

An Economic Analysis of Restorative Justice

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Abstract

Restorative justice (RJ) practice is becoming increasingly popular in the criminal justice context both within the United States and abroad. Numerous practitioners and scholars praise the method for providing a more holistic criminal justice process aiming for restoration rather than retribution. Restorative justice is often conducted among juvenile offenders, but there is growing rhetoric advocating for the implementation with nonviolent adult offenders as well. Despite almost universal agreement of the claimed economic advantage, little research has been conducted validating such a claim. The following study examines contemporary restorative justice in the United States and provides a cost-effectiveness (CE) analysis comparing restorative practice with traditional criminal justice (TCJ) methods in Massachusetts. Furthermore, this economic analysis intends to provide the information necessary to promote broader policy changes introducing more restorative practice into the criminal justice system across Massachusetts.

Table of Contents

Abstract.....	ii
Table of Contents.....	iii
Tables	v
Figures.....	vi
Chapter One: Introduction	1
Purpose.....	1
Research Questions.....	2
Conceptual Framework.....	3
Chapter Two: Literature Review	5
Origins of Restorative Justice.....	5
Fundamental Restorative Concepts.....	6
Contemporary Restorative Justice.....	8
Practical Applications in Criminal Justice.....	9
Preconditions for a Restorative Approach.....	11
Advantages of Restorative Justice.....	14
Disadvantages of Restorative Justice.....	18
Economic Analysis and Criminal Justice Administration.....	20
Chapter Three: Methodology	22
Economic Analysis.....	22
Cost-Effectiveness Analysis.....	22
Costs.....	23

Effectiveness.....	28
Chapter Four: Results	30
Cost Identification.....	30
Cost Valuation & Analysis.....	37
Effectiveness.....	50
Chapter Five: Data Analysis	54
Costs.....	54
Effectiveness.....	62
Cost-Effectiveness Ratio.....	65
Chapter Six: Discussion	69
Summary of Findings.....	70
Limitations.....	71
Cost-Effectiveness Analysis.....	74
Appendices.....	77
References.....	80

Tables

Table 1: Restorative Justice (RJ) Phases.....	30
Table 2: Traditional Criminal Justice (TCJ) Phases.....	30
Table 3: RJ Process Breakdown by Phase with Time in Hours.....	31
Table 4: TCJ Process Breakdown by Phase with Time in Hours.....	31
Table 5: RJ Ingredient Stratification by Phase.....	35
Table 6: TCJ Ingredient Stratification by Phase.....	36
Table 7: RJ Personnel 2011 Annual Salary & Wages.....	39
Table 8: Massachusetts TCJ Personnel 2011 Annual Salary & Wage Data.....	40
Table 9: Massachusetts TCJ Personnel 2011 Median Annual Salary & Wages.....	41
Table 10: RJ 2011 Annual Equipment and Materials Costs.....	43
Table 11: Massachusetts TCJ 2011 Annual Equipment and Materials Costs.....	44
Table 12: RJ 2011 Annual Facilities Costs.....	45
Table 13: TCJ 2011 Annual Facilities Costs: Middlesex County District Court House.....	47
Table 14: RJ Recidivism Data: 2000 – 2009.....	51
Table 15: Massachusetts TCJ: 2002 Males Release Cohort Recidivism Data.....	52
Table 16: Restorative Justice Case Facilitation Cost Worksheet: FY2011.....	55
Table 17: Traditional Criminal Justice Case Facilitation Cost Worksheet: FY2011.....	56
Table 18: RJ & TCJ Personnel Cost Comparison.....	57
Table 19: RJ & TCJ Additional Ingredient Cost Comparison.....	60
Table 20: RC & TCJ Effectiveness Comparison.....	62

Figures

Figure 1: Conceptual Model of Economic Evaluation.....	3
Figure 2: Restorative Justice Process Chart.....	29
Figure 3: Traditional Criminal Justice Process Chart.....	29
Figure 4: Restorative Justice Ingredient Mapping.....	33
Figure 5: Traditional Criminal Justice Ingredient Mapping.....	34

Chapter One

Introduction

In recent years, restorative justice has emerged as a complementary approach to criminal justice within state and local systems across the country (Hughes & Mossman, 2001; Latimer, Dowden, & Muise, 2005; National Institute of Justice, 2007; United Nations, 2002). In the majority of cases, restorative processes have been introduced as supplemental programs working to alleviate the high volume of criminal cases processed through traditional criminal justice means. There are states however, such as Minnesota and Vermont that have transitioned to criminal justice systems with restorative practices that are not supplemental, but rather have a significantly larger presence in the courts. Restorative justice programs have been implemented in a large number of traditional criminal justice systems across the country—working effectively to supplement existing systems.

Purpose

As a result of the increasing popularity, a substantial amount of research has been conducted as a means of determining the benefits of using restorative justice practice within traditional criminal justice systems across the country. This research also looks to explore potential disadvantages to restorative justice implementation.

Some scholars attribute the increased implementation of restorative justice methods in the United States as a response to dissatisfaction with traditional criminal justice methods, whereas other academics emphasize citizens' desires to further engage with their community. These scholars have identified restorative justice as a method of inviting citizens and the

community to participate and play an integral role in criminal justice practice (Doble & Greene, 2000; National Institute of Justice, 2007).

Despite the plethora of data and research available concerning the procedural and process-based advantages as well as disadvantages of restorative justice, little research has been conducted analyzing its economic efficiency in comparison to that of traditional justice (Braithwaite, 2002; Marsh, Chalfin, & Roman, 2008). The purpose of this study is to provide a comparative economic analysis of both restorative and traditional criminal justice methods through the use of a cost-effectiveness analysis. By calculating costs and evaluating the effectiveness of these interventions, this study looks to gather the economic data necessary to inform and assist in the reevaluation of broader criminal justice policy decisions.

Research Questions

Research questions for this inquiry include:

1. What are the costs associated with implementation of restorative justice methods?
2. What are the costs associated with implementation of traditional criminal justice methods?
3. How successful are restorative justice methods at producing their desired or intended outcomes?
4. How successful are traditional criminal justice methods at producing their desired or intended outcomes?
5. Is the implementation of restorative justice in comparison to that of traditional criminal justice, a more cost-effective method of criminal justice?

Conceptual Framework

According to Knapp (1997), economic analysis is a tool that promotes decision-making between alternative uses of resources or services. Because economic analysis has become an increasingly popular method of program evaluation, it is being used to inform decisions about which interventions to fund from available resources (Briggs, Schulpher, & Claxton, 2006). This type of analysis provides a tool for policymakers to evaluate criminal justice programs from an economic perspective in order to help them make decisions concerning the modification, expansion or termination of projects (Dhiri & Brand, 1999).

This study utilizes the conceptual model of economic evaluation developed by Drummond, Sculpher, Torrance, O'Brien and Stoddart (2005). (see Figure 1.)

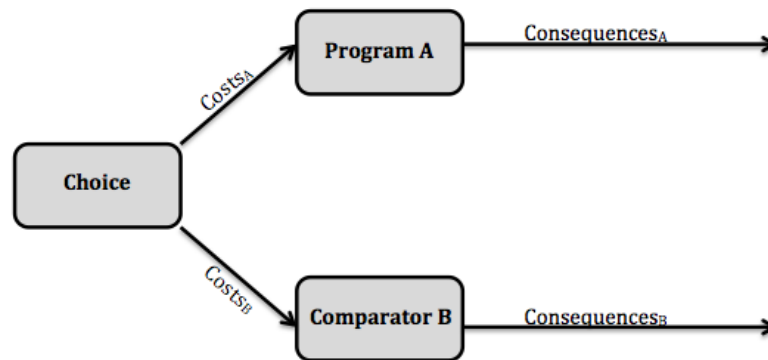


Figure 1 Conceptual Model of Economic Evaluation

This conceptual model illustrates that economic analysis is concerned with choices between competing alternatives, identified as Program A and Comparator B. It regards each of the

competing alternatives as having associated inputs, $Costs_A$ and $Costs_B$ respectively, as well as outputs, $Consequences_A$ and $Consequences_B$ respectively.

This model's primary assumption is that the costs and consequences of the alternatives being considered must be identified, measured, valued and compared. Furthermore, it assumes that it is the linkage of costs and consequences that allows a choice to be made between the alternatives (Drummond et al., 2005).

In this research, this conceptual model is operationalized to mean that knowledge of both the costs and the consequences of an intervention promote decision-making in the criminal justice context. This study aims to calculate the $Costs_A$ and the $Costs_B$ (or the inputs) required for both interventions, wherein Program A is the traditional criminal justice approach and Comparator B is the restorative justice approach. This research also intends to evaluate $Consequences_A$ and $Consequences_B$ (or the effectiveness of the outputs) of both the traditional and restorative justice approaches. Economic analysis provides both costs and effectiveness of interventions necessary for the decision-making process within the criminal justice context.

Chapter Two

Literature Review

Origins of Restorative Justice

Historically, many cultures and groups employed elements of restorative practice within their own communities. A number of the spiritual foundations of modern restorative justice for example, are grounded in many of the world's religious practices and beliefs, including those of Judaism, Christianity, Islam, Hinduism, Sikhism, Buddhism, Confucianism, and Taoism (Hadley, 2006; Pranis, 2004). Scholars have also identified similarities between restorative practice and the ancient rituals and customs of Arab, Greek and Roman civilizations (Braithwaite, 2000; Van Ness, 1986).

Further evidence suggests that restorative justice can be directly linked to the traditions and customs of indigenous tribes of the Americas, Africa, Asia and the Pacific (Braithwaite, 2001). The North American Navajo, the New Zealand Maori, Hawaiian islanders, as well as the African social ethic called *ubuntu* all yield distinct restorative justice practices within their respective indigenous communities (Louw, 2006; Zion & Yazzie, 2006).

Conversely, there is much debate as to the pertinence of indigenous dispute resolution and its applicability or influence on contemporary restorative justice. These scholars suggest that by labeling indigenous dispute resolution as having significant restorative elements, restorative justice advocates are in a way falsifying historical information to strengthen support for their cause (Daly, 2002). Those in opposition explain that by linking contemporary restorative justice to indigenous justice practices, advocates are in fact, "authorizing restorative justice as the *first* human form of justice" (Daly, 2002). In doing so, the same advocates can

then argue for the reclamation of restorative practice from “a history of takeover by white colonial powers that instituted traditional, retributive criminal justice practices” (Daly, 2002).

Although elements of restorative justice are present in the histories of many different religious and cultural groups, there is much debate surrounding any actual link between historical and contemporary restorative practice. As a result of the conflict, restorative justice is frequently defined and bound according to the environment, culture as well as era in which it is being implemented.

Fundamental Restorative Concepts

In recent decades, concepts of restorative practice began to reemerge within the western, more Anglo-criminal justice models. John Braithwaite (1989, 1991, 2003), author of the earliest and most comprehensive scholarly restorative justice literature began his work with restorative justice after dedicating considerable effort to researching shame and criminal offenders in the traditional criminal justice system.

Consequently, Braithwaite proposes an alternative criminal justice process, restorative justice as a means of combating issues of shaming among offender populations. Braithwaite defines restorative justice as a structured method through which victims and offenders can meet and explain their injuries, hurts, and wrongful actions, apologize and offer restitution to victims— with the objective of forgiveness and reassurance of safety (Braithwaite, 1991; Menkel-Meadow, 2007).

Other prominent restorative justice scholars did not agree with Braithwaite’s conclusions however. Scholars such as Howard Zehr (1990) proposed that the fundamental

focus of the criminal justice system was inaccurately pointed at the offender rather than the victim. Much less concerned with feelings of shame among offenders, Zehr (1990) claimed that in order for justice to be served and harm repaired a different set of questions must be asked. Rather than inquiring about which laws were broken, who committed a crime, as well as what punishment is most appropriate, (or how much shame an offender feels) Zehr proposes a justice model that asks the following questions:

- Who was harmed?
- What do they need?
- Who is responsible for providing these victims with what they need?

These questions, Zehr argues, reflect a more victim-focused justice system, intent on addressing issues of harm and repair over those of wrongdoing and punishment. It would appear that Zehr's somewhat controversial proposal was meant rather to instill concern for victims within the court system rather than change the focus entirely. Ultimately, he viewed the current criminal justice system in the United States as responding solely to lawbreakers and paying little to no attention to victims of crimes. Zehr admittedly advocated for a more balanced system in which attention was delivered both to victims and offenders (Zehr, 1990).

Concepts of restorative justice practice have continued to grow in popularity in the United States in recent decades independently of their history rooted in indigenous dispute resolution and criminal justice. Scholars such as John Braithwaite and Howard Zehr introduced restorative philosophies in response to dissatisfaction and negative effects of traditional criminal justice methods. Although manifesting differently, both scholars introduce very similar conceptual ideas, with slight variation, concerning restorative practice that continue to be used by both practitioners and academics.

Contemporary Restorative Justice

In the United States today, there is still no single, universal definition of restorative justice (Harris, 2004; Presser & Van Voorhis, 2002). Heavily influenced by modern societal factors, the broader concept of restorative justice continues to evolve and is often defined according to its current social atmosphere and environment as well as the discipline to which its principles are being applied (Avertsen, Daems, & Robert, 2006; de Beus & Rodriguez, 2007). Consequently, it becomes most appropriate to discuss restorative justice as both a philosophy as well as a method for practical application.

Philosophy. As recently as 2002, the United Nations defined restorative justice as “a process whereby all parties with a stake in a particular offense come together to discuss the aftermath of the offense and its implications for the future.”¹ Although criticized by some scholars as being too vague, this definition is frequently praised by practitioners for its inclusivity of the numerous types of restorative justice practice (United Nations, 2002). The various types of restorative justice practice will be discussed further in a subsequent section of this paper.

Although afflicted by nomenclature and a complex history, the fundamental principles continue to be adapted by modern academics and practitioners. These new concepts are overwhelmingly similar to those established by Braithwaite and Zehr (Menkel-Meadow, 2007; Pranis, 2004; Shapland, et al., 2011). Philosophically, restorative justice aims to transform the way we think about crime and justice in society. It looks to catalyze a more holistic change in

¹ See United Nations (2002) for further information on both the standardization of international restorative justice principles and on the use of restorative justice in international criminal matters.

the broader administration of justice (Braithwaite, 2003; Menkel-Meadow, 2007). In order to generate this change, restorative justice focuses on *restoration* as its primary goal—restoration not only of offenders, but also of victims and the community in which the wrongdoing occurred (Law Commission, 2000; Zehr, 1990). An overwhelming majority of restorative justice advocates maintain that *restoration* is the ultimate objective of restorative justice practice in the United States.

Practical Applications in Criminal Justice

The restorative justice philosophy has been operationalized in numerous different ways in the United States criminal justice systems in recent years.² Three significant types of restorative practice have emerged within the United States judicial system. Those three types are: restorative justice mediation, restorative conferencing, and restorative justice circles (McCold, 2005).

Restorative mediation. Restorative mediation, in its most organic form has actually been around longer than contemporary restorative justice practice. In fact, restorative mediation in the 1970s, originally known simply as *mediation* was restorative justice in the United States. The up and coming field of mediation was once very small and extended only to victims and offenders—very different from how we know mediation today. Prior to the many

² Restorative justice practices are frequently applied in environments other than the criminal justice system. Take for example, the increase in restorative mediation within school districts as a means to combat bullying among children and teenagers or the implementation of restorative processes within the business regulation context as an alternative to traditional regulatory enforcement.

contexts, such as community mediation, elder mediation, family and divorce mediation, permanency mediation, and foreclosure mediation, in which mediation is used today, it was once only implemented in the criminal justice context (McCold, 2005).

Historically, a neutral third party would facilitate a dialogue between an offender and the victim of a crime to discuss how the crime affected both parties and to construct a mutually beneficial, written restitution agreement. This mediation would also develop a plan for following up on the devised agreement. In the years following, this type of victim-offender mediation evolved into three more prominent models: legal based community mediation, faith based mediation and social work based mediation (McCold, 2005).

Restorative conferencing. Restorative conferencing has also emerged as a popular application of restorative justice values. Conferencing is typically used in youth or juvenile justice issues however it has to some extent been implemented with adults as well. The process involves gathering “all direct stakeholders to help in determining how best to repair the harm of offending behavior” (qtd. in McCold, 2005).

This type of restorative practice however varies in its inclusion of the victim, victim supporters and offender supporters within the conference. Just as there is variation in attendance, so too is there variation in facilitation. According to Marsh and Crow (1998), restorative conferencing occasionally invites the whole group to negotiate outcomes for an offender, whereas sometimes only a family caucus performs this task. Restorative conferencing is most widely used in schools both in the United States as well as in other countries such as Canada, England, Australia and New Zealand.

Restorative circles. Restorative justice circles, one of the more popular forms of restorative justice practice, are sometimes referred to as sentencing circles. This circle model evolved according to two distinct paradigms: a healing paradigm and a co-judging paradigm (McCold, 2005). While some scholars identify restorative circling as being more derivative of indigenous justice methods, they are widely used in the United States as a modern form of dispute resolution in other contexts.

Restorative justice circles however are often conducted as a reparative, healing-based process, typically directed by community members in partner with law enforcement or the criminal justice system (Van Ness & Strong, 1997; Shapland et al., 2011; Zion & Yazzie, 2006). In this model, each case typically holds an opening restorative circle, the content of which is directed at finding consensus on a sentencing plan, often referred to as a plan of repair or agreement. It is also traditional to hold a closing restorative circle for the offender, victim, community members and families to discuss what has been learned and express satisfaction for work done (Communities for Restorative Justice, 2012; Pranis, 2004).

Preconditions for a Restorative Approach

As previously established, the philosophy behind restorative justice is to address harm done and to restore the offender as well as the victim and the affected community to their original status. In order to implement restorative justice methods however, a case or crime must adhere to several conditions in order to undergo a restorative process. First, a law enforcement officer, often familiar with the case as well as the offender must recommend a crime or wrongdoing (not all restorative cases are a result of crime; often restorative processes are

implemented proactively in order to thwart potential crime). In order for cases to be referred or recommended by law enforcement, offenders must have also claimed responsibility for their actions ultimately feeling guilt or remorse for the harm they caused the victim and/or the surrounding community. Lastly, both the offender and the victim must agree to participate voluntarily in order for a case to undergo restorative justice processes.

Recommendation. In most jurisdictions where there exists a proper restorative justice channel, a recommendation must be made by law enforcement or the criminal justice system for restorative justice methods to be offered. In cases in which an arrest is made, it is the discretion of the traditional criminal justice system as to which cases to recommend to restorative practice.

Factors that dictate whether restorative justice is an appropriate avenue vary as well. As with any alternative criminal justice approach or court diversion program, there are certain types of crimes or wrongdoings that are simply unsuited for an alternative approach (Braithwaite, 2002; Doolin, 2007). It is difficult to identify what types of cases are appropriate for restorative methods because restorative justice channels vary from jurisdiction to jurisdiction (from city to city, county to county, state to state and region to region).

That is, because restorative justice is practiced more extensively in some areas of the country than others (and in some, not at all), the types of cases that navigate the restorative justice path vary. Most often however, restorative justice is implemented more heavily in juvenile or youth justice issues as well as nonviolent adult offenses (Bazemore & Walgrave, 1999; Bonta, et al., 2002; Bonta, et al., 2006; Communities for Restorative Justice, 2012; Doble & Greene, 2000; Menkel-Meadow, 2007).

Responsibility. Another condition often necessary for the implementation of restorative justice requires the offender to claim responsibility for the crime or wrongdoing in question. This is typically a subjective observation noted by law enforcement that have interacted and discussed the infraction with the offender (Bonta, et al., 2002; Bonta, et al., 2006). Clearly, this stipulation is more complicated than the first—knowing whether an offender is truly claiming responsibility for a crime may be obvious (they may be upset, admit guilt, seem sorrowful, etc.).

Determining whether an offender is truly remorseful and claiming responsibility for a wrongdoing may be somewhat difficult. The recommendations of a case to restorative justice in which the offender is not remorseful or claiming responsibility may cause undo duress or additional harm for the victim (Bazemore & Walgrave, 1999). It is unlikely that the process would benefit any unwilling or hesitant participant, and in this scenario is likely to further harm parties involved. Again, the discretion of law enforcement is relied upon heavily. Ultimately, it is most often law enforcement's recommendation that introduces restorative justice as an alternative criminal justice approach.

Voluntary participation. Once a case has been deemed appropriate and recommended for a restorative process, the victim and the offender must voluntarily agree to participate in the proceeds. Although, the participation of affected community members is encouraged in some restorative justice processes, it is not often, if ever required (Harris, 2004; Llewellyn & Howse, 1998; Van Ness & Strong, 1997).

The fundamental philosophy and structure of restorative processes provide a space in which an offender and victim of a crime or wrongdoing can exchange dialogue, sharing thoughts, feelings, apologies and more. Without voluntary participation from both parties, restorative justice is not feasible. Furthermore the coercion of either party to participate in a restorative justice process may cause undo duress or harm and more than likely would not benefit an unwilling or hesitant participant.

Restorative justice practice often requires that these three conditions be met in any given case. Due to the nature of the process and participation of the victim, law enforcement's recommendation together with an offender's admission of guilt and claimed responsibility ensure that the process will be fruitful for all parties in attendance.

Advantages of Restorative Justice

Restorative justice's growing popularity as a criminal justice alternative both within the United States as well as internationally suggests its promise as a highly successful and beneficial approach. As a result of this recent trend, numerous studies have been conducted analyzing the beneficial effects of restorative justice on community relationships (Daly, 2002; Doble & Greene, 2000), recidivism rates (Bonta, J., Wallace-Capretta, S., Rooney, J. & Mcanoy, K., 2002; Rodriguez, 2007), as well as its specific effects on juvenile crime and delinquency (Bazemore & Walgrave, 1999; Calhoun & Pelech, 2010; Morris & Maxwell, 2001). Three of the most salient advantages of restorative practice that emerge from this research are the following:

- Lower recidivism
- Heightened victim satisfaction
- Strengthened social capital

As with the traditional criminal justice system, the goal of most if not all restorative approaches in addition to restoration, is to lower the rate of re-offense among offender populations.

Although restorative justice does aim to lower the recidivism rates among offenders, its philosophy and procedural structure also emphasize and focus more on the victim of a crime or wrongdoing as well as the affected community. Just as Howard Zehr (1990) indicates, the traditional criminal justice system inquires about which laws were broken, who committed a crime, as well as what punishment is most appropriate, whereas restorative justice looks to shift that focus toward those harmed or affected by an offender's actions (Bonta et al., 2006).

Recidivism. The most common, perceived advantage to any given criminal justice approach, whether traditional or an alternative, addresses recidivism, or the rate of re-offense (Bonta, et al., 2006). Despite heightened emphasis on the victim of a crime, in comparison to traditional criminal justice methods, restorative justice does in fact identify recidivism as one primary objective or advantage (Avertsen, et al., 2006; Bazemore & Walgrave, 1999; Bonta, et al., 2002; Bonta, et al., 2006; Braithwaite, 1989; Rodriguez, 2007)

By addressing issues of crime and wrongdoing more directly than the traditional criminal justice system (through direct dialogue of victim and offender as well as claimed responsibility), restorative justice advocates argue these holistic methods are more effective at lowering recidivism rates than traditional criminal justice (Bonta, et al., 2006). According to Bonta et al (2006), restorative justice interventions on average can be associated with reductions in recidivism rates. Further, most recent studies are producing greater effects on these rates of re-offense (117).

Victim satisfaction. The most distinct advantage to employing restorative justice practices within the criminal justice context addresses victim satisfaction (Sullivan & Tifft, 2006). In recent decades, traditional criminal justice practitioners and victims' advocates have transformed the way victims are addressed in United States Judicial System. In what is appropriately titled, *the Victim Rights Movement*, great strides have been made on behalf of crime victims. Since the inception of this campaign, all fifty states have passed legislation that has established victims' bills of rights and compensation programs (Achilles & Stutzman-Amstutz, 2006).

Despite these impressive advances, restorative justice has provided victims with a significant promise, always placing them and the harm done at the forefront of justice. Both the restorative justice philosophy and its practical applications emphasize the restoration of harm to both victim and offender. Not only does restorative justice promote the inclusion of the victim of a crime or wrongdoing, but are also structured in such a way that permits avid participation by the victim and their supporters. Further, these processes also ensure a safe and private environment for participants to share often intimate, emotional details they may be less apt to share in a courtroom.

Social capital. The third most salient advantage to employing restorative justice processes addresses the concept of social capital. The basic premise of social capital is that, "an individual's family, friends, and associates constitute an important asset, one that can be called upon in a crisis, enjoyed for its own's sake or leveraged for material gain" (Woolcock &

Narayan, 2000). As Woolcock and Narayan (2000) indicate, social capital can and is often translated by social scientists into the group or community setting.

Here, communities with strong social capital often maintain “a diverse stock of social networks and civic associations and will be in a stronger position to confront poverty and vulnerability, resolve disputes, and take advantage of new opportunities” (Woolcock & Narayan, 2000, 3). Since the end of the twentieth century, academics have acknowledged the influential ability of social capital to affect not only the quality of relationships of community members, but also local economies, larger issues such as racism and poverty as well as crime (King & Maruna, 2009).

According to restorative philosophies, restoration of harm does not involve only the victim and the offender, but rather encourages participation of all affected community members, however indirectly. Community involvement and participation in restorative justice processes can also help to strengthen social capital in local communities (Boyes-Watson, 2005). By enhancing and strengthening community relationships through processes like restorative justice, communities can take steps toward confronting detrimental social issues such as economic decline and poverty.

In 1998, the state of Vermont instituted community supervision practices for less serious, nonviolent offenders. These community supervision practices established reparative boards made up of community members that were used to determine how offenders should make amends for their crimes (Doble & Greene, 2000). These community-centered criminal justice endeavors heightened and nurtured strong social capital while instituting supplemental, restorative criminal justice processes across the state.

The functionality of community members within restorative justice processes is a unique aspect not recognized or offered by more traditional criminal justice approaches. This distinct advantage not only allows those indirectly affected to share thoughts and emotions about how a given crime affected them, but ultimately strengthens the broader community by building positive social capital.

Disadvantages of Restorative Justice

Despite the overwhelming evidence demonstrating the plethora of advantages to implementing restorative justice approaches in the criminal justice context, some disadvantages have been identified. Some scholars criticize restorative justice as being falsely represented by practice advocates (Daly, 2002; Gabbay, 2005). They argue that although the restorative approach may in fact have some advantages compared to traditional criminal justice, restorative justice advocates have painted an extreme and somewhat false portrait of the method.

Kathleen Daly, professor of Criminal Justice and Criminology at Griffith University in Australia is one of the more prominent critics of restorative practice. She argues that despite advocates' claims that restorative justice is based on a *restoration* ethos, it does maintain many retributive elements. She denies claims that the two paradigms (those arguing that traditional criminal justice based upon a common law model is inherently retributive while restorative justice methods are entirely restorative) are distinctly opposite and identifies the facets of restorative justice that demonstrate retributive qualities (Daly, 2002).

In addition to demonstrating retributive qualities, Daly (2006) identifies six (6) additional limitations of restorative justice practice (135). First, she criticizes the lack of a universal definition for the field, suggesting these multiple conceptual models have the potential to instill theoretical, empirical and policy confusion. Daly further criticizes restorative justice processes for focusing only on the penalty phase of criminal justice. She argues that there is no fact-finding in the restorative process and that this dismisses the possibility of innocence among participating offenders.

Daly indicates that restorative justice practice promotes fairness more so than it actually restores either victim or offender to their original status, as many advocates claim it aims to do. Daly continues to admonish restorative justice practice by providing research data alluding to victims' inability to recover from a crime even after undergoing a restorative process. She claims that sincere apologies are difficult to obtain from offenders and that sometimes they are not sufficient in helping victims to recover fully.

Finally, Daly (2006) criticizes the idealistic picture being painted by restorative justice practitioners and advocates (142). Restorative justice is frequently presented as a highly successful approach, able to resolve a wide array of criminal issues. She cautions her readers not to assume, "that the nirvana story of restorative justice is typical nor that it can be achieved often" (143).

Shaming. Another salient critique of restorative justice emerges as a result of shaming. Many scholars, including restorative justice's leading authority, John Braithwaite (1989), acknowledge the significance of shaming within the criminal justice context. These theorists

argue in order to fully understand crime rates we need to thoroughly examine the effect of social disapproval on offenders. Is this shaming reintegrative or stigmatic? Despite support for Braithwaite's reintegrative shaming thesis—claiming that social disapproval was successful in reintegrating offenders into society and lowering recidivism rates, there is a population of scholars that argues differently.

According to Harris and Maruna (2006), public shaming such as that produced as a result of restorative processes, may have a detrimental effect on offenders. Research has provided evidence of a form of unresolved shame emerging as a result of restorative justice processes. Practitioners and academics identified feelings of anger and hostility other people present at a restorative conference (Harris, 2001). Because this type of shaming is thought to be the primary cause of violent behavior, restorative justice critics have identified shame as a salient disadvantage of the approach (Gilligan, 1996; Harris & Maruna, 2006).

Economic Analysis and Criminal Justice Administration

Academics and policymakers alike have both acknowledged the absence of sufficient financial evaluation of emerging criminal justice approaches. In the case of restorative justice, scholars attribute the gap in discourse to the inherent qualitative nature of the practice. That is, restorative justice emphasizes a reparative as opposed to retributive approach to criminal activity. The effects of this approach elicit intangible monetary results for both victims and offenders (e.g., pain, guilt, suffering, sorrow, lost quality of life), thus deeming any analysis of tangible monetary costs incomplete, for they fail to capture a host of results immeasurable by monetary cost, benefit or otherwise (Marsh, Chalfin, & Roman, 2006).

There is substantial literature claiming that information derived from economic analysis can facilitate decision-making however. The National Center for State Courts argues that, “cost-analyses are critically important for deciding how to allocate funds within the court and for understanding the link between costs and outcomes” (National Center for State Courts, 2002). Economic analysis of alternative criminal justice approaches would seem necessary for not only a further and more comprehensive understanding of methods, but also and perhaps more importantly, decision-making. This type of analysis would provide policy-makers with adequate data and information necessary to allocate criminal justice funding to proper and successful alternative approaches.

Chapter Three

Methodology

Economic Analysis

Economic analysis is comprised of five prominent methodologies: cost-feasibility (CF) analysis, cost-utility (CU) analysis, cost-benefit (CB) analysis (one of the more well-known) and cost-effectiveness (CE) analysis. Although all integral to economic analysis each method is characterized by important differences, deeming its use appropriate for specific applications (Levin & McEwan, 2000). All economic analysis methodologies aim to evaluate the costs necessary to implement a particular intervention however it is what those methodologies compare those costs to that differs significantly.

This study uses a cost-effectiveness analysis as a means of evaluating the economic efficiency of restorative justice in comparison to that of traditional justice practices. Economic efficiency in this context is determined through an exploration of costs and effects as well as other components. It includes the costs and the measurable effectiveness of both restorative and traditional justice practices. The objective of this research is to provide an analysis of pertinent data necessary for policy reevaluation and the decision-making process within the criminal justice context.

Cost-Effectiveness Analysis

Economists describe cost-effectiveness analysis to be the evaluation of two or more interventions according to both costs and effects (Dhiri & Brand, 1999; Drummond et al., 2005; Levin & McEwan, 2000; Welsh & Farrington, 2000). CE analysis calculates a program's inputs,

those being the monetary costs required for implementation in concordance with the program's outputs. The outputs or outcomes of an intervention are viewed as the products generated as a result of that intervention's execution (Drummond, et al., 2005). These outcomes are evaluated based upon their effectiveness, or the degree to which they produce a specific result.

According to Levin and McEwan (2000), CE analysis is designed to compare programs with similar or identical goals. As such, the analysis requires that all interventions be evaluated based upon the same effectiveness criterion. Furthermore, this measure of effectiveness should relate as closely as possible to the primary objectives of the interventions being compared (Levin & McEwan, 2000; Drummond, et al., 2005).

This inquiry evaluates the cost-effectiveness of restorative justice with that of traditional justice methods. Despite the varying approaches used by these two interventions, they both share similar outcome objectives, thus the basis for a cost-effectiveness analysis. Exploring the concepts of cost and effectiveness as they pertain to restorative and traditional justice practices in successive sections of this proposal will provide data necessary for future decision-making.

Costs

In order to construct a CE analysis, an evaluator must first identify all of the costs associated with the implementation of each intervention. In economic analysis, the cost of a specific intervention is defined as, "the value of all the resources that the intervention utilizes had those resources been assigned to their most valuable alternative use" (Levin & McEwan,

2000). In a CE analysis, the costs of a specific intervention are evaluated according to the intervention's effectiveness, and as such those costs must be identified, valued and analyzed.

The ingredients model. The ingredients model suggests that every intervention uses ingredients that have a value or cost. It further requires that a given intervention be meticulously described in terms of the ingredients it uses to produce outcomes (Levin & McEwan, 2000, p. 47). If all ingredients can be identified and their respective costs can be ascertained, the total costs of the intervention as well as costs per unit of effectiveness can be estimated. According to Levin and McEwan (2000), there are three steps involved in this type of cost-analysis: (a) cost identification, (b) cost valuation and (c) cost analysis. The ingredients model is used in this research to identify, value, and analyze costs associated with both restorative and traditional justice practice.

Cost identification. The first step in the ingredients method is to identify all of the resources used by each intervention. Ingredients are divided into five main categories: (a) personnel (b) facilities (c) equipment and materials (d) other program inputs and (e) required client inputs (Levin & McEwan, 2000). These categories aid in ingredient-identification as well as data organization. Furthermore, identification of an intervention's ingredients or costs should be ascertained through the use of document review and semi-structured interviews of individuals involved with the intervention.

By reviewing intervention-specific documents (i.e. budgetary information, case management data, and staff and volunteer rosters), the researcher is able to identify the

majority of ingredients associated with an intervention. Document review provides the evaluator significant cost information (i.e. regular expenditures, number of personnel and volunteers) that has already been identified by the personnel involved. In this study, the evaluator used document review in order to identify ingredients used in both restorative as well as traditional justice practice.

In addition, document review also enables the evaluator to develop subsequent interview questions as a means of gathering the most significant data. Suppose for example, documentary evidence shows that every restorative justice case utilizes two paid facilitators. Upon interviewing a restorative justice facilitator, he/she agrees that in an ideal case, two facilitators should be present but admits however that in almost all cases only one facilitator is present, due to budgetary conflicts or issues with availability. By interviewing individuals involved with each intervention, the evaluator is able to either confirm or contradict what was learned through document review (Levin & McEwan, 2000). The purpose for interviewing participants in this study is to further identify ingredients used in both restorative and traditional justice practice.

Consequently, five (5) semi-structured interviews were conducted with personnel and allied partners of a regional non-profit organization headquartered in Concord, Massachusetts. This non-profit organization facilitates restorative justice within the criminal justice system while continuing to work closely with criminal justice personnel, such as police officers. The individuals that participated in the study were selected based upon their involvement with both restorative as well as traditional criminal justice practice. This non-profit organization provided written permission for the evaluator to interview all personnel, such as board members, staff as

well as volunteers. This non-profit organization also granted the researcher permission to interview the organization's affiliated and allied partners, such as police officers, judges as well as volunteers. (see Appendix A).

Prior to interviewing any participant, the researcher received written consent from each participant. The consent form outlined the purpose of the study, provided the participant information concerning any known or perceived risks associated with participating and informed them as to non-attribution and confidentiality. Furthermore, the consent form also provided participants with sample interview questions in order to best inform them of the interview structure as well as the nature of the content to be discussed. (see Appendix B).

Participants were then asked several questions pertaining to their knowledge of either the restorative or traditional criminal justice processes, the personnel involved in facilitating those processes, materials and supplies used, facilities and locations utilized as well as required inputs from either victims or offenders. The following are examples of interview questions asked of study participants:

- Can you describe the processing and case-management involved in a restorative/traditional justice case before the actual facilitation?
- On average, how long would you say the pre-facilitation step takes per case?
- Can you describe the facilitation process involved in a typical restorative/traditional justice case?
- On average, how long would you say the facilitation process takes per case?
- Including the preparation and post-facilitation stages, what are the various types of personnel required for implementation of this intervention in its totality and can you describe their roles?

Participants' responses to interview questions were noted by the researcher during the interview on paper and were referenced during the data analysis phase of this project.

Cost valuation. Once all ingredients have been identified, they must then be valued. Cost valuation involves assigning a monetary cost to each ingredient (Levin & McEwan, 2000). In order to assign a monetary cost to each ingredient, market prices will be used (Levin & McEwan, 2000; Dhiri & Brand, 1999; Drummond, O'Brien, Stoddart & Torrance, 1997). Market prices are defined as "equilibrium prices for a particular good or service established by a competitive market that represent the value of the good or service" (Dorfman, 1967). Using market prices is attractive because there are competitive markets for many of the ingredients used in these interventions and as a result there will be a set of prices readily available that can be used to calculate the input costs (Levin & McEwan, 2000).

Cost analysis. The final step in the ingredients method is cost analysis. Cost analysis requires the evaluator to analyze the cost estimates derived from cost identification and cost valuation and organize them into a decision-oriented framework (Levin & McEwan, 2000; Drummond, et al., 2005). In this research, several cost charts and tables were constructed to help facilitate data analysis. By using cost charts and tables, the researcher is able to effectively organize all of the ingredients into categories (personnel, facilities, materials and equipment, other inputs and required client inputs).

Effectiveness

Once all costs have been identified and valued, the evaluator then determined the criterion for measuring effectiveness. According to Levin and McEwan (2000), the measure of the effectiveness used by the evaluator should relate as closely as possible to the primary objectives of the interventions being examined. Although both criminal justice approaches share a number of similar objectives, such as lowering recidivism rates, heightening deterrence, fostering inclusion of the victim, victim satisfaction, and community inclusion, among others, constraints on time limited the number of effectiveness variables examined in this study. This study will examine the effectiveness of both restorative justice and traditional criminal justice based upon their ability to lower recidivism.

Recidivism. Recidivism has been identified as a primary objective of both restorative and traditional criminal justice approaches (Braithwaite, 1989; de Beus & Rodriguez, 2007; Garland, 2001; Irwin 2005; Zehr, 2002). Again, the methods used by the two interventions to achieve this objective vary significantly. For example, restorative justice bases its methods on a more rehabilitative or restorative ideal, whereas traditional justice methods continue to promulgate a more retributive one. In order to measure the effectiveness of each criminal justice method according to its ability to lower recidivism rates, the researcher will use secondary data provided by the non-profit organization, Communities for Restorative Justice, the state of Massachusetts and the Bureau of Justice Statistics.

Chapter Four

Results

Cost Identification

The researcher synthesized data gathered from both document review as well as five (5) semi-structured interviews and first identified the various phases involved in both a restorative justice as well as a traditional criminal justice case. By separating both restorative and traditional criminal justice cases into phases, the researcher clearly identified the steps involved for further analysis. In order to organize the data gathered, a process-chart was constructed for each approach. (see Figures 2 and 3).

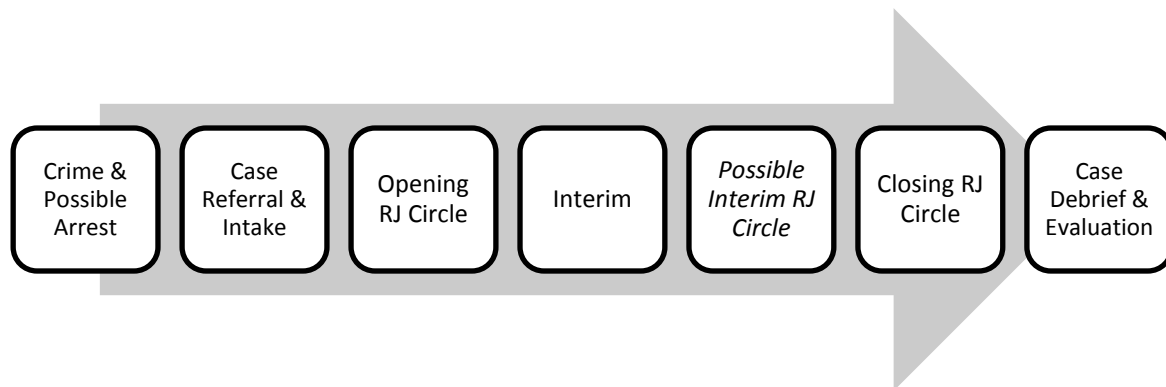


Figure 2 Restorative Justice Process Chart

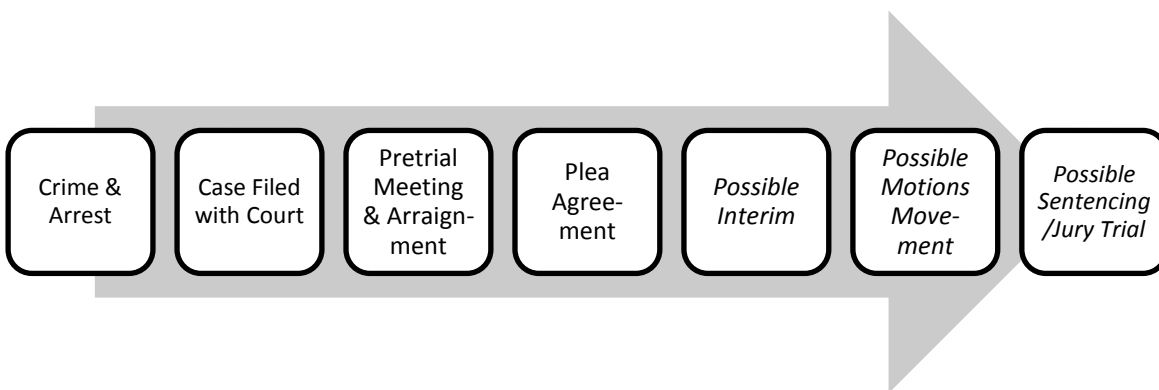


Figure 3 Traditional Criminal Justice Process Chart

Next, the researcher labeled all seven phases of each case type in order to present additional data more clearly. (see Table 1 and Table 2).

Table 1 <i>Restorative Justice Phases</i>	
Phase Detail	Phase Label
Crime & Possible Arrest	Phase 1
Case Referral & Intake	Phase 2
Opening RJ Circle	Phase 3
Interim	Phase 4
Possible Interim RJ Circle	Phase 5
Closing RJ Circle	Phase 6
Case Debrief & Evaluation	Phase 7

Table 2 <i>Traditional Criminal Justice Phases</i>	
Phase Detail	Phase Label
Crime & Arrest	Phase 1
Case Filed with Court	Phase 2
Pretrial Meeting & Arraignment	Phase 3
Plea Agreement	Phase 4
Interim	Phase 5
Motions Movement	Phase 6
Jury Trial & Sentencing	Phase 7

After organizing the phases of each case type, the researcher then used data collected from both document review and interview material to calculate the approximate time required to complete each phase for both case types. (see Table 3 and Table 4).

Table 3	
<i>Restorative Justice Process Breakdown by Phase with Time in Hours</i>	
Phase	Time Range
(1) Crime & Possible Arrest	--
(2) Case Referral & Intake	0.50 – 1.50
(3) Opening RJ Circle	2.00 – 3.00
(4) Interim	
(5) <i>Possible Interim RJ Circle</i>	1.00 – 2.00
(6) Closing RJ Circle	2.00 – 2.50
(7) Case Debrief & Evaluation	1.00 – 2.00
<i>italics – phase not present in every case facilitation, varies from case to case</i>	

Table 4	
<i>Traditional Criminal Justice Process Breakdown by Phase with Time in Hours</i>	
Phase	Time Range
(1) Crime & Arrest	--
(2) Case Filed with Court	0.25 – 0.50
(3) Pretrial Meeting & Arraignment	0.25 – 1.00
(4) <i>Plea Agreement</i>	0.25 – 0.50
(5) <i>Interim</i>	
(6) <i>Motions Movement</i>	0.25 – 3.00
(7) <i>Jury Trial & Sentencing</i>	1.00 – 6.00
<i>Italics – phase not present in every case facilitation, varies from case to case</i>	

Next, the researcher identified ingredients from four of the five main categories in order to determine the costs of both approaches: (a) personnel (b) facilities (c) equipment and

materials and (d) required client inputs. There were no additional ingredients identified that would fall under the label of the fifth main category *other program inputs* identified by Levin and McEwan (2000). In order to ascertain a more comprehensive understanding of the ingredients, both criminal justice approaches were visually mapped according to identifiable ingredients in the four main categories. This ensured the researcher included as many ingredients as possible based upon collected data. (see Figure 4 and Figure 5).

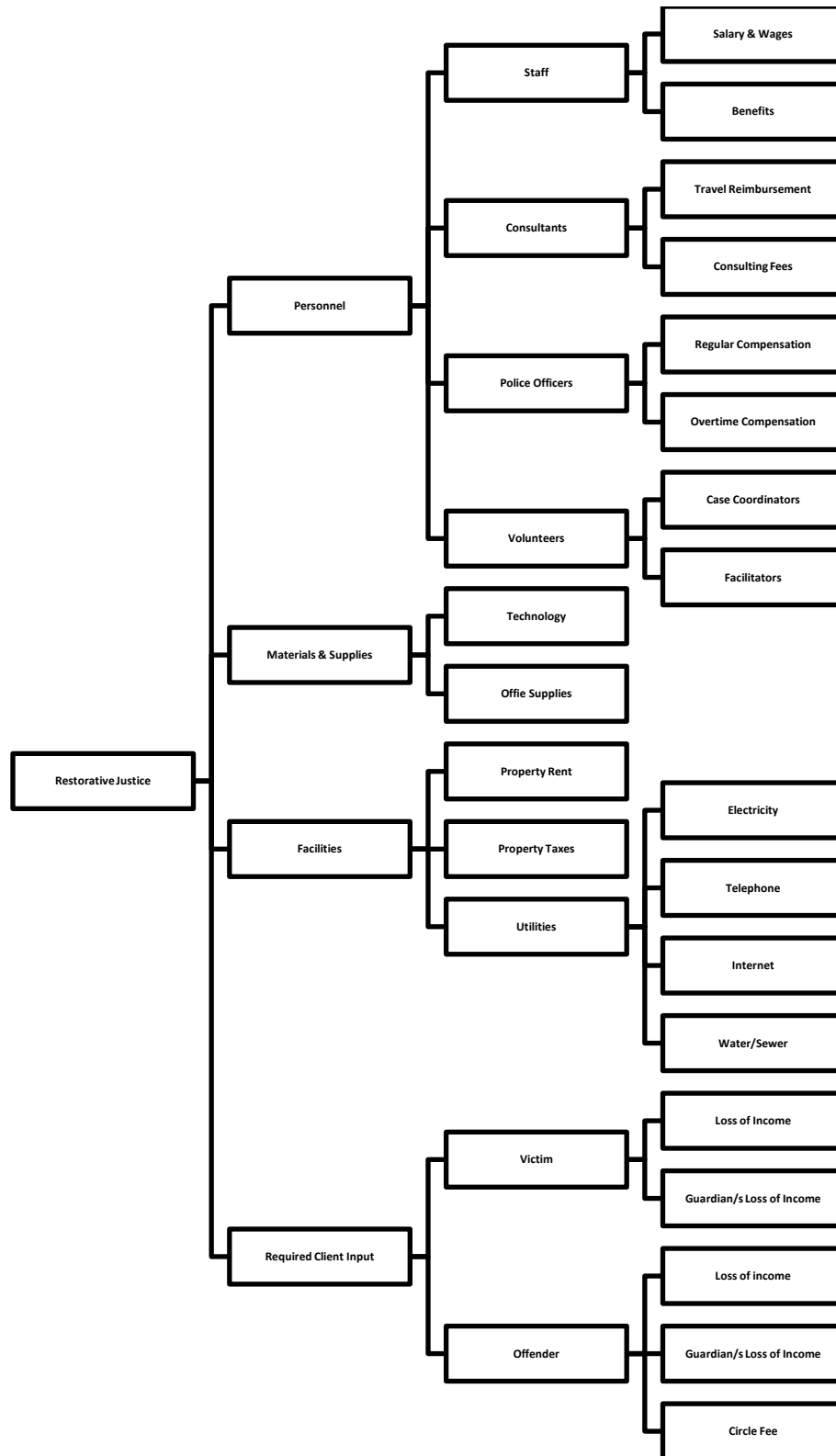


Figure 4
Restorative Justice Ingredient Mapping

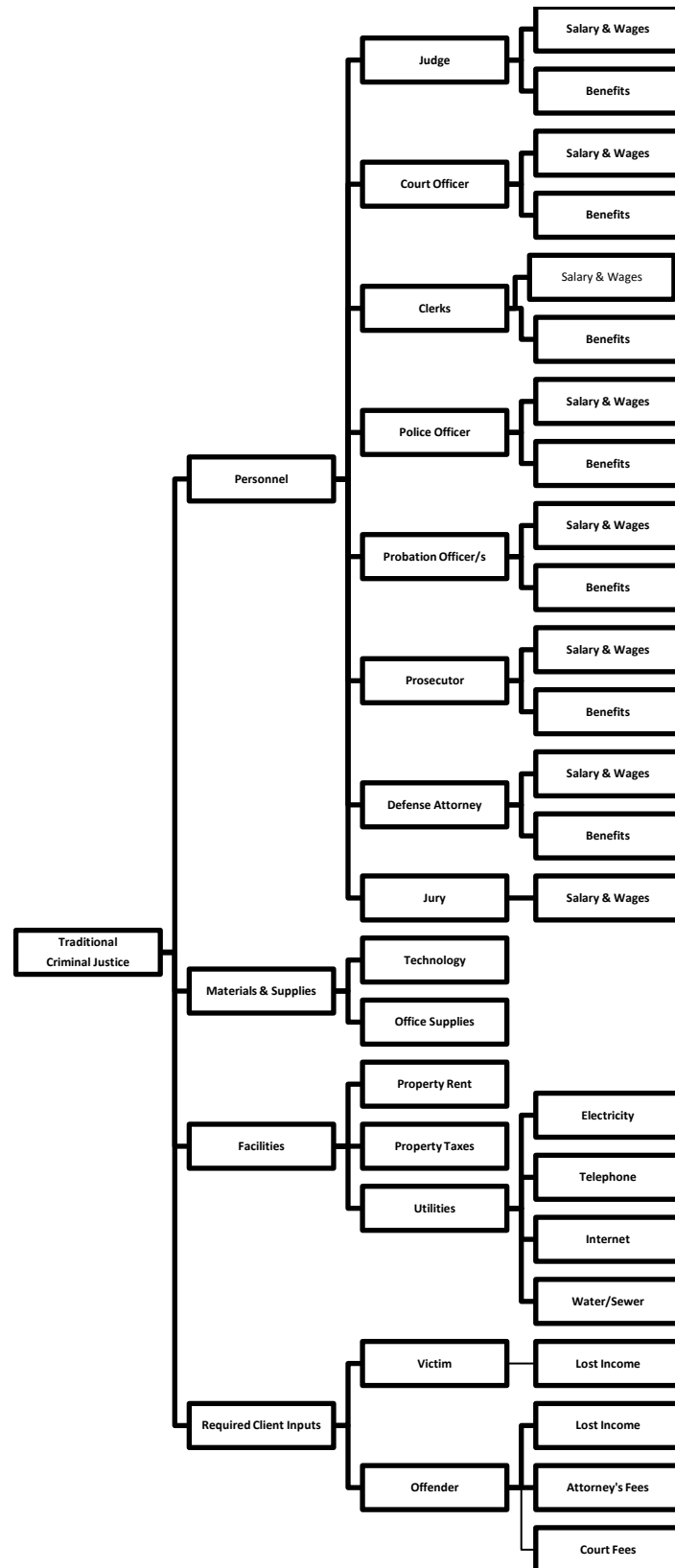


Figure 5
Traditional Criminal Justice Ingredient Mapping

The final step in cost identification is to identify what personnel, materials and supplies, facilities, and required client inputs are required in restorative and traditional criminal justice cases. By stratifying each phase and listing which ingredients are involved and required in that phase, the researcher will be able to later attribute value to each phase in its totality based upon time required. Note, a combination of ingredients may be required either (a) in certain phases but not all phases of the facilitation process or (b) more generally, for the entire duration of a case facilitation, in all phases. (see Table 5 and Table 6).

Ingredient	Phase 1	Phase 2	Phase 3	Phase 4	Phase 5	Phase 6	Phase 7
<u>Personnel</u>							
Executive Director							X
Chief Case Coordinator		X		X	X	X	X
Law Enforcement		X					
Consultant		X	X		X		
Case Coordinator			X	X	X	X	X
Volunteer Facilitator			X	X	X	X	X
<u>Materials & Equipment</u>							
Technology & Software		X	X	X	X	X	X
Office Supplies		X			X	X	X
<u>Facilities</u>							
Office Space		X	X	X	X	X	X
Restorative Circle Space			X		X	X	
Utilities		X	X	X	X	X	X
<u>Required Client Inputs</u>							
Restorative Circle Fee		X					

X – indicates ingredient is used in corresponding phase.

Table 6

Traditional Criminal Justice Ingredient Stratification by Phase

Ingredient	Phase 1	Phase 2	Phase 3	Phase 4	Phase 5	Phase 6	Phase 7
<u>Personnel</u>							
Trial Court Justice			X	X		X	X
Clerk I		X	X	X			
Clerk II		X					
Court Officer		X	X				
Law Enforcement		X				X	X
Probation Officer			X	X	X		
Prosecutor			X	X		X	X
Defense Attorney			X	X	X	X	X
Victim-Witness Advoc.				X		X	X
<u>Materials & Supplies</u>							
Technology & Software		X	X	X	X	X	X
Other Consumables		X	X	X	X	X	X
<u>Facilities</u>							
Court Office Space		X	X	X		X	X
Court Room Space				X		X	X
Utilities		X	X	X		X	X
<u>Required Client Inputs</u>							
Recognizance							
Court Fee			X				X
Attorney Fees			X				

X – indicates ingredient is used in corresponding phase.

Cost Valuation & Analysis

Once all ingredients have been identified for both criminal justice approaches, the researcher must then calculate and attribute value to each of those ingredients. For organizational purposes, the researcher maintained stratification according to four of Levin and McEwan's (2000) main categories: (a) personnel (b) facilities (c) equipment and materials and (d) required client inputs. Again, there were no additional ingredients identified that would fall under the label of the fifth main category *other program inputs* identified by Levin and McEwan (2000).

Personnel. In order to attribute value to personnel, information was ascertained first by collecting annual salary and wage data³. The researcher then separated annual salary and wage data into categories for either restorative justice personnel or traditional criminal justice personnel. Once personnel was valued annually, the researcher used data obtained using document review as well as data gathered through five (5) semi-structured interviews of both restorative and traditional criminal justice facilitators and practitioners in order to constrain time to each step of both case types. Those time constraints were then used to calculate approximate hourly rate for each personnel position.

Restorative justice personnel. Restorative justice personnel values were collected using secondary data provided by Communities for Restorative Justice. The researcher identified six

³ Cost analysis literature encourages researchers to account for personnel benefits including health insurance, dental insurance, and vision care packages along with sick time and vacation days (Levin & McEwan, 2000). Those calculations fall outside the scope of this research and are not included in the following data set.

(6) personnel positions affiliated with restorative justice case facilitation. The six personnel identified are as follows:

- Executive director
- Chief case coordinator
- Law enforcement officer
- Consultant
- Volunteer case coordinator
- Volunteer facilitator

Annual salary and wage data were collected for all six personnel positions. The researcher was able to calculate hourly wages for the executive director and chief case coordinator based upon a 52 week-year as well as upon personnel status as either full-time employees (30-hour work week) or part-time (20-hour work week).

Other positions' annual salaries and hourly wages, such as those of consultants and law enforcement, were calculated based upon annual expense report data. Interview data was utilized to gather necessary information concerning the number of hours required by such personnel annually. Annual salaries as well as hourly wages were calculated for all six restorative justice personnel positions (see Table 7).

Table 7 <i>Restorative Justice Personnel 2011 Annual Salary & Wages</i>		
Employee	Annual Salary	Hourly Wages
Executive Director	\$52,400	\$33.59
Chief Case Coordinator	\$34,750	\$33.41
Law Enforcement Officer	\$54,874	\$28.14
Consultant	\$5,923	\$150.00
Volunteer Case Coordinator	\$ 0	\$ 0
Volunteer Facilitator	\$ 0	\$ 0

Traditional criminal justice personnel. Traditional criminal justice personnel values were calculated using secondary, public data made available by the state of Massachusetts concerning state employees' salaries. The researcher identified nine (9) personnel positions as integral to the facilitation of a traditional criminal justice case:

- Counter clerk
- Court clerk
- Court officer
- Defense attorney
- District court judge
- Law enforcement officer
- Probation officer
- Prosecutor
- Victim-witness advocate

Annual-salary range data were collected for all nine personnel positions⁴. The researcher was

able to calculate hourly wage ranges based upon a 52 week-year as well as upon personnel positions' full-time status (using a 37.5-hour work week). Annual salary ranges as well as hourly wage ranges were calculated for all nine personnel positions (see Table 8).

Table 8 <i>Massachusetts Traditional Criminal Justice Personnel 2011 Annual Salary & Wages</i>		
Employee	Annual Salary Range	Hourly Wage Range
Clerk I (Assistant Clerk Magistrate, Clerk Magistrate)	\$84,869 – \$110,221	\$43.52 – \$56.52
Clerk II (Sessions Clerk, First Assistant Clerk)	\$62,685 – \$92,034	\$32.15 – \$47.20
Court Officer (Court Officer I, Court Officer II)	\$62,923 – \$67,053	\$32.27 – \$34.39
Defense Attorney (Trial Attorney – Committee for Public Counsel)	\$40,000 – \$88,750	\$20.51 – \$45.51
Law Enforcement Officer (Local Police Officer, NOT State Trooper)	\$44,330 – \$65,418	\$27.73 – \$33.55
Probation Officer (Probation Officer)	\$56,148 – \$69,632	\$28.80 – \$35.71
Prosecutor (Assistant District Attorney)	\$40,000 – \$108,500	\$20.51 – \$55.64
Victim-Witness Advocate (Victim-Witness Advocate)	\$21,120 – \$39,536	\$10.83 – \$20.27
Trial Court Justice (Justice and Chief Justice)	\$129,694 – \$135,124	\$66.51 – \$69.29

⁴ Note, the defense attorney position identified above was not originally identified as a personnel ingredient, but rather a required client input. See the traditional criminal justice require client input section of this paper for more information.

The researcher has also calculated median annual salaries and median hourly wages for all nine traditional criminal justice personnel positions. Median costs will enable the researcher to obtain more concrete figures as opposed to ranges. By calculating median annual salaries and median hourly wages, the researcher will be able to compare restorative justice and traditional criminal justice personnel costs more accurately. (see Table 9).

Table 9		
<i>Massachusetts Traditional Criminal Justice Personnel 2011 Median Annual Salary & Wages</i>		
Employee	Median Annual Salary	Median Hourly Wage
Clerk I (Assistant Clerk Magistrate, Clerk Magistrate)	\$97,545	\$50.02
Clerk II (Sessions Clerk, First Assistant Clerk)	\$77,360	\$39.67
Court Officer (Court Officer I, Court Officer II)	\$64,988	\$33.32
Defense Attorney (Trial Attorney – Committee for Public Counsel)	\$64,375	\$33.01
Law Enforcement Officer (Local Police Officer, NOT State Trooper)	\$54,874	\$28.14
Probation Officer (Probation Officer)	\$62,890	\$32.25
Prosecutor (Assistant District Attorney)	\$74,250	\$38.08
Victim-Witness Advocate (Victim-Witness Advocate)	\$30,328	\$15.55
Trial Court Justice (Justice and Chief Justice)	\$132,409	\$67.90

Equipment and materials. Equipment and materials for any given intervention often include office furniture, consumables such as paper, envelopes, toner etc., as well as computers, software, printers and other office machines. Although the equipment and materials used by these interventions play a minimal role in the overarching trends in cost-analysis, they do contribute to the overall cost of an intervention. Once identified, the researcher can utilize secondary data in order to value equipment and material ingredients.

Restorative justice equipment and materials. Data concerning equipment and materials used by restorative justice case facilitators were collected through review of documents and other secondary data made available by Communities for Restorative Justice. The following items were identified as equipment and materials necessary for restorative justice case facilitation:

- Software
- Postage
- Printing
- Office supplies

Costs were collected for all of the identified equipment and materials for one fiscal year.

Equipment and material annual cost data was gathered using financial reports provided by Communities for Restorative Justice (see Table 8).

Table 10 <i>Restorative Justice 2011 Annual Equipment and Materials Costs</i>	
Item	Cost
Software	\$ 0.00
Postage	\$2,025.97
Printing	\$5,822.85
Office supplies	\$1,769.60
Total	\$7,798.42

It is important to note that the cost data above is representative of not only the annual equipment and material costs associated with case facilitation but also with publications and mailings distributed by the nonprofit organization concerning advertising, annual newsletters, training notifications, etc. There is insufficient data available identifying the incurred equipment and materials costs per individual restorative justice case.

Traditional criminal justice equipment and materials. Insufficient secondary data was available pertinent to the equipment and materials used in a traditional criminal justice intervention to attribute value. The researcher attempted to gather data concerning equipment and materials used by traditional criminal justice case facilitators through a review of documents as well as through five semi-structured interviews⁵. (see Table 11).

⁵ As a result of recent budget cuts and economic hardship throughout Massachusetts, the Administrative Office of the Trial Court has instituted an EPA “green team” responsible for instituting innovative ideas that can work to not only to minimize expenses but to cut down on waste and energy-usage as well. The Trial Court saved \$2.9 million in FY 2009: \$2,136,143 in electricity, \$362,327 in steam, \$210,382 in natural gas, \$99,122 in heating oil and \$96,026 (Boston Bar, 2011).

Table 11

Massachusetts Traditional Criminal Justice – 2011 Annual Equipment and Materials Costs

Item	Cost
Software	\$ --
Postage	\$ --
Printing	\$ --
Office supplies	\$ --
Total	\$ --

Facilities. In order to attribute value to facilities, the researcher first separated all collected-facility data into two categories, restorative justice facilities or traditional criminal justice facilities. Facilities in this research were restricted to the locations in which cases were facilitated. By restricting this ingredient, the researcher aimed to capture the cost incurred by facilities used during case facilitation. The researcher excluded any additional facilities utilized by personnel, victims, offenders, community members or law enforcement. The values of facilities were calculated monthly or annually, dependent on available data.

The researcher collected data using document review as well as through five (5) semi-structured interviews of both restorative and traditional criminal justice facilitators and practitioners in order to determine the precise use of facilities for each case type.

Restorative justice facilities. Restorative justice facilities were identified through semi-structured interviews with restorative justice facilitators and practitioners. These interviews provided the researcher with data indicating where case facilitation occurred for the various phases of the case. Participants identified facilities as being the location necessary for circle

facilitation (for both opening and closing circles, as well as the possible interim circle). In interviews, participants also indicated that the locations of circles varied depending on the location of the participants (offender, victim, community) as well as where the wrongdoing occurred. This restorative justice nonprofit facilitates cases in more than one city/town within Massachusetts.

Other facilities identified by interview participants were the office space necessary for case management. Communities for Restorative Justice (C4RJ) utilizes office space within the Concord Police Department in Concord, Massachusetts. According to both interview data as well as secondary data provided by C4RJ the space is provided at no cost to them. The researcher was also able to acquire cost data for utilities within the facilities by reviewing second data provided by C4RJ. (see Table 12).

Table 12	
<i>Restorative Justice – 2011 Annual Facilities Costs</i>	
<u>Rent</u>	Cost
Circle Locations	\$ 0
<u>Taxes</u>	
Property Taxes	\$ 0
<u>Utilities</u>	
Electricity	\$ 0
Telephone	\$1,397.34
Internet	\$84.02
Total	\$1,481.36

Traditional criminal justice facilities. Traditional criminal justice facilities were identified through both interviews of traditional criminal justice personnel, as well as review of secondary data made public by the state of Massachusetts. The researcher was able to identify the facilities utilized in a Massachusetts District Court criminal case, including court room space, conferencing space as well as office space. Despite access to this information however, there is insufficient data available concerning the cost (or even shadow pricing) for the facilities utilized in traditional criminal justice cases in Massachusetts. According to secondary data, some of the facilities used in traditional criminal justice case facilitation are owned by the state of Massachusetts, whereas other facilities are rented and this varies, depending on location and courthouse.

Similarly, there is also not adequate data reported about the incurred cost of utilities used in any phase of case facilitation within the Massachusetts Criminal Justice System⁶. (see Table 13).

⁶ According to Mulligan (2012), the Middlesex Superior Court House in Woburn, Massachusetts operates in private lease space and facility costs for this location in FY2012 are approximately \$6 million.

Table 13	
<i>Traditional Criminal Justice – 2011 Annual Facilities Costs: Middlesex County District Court House</i>	
<u>Rent</u>	Cost
District Court House (Courtroom, Office & Confer. Space)	\$ --
<u>Taxes</u>	
Property Taxes	\$ --
<u>Utilities</u>	
Electricity	\$ --
Telephone	\$ --
Internet	\$ --
Total	n/a

Required client inputs. The last ingredient identified by the researcher that must be valued is the required client input required by the given approaches. In this research, it being an analysis of two different criminal justice approaches, the client is defined as the victim, the offender as well as any community members that choose to attend the case facilitation. By attributing monetary value to the required inputs contributed by the ‘client/s,’ the researcher will be able to not only see costs incurred by the intervention but also what is contributed from participants for those interventions, giving a complete view of costs incurred.

Restorative justice required client inputs. The researcher obtained required client input data for restorative justice case facilitation initially through interviews with restorative justice

practitioners and facilitators with experience in case management. These participants were able to identify all possible require client inputs. The only required client input in restorative justice cases facilitated by the non-profit organization, Communities for Restorative Justice (C4RJ) is the participation fee assessed by the organization from the offender. The participation fee assessed from offenders is a flat-rate fee of \$200.00. According to Communities for Restorative Justice (2012) however,

C4RJ charges a \$200 participation fee to the one facing criminal charges. This helps cover administrative costs of the program. If you cannot afford this fee, please let us know at your Intake meeting. No one is turned away if they cannot afford the fee. You may also be required to pay financial restitution to a victim or institution. If the criminal charges include substance-related matters, you will be asked to undergo a substance assessment with a professional counselor and to follow his/her recommendations; related costs are your obligation.

As explained above, the only required client input cost is the \$200 participation fee that is dependent on the financial capabilities of the offender. The financial restitution costs, substance assessment costs and all other related costs identified above are not directly related to the facilitation of a restorative justice case. They often vary from case to case depending on the nature of the wrongdoing being processed and therefore fall outside of the scope of this research. In order to calculate an accurate report, the researcher will assume the \$200 participation fee is required in every restorative case.

Traditional criminal justice required client inputs. Traditional criminal justice required client input data was obtained through both semi-structured interviews of traditional criminal justice facilitators and practitioners as well as through a review of secondary data. Interview

participants identified costs incurred for legal representation as well as courts fees charged to offenders for case facilitation.

In traditional criminal justice cases, the valued cost of legal representation varies significantly depending on the attorney chosen by the offender. Further, because offenders can voluntarily select their legal representation based upon their financial capabilities and personal preference, attributing accurate value to this ingredient is challenging. If accurate value could be attributed, the range would be so broad, it would provide little insight into the cost of a traditional criminal justice case. In instances in which offenders cannot afford to select and pay for legal representation as determined by probation officers, public defenders, paid by the state are assigned to their case.

For the purpose of this study, the researcher will classify legal representation costs incurred by the offender as personnel. Legal representation costs will be accounted for in the personnel section of this paper and are valued according to the annual salary and wages of public defenders in the state of Massachusetts. (see Table 8 on page 41).

The second required client input cost identified by interview participants is the court fee assessed to the offender by the Massachusetts Criminal Justice System. According to Reynolds and Hall (2012):

Court fees imposed in criminal proceedings must adequately resemble the expenses incurred as a result of prosecution. However, courts vary widely in their determination of whether such costs must defray the expenses of defendants' particular prosecutions, or whether those costs might go into a larger fund, the purpose of which is to remedy the cause of the offenses.

Not only is there variation among courts in determining how court fees are used, there is also extreme variation in the cost of these court fees across jurisdictions⁷. After reviewing secondary data providing by both the state of Massachusetts Administrative Office of the Trial Court (2011) as well as reports provided by the Bureau of Justice Statistics (2010), there is insufficient data concerning the court fees incurred by offenders in traditional criminal justice case facilitation.

Effectiveness

In order to complete a cost-effectiveness analysis, two intervention strategies must be evaluated according to a shared outcome objective (Levin & McEwan, 2000). In this research, restorative justice and traditional criminal justice were evaluated based upon rates of recidivism, or the rate at which offenders reoffend. The researcher used document review of secondary materials to gather data concerning both restorative and traditional criminal justice's effects on recidivism.

Restorative justice and recidivism. The researcher gathered restorative justice recidivism data through a review of documents and secondary data provided by Communities for Restorative Justice (C4RJ)⁸. (see Table 14).

⁷ The state of Massachusetts does charge a flat-rate \$15.00 filing fee for criminal complaints (misdemeanors only) filed by non-law enforcement persons.

⁸ This data was gathered based on evaluative reports compiled by the nonprofit organization and as a result includes multiple years of data (2000 – 2009) and not simply one year of cases as with other data collected for this study.

Table 14 Restorative Justice Recidivism Data: 2000 – 2009			
Offense	Number of Offenders	Number of Re-Offenses	Recidivism Rate (%)
Property crimes	104	--	--
Substance-related charges	82	21	25%
Theft/attempted theft charges	28	--	--
Assault/crimes against persons	11	--	--
Unknown	--	11	--
Total offenses	225 (196 offenders)	32	16%

(adapted from Communities for Restorative Justice, 2011)

The restorative justice approach in this study yields a 16% recidivism rate over a span of 7 years (2000 – 2009). Although accurate, the recidivism data provided in the table above does not account for or report the time in between an initial offense and their next offense.⁹ That is, if an offender was originally processed through a restorative justice process for a drug-related offense and recidivated, it is unknown whether that offender committed another offense six months or six years later.¹⁰

⁹ For more information on the relevance of recidivism and time between offenses in the restorative justice context, see (Bonta, et al., 2006).

¹⁰ Despite the lack of accurate time information, the organization does indicate that the majority of their recidivism cases reoffend 2 – 3 years after the restorative processes conclude.

Traditional criminal justice and recidivism. The researcher used secondary data to gather information on traditional criminal justice recidivism rates within the state of Massachusetts. Insufficient data was available for exact comparison to restorative justice recidivism data. Relevant recidivism data was gathered for all males released from a department of corrections in Massachusetts in 2008. (see Table 15).

Table 15 Massachusetts Traditional Criminal Justice System: 2008 Males Release Cohort Recidivism Data			
Offense	Number of Offenses	Number of Re-Offenses	Recidivism Rate (%)
Property crimes	281	159	57
Substance-related charges	426	158	37
Theft/attempted theft charges	--	--	--
Assault/crimes against persons	761	302	40
Unknown	318	81	25.5
Total offenses	1,786	700	39

(adapted from Kohl, Hoover, McDonald & Solomon, 2008)

The traditional criminal justice approach examined in this study yields a 39% recidivism rate among males released from a department of corrections in Massachusetts in 2008. Despite the narrow perimeters of this recidivism data, it will act as a representative sample of the greater criminal justice system recidivism rates within Massachusetts in this research. It will be

juxtaposed and compared to recidivism data collected concerning restorative practice covering a span of approximately nine (9) years.

Chapter Five

Data Analysis

Once both cost and effectiveness data has been gathered, the researcher must then analyze the material collected. First, the researcher must analyze the associated costs of all identified and valued ingredients for each criminal justice approach, restorative justice and traditional criminal justice. The researcher must then examine and analyze data gathered concerning the effectiveness of each intervention. Again, in this research effectiveness is measured by recidivism. Finally, in order to complete a cost-effectiveness analysis, the researcher must use both cost and effectiveness data to construct cost-effectiveness ratios for each intervention.

Costs

The first step in cost analysis requires the researcher to organize identified and valued data into cost worksheets in order to synthesize information and draw conclusions by *comparison*. In this research, cost analysis enables the researcher to view information and themes within the data and draw conclusions about valued ingredients for both restorative and traditional criminal justice case facilitation. By assembling available cost data for each approach into cost worksheets (see Table 16 and Table 17), and constructing a side-by-side comparison of the two methods, stratified by phase presents the data most clearly and enables the researcher to draw conclusions.

Table 16

Restorative Justice Case Facilitation Cost Worksheet: FY2011

[illegible]

Table 17							
Traditional Criminal Justice Case Facilitation Cost Worksheet: FY2011							
Phase	1	2	3	4	5	6	7
Time Required	-	0.25 – 0.50	0.25 – 1.00	0.25 – 0.50	-	0.25 – 3.00	1.00 – 6.00
Ingredients							
Personnel							
Trial Court Justice		--	\$16.98 – \$67.90	\$16.98 – \$33.95		\$16.98 – \$203.70	\$67.90 – \$407.40
Clerk I		\$12.51 – \$25.01	\$12.51 – \$50.02	\$12.51 – \$25.01		--	--
Clerk II		\$9.92 – \$19.84	--	--		--	--
Court Officer		\$8.33 – \$16.66	\$8.33 – \$33.32	--		--	--
Law Enforcement		\$7.04 – \$14.08	\$7.04 – \$28.14	--		\$7.04 – \$84.42	\$28.14 – \$168.84
Probation Officer		--	\$8.06 – \$32.25	\$8.06 – \$16.13		--	--
Prosecutor		--	\$9.52 – \$38.08	\$9.52 – \$19.04		\$9.52 – \$114.24	\$38.08 – \$228.48
Defense Attorney		--	\$8.25 – \$33.01	\$8.25 – \$16.50		\$8.25 – \$99.03	\$33.01 – \$198.06
Victim Witness Ad		--	--	\$3.89 – \$7.78		\$3.89 – \$46.65	\$15.55 – \$93.30
TOTAL COST		\$37.80 – \$75.59	\$70.69 – \$282.72	\$59.21 – \$118.41		\$45.68 – \$548.04	\$182.68 – \$1,096.08
Mat. & Equipment							
Tech. & Software	n/a						
Office Supplies	n/a						
Facilities							
Court Room Space	n/a						
Office Space	n/a						
Utilities	n/a						
Req. Client Input							
Court Fee	varies						
Attorney’s Fees	see defense attorney above						
TOTAL	insufficient data available						

Personnel. According to Levin and McEwan (2000) personnel usually account for the most significant portion of a cost-analysis (approximately 75% of costs are derived from the salary and wages of personnel). As a result of this overwhelming significance, the researcher

analyzed and compared personnel costs for the two criminal justice approaches separately from the other ingredients identified in the study. (see Table 18).

Table 18 Restorative Justice & Traditional Criminal Justice Personnel Cost Comparison		
PHASE	Restorative Justice	Traditional Criminal Justice
1	--	--
2	\$30.78 – \$92.33	\$37.80 – \$75.59
3	\$56.28 – \$84.42	\$70.69 – \$282.72
4	--	--
5	\$33.41 – \$66.82	\$59.21 – \$118.41
6	\$123.10 – \$153.88	\$45.68 – \$548.04
7	\$67.00 – \$134.00	\$182.68 – \$1,096.08
TOTAL	\$310.57 – \$531.45	\$396.06 – \$2,120.84
MEDIAN TOTAL	\$421.01	\$1,258.45

Across all seven phases of case facilitation, restorative justice personnel costs range from \$311 to \$531, whereas traditional criminal justice costs range from \$396 to \$2,121. When examining the cost of personnel associated with restorative justice in comparison to that of traditional justice across all seven phases, the restorative justice personnel incur lower costs than traditional criminal justice personnel. This may be true for several reasons. First, the number of restorative justice personnel (6) required for case is facilitation smaller than the number of personnel required for traditional criminal justice facilitation (9). Consequently, the salary and wage costs required by restorative justice case facilitation are also smaller than those required to implement a traditional criminal justice approach in Massachusetts.

Another reason that restorative justice personnel costs may be lower than those of traditional criminal justice is due to the contributions made by volunteers to the restorative approach. In the restorative model, personnel such as case coordinators as well as volunteer facilitators contribute extensively in Phases 3 – 6, working closely with victims, offenders and community members. This group of volunteer case coordinators and facilitators, comprised primarily of citizens interested in playing a more active role in their communities, is invaluable to the facilitation of restorative justice cases. Further, these volunteers also help to ensure the lower costs incurred by personnel in a restorative justice approach in comparison to a traditional criminal justice approach.

Finally, as with any cost-effectiveness analysis, it is important to note the scope and size of the two interventions being compared. In this research, the two interventions being examined are not of the same size or scope. That is, the restorative justice non-profit, Communities for Restorative Justice (C4RJ) processes a small fraction of the criminal cases within the state of Massachusetts, while the state regulated criminal justice system processes the remainder.

Due to the large volume of cases processed by the Massachusetts Criminal Justice system, more personnel are required for case facilitation. The traditional criminal justice approach requires larger numbers of personnel that have been identified as directly involved in case facilitation (and appear in this study). It also requires additional personnel such as maintenance staff, janitorial staff, office assistants, administrators, accountants, human resources and other such staff that were omitted from this study because they are not directly involved in case facilitation. In drawing conclusions from the data presented above, it is

imperative that the researcher identifies the scope and size of the two criminal justice approaches as skewed. With the increased number of cases processed and the corresponding number of personnel, the salary and wage cost data associated with traditional criminal justice case facilitation will undoubtedly be higher in order to manage the correspondingly high number of cases.

Despite this variation in scope and size however, the data presented in this study only represents those personnel *directly* involved in case facilitation for both approaches. The additional personnel required in traditional criminal justice case facilitation are purposely omitted from this study in order to provide a more accurate depiction of costs. That being said, restorative justice personnel incur lower costs during all seven phases of case facilitation than those in traditional criminal justice cases. This result stems primarily by incorporating trained community volunteers in Phases 3 – 6 of the restorative process.

Additional ingredients. Although the costs incurred by personnel play a more significant role in cost analysis, other ingredients such as equipment and materials, facilities and required client inputs are also integrative. The researcher analyzed and compared data concerning the additional ingredients identified and valued in the study in both the restorative and traditional criminal justice approaches. (see Table 19).

Table 19				
Restorative Justice & Traditional Criminal Justice Additional Ingredient Cost Comparison				
Ingredient	Restorative Justice		Traditional Criminal Justice	
	Annual Cost	Cost per Case	Annual Cost	Cost per Case
Equipment & Materials				
Software	\$0.00	\$0.00	n/a	n/a
Postage	\$2,025.97	\$92.09	n/a	n/a
Printing	\$5,822.85	\$264.66	n/a	n/a
Office Supplies	\$1,769.60	\$80.44	n/a	n/a
Facilities				
Main Location	\$0.00	\$0.00	n/a	n/a
Property Taxes	\$0.00	\$0.00	n/a	n/a
Electricity	\$0.00	\$0.00	n/a	n/a
Telephone	\$1,397.34	\$63.52	n/a	n/a
Internet	\$84.02	\$3.82	n/a	n/a
TOTAL	\$11,099.78	\$504.52		
Required Client Inputs				
Administration Fee	(\$4,400.00)	(\$200.00)	variable	variable
TOTAL	\$7,599.78	\$304.52	--	--
n/a – insufficient data available				
() – cost incurred by participant and contributed to criminal justice approach				

According to the data above, restorative justice ingredient costs, including equipment and materials as well as facilities incur approximately \$11,100 annually. Estimating the average annual caseload of Communities for Restorative Justice (C4RJ) to be about 22 cases per year, these additional ingredients incur costs of about \$505 per case. There is insufficient data available to ascertain the costs incurred for these additional ingredients in the traditional criminal justice context within the state of Massachusetts. Although there is a plethora of data that examines the number of cases processed by the various jurisdictions with the Massachusetts Criminal Justice System, without cost data, no per case calculations can be

completed. As a result, the researcher cannot compare these additional ingredients according to the restorative and traditional criminal justice approaches.

Despite this lack of cost data, it is worth noting that Communities for Restorative Justice (C4RJ) actively employs several strategies in order to maintain lower case facilitation costs. First, the organization utilizes office facilities within the Concord, Massachusetts Police Department. By occupying space free of cost, the organization saves considerable funds that would otherwise need to be applied toward property rent or ownership. Undoubtedly, this may be a unique case. Not all restorative justice organizations have the opportunity to borrow office space from a publicly funded police department in order to facilitate and manage cases. Communities for Restorative Justice however, has engaged numerous stakeholders and dedicated significantly to the broader community, proving to the Concord Police Department their worth and value.

Communities for Restorative Justice has also taken steps toward facilitating cases and conducting restorative circles in public places or other spaces that do not charge for facility usage, such as public schools after hours, meeting halls and churches. By locating facilities of this nature, they have also significantly lowered costs associated with case facilitation. In comparison, the Massachusetts Criminal Justice System, in any jurisdiction has been allotted a courthouse by the state. Although fully funded, a number of these facilities are rented or leased from private owners, incurring continued costs guaranteed to be much higher than those used for restorative practice.

Lastly, this restorative justice organization also implements various strategies for lowering materials costs such as software purchasing, licensing and renewal by using free,

In analyzing the effectiveness data above as measured by a criminal justice approach's ability to affect recidivism rates, several themes emerge. First, in researching the recidivism rates in Massachusetts, there is very limited data available. As noted earlier, the researcher was able to collect some recidivism data however the data collected is quite restricted. That is, it only presents information about reoffending for males released from a department of corrections report in 2008 within Massachusetts. When comparing the effectiveness of these criminal justice approaches, it is imperative that the nuances of this data be clear. In this project, restorative justice recidivism data collected spans a nine-year timeframe, whereas the traditional criminal justice recidivism data only spans a one-year timeframe.¹¹

That being said, the data in the previous table suggests that restorative justice practice within the state of Massachusetts produces a significantly lower rate of recidivism than the traditional criminal justice system in Massachusetts. Even when looking more closely at substance-related charges across the continuum, the results remain the same. Restorative justice has only a 25% recidivism rate compared to traditional criminal justice's 37% with substance-related crimes.

Looking at property crimes for comparison, the restorative approach has no cases of recidivism, whereas the traditional criminal justice system produced a recidivism rate of 57%¹².

¹¹ According to Umbreit (1998), the national average for traditional criminal justice's recidivism is approximately 27%, however admittedly, this data is almost 15 years old and may be an inaccurate reflection of the recidivism rate today. Further, with more recent budget cuts nationally, traditional criminal justice methods may be proving less successful in lowering the rate of re-offense among criminals.

¹² Out of their entire caseload in the past decade, Communities for Restorative Justice has processed more property crimes than any other type of crime (C4RJ, 2012).

According to the state records in 2011, Cambridge, Massachusetts, the city with the highest population in Middlesex County recorded the following totals:

- 3,158 property crimes
- 539 burglaries
- 2,464 larcenies/thefts

Accounting for a 57% recidivism average for males across the state of Massachusetts within three years of offending, the city of Cambridge will likely experience a significant number of property, burglary, and larceny theft crimes in the next three years as a result of recidivism.

If we account for the fact that approximately 70% of the property crime offenders are male (Jones, 2007), the city of Cambridge will predictably see an additional 1250 property crimes, 215 burglaries, and 983 larcenies/thefts as a result of reoffending. When comparing these figures to the 0% recidivism rate for property crimes using a restorative justice approach, there is significant evidence in favor of restorative justice's ability to effectively lower recidivism rates among offenders in Massachusetts.

The restorative justice approach's lower rates of recidivism lends strength to the arguments presented in the literature that the approach is more effective because of its inclusion of those victims affected by a wrongdoing or crime together in a dialogue shared by the offender. Restorative justice methods work diligently to engage the offender in understanding the consequences and impacts of his/her actions. This approach also incorporates the victim and affected community members as well, an aspect considerably different than traditional criminal justice. By involving the victim and the affected community in the process, they can assist in crafting a resolution, reparative steps, or otherwise suitable

responses to the wrongdoing committed, in order to address the impact it had and the needs of all involved.

Conversely, some restorative justice critics attribute these skewed effectiveness results to the types of cases processed by the restorative approach. They criticize a side-by-side comparison of traditional criminal justice and restorative justice because of the preconditions necessary for restorative justice implementation (Daly, 2002). As mentioned early in this report, restorative justice methods can only be employed if a case meets several preconditions: (1) the offender claims responsibility, (2) law enforcement deems the case suitable for restorative justice and recommends it, and (3) both the victim and the offender agree to participate voluntarily.

These preconditions, critics argue, give restorative justice the recidivism advantage. In cases in which offenders claim responsibility and voluntarily agree to sit down and engage in dialogue with the victim coupled with a law enforcement's recommendation (insinuating lack of previous criminal record, or a minimal one), it is unlikely that these offenders were likely to recidivate regardless of the criminal justice approach used (Daly, 2002). Keeping this important criticism in mind, the effectiveness criterion of this cost-effectiveness analysis nonetheless demonstrates that restorative justice produces a lower recidivism rate and therefore suggests it has greater effectiveness than traditional criminal justice measures.

Cost-Effectiveness Ratio

The final step in a cost-effectiveness analysis is to construct cost-effectiveness ratios and compare the two criminal justice interventions.

In a cost-effectiveness ratio (CER), the cost (C) of an alternative or intervention is divided by its effectiveness (E):

$$CER = C/E$$

Here, the ratio should be interpreted as cost (C) per one unit of effectiveness (E) in which the unit of effectiveness is determined by the researcher (Boardman, Greenberg, Vining & Weimer, 1998; McEwan & Levin, 2000).

According to Levin and McEwan (2000), CE analysis is intended to compare multiple interventions according to their success in altering one measure of effectiveness. It is unrealistic however to assume that implementation of these interventions will yield only one outcome. That is, secondary effects will occur in other areas. When interventions produce multiple measurable outcomes, the evaluator should conduct a separate CE analysis for each measure of effectiveness (Levin & McEwan). For this study, only one measure of effectiveness was examined, and therefore only one ratio per criminal justice approach will be constructed; measuring the cost of case facilitation for each intervention against its ability to influence recidivism.

The restorative justice cost-effectiveness ratio includes cost data of personnel, facilities, materials and equipment as well as required client inputs from the fiscal year 2011. Further, the effectiveness data used to construct this ratio is data cumulative data collected over a nine-year span from 2000-2009. The traditional criminal justice cost-effectiveness ratio includes cost data of personnel from the fiscal year 2011. Due to insufficient data, the facilities, equipment and

materials, as well as required client inputs are not included in this CE ratio. Traditional criminal justice effectiveness data used to construct this ratio is data from 2008 and includes males released from a department of corrections in Massachusetts.

The cost-effectiveness ratios are as follows:

$$CER_{RJ} = \$305 \text{ (per case)} / 84\% \text{ (over 9 years)} = 305/84 = 3.631$$

$$CER_{TCJ} = \$1,259 \text{ (per case)} / 61\% \text{ (2008)} = 1,259/61 = 20.640$$

According to the cost-effectiveness ratios presented above, the restorative justice approach has a lower cost per percentage of effectiveness than the traditional criminal justice approach, thus deeming restorative justice nearly more than six times more cost-effective than traditional criminal justice methods. Although the cost data used to construct the traditional criminal justice CE ratio is missing data integrative to an accurate calculation, any additional cost data that would incur higher overall costs for traditional criminal justice case facilitation would only add additional weight to the conclusion that restorative justice is more cost-effective. In such a scenario there would be an even greater difference between the two calculations, as restorative justice would remain at 3.631 and traditional criminal justice ratio would increase further.

For example, if the researcher was able to determine that the cost incurred by facilities and equipment and materials in a traditional criminal justice case was +\$1000 per case, then the cost-effectiveness ratio of the traditional criminal justice approach would appear as follows:

$$CER_{TCJ2} = \$2,259 \text{ (per case)}/61\% \text{ (2008)} = 2,259/61 = 37.033$$

Here, the cost effectiveness of restorative justice in comparison to that of traditional criminal justice remains more than 10 times more cost-effective. In fact, with the addition of incurred costs absent from the original calculation due to insufficient data, the traditional criminal justice approach looks even less cost-effective¹³. These cost-effectiveness ratios demonstrate not only that restorative justice is a cheaper alternative than the traditional criminal justice system, but also that it produces lower rates of recidivism among offenders who participate in restorative processes, deeming it more cost-effective.

¹³ According to Umbreit (1998), the national recidivism average of traditional criminal justice to be approximately 27%. If the researcher utilized this figure rather than the 39% recidivism calculation from data collected in this study, the cost-effectiveness of traditional criminal justice would measure to be 17.247 (and with the additional +\$1,000, it would calculate to be 30.945). Both of these figures remain less cost-effective than the restorative justice approach.

Chapter Six

Discussion

The National Center for State Courts (2012) together with the Bureau of Justice Statistics announced that in 2009, the Massachusetts Criminal Justice System's District Courts managed 219,154 incoming criminal cases, 201 of which were juvenile cases tried in District court. In that same year, the Massachusetts Juvenile Court saw 37,725 cases (not all of which were criminal violations). When analyzing the budgetary allocations for the Massachusetts Court System from FY2011 to FY2012 there is a substantial decrease in funding (\$544 million in 2011 and \$519.9 million in 2012, a \$24.1 million decrease). According to the National Center for State Courts and the Bureau of Justice Statistics (2009):

The Massachusetts courts are in a worse position in FY2012. The continuing loss of personnel necessitated by further budget reductions is affecting the court's ability to provide timely disposition of cases.

This reduction in funding has led to the furloughing of judges since 2008 and also catalyzed a hiring freeze on non-judicial employees. These extreme measures have had negative impacts on the caseloads processed by the criminal justice system in Massachusetts¹⁴.

Not only have these changes impeded the rate at which criminal cases (among other types of cases) are tried and closed, but they have also forced court relocations within the State. Relocations are requiring citizens to travel further to access court services, which for victims could lead to lower rates of satisfaction or the inability to attend criminal cases at all and as a result, continued dissatisfaction with traditional criminal justice approaches and

¹⁴ Note, the national recidivism average according to Umbreit (1998) was 27% in the traditional criminal justice context. According to state data in Massachusetts from 2002, that number was 39%.

response. Further, as discussed earlier, this impediment and the relocation of courts may also contribute to decreased social capital in local communities, towns and districts across Massachusetts. Consequently, the data presented here suggests that restorative justice may present an attractive cost saving, and more effective approach to augment or, in some cases, replace the traditional justice approach.

Summary of Findings

According to Drummond, et al. (2005), it is necessary to have information about a program's costs as well as its consequences in order to make a choice between two competing interventions. By identifying the costs incurred through both restorative justice as well as traditional criminal justice case facilitation, together with the consequences of those programs, as defined by recidivism, the researcher is contributing relevant data necessary for broader public policy decisions concerning criminal justice.

This cost-effectiveness analysis calculated costs for both criminal justice approaches, including personnel costs, facility costs, equipment and material costs as well as required client inputs. Further, this research also determined the consequences of each intervention by evaluating the ability of each to lower recidivism rates within their given jurisdictions. Despite the absence of some traditional criminal justice cost data, the researcher was able to calculate the cost-effectiveness of each program, with restrictions (due to insufficient data available). Ultimately, the restorative justice approach proved to incur lower costs upon case facilitation than the traditional criminal justice approach and also produced lower rates of recidivism, deeming restorative justice more cost-effective than traditional criminal justice.

These outcomes suggest that restorative justice methods should be further integrated into the traditional criminal justice system as a supplemental program. The introduction of an integrative restorative approach will not only provide a cheaper alternative for a number of cases that meet the preconditions, but will also potentially lower the rate of re-offense to lower percentages within Massachusetts. In a time of global economic decline and hardship in which budgetary allowances and increases are scarce, a less expensive criminal justice approach would provide the Massachusetts Criminal Justice System more funds to allot to other programs, such as substance abuse counseling and treatment, or sexual assault and domestic abuse services, to name just a few.

By lowering current recidivism percentages there are even greater opportunities for cost-savings. Lower recidivism rates will reduce the costs incurred by the criminal justice system not only to process re-offenses in the courtroom, but also to effectively and efficiently prevent reincarceration, the financial impact of which is even more taxing than traditional criminal trial proceedings. Consequently, the introduction of restorative justice methods as a supplemental program within the Massachusetts Criminal Justice System would not only aid in cutting costs, but can also provide an approach that is proven effective at lowering the rates of recidivism among offenders.

Limitations

Despite being a more cost-effective alternative, the integration of a restorative justice approach is not by any means a replacement for the traditional criminal justice system, but rather a supplementary initiative. The small size of the restorative justice programs within

Massachusetts coupled with the preconditions necessary to process a case restoratively disallow the approach to replace the traditional criminal justice system fully. First, the volume of cases navigating their way through the Massachusetts Judicial System is quite impressive. Hundreds of thousands of criminal cases are filed every year and as such, a completely restorative approach is not feasible.

And finally, restorative justice requires that several preconditions be met prior to the processing of a case: the case must be recommended for restorative justice by law enforcement, offenders must claim responsibility for the wrongdoing/s, and both the victim and the offender must agree to participate voluntarily. These preconditions restrict the number and types of cases that can be processed by a restorative approach, further restricting the degree to which the approach can be integrated into the traditional criminal justice system. The number of cases that meet these criteria is only a small fraction of the cases that are heard by the traditional criminal justice system.

Further, some critics of restorative justice argue that these preconditions play a significant role in determining the approach's effectiveness. That is to say, if each case processed through restorative means is recommended by law enforcement, the offender claims responsibility and both victim and offender agree to participate voluntarily, what is the likelihood the offender in question would recidivate? These scholars would argue that restorative justice is processing an overwhelming majority of cases in which the offender is unlikely to recidivate regardless if processed restoratively or traditionally, therefore skewing the results of this study in favor of a restorative approach.

That being said, restorative justice has proven to be a cheaper and more effective process when compared to the traditional criminal justice system, as demonstrated in this study. When we consider the preconditions necessary to process a restorative justice case however, it may in fact be the *types* of cases and offenders that are being processed with restorative justice methods that provide us with these outcomes. It would seem as though further research must be conducted analyzing other measures of effectiveness across the two criminal justice approaches. One measure of effectiveness that may prove significant is victim and offender satisfaction. By analyzing the satisfaction of these parties undergoing both types of processes, we may develop a greater understanding of the two programs' effectiveness in different contexts.

Although these conclusions are quite clear, this cost-effectiveness analysis still paints an incomplete picture of the two criminal justice intervention programs. Traditional criminal justice cost data was unavailable for many of the ingredients identified as integral to case facilitation, and the limited data that did exist was inconsistent. Some research measured costs over multiple years, and other data for only portions of fiscal years, whereas some cost data excluded time all together. In some instances, cost studies were available for a series of years with one missing year (for example, crime type and numbers were available for the state of Massachusetts from 2002 through 2009 but omitted 2007 and 2008).

Furthermore, the methodologies used by the state of Massachusetts to collect various data were also inconsistent, whereas some studies were explicit with the method used and others' methods were simply not identified or explained. Consequently, more research needs

to be conducted concerning the facilities, equipment and materials, as well as required client input costs within the traditional criminal justice context.

The data that was utilized in this research, also relevant, limits the conclusions that can be drawn, due primarily to these inconsistencies. For example, recidivism data for traditional criminal justice identifies the recidivism rates for one year (2008), but only for males released from the Massachusetts Department of Corrections. The restorative justice recidivism data was cumulative and presented nine years of data, not stratified by gender, age etc. This data also identified some of the reoffending crime-types, but not all. As a result, this data presents only a very broad picture of the cost-effectiveness of the interventions evaluated.

Cost-Effectiveness Analysis

Despite these shortcomings, cost-effectiveness analysis has proven to be an informative method of economic analysis in the criminal justice context. The researcher is able to present the available cost data in such a way that accurately represents the cost of each case processed through all seven phases of facilitation for each approach. In addition, this report also demonstrates the feasibility of economic analysis within this realm of public policy and in promoting restorative justice as a more cost-effective method of criminal justice.

The study has only grazed the surface of cost-effectiveness analysis' ability and potential within this arena. CE analysis has many other advantages and uses. For example, CE analysis can be used to construct multiple ratios of effectiveness as well as the cost-effectiveness according to constituency. In constructing multiple ratios, the researcher may determine that one intervention is more cost-effective across multiple measures or may determine that each

intervention is more cost-effective at producing a different outcome. This may indicate for example, that one intervention is not as effective at lowering recidivism rates per cost, whereas the other intervention may demonstrate considerable effectiveness both in terms of lowering recidivism rates as well as producing high rates of victim satisfaction. Knowledge of effectiveness across multiple measures may contribute to decision-making regarding funding of an intervention, intervention reevaluation, or may act as an impetus for improvement.

It is also important to note that cost-effectiveness ratios can also be constructed according to constituency. Because it is often that multiple constituencies have invested in the cost of the intervention, individual ratios can also be calculated using the same formula. By calculating constituency-specific cost-effectiveness ratios, each contributor is able to view their costs in concordance with the interventions' effectiveness, thus providing each agency with more detailed data necessary to foster decision-making, again regarding funding of an intervention, intervention reevaluation, or as an impetus for improvement of an intervention (Levin & McEwan, 2000).

Although this study finds an overwhelming argument for the further integration of restorative justice methods within the traditional criminal justice system, albeit supplemental, several other themes emerge. The most important of which is the need for more research to be conducted concerning the costs of administering a traditional criminal justice case, including facility, utility and required client input data. It also illustrates the piecemeal reports currently available surrounding recidivism in the traditional justice context (for example, reports on recidivism could *only* be found for offenders who had served time in a correctional facility and excluded offenders who were processed through traditional means but not incarcerated). By

gathering more comprehensive data in these areas, a more accurate cost-effectiveness analysis can be completed, painting a far more detailed picture of the two criminal justice approaches, their costs, and their effectiveness.

Appendix A



COMMUNITIES FOR RESTORATIVE JUSTICE, PO BOX 65, CONCORD, MA 01742 WWW.C4RJ.COM 978.318.3447

Graduate Programs in Conflict Resolution
The University of Massachusetts Boston
100 William T. Morrissey Blvd.
Boston, MA 02125

October 28, 2011

Dear Sir/Madam,

This letter confirms that Communities for Restorative Justice (C4RJ) has invited Jillian M. Furman to conduct research on our behalf to examine the relative costs of criminal cases going through the traditional court systems versus through a largely pre-complaint restorative justice proceeding.

As required by the University of Massachusetts, I hereby grant Jillian support for this project and permission to collect data or carry out other aspects of necessary research including data relevant to financial costs associated with the implementation of restorative justice methods, and interviews among C4RJ personnel (board, staff, volunteers) and our allied partners (e.g. police department contacts).

Please don't hesitate to contact me with any questions about this letter or the research that Jillian will be conducting on our behalf.

Respectfully,

Jennifer Larson Sawin
Executive Director
Communities for Restorative Justice

CC: Jillian M. Furman, graduate student U-Mass Boston
CC: Prof. Darren Kew, U-Mass Boston
CC: Barbara Howland, C4RJ Board President
CC: Judge Cratsley (ret.), C4RJ Board member (effective 11/1/11)
CC: Chief Len Wetherbee (ret.), C4RJ Board Alum and Program Advisor

Appendix B**UMASS BOSTON INSTITUTIONAL REVIEW BOARD****CONSENT FORM**

University of Massachusetts Boston
Department of Conflict Resolution, Human Security and Global Governance
100 William T. Morrissey Boulevard
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Consent Form For: An Economic Analysis of Restorative Justice Methods

Introduction and Contact Information

You are being asked to take part in a research project that examines both the costs and effectiveness associated with restorative and traditional criminal justice methods. The main researcher is Jillian Furman, a graduate student in the Department of Conflict Resolution, Human Security and Global Governance.

If additional questions arise after you have read this consent form, I (Jillian Furman), will give you my personal contact information and you can contact me at any time to discuss questions that you might have. My email address is jill@furman.com and my telephone number is 413.222.0221.

Description of the Project:

The purpose of this research is to determine the cost-effectiveness of implementing restorative justice methods within the current Criminal Justice System in Massachusetts.

In order to conduct this study one must understand the various perceptions of effectiveness that exist when analyzing any given criminal justice model. This study aims to benefit future researchers as well as legislative personnel by providing necessary estimates regarding financial cost relative to overall effectiveness.

Examples of the types of questions that will be asked are as follows:

- Can you describe the processing and case-management involved in a restorative/traditional justice case before the actual facilitation? On average, how long would you say the pre-facilitation step takes per case?
- Can you describe the facilitation process involved in a typical restorative/traditional justice case? On average, how long would you say the facilitation process takes per case?
- Including the preparation and post-facilitation stages, what are the various types of personnel required for implementation of this intervention in its totality and can you describe their roles?

This interview will take approximately one hour.

Risks or Discomforts:

I believe that this research is of minimal risk to you. In case of the emergence of negative or distressful feelings in answering any questions or talking about anything that you do not feel comfortable discussing, you may skip those questions, and even withdraw from the study without penalty. You may contact the researcher's advisor, Darren Kew, to discuss any distress or other issues related to study participation.

Confidentiality:

Your participation in this research is **confidential**. The information gathered for this project will be de-identified. It not be published or presented in a way that would allow anyone to identify you. Only the researcher will have access to the data.

Voluntary Participation:

The decision whether or not to take part in this research study is voluntary. If you do decide to take part in this study, you may terminate participation at any time without consequence. Whatever you decide, you will not be penalized in any way.

You can reach Dr. Darren Kew (at darren.kew@umb.edu or phone: 617 287 7428). If you have any questions or concerns about your rights as a research participant, please contact a representative of the Institutional Review Board (IRB), at the University of Massachusetts, Boston, which oversees research involving human participants. The Institutional Review Board may be reached at the following address: IRB, Quinn Administration Building-2-015, University of Massachusetts Boston, 100 Morrissey Boulevard, Boston, MA 02125-3393. You can also contact the Board by telephone or e-mail at (617) 287-5370 or at human.subjects@umb.edu.

Signatures:

I HAVE READ THE CONSENT FORM. MY QUESTIONS HAVE BEEN ANSWERED. MY SIGNATURE ON THIS FORM INDICATES THAT I CONSENT TO PARTICIPATE IN THIS STUDY. I ALSO CERTIFY THAT I AM 18 YEARS OF AGE OR OLDER.

Signature of Participant

Date

Printed Name of Participant

Signature of Researcher

Date

Printed Name of Researcher

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