



ARCHIVED - Archiving Content

Archived Content

Information identified as archived is provided for reference, research or recordkeeping purposes. It is not subject to the Government of Canada Web Standards and has not been altered or updated since it was archived. Please contact us to request a format other than those available.

ARCHIVÉE - Contenu archivé

Contenu archivé

L'information dont il est indiqué qu'elle est archivée est fournie à des fins de référence, de recherche ou de tenue de documents. Elle n'est pas assujettie aux normes Web du gouvernement du Canada et elle n'a pas été modifiée ou mise à jour depuis son archivage. Pour obtenir cette information dans un autre format, veuillez communiquer avec nous.

This document is archival in nature and is intended for those who wish to consult archival documents made available from the collection of Public Safety Canada.

Some of these documents are available in only one official language. Translation, to be provided by Public Safety Canada, is available upon request.

Le présent document a une valeur archivistique et fait partie des documents d'archives rendus disponibles par Sécurité publique Canada à ceux qui souhaitent consulter ces documents issus de sa collection.

Certains de ces documents ne sont disponibles que dans une langue officielle. Sécurité publique Canada fournira une traduction sur demande.

THE IMPACT OF RESTORATIVE JUSTICE ON RECIDIVISM AMONG SHOPLIFTERS



Keith Robinson, Darryl Plecas, Colette Squires, and Kim McLandress

Introduction

Restorative justice processes are growing in importance as an alternative justice measure in Canada and in many other countries around the world. While some advocates argue that they ought to be used more extensively than they are at the present time, others remain skeptical that restorative justice can be a significant component of a comprehensive criminal justice system. While restorative justice programs exist in many Canadian communities and elsewhere, some would argue that there is still only limited acceptance of this alternative response to crime (Bliss and Crocker, 2008). One of the reasons for this may be the failure to appreciate how much more effective restorative justice can be in reducing further offending in comparison to traditional approaches for certain types of offenders.

With the above in mind, the authors of this report conducted a preliminary study to examine recidivism rates from a restorative justice program operating in a community in British Columbia, Canada. Specifically, that study, which is the focus of this report, sought to determine whether offenders, in this case shoplifters, who completed a community-based restorative justice program were less likely to commit further offences than offenders dealt with through the traditional criminal charge process. The study is an important one given the need for further empirical evidence regarding the recidivism rates of offenders who received a restorative justice intervention in comparison to those who did not.

Clearly, a study on this issue is more complex than simply comparing one group to another. Specifically, not all shoplifting cases referred to the specific program are accepted by the program, certain offenders are transferred to other alternative measures, and, even when offenders are accepted, some fail to complete the program. At the same time, some shoplifters are simply warned on the spot with no further action taken by police. Some shoplifters (i.e. repeat offenders) may not be referred to the program, even if that retailer regularly uses the program for first-time offenders, but may be handed over to police for consideration of charges. In effect, how shoplifters are responded to and whether or not they are referred “i.e. selected” to a restorative justice program or any particular system response is a function of numerous factors that need to be considered in any cross-group comparison. With this in mind, and recognizing that the authors attempted to address the issue with attention to at least some offender characteristics, this study provides some good indications of the relative impact of restorative justice on groups of offenders not commonly considered for such programs – as an alternative to traditional criminal justice methods of responding to them.

Some Background on Restorative Justice

Restorative Justice is growing as an international movement toward participatory, transformative justice that focuses on the repair of harm and the restoration of damaged relationships between people and within communities. Unlike retributive justice models, which focus on the breaking

of laws and the use of state power for retribution and punishment to denounce and deter wrongdoers, restorative justice is an inclusive approach that supports the law while also keeping victims and other affected parties in a central place within the justice process. There is no one right definition of restorative justice, but a working definition by Tony F. Marshall (as cited in Latimer, Dowden, & Muise, 2005: 128) proves useful, “Restorative justice is a process whereby all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future.”

The values of restorative justice support the needs of crime victims and are based on principles of responsibility and accountability to others for one’s actions and the need to repair the harm when a crime or conflict occurs (Zehr, 2002; Sharpe, 1998; Umbreit and Greenwood, n.d.). As explained by Zehr (2002) and Sharpe (1998), the primary beliefs of restorative justice include:

- Crime is not the breaking of laws – it is harms committed against people, relationships, and community;
- Harm create obligations and it is up to the offender to make things right;
- Community and victims of crime have a legitimate place in the resolution process when a crime occurs;
- Victim needs are central to the process of resolution;
- Every person is worthy of dignity, respect, and has a right to a voice in processes that affect them; and
- Outcomes need to be agreed upon in a way that is collaborative and non-coercive, with an emphasis on fair, proportionate, and balanced agreements that repair the harm done.

Restorative justice can be applied to a criminal incident at a number of points along the traditional criminal justice process. Latimer et al. (2005) identified five points in the process where an offender might be referred to a restorative justice program. These include: pre-charge, by way of police referral; post-charge, by way of crown prosecutor referral; pre-sentence, by way of court referral; post-sentence, by way of corrections referral; and pre-revocation, by way of parole officer referral (Latimer et al., 2005: 129). Other points in the process have been identified, such as during the period of time before an offender is released on parole, statutory release, or sentence expiry (pre-release), and at a time during an interpersonal dispute before an offence has even occurred (pre-offence) (Canada Department of Justice, 2000). Programs that function prior to charges being laid, like the program under study in this report, are the most common restorative justice programs, but it would be misleading to suggest that restorative justice only exists apart from the traditional criminal justice system.

Restorative justice has been growing across Canada as a form of social justice parallel to the criminal justice system since the 1970’s. The first recognized case of restorative justice was documented in Elmira, Ontario, Canada, in 1974 (Centre for Restorative Justice, n.d.). After two young offenders vandalized 22 properties in a small Ontario town, the assigned probation officer

and a Mennonite prison support worker asked the judge for permission to arrange for the two offenders to meet with the victims of the vandalism in order to see if reparations could be made. This early experiment captured the idea that justice should include compensation and restitution directly to those affected by the criminal act – an idea that has since become strongly linked with most restorative justice processes. It also provided an opportunity for the young offenders to meet directly with their victims in order to discuss the offence together, with the hopes of developing an agreement that would be fair and satisfactory to all parties. This historic case led to the establishment of the Victim Offender Reconciliation Program in Kitchener, Ontario, now recognized as one of the first and oldest restorative justice programs in Canada (Community Justice Initiatives: About us. 2012).

During subsequent years, restorative justice has developed internationally, influenced by a variety of countries and cultures, and in a variety of forms. According to a history provided by Van Ness and Strong (2002), Victim Offender Mediation emerged in the late 1970's, involving the directly-affected parties with a process guided by a trained mediator. This model is still used today in various places throughout the United States and Canada, and has also been implemented in England and Europe. Simultaneously, the Maori-influenced family group conference developed in New Zealand, involving family members and community representatives, as well as the primarily-affected parties of victim and offender (Van Ness and Strong, 2002; Wachtel, 1997). The New Zealand model evolved to become an intervention for youth offenders, and was typically facilitated by social workers (Wachtel, 1997). It subsequently spread to Australia, championed by police sergeant Terry O'Connell, who devised the group conference to be led by a police officer using a script of questions to ensure consistency in the process (Wachtel, 1997). Further developed by Ted Wachtel in the USA as "Real Justice," this scripted model of the family group conference spread from the USA to Canada, where the Royal Canadian Mounted Police (RCMP), Canada's national police force, adapted it to become the Community Justice Forum, most commonly used by community restorative justice organizations to handle pre-charge referrals sent to them by their local RCMP detachment.

In addition to Victim Offender Mediation, Family Group Conferencing, and Community Justice Forums, the international practices of restorative justice have also included the Canadian aboriginal traditions of healing circles, sentencing circles, and other circle processes that include an even wider group of community leaders, elders, and participants than the family group conference originating from the Maori aboriginal tradition (Van Ness and Strong, 2002). Canada's Aboriginal Justice Strategy reflects this approach, in which criminal matters are often resolved directly within the aboriginal community where support and accountability is offered instead of incarceration. These processes involve community members as well as criminal justice professionals, and are designed to reflect and include the aboriginal rituals and traditions of the community (Department of Justice Canada Evaluation Division, 2007; Department of Justice Canada, 2011). Circle processes have now been adapted for use in schools and other non-aboriginal settings in Canada (Van Ness and Strong, 2002).

Despite the variety of forms and expressions of restorative justice, all these models share the belief that justice needs to include the direct participation of those harmed by crime. These models incorporate some form of encounter between the victim and the offender, with additional support often provided by family or community members. They also promote community involvement, whether through direct participation in the resolution process or through support for the affected parties afterwards. Reflecting the belief that those affected know what is needed to make things right again, opportunities are provided for the creation of a reparation agreement that may include restitution, compensation, or some other form of amends, frequently including a component to build the capacities of the offender to prevent future harms, and to address the underlying factors that may have influenced the criminal behaviour. These underlying beliefs have been eloquently defined by a number of international leaders in the field including Howard Zehr (2002), one of the first articulators of restorative justice theory. Zehr's work has been expanded by numerous other writers and contributors, and paper, books, and journal articles are now in abundance.

Restorative Justice in British Columbia, Canada

In British Columbia, Canada, there are numerous restorative justice programs sponsored by a variety of community agencies and organizations—some functioning within larger organizations such as the John Howard Society or the Boys and Girls Clubs, and others delivered through not-for-profit organizations designed expressly to deliver restorative justice programming. Program models include community group conferences, circles, victim offender mediation, and school-based programs. Although there are a few notable exceptions, most restorative justice organizations are small, with one or two staff members, supported by community volunteers. The Government of British Columbia promotes the use of restorative justice through the Ministry of the Public Safety and Solicitor General's Community Accountability Program. This provides a \$2,500 annual grant to approximately 50 restorative justice programs across the province. Some programs are also able to get a \$5,000 start-up grant to establish themselves within the community. Additionally, British Columbia has a variety of community justice programs delivered with federal government funding through the aboriginal justice strategy. This wealth of programs throughout the province reflects a growing belief in the effectiveness of restorative justice as an alternative justice measure that is often more effective in reducing offending behaviour than traditional ways of dealing with offenders.

Many of the community-based restorative justice programs currently functioning in British Columbia are in relationship with the Royal Canadian Mounted Police, the major service provider of police services in the province. According to a survey conducted by Curtis (2008), the majority of the community programs operating in British Columbia use the RCMP's Community Justice Forums model. The RCMP has played a leadership role in supporting restorative justice as an effective strategy for responding to first-time youth offenders involved in

lower levels of crime, and has created numerous successful partnerships with community organizations to deliver restorative justice programming. The RCMP provides training in the Community Justice Forums model, the Canadian version of the family group conference that developed in New Zealand and Australia, now the primary model of restorative justice endorsed by the RCMP. This model includes the offender, the offender's supporters, the victim, the victim's supporters, and may also include the investigating police officer and others who may have been affected by the incident. These processes are guided by a trained facilitator, which is often a community volunteer.

The RCMP has also encouraged the use of Community Accountability Panels, allowing for a community-based response to crime from a restorative justice perspective, even when the crime victim is not available or willing to partake in the process. This shift toward involving community volunteers as victim representatives or "surrogate victims" has raised questions amongst some researchers (Latimer et al., 2005; Woolford, 2009), as to the degree to which a process can be considered truly restorative justice if the victim is not included. Despite this philosophical concern, the use of community volunteers trained in restorative justice to represent the interests of an absent victim or the wider community has developed primarily as a way of providing a restorative process for young people involved in crimes against retail stores and other businesses when the corporate victim is not available to participate.

The Chilliwack Restorative Justice and Youth Advocacy Association program, the program of focus for the study of focus for this report, is one example of a community program that has delivered restorative justice through Community Justice Forums as well as Community Panels.

The Chilliwack Restorative Justice and Youth Advocacy Association Program

Established in 1998, the Chilliwack Restorative Justice and Youth Advocacy Association (CRJYAA) is one of the more well-established restorative justice associations in British Columbia, having served in excess of 3,500 people primarily affected or involved with incidents of shoplifting, arson, assault, theft, break & enter, vandalism or mischief. Their offices are located inside the Chilliwack Community Policing Office, in close proximity to the patrol officers. When the incident involves individuals personally and directly affected by the offence, a Community Justice Forum is used to provide a group conference setting to directly resolve the matter between the victim, the offender, and other affected parties. This captures the philosophical perspective in which victim voice and involvement are considered vital to the integrity of restorative justice.

In cases involving shoplifting, the CRJYAA program uses Community Accountability Panels (CAPs), but with innovative program enhancements. Their program features a direct referral process from the loss prevention officer to the restorative justice program, increasing efficiency and reducing the need for police to attend for every shoplifting case. This protects the RCMP's

ability to respond to more serious incidents occurring elsewhere in the community at that time, and avoids the necessity of leaving offenders to wait for several hours in a room in the back of the store under the supervision of a loss prevention officer or other staff member until police to arrive, occupying staff time during that waiting period. The direct referral process has worked well for compliant shoplifters who have not resisted arrest. In situations of violence, resistance, or if the arrested person denies the offence, the RCMP are still called to attend the scene.

Using the direct referral process, the loss prevention officer calls the RCMP Dispatcher to give the name and date of birth of the arrested shoplifter. The information is used to conduct a background check to determine if there is an outstanding warrant for arrest, and to check the individual's previous history. If there is no reason precluding the use of restorative justice, assign a police file number is issued, and the referral is sent directly to the CRJYAA office by the loss prevention officer. The shoplifter is then released.

Previous to the development of the direct referral process, CRJYAA staff observed that it was common for young people to be held for four or more hours before a police officer was able to attend. The direct referral process has created a more efficient and timely response for all involved, producing benefits for the business as well as the RCMP. Now, the loss prevention officers and store staff is able to return to their duties more quickly as they are relieved of the obligation to supervise the apprehended shoplifter for several hours while waiting for police response. This creates potential for a rapid response for the restorative justice organization as well; the CRJYAA staff can be in touch with the referred shoplifter within a day or two, and often within hours of the offence.

When the CRJYAA program coordinator receives the referral, they conduct a second review of the referred individual's file on PRIME, the RCMP database currently in use in British Columbia, to ensure the referral is appropriate. If there is an extensive criminal history or if the shoplifter has already been through a restorative justice process it is less likely the offender will be allowed to enter the program. An adult with a criminal history will often be denied access to the program because the program is intended primarily as a crime prevention strategy for first-time offenders to deter future recidivism. CRJYAA's community volunteers are not trained to respond to the criminogenic and other risk factors that relate to repeat offenders. While youth with a history of negative police contact may be accepted into the program, youth with a history of convictions are less likely to be accepted for the same reasons as those for adults. The CRJYAA has a program mandate to respond primarily to first-time offenders, acknowledging that there are other mechanisms within the court and probation processes to provide restorative measures for repeat offenders if and when that is appropriate. In addition to screening for a criminal history, the CRJYAA also screen for voluntary participation, admission of responsibility for the offence, parental support for the referral of youth offenders, and the support of the store for the referral.

Initial contact is established by telephone. CRJYAA staff explain the CAP program first to the parent or guardian, and then to the youth. Adult shoplifters are contacted directly. Once agreement to the referral and voluntary participation is assured, an initial meeting is conducted with the person responsible for the offence, plus family or support people as relevant. This initial meeting prepares the client for the CAP process in a variety of ways. First, the staff member describes what will happen at the CAP, and the types of questions that will be asked. They will also explore the offence with the client, to hear what happened and to get the offender's input on what they might be able to do to repair the harm done. The client is encouraged to consider who else has been affected, and what those effects have been. In the case of young offenders, parents and family members are encouraged to share how they have been affected. CRJYAA staff members also inquire about the client's daily life, so that an agreement can be created that will harmonize well with the dynamics and rhythms of the family, to help ensure that the client will be able to fulfill the agreement.

CRJYAA's program is strength-based, so this initial meeting also explores the capacities of the offender. What positive activities are they currently involved in? For youth offenders, are they still in school? Are they involved in extra-curricular activities? What are their hobbies and interests? What are they good at? What strengths or protective factors are evident in their life? To who are they strongly attached, if anyone? That person could then be invited into the process, as appropriate. The information gathered at the initial meeting is brought to the CAP, to help create an agreement that will not only provide an opportunity for reparation and amends, but will also build on the strengths and capacities of the offender.

In general practice, in British Columbia, the Community Accountability Panel process is very often used as a way to provide an adapted restorative justice process when a corporate victim does not want to participate. According to CRJYAA staff, often these corporate victims prefer the traditional court process and do not want to release staff to participate in a community-based restorative justice process that may be perceived as taking even more company time and resources. However, that response denies a first-time offender the opportunity to receive the support, learning, and accountability that a restorative process can provide, as well as the benefit of avoiding a criminal conviction. In contrast, a community-based restorative justice option can provide a first-time offender with a timely, meaningful, non-punitive response to their misdemeanor that will still promote socially responsible and crime-free future behaviour.

To address this challenge, the CRJYAA has built strong relationships with several department stores and retail outlets in the Chilliwack community to increase the engagement of the corporate victim. The loss prevention officers and store managers readily refer to the program, asking only for restitution for damaged goods that cannot be re-sold, and a letter of apology. They trust the program volunteers to create the capacity-building, preventative nature of the agreement that will mitigate recidivism. They also know that the CRJYAA program provides a mentor for the offender to ensure encouragement and support while the agreement is being fulfilled. In some communities, the CAP process would be an end in itself, but in Chilliwack, it serves as a second

step of preparation after the initial meeting, as a prelude to a meeting between the offender and the store manager.

The Community Accountability Panel is facilitated by three volunteers. The process begins with introductions, to begin to establish relationship and rapport. The program is explained, along with the role of the volunteers, how confidentiality is handled, a review of the offender's rights, and an additional check to ensure the offender is participating voluntarily. After some preliminary, informal conversation, the facilitators will ask the offender to describe what happened. The facilitators may ask clarifying questions, and may probe for greater detail or deeper reflection on what happened and why. Then, the supporters are invited to give input on how they found out about the incident, how it affected them, and what they think about it. Facilitators will often ask what has happened since, and whether there were consequences within the family. The offender is then asked to reflect on and respond to what they have heard from their own family. After this, the facilitators will share what they have learned from the store manager and loss prevention officer in terms of the impacts and effects of shoplifting, if those have not been raised or addressed by the offender. This prompts a group discussion of the effects of shoplifting, and the implications for a criminal record when a youth is convicted of Theft under \$5000, even if the item stolen was very small and inexpensive. This provides an opportunity to educate the offender on the related charge, and how it might be handled through a traditional court process.

When the facilitators feel it is appropriate, they guide the creation of the resolution agreement. Harms have now been discussed, and if the stolen item was damaged or could not be re-sold, then the store will have already asked for restitution and an apology letter at the time of the referral. The CRJYAA staff report that their history of program success over many years has fostered goodwill, trust, and confidence, such that most store managers and loss prevention officers now trust the program volunteers to help create an agreement that promotes pro-social community activity, volunteerism, and positive involvement with other community organizations. This becomes the restorative component of the agreement that supports the youth in redirecting their activities, restoring their reputation, and creating a more positive identity. The session closes with final remarks, and the facilitators check with the offender and the offender's supporters to ensure everyone agrees that the agreement is fair, achievable, practical, and proportionate to the offence. To maintain program integrity, the facilitators strive to ensure relevance, and a reasonable, restorative approach.

In terms of making an agreement restorative, CRJYAA strives to build agreements tailored to the offender's strengths, and that will frequently enhance their future opportunities. Often it will build their personal assets and capacities through community partnerships with other agencies that will take these offenders as volunteers. The agreements may also include referrals to personal counseling, or other external assistance to help address problematic family dynamics or troubled relationships. Reintegration is an important theme in restorative justice, and this is achieved in the CRJYAA program through helping the offender develop connections with caring

community members who will support them while also helping to hold them accountable. Each offender is assigned a community volunteer who becomes their mentor and supporter as the offender carries out his or her agreement.

The program also strives to connect clients with other community members and organizations that will facilitate positive activity and friendships with positive, pro-social people. The CRJYAA program encourages relationship-building and healthy attachments through helping offenders to engage with their community in different, more positive ways. Often this can be achieved by providing a positive outlet for their interests and passions, thereby helping them create a more positive sense of self-esteem and personal identity. Resolving their criminal offence through pro social activity also helps offenders restore their reputation, and resolve the feelings of embarrassment and shame that may have surfaced when they were first arrested. The facilitators and mentors help the offenders and their families to see that the offence was a mistake and a poor choice, but that they have the opportunity to redeem that mistake through taking responsibility and engaging in better choices and activities in the future.

In addition to the agreement process described above, the CRJYAA program provides for a face-to-face meeting with the offender and the store manager. Although this meeting is usually only 20 to 30 minutes long, this is an important program component that ensures the importance of victim engagement and participation, and encourages direct responsibility and accountability from the offender. It typically occurs within two weeks of the first Community Accountability Panel meeting when the resolution agreement was first created, providing an opportunity for the offender to deliver the letter of apology and any funds required for restitution directly to the store manager, and to engage in a dialogue with the store manager about the offence. The offender's mentor is the facilitator of this "mini-conference", and he or she will have prepared the offender in advance by reviewing the apology letter together to ensure it reflects the offender's understanding of why the act was wrong, and the negative implications and effects that have resulted. The store manager is able to share firsthand the negative effects of shoplifting, and the offender is able to share the details of the resolution agreement so the store manager will know how restoration and reintegration is taking place.

CRJYAA staff reported that offenders typically find this the most difficult but effective part of the program and it has become an important component of program success. It addresses the corporate victim's need for time efficiency by creating the agreement in advance of this meeting, but maintains the personal encounter between victim and offender that gives restorative justice its unique value. This also helps to address the concerns raised by researchers such as Latimer, Dowden, and Muise (2005) and Woolford (2009), who questioned the degree to which a community accountability panel can be truly restorative if the victim is not included. Program staff reported that this meeting plays a significant role in the formation of empathy and concern for the harmed party, and strengthens the offender's desire to make amends. The written and verbal apology becomes much more meaningful when delivered in this personal way.

To ensure program integrity, the CRJYAA has observed that the store managers also need to be prepared for this process in order to have a meaningful conversation with the offender. This has required further education and relationship-building with the participating stores. In the CRJYAA experience, offenders, and in particular, youth offenders are typically scared and remorseful when they attend this meeting. Some store managers have just accepted the apology letter, refused to engage in a meeting, and banned the offender from further shopping at their store, leaving the offender disheartened and upset. Learning from these experiences has caused the CRJYAA staff to work together with the stores to ensure that they provide a store representative who will take the time to meet the offender, and who will be able to acknowledge the offender's apology and desire to make things right. The CRJYAA affirmed that this is the most significant step in the program because it allows offenders to finally meet the person they have harmed, and to demonstrate how they are taking steps to make direct amends. For the offenders it represents an opportunity to articulate verbally and on paper what they did, why they did it, and that they are sorry.

After the encounter with the store manager, the mentor supports and assists the client to fulfill the rest of the agreement. By this point the mentor has already been the sounding board and first reviewer of the apology letter ensuring that the letter addressed all necessary information. The mentor also becomes a liaison between the offender and community partners for the community service component. The mentor plays an important role in helping the offender meet deadlines, and to address the barriers and logistical challenges that may thwart success. For young offenders, mentors communicate with parents and guardians keep them apprised of the process, and to maintain positive relationships and open communication. Mentors provide important support to the family; they can be reached any day of the week, beyond office hours. Mentors provide a friendship component and build positive rapport. It is their role to help ensure the agreement is completed on time, and to provide a positive role model.

When the agreement is fulfilled, a letter is sent from the CRJYAA program to the store reporting on the final outcome of the case. The process concludes when the offender and mentor are invited to a final panel meeting to review the agreement and the offender's experience with the program. The offender receives a letter of completion and all participants in the process are invited to provide feedback as part of an ongoing evaluation of the program.

Evaluating Restorative Justice

Evaluating restorative justice programs is no easy task. As explained in the United Nations handbook on restorative justice programs (Dandurand and Griffiths, 2006), there is the difficulty of securing adequate control groups of crime victims and offenders who participated in the conventional criminal justice system to provide a comparison with those experiencing a restorative process. Second, programs differ from place to place, with varying goals and objectives. Third, competence and training of facilitators is not consistent between programs.

Fourth, performance indicators vary from place to place. Finally, it is also very difficult to measure a process that is highly subjective, personal and interactive, leaving researchers puzzling over how to quantify restorative values such as victim empowerment, offender remorse, and whether growth of empathy and learning did or did not take place.

While some of the goals of restorative justice approaches include a variety of concepts that may be difficult to measure quantitatively, researchers have tried to determine whether or not these programs “work”. To do this, programs have been evaluated by comparing the outcomes of the process to those of the traditional criminal justice system. Efforts to evaluate restorative justice programs around the world have generally focused on outcomes related to three general measures: recidivism rates on the part of participating offenders; rates of compliance with restorative justice agreements; and participant satisfaction with the process. The question of whether or not restorative justice can reduce recidivism is most relevant to the purpose of this report. While it may be arguable whether reducing future offending is indeed a true intended goal of restorative justice, it is a measure that is often of concern for the general public, policy makers, and other non-restorative justice practitioners in the criminal justice system, and thus they may carry greater weight in influencing skeptics about the promise of restorative justice approaches (Gabbay, 2005).

Due to the lack of adequate control groups for comparison, measuring recidivism is a challenge, and empirical research data on this question is limited. What is known is that the best predictors of re-offending for offenders who go through restorative justice processes seem to be the factors most commonly associated with offenders generally: age, age at first offence, gender (males more than females), and prior offending (Dandurand and Griffiths, 2006). When young people begin offending at an early age, recidivism is more likely. However, there are factors in restorative justice that reduce the likelihood of re-offending: when the one causing harm is remorseful, and sorry for their offending behaviour; when they meet and apologize to victims; when conference agreements are decided by genuine consensus; when the offender is not stigmatized or shamed; when they are involved in decision-making; when they comply with the conference agreement; and when they feel they have righted the wrongs done (Dandurand and Griffiths, 2006).

Dandurand and Griffiths (2006) reviewed the data on restorative justice programs around the world, and concluded that “restorative processes have a greater potential than the standard justice process operating alone to effectively resolve conflict, secure offender accountability and meet the needs of victims” (p. 86). When they reported the following general findings emerging from the evaluation studies to date they noted that restorative justice has proven to be effective in a significant number of ways, including having a positive effect in reducing the frequency and the severity of re-offending. They also noted that there appear to be no inherent limitations in the types of cases that can be referred to restorative processes.

Latimer et al. (2005) also provided evidence for positive outcomes from restorative justice in their meta-analysis examining victim and offender satisfaction, restitution compliance, and recidivism. Despite the methodological difficulties of many studies, their examination of a number of different programs versus control groups determined that restorative justice programs were significantly more effective in the four areas of victim and offender satisfaction, restitution compliance, and recidivism. They acknowledged, however, that restorative processes are not positioned to address factors that influence criminal behaviour such as antisocial peers, substance abuse, and criminogenic communities. In addition, they suggested that offenders with high risk and criminogenic factors would benefit more from offender treatment programs as an additional intervention to the restorative process, as a complementary enhancement. In that sense, restorative justice works well as a complement to rehabilitative treatment programs.

The RCMP's Community Justice Forums Model used by the CRJYAA has been evaluated in the past (Chatterjee, 1999). Programs included in the evaluation were from all across Canada. Unfortunately, this evaluation did not address recidivism, an issue that was noted in a later article by Chatterjee and Elliot (2003), but it did demonstrate that the programs using this model achieved very high levels of satisfaction and perceived fairness for victims and offenders (Chatterjee, 1999). Additional, recent evaluations of this commonly-used model for restorative justice programs in British Columbia that include measures of recidivism would be a great benefit to understanding the effects of restorative justice practices in the province.

Finally, it is important to qualify that research on restorative justice, such as the large meta-analysis by Latimer et al. (2005), often only include programs that are voluntary, community-based responses that bring together the victim, the offender, and the community. Therefore, there is little research exploring other types of programs that have restorative elements such as restitution or community service but do not include the party directly harmed by the criminal act, such as the Community Accountability Panels and the use of "surrogate" victims. Some commentators, such as Heather Strang (2002), maintain that victim involvement is a crucial element that makes restorative processes frequently far more meaningful for victims than what the formal criminal justice system often provides. Therefore, there is also a need for research to evaluate the use of restorative justice practices that do not involve direct victims.

The CRJYAA program meets the criteria established by Latimer et al. (2005) as a voluntary, community-based response to criminal behaviour that attempts to bring together the victim, the offender, and the community in an effort to address the harm caused by the criminal behaviour. Unlike other community accountability panel programs, in which there is no victim involvement, the CRJYAA program uses the panel as a preparatory step before a direct meeting between the offender and the corporate victim. The research on the CRJYAA program is also significant because there is the presence of a control group comprised of shoplifting offenders at non-participating stores who pursued charges and a traditional court process.

This research project also prepares the way for future research to compare the longer-term effects on the offender if they encounter the victim directly in a conference or mediation, or if they experience a process without a direct encounter with the crime victim. For this reason, this research is significant, especially in a field in which program evaluations are still developmental and the empirical data on outcomes is still slim.

Methodology for the Current Study

The methodology for the current study began with CRJYAA compiling a list of all shoplifters who had been referred to its program from six major retail stores in Chilliwack over the three year period from January 1st, 2007 to December 31st, 2009. At the same time, and using the same timeframe, the local RCMP created another list of shoplifters who had not been referred to the program, but instead, had been processed in the traditional way. This included individuals who were charged with shoplifting from the six major retail stores in Chilliwack that commonly referred offenders to CRJYAA, and it also included offenders who were caught shoplifting from three major retail stores that almost never referred offenders to CRJYAA. Drawing again on cases from all nine of those major retail stores, the RCMP also included all individuals who came to the attention of police for shoplifting and were considered suspect chargeable, but ultimately were not charged. Collectively, all cases considered provided a sample of 308 cases for study, including 113 shoplifters who successfully completed the CRJYAA restorative justice program, 92 shoplifters who were instead charged, and 103 shoplifters who were suspect chargeable. Not included in the sample, because of the small numbers involved ($n = 8$), were those offenders who were referred to CRJYAA and not accepted into the program and those who were referred to the program, but did not complete it successfully. Also not included were 91 shoplifters who were referred to an alternative measures program for Aboriginal offenders (and for whom the authors were unable to know whether these offenders actually completed the program). Finally, also excluded were the shoplifters (an unknown number) that the retail stores involved simply released with a warning.

With the list constructed, the next task involved searching PRIME, the British Columbia police information system, to determine the number of times (if any) those individuals within the sample were subsequently determined to be either suspect chargeable, charged, or convicted of any criminal offence at any time within a two year follow-up period. In this regard, the authors were interested in knowing whether the offender was caught shoplifting in that two year follow-up period, and whether they came to the attention of police for any other criminal offences. At the same time, the authors were mindful of the fact that the three groups being considered were not properly comparable without some matching of shoplifter background characteristics. This was because the shoplifters were not randomly assigned to whatever group they were in – they were in effect “selected”. Accordingly, information on each shoplifter’s gender, age, and prior history of offending was recorded. Admittedly, this is not an ideal matching of cases (a more

sophisticated matching using other characteristics as well would have been ideal), but more detailed information on each offender was not readily available and the situation was complicated yet further because the sample size was relatively small. Unfortunately, that sample size could not have been larger because PRIME was not fully up and running in Chilliwack before 2007. If it was up and running, more cases (i.e. cases from 2002 forward) could have been included. In any case, the breakdown of the resulting sample with background characteristics considered is shown by Table 1.

Importantly, to protect the identities of the offenders involved the creation of the shoplifter list and associated database was all done in-house at the RCMP detachment and under the supervision of the RCMP and CRJYAA and in a manner to ensure that the database to be accessed and used for analysis was anonymized.

TABLE 1: GROUP BREAKDOWN OF NUMBER OF SHOPLIFTERS INCLUDED IN STUDY SAMPLE (N = 308)

Group	Youth 1 st Time Offenders (#)	Youths w/ Prior History (#)	Adult 1 st Time Offenders (#)	Adults w/ Prior History (#)	Total Shoplifters (#)
Successfully Completed RJ Program	55	12	37	9	113
Chargeable, but not Charged	22	5	36	40	103
Charged	4	4	21	63	92
Total	81	21	94	112	308

Results

The results of the analysis clearly show that shoplifters who completed the CRJYAA restorative justice program were, when compared to shoplifters who are charged or chargeable and not charged, less likely, within a two year follow-up period, to be apprehended for shoplifting again. Moreover, as both Tables 2 and 3 below show, this was true for both male and female shoplifters. Interesting however, while that pattern generally still held true when looking at specific subgroups of shoplifters, it was not true for male or female first time youth offenders. Specifically, first time youth offenders who completed the CRJYAA restorative justice program were no less likely to re-offend with a two year follow-up period than offenders who were treated as chargeable or charged. This is interesting because first time youth offenders are the offender group seen as most suitable for restorative justice programs. Looking at it another way, the results suggest that the recidivism rate is not likely to be lowered for first time male youth offenders who successfully complete a restorative justice process (see Table 2). Nor is it likely to be lowered for first time female youth shoplifters who are likely to have a relatively low rate of subsequent shoplifting, regardless of how they are responded to by the criminal justice system (see Table 3).

Perhaps more importantly, the results suggest that restorative justice works relatively well for repeat offenders. As Table 2 shows, while a substantial percentage of both youth and adult male offenders with prior criminal histories shoplifted within the two year follow-up period, none of the repeat offenders who went through the CRJYAA restorative justice program were subsequently apprehended for shoplifting within this period. Further, as Table 3, shows, the same pattern was apparent with respect to youth and adult female offenders with prior criminal histories. That is, those shoplifters from this group of offenders who successfully completed the CRJYAA restorative justice program had a substantially lower rate of subsequent shoplifting than did offenders who were charged or regarded as chargeable and not charged.

As suggestive as the results respecting subsequent shoplifting are, the results with respect to general recidivism among the shoplifters studied are more compelling. Specifically, as Tables 4 and 5 demonstrate, the percentage of shoplifters successfully completing the CRJYAA restorative justice program and recidivating within a two year follow-up period is substantially lower than it is for shoplifters who are charged or chargeable and not charged. Further, this is true again for every subgroup of shoplifters considered, except first time youth offenders. For example, as Table 4 shows, 50% of adult males with criminal histories who successfully completed the CRJYAA restorative justice program recidivated within two years, while 69% of chargeable (but not charged) shoplifters and 88% of charged shoplifters recidivated. Likewise, as Table 5 shows, 29% of adult females with criminal histories who successfully completed the CRJYAA restorative justice program recidivated within two years, while 71% of chargeable (but not charged) adult female shoplifters with criminal histories and 70% of charged adult female shoplifters with criminal histories recidivated.

TABLE 2: PERCENT OF MALES CAUGHT SHOPLIFTING WITHIN TWO YEAR FOLLOW-UP PERIOD (N = 138)

Group	Youth 1 st time Offenders (#)	Youths w/ prior history (#)	Adult 1 st Time Offenders (#)	Adults w/ prior history (#)	Total Shoplifters (#)
Successfully Completed RJ Program	25	0	14	0	19
Chargeable, but not Charged	13	67	18	23	22
Charged	0	33	8	48	36
Total	19	43	14	37	28

TABLE 3: PERCENT OF FEMALES CAUGHT SHOPLIFTING WITHIN TWO YEAR FOLLOW-UP PERIOD (N = 170)

Group	Youth 1 st time Offenders (#)	Youths w/ prior history (#)	Adult 1 st Time Offenders (#)	Adults w/ prior history (#)	Total Shoplifters (#)
Successfully Completed RJ Program	3	0	0	27	3
Chargeable, but not Charged	7	100	3	43	20
Charged	0	100	22	65	53
Total	4	21	5	53	18

TABLE 4: PERCENT OF MALE SHOPLIFTERS RECIDIVATING WITHIN TWO YEAR FOLLOW-UP PERIOD (N = 138)

Group	Youth 1 st time Offenders (#)	Youths w/ prior history (#)	Adult 1 st Time Offenders (#)	Adults w/ prior history (#)	Total Shoplifters (#)
Successfully Completed RJ Program	38	0	14	50	31
Chargeable, but not Charged	25	100	35	69	54
Charged	67	67	50	88	77
Total	37	71	36	79	59

Note: Recidivism refers to re-offending involving any crime.

TABLE 5: PERCENT OF FEMALE SHOPLIFTERS RECIDIVATING WITHIN TWO YEAR FOLLOW-UP PERIOD (N = 170)

Group	Youth 1 st time Offenders (#)	Youths w/ prior history (#)	Adult 1 st Time Offenders (#)	Adults w/ prior history (#)	Total Shoplifters (#)
Successfully Completed RJ Program	10	46	10	29	16
Chargeable, but not Charged	29	100	21	71	41
Charged	0	100	11	70	53
Total	15	57	14	64	31

Note: Recidivism refers to re-offending involving any crime.

Two other issues considered in the analysis included the matter of how much time had passed before a re-offending shoplifter recidivated, and for those who did; the matter of how many times they were apprehended for a crime over the two year follow-up period. And, here again, the

results were strongly suggestive of the benefit of restorative justice over charging a shoplifter or dealing with the offender as chargeable, but not laying charges. Specifically, as Table 6 shows, males who successfully completed the CRJYAA restorative justice program and recidivated lasted 13 months before reoffending, while shoplifters who were chargeable or charged lasted only four months. Moreover, as Table 6 also shows, males who successfully completed the CRJYAA restorative justice program only committed two offences over the two year follow-up period, as compared to those who were chargeable, who committed five offences, and those who were charged, who subsequently committed eight offences within the two year follow-up period. Notably, a similar pattern is apparent with respect to female shoplifters. Those who successfully completed the CRJYAA restorative justice program and recidivated lasted seven months before reoffending, shoplifters who were chargeable lasted seven months, and those who were charged lasted only three. As well, female shoplifters who successfully completed the CRJYAA restorative justice program only committed two offences over the two year follow-up period, as compared to those who were chargeable, who committed six offences, and those who were charged, who subsequently committed seven offences within the two year follow-up period.

Unfortunately, the sample size being as small as it is precludes the authors from adequately comparing means in terms of months and number of offences between first time and repeat offenders. Still, the results, as shown by Table 6, are stark enough to suggest that restorative justice program may be more influential in impacting on a broader range of offenders than they have generally been given credit for. In any case, the results overall as told by all of the tables collectively call attention to the high rates of re-offending among shoplifters who are either charged or chargeable (but not charged). Further, Tables 2 through 5 also call attention to the generally high levels of re-offending among offenders who have a history of offending, including among those shoplifters who successfully completed the CRJYAA restorative justice program. However, at the end of the day, recidivism remains notably lower for shoplifters who have successfully completed the CRJYAA restorative justice program.

TABLE 6: AVERAGE NUMBER OF OFFENCES WITHIN 24 MONTH FOLLOW-UP PERIOD AND NUMBER OF MONTHS TO FIRST RECIDIVISM AMONG SAMPLED SHOPLIFTERS (N = 308)

Group	Males Months to 1 st Recidivism	Males Offences in 24 Months (#)	Females Months to 1 st Recidivism	Females Offences in 24 Months (#)
Successfully Completed RJ Program	13	2	7	2
Chargeable, but not Charged	4	5	7	6
Charged	4	8	3	7
Total	5	6	5	5

Note: Recidivism refers to re-offending involving any crime.

Discussion and Conclusion

As reported by Dandurand and Griffiths (2006), restorative justice processes have demonstrated success and positive outcomes in a multiplicity of ways, such as higher rates of compliance with agreements, a perception of greater fairness and satisfaction for both victims and offenders, an increased sense of closure and wellbeing for crime victims, and reduced costs and greater efficiencies in responding to crime. In Canada, there is growing concern regarding a justice system that is increasing in its inability to process cases in a timely way and to provide effective results. At the time of this writing, the Province of British Columbia is conducting a large scale review of its justice system, noting that “inputs into the system such as the rate of crime and the number of new cases are down [, b]ut the length of time spent by people remanded in custody or on bail awaiting trial is increasing, as is the total number of people being managed by the Corrections system. Costs, too, are increasing in real terms” (Modernizing British Columbia’s Justice System, 2012: 2). These challenges speak of the need to consider practical, effective alternatives. And, yet, restorative justice initiatives are primarily engaged for first-time young offenders in British Columbia, and further applications of the process for more serious crime and adult offenders is still quite limited. The BC Ministry of Justice only provides \$2500 per year per approved program, with no provision of assistance to community groups to help them develop the evaluation mechanisms they need to demonstrate evidence-based results (Ministry of Justice, n.d.). Sustainability continues to be a primary challenge.

Restorative justice programs are one way to make a positive contribution to the present criminal justice system. This research demonstrates the effectiveness of restorative justice for shoplifting cases in contrast to those processed through the courts. Given these research outcomes, it would be advisable for police, Crown, and the public to consider restorative justice as a first option for shoplifting, to reduce court costs, court delays, and to improve recidivism rates. This aligns with the recommendations in the BC Government’s green paper on justice reform, *Modernizing British Columbia’s Justice System*, in which it is noted that:

... criminal law provides for lower-risk accused persons to be diverted to other options short of a criminal trial (“alternative measures”). These provisions appear to remain under-used. Meanwhile, there is significant growth in charges regarding violations of court-ordered conditions. The result appears to be a system attempting to control accused persons’ behaviour by court order when many lower-risk individuals might have been diverted earlier from the courts to more effective measures that protect public safety and reduce recidivism. . . Increasing the number of lower-risk alternative measures referrals would create additional capacity for all aspects of the justice sector, while not negatively impacting public safety in a meaningful way (2012: 25).

Beyond shoplifting, research conducted by Dandurand and Griffiths (2006) has already indicated that there is no limit to the types of cases that can be referred to restorative justice, so a further application is worthy of consideration. This will require meaningful funding and support from government, ongoing commitment to best practices by service providers, and a greater

commitment to educate the public and primary stakeholders as to the benefits that restorative justice can provide. The Chilliwack Restorative Justice and Youth Advocacy Association has demonstrated through its shoplifting program that restorative justice can provide significant success in reducing recidivism rates. Reduced recidivism provides economic and social benefits to communities and reduces strain on an ailing justice system. This should encourage serious consideration of restorative justice as an integral part of the Canadian criminal justice system, especially in the area of effective alternative measures.

Admittedly, given the relatively small sample size used by the authors, additional research involving much larger sample sizes is needed to provide greater confidence in the kind of results reported here. As well, additional research should involve looking at a broader range of offence types. In the meantime, those leading restorative justice programs may want to consider accepting referrals for a broader range of shoplifters. There is no doubt that doing so will negatively impact on program completion and subsequent success rates; however, given the recidivism rates of shoplifters who are dealt with outside of restorative justice programs, that negative impact would surely be far outweighed by the impact restorative justice programs could potentially have on those recidivism rates. The bonus, as noted in this report and often by others, is that restorative justice brings a range of benefits to the table of criminal justice intervention that our court system simply hasn't been able to provide.

Finally, the results of this report should be seriously considered by management of all retail stores concerned about shoplifting. No doubt many among them think they are taking the best action by having a significant percentage of offenders handled through the criminal charge process. The results of this report would suggest that it is hardly the best action – either for their stores or for community safety at large. At the same time, many among them no doubt think that they are doing enough by simply letting off many shoplifters with a warning. Such action though is in effect the same outcome as happens to a shoplifter who ends up being treated as chargeable, but not charged. To the extent that those given a warning and those who are chargeable are similar, we should expect that having many of those offenders referred instead to a restorative justice program would produce a better result.

References

Bliss, K., & Crocker, D. (2008). Fact sheet on literature reviewed for the public opinion project. Nova Scotia Restorative Justice Community University Research Alliance. Retrieved from http://www.nsrj-cura.ca/nsrj-cura/mediabank/File/PUBLIC_OPINION_literature_fact_sheet_2008-04-14.pdf.

Canada, Department of Justice. (2000). *Restorative justice in Canada: A consultative paper*. Retrieved from <http://www.justice.gc.ca/eng/pi/pcvi-cpcv/cons.html>

Centre for Restorative Justice. (n.d.) *Stories of Reconciliation: Russ Kelly*. Burnaby, BC: Simon Fraser University. Retrieved from <http://www.sfu.ca/crj/kelly.html>

Chatterjee, J. (1999). *A report on the evaluation of RCMP restorative justice initiative: Community justice forum as seen by participants*. Ottawa: Research and Evaluation Branch, Community, Contract and Aboriginal Policing Services.

Chatterjee, J., & Elliot, L. (2003). Restorative policing in Canada: The Royal Canadian Mounted Police, Community Justice Forums, and the Youth Criminal Justice Act. *Police Practice and Research*, 4(4), 347-359.

Community Justice Initiatives: About us. (2012). Kitchener, ON: Community Justice Initiatives. Retrieved from <http://www.cjiwr.com/about-us-2.htm>

Curtis, B. (2008). *Community-based restorative justice in BC: The state of the field, a survey of Community Accountability Programs*. Victoria, BC: Ministry of Public Safety and Solicitor General.

Dandurand, Y. & Griffiths, C.T. (2006). *Handbook on restorative justice programmes*. New York: United Nations.

Department of Justice Canada. (2011). *Aboriginal Justice Strategy*. Retrieved from <http://www.justice.gc.ca/eng/pi/ajs-sja/#cap>

Department of Justice Canada Evaluation Division. (2007). *Aboriginal justice strategy summative evaluation: final report*. Ottawa, ON: Department of Justice Canada. Retrieved from <http://www.justice.gc.ca/eng/pi/eval/rep-rap/07/ajs-sja/ajs.pdf>

Gabbay, Z.D. (2005). Justifying restorative justice: A theoretical justification for the use of restorative justice practices. *Journal of Dispute Resolution*, 2, 349-397.

Latimer, J., Dowden, C., & Muise, D. (2005). The effectiveness of restorative justice practices: A meta-analysis. *The Prison Journal*, 85(2), 127-144.

Modernizing British Columbia's justice system. (2012). British Columbia, Canada: Minister of Justice and Attorney General. Retrieved from <http://www.ag.gov.bc.ca/public/JusticeSystemReviewGreenPaper.pdf>

Ministry of Justice. (n.d.) *Community safety and crime prevention: Restorative justice*. Retrieved from <http://www.pssg.gov.bc.ca/crimeprevention/justice/index.htm>

Sharpe, S. (1998). *Restorative justice: a vision for healing and change*. Edmonton, Alberta: Edmonton Victim Offender Mediation Society.

Strang, H. (2002). *Repair or revenge: victims and restorative justice*. Oxford: Clarendon Press.

Umbreit, M. & Greenwood, J. (n.d.) *Guidelines for victim-sensitive victim-offender mediation: Restorative justice through dialogue*. St. Paul Minnesota: Center for Restorative Justice & Peacemaking, School of Social Work, University of Minnesota.

Van Ness, D. W, & Heetderks Strong, K. (2002). *Restoring Justice*. Cincinnati, OH: Anderson Publishing.

Woolford, A. (2009). *the Politics of Restorative Justice*. Winnipeg, Manitoba: Fernwood, Pub.

Zehr, H. (2002). *The little book of restorative justice*. Intercourse, Pennsylvania: Good Books.