadway, No. 4
Cambridge, MA 02139

Dear Jessica,

Your amended materials have been reviewed. You have done an excellent job on their revision and all is now in order. Your recruitment section was well done, as was your revised Questionnaire. We are happy to give final approval to this most useful study.

Please note the following requirements:

Consent Forms: All subjects should be given a copy of the consent form.

Maintaining Data: You must retain signed consent documents for at least three (3) years past completion of the research activity.

In addition, these requirements may also be applicable:

Amendments: If you wish to change any aspect of the study (such as design, procedures, consent forms or subject population), please submit these changes to the Committee.

Renewal: You are required to apply for renewal of approval every year for as long as the study is active.

Completion: You are required to notify the Chair of the Human Subjects Review Committee when your study is completed (data collection finished). This requirement is met by completion of the thesis project during the Third Summer.

Good luck with your project.

Sincerely,

Ann Hartman, D.S.W.
Chair, Human Subjects Review Committee

CC: Jean LaTerz, Research Advisor

Appendix B
Informed Consent Form

Dear Participant:

My name is Jessica Ames and I am a graduate student at Smith College's School for Social Work in Northampton, Massachusetts. In partial fulfillment of my Master's of Social Work degree, I am doing my thesis on restorative justice practices. Specifically, I will be talking with facilitators and experts of restorative justice in the United States to collect data on the effectiveness of its practice. The current study intends to supplement existing research by exploring perceptions on how various RJ processes work, what outcomes are witnessed (including whether RJ practices impact offender reentry and victim and community satisfaction), and what needs there are locally and nationally for restorative justice to grow as a movement. The information that you share with me may be used in professional publications, articles and academic presentations on the issue.

You are being asked to participate in this study because you are a local facilitator or acknowledged expert of restorative justice in United States. Participants of this study must have at least three years of experience within the field of restorative justice and may or may not be certified in restorative justice dialogue. Participants are comprised of a nonrandom sample selected for their ability to provide insight into the topic and by their geographic location. You will be asked to share your experiences regarding your opinions on the movement, including negative and positive features you have observed, and will be questioned about the way restorative justice is working in your area or organization. The format of the interview will be open-ended. While I have some questions I will be asking, I would like you to have the opportunity to share your experiences freely.

The interviews will occur from January through April 2007. Each interview will take approximately one hour to complete and will take place either at a mutually agreed upon location that provides some confidentiality and sound-control, such as an agency or office, or on the telephone.

I will be collecting demographic data such as race/ethnicity, location of your organization and types of work/training you have conducted and learned in the field. Additionally I will be collecting qualitative data in the interview that will be used to explore restorative justice descriptively. Your interview will be audio-recorded. I will not use your name on the tape, and you will not be identified by name in this study. I alone will be transcribing the data. My research advisor from Smith College may review my findings to ensure reliability only after all identifying information has been removed.

All consent forms will be kept separate from the transcripts and each transcript will be assigned a numerical code. Any illustrative quotes that will be used in the writing of the report will be carefully disguised to maintain your privacy. All of the data collected in this research will be protected and stored in a locked environment. Consistent with Federal regulations, all of the data will be destroyed after three years. Until that time, the only people who will have access to the transcripts are myself and my research professor at Smith College.

There is a slight risk that in talking about your experiences you may become troubled by the subject matter. You may refuse to answer any questions and are encouraged to discuss any questions that are troubling or unclear with the researcher. A benefit of your participation may be that you will be able to share your expertise in order to educate a larger population about restorative justice practices and philosophies.

Please know that you may decline to be involved in this study without repercussion and may stop the interview at any point. Even after the interview, you may withdraw your participation until May 5, 2007 and all materials relating to you and your participation will be immediately destroyed.

YOUR SIGNATURE INDICATES THAT YOU HAVE READ AND UNDERSTOOD THE ABOVE INFORMATION; THAT YOU HAVE HAD THE OPPORTUNITY TO ASK QUESTIONS ABOUT THE STUDY, YOUR PARTICIPATION, AND YOUR RIGHTS AND THAT YOU AGREE TO PARTICIPATE IN THE STUDY.

Signature of participant: Date:

Signature of researcher: Date:

Please keep a copy of this document for your records and return one copy to me. If you have any questions or wish to withdraw your consent, please contact: (Jessica Ames – xxxxx@smith.edu or xxx-xxx-xxxx).

Appendix C
Demographic Questionnaire

Thank you for your cooperation in filling out this questionnaire. Please notify your researcher with questions regarding any of the following information and leave blank any question you feel uncomfortable answering.

*For the purpose of saving space RJ stands for Restorative Justice

Sex (please circle): Male / Female / Other   Age: _____

Race/Ethnicity: _____   Organization (if any): _____

City/State: _____   Level of Education: _____

Any Professional Licenses/Degrees: _____

No. of Years Involved in RJ: _____

Current Occupation: _____

Any Prior Occupation(s) in RJ: _____

Have you received training in restorative justice dialogue/mediation? Yes / No

If yes, please answer the following:

1) Purpose/location of training: _____

2) Duration of training: _____

3) Any certification received: _____

Have you ever trained individuals in RJ? Yes / No

If yes, please describe training and approximate number of individuals trained: _____

_____

_____

Have you ever facilitated restorative justice dialogue? Yes / No

If Yes, please note the types of dialogue facilitated and approximate number of meetings facilitated:

_____

_____

Appendix D
Interview Guide

1. How did you begin working in restorative justice?
2. Why do you feel restorative justice practices began in the US?
3. What is the purpose/philosophy of RJ?
4. What excites you most about restorative justice?
5. What are some of the biggest challenges in the field?
6. What type of restorative justice work are you currently doing? Please explain.
7. Could you tell me a story about a successful outcome you witnessed in this work?
8. Could you tell me a story about a negative outcome you witnessed in this work?
9. Is there an RJ practice that is particularly significant to you? Why?
10. How might restorative justice impact offender reentry into the community?
11. How might restorative justice impact the community and the victim?
12. Do you feel there is a presence of clinically trained individuals in the field?
13. Do you think this is important?
14. If social workers were to become more involved in RJ, what do you think they might do?
15. Do you think a top down or bottom up approach is best for making RJ change, or both?
16. What do you think future holds for restorative justice United States?
17. Is there anything else you would like to share?