

**AN EXPLORATION OF RESTORATIVE JUSTICE USING THE ADULT DIVERSION
PROGRAM OF SASKATOON COMMUNITY MEDIATION SERVICES (SCMS)**

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By

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ABSTRACT

For Indigenous communities, Canada's criminal justice system has been colonial and oppressive. A noticeable impact of the criminal justice system has been the increase in the overrepresentation of Indigenous people incarcerated in the prisons and jail. This among other developments, has necessitated the usage and implementation of restorative approach to justice, to complement the criminal justice system in finding lasting solution to crimes, conflicts, and social dysfunctions. Within the restorative justice approach are the ideas and practices that can contribute to healing the victims, the offenders, and the communities involved, rather than inflicting punishment (Melton, 1995).

Using the Adult Diversion Program of Saskatoon Community Mediation Services (SCMS), the study explored restorative justice from the perspective of practitioners who facilitate and coordinate the program. The study was hinged on Pierre Bourdieu's Theory of Practice, and his three concepts of habitus, capital and social field were used to explain the social practice of restorative justice. Data was collected using a qualitative methodological approach, consisting of participant observation, and one-on-one, open-ended interviews.

The findings from the study clearly indicates the role of the government, duties of caseworkers, and crown discretion in the procedure and processes of the restorative justice program. Further findings also show the impact of restorative justice as meeting the needs of victims and offenders, holding offenders responsible and accountable, providing help and support to participants, contribution to community safety, and cost effectiveness of the program. In addition to this, they situate the factors responsible for compliance with the process and outcome of restorative justice as economic and symbolic capital identified by Bourdieu, rather than cultural background of participants. The challenges identified also border around insufficient funding, low public awareness, staff turnover, and need for more staff training.

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CHAPTER ONE

INTRODUCTION

1.1 Introduction

This chapter presents the rationale for the study. The purpose of the study is stated, and the research questions presented, including the research site and structure of the thesis. The purpose of this study is to explore restorative justice, using the principles and practices that are utilized in Saskatoon Community Mediation Services (SCMS). The organization was established in 1983 by the John Howard Society (Saskatoon) and the Mennonite Central Committee (Saskatchewan) and was incorporated in 1989 as a non-profit organization. In doing so, the study draws on Pierre Bourdieu's theory of practice and utilized the knowledge and experience of restorative justice practitioners to explore how they view the approach to justice, its' impact, and the challenges they encounter in their line of duty.

1.2 Background to the Study

Restorative justice is recognized by many as a system of attending to crime or conflict, which has an origin in the traditional philosophy of the indigenous people (AJIC, 2001; Braithwaite, 1989; Friedrichs, 2006; Johnstone, 2002; Hansen, 2013). Tomporowski et al. (2011) also noted that, aside having a root in the practices of indigenous people, the development of restorative justice, and the 1970s popularization of the restorative justice movement in Canada was influenced by three other streams of "the development of victimology and victims' advocacy, the community-based corrections movement and efforts to rehabilitate offenders, and the work of faith communities in prison ministry and addressing social justice issues" (p. 2).

As an indigenized alternative to sentencing and justice, restorative justice looks beyond the crime or conflict and promotes an alternative way of resolving crime or conflict between the victim, the offender, and sometimes the community where the crime or conflict occurred

(Gloade, 2011). Unlike the criminal justice system that scholars have argued as based on retribution, strictly punitive, implemented through written or codified laws, and with decision-making concentrated in the hands of few individuals within the confine of courthouses (Rudin, 2005), restorative justice makes room for a larger involvement and participation of all those involved in, and affected by the crime or conflict. The approach to justice through focusing on attending to harm experienced because of the offence or conflict plays a unique role not solely in serving justice purpose, but also in promoting healing, repairing relationships, and integrating both the offenders and victims back to the society (Hansen, 2015).

However, as societies continue to evolve, the use of restorative justice has also developed over the years. Restorative justice is now increasingly used for different categories of crime and conflicts, and in different areas of life. The usage of restorative justice can be found in the education sector, in youth misdemeanor, adult offences, conflicts in workplace, and cases involving child abuse and welfare, to mention a few (Tomporowski et al., 2011). Restorative justice is now formally incorporated into the criminal justice system in many countries, this is to complement the latter in finding lasting solution to crimes, conflicts, and social dysfunctions. And this is done in a way that healing is promoted for both the victims of crime, the offenders, and the larger community, rather than inflicting punishment (Melton, 1995).

This study, therefore, focuses on contemporary restorative justice programs, particularly as used as a complement to the criminal justice system. The study also focused on the post-charge referral of cases that charges have been laid for in the court. Furthermore, as there are numerous approaches in the implementation of restorative justice programs, the study precisely focused on the victim-offender mediation approach used by Saskatoon Community Mediation Services (SCMS) for its post-charge referrals. It is also worthy to note that restorative justice

programs are no longer only community based, or for indigenous participants alone but administered and coordinated by different organizations with staff specifically trained, and for the benefit of all categories of individuals. Restorative justice programs particularly when harmonized with the criminal justice system now offer an even more robust level of impact and reach. This as Chiste (2005) puts it, “a whole constellation of community actors can be observed participating in restorative justice: churches as diverse as the Mennonites, the Religious Society of Friends, and the Salvation Army; organizations speaking for women, First Nations, and immigrant communities, legal professionals whose discontent with retributive justice has led them to seek alternatives; and individuals whose personal experience with crime and violence has led them to activism” (p. 153).

Irrespective of gender, race, or age, participants of various restorative justice programs that are implemented in harmony with the criminal justice system, are now generally drawn from a group of those who committed, and/or those who are affected by crime or conflict in the criminal justice system, and referred to restorative justice organizations for the resolution of eligible cases (Chiste, 2005). This is the case in Canada for well over 40 years since the first formal victim – offender reconciliation meeting held in Ontario province. The reconciliation meeting which was for a case involving property vandalism brought together two offenders and their victim (Immarigeon, 1996).

Although harmonizing restorative justice with the criminal justice system started off in Canada as what Tomporowski et al. (2011) called an “experimentation by justice officials and community members” (p. 1), its usage has grown over the years to attract funding, support, and even training of restorative justice practitioners by a coalition of local, provincial, territorial, and federal government. This first reconciliation experimentation has also served as the starting point

for other victim – offender mediation programs, not only in Canada but other countries of the world as well (Ibid).

This notwithstanding, how restorative justice is defined, implemented, or even practiced slightly differs in different places, as well as in approaches adopted. And what justice means to different categories of participants also differs. For the offenders, what restorative justice means is a possibility of taking responsibility for the harm caused, and having a pathway to being reintegrated back into the community; for the victims, it provides an opportunity to discuss the harm caused to them face to face with the offender, and at times know why the offence was committed; and for the community, it offers a platform for having background knowledge about what caused the crime or conflict, an avenue to be supportive of those involved and affected, as well as an opportunity to work towards forestalling a reoccurrence (Tomporowski et al., 2011).

1.3 Rationale for the Study

For Indigenous communities, Canada's criminal justice system is believed to be colonial and oppressive in nature. A noticeable impact of this is the large and overwhelming number of indigenous people in prisons and jails across the country. The evidence of this development is available in statistics published by various government organizations concerning the disproportionate levels of incarceration, addictions, suicide, social problems, educational and income disparities (AJI, 1999; CSC, 2012; Hansen, 2015; TRC, 2015).

However, since the 1996 proclamation of Bill C-41, and suggestion that incarceration should only be used when there are no alternatives (Latimer & Kleinknecht 2000), there has been a growing use of restorative justice principles to offer alternatives to incarceration, rehabilitate offenders, provide healing and compensation to the victims, and integrate both the victims and offenders back into the community. In 1996, the province of Saskatchewan also made provisions

for the use of adult alternative measures, and organizations such as SCMS have been at the forefront of facilitating this culturally appropriate, community-based sentencing alternative (Nuefeld, 2013; Government of Saskatchewan, 2013). This is made easier for SCMS, as the organization was originally founded on the belief that victims, offenders, and communities, despite being impacted by crime, still have the ability to heal, thus providing the foundation for a restorative justice approach. Within the restorative justice approach of the organization are the principles and practices that can contribute to healing the victims, the offenders, and the communities involved.

From the time elements of restorative justice have been harmonized with the criminal justice system, the success of restorative justice in achieving the desired or stipulated purpose(s) have also been the subject of much scholarly discourses in Canada, and other countries. Numerous studies have impressively outlined the effectiveness of the justice approach using themes such as participants' level of satisfaction with the procedure and outcome of restorative justice, monetary cost incurred, victims desire for revenge, success in reaching an agreement and compliance with same, perception of fairness, remorse expressed by offenders, re-offending or recidivism rate of participants, and deterrence to mention a few (Umbreit et al., 1995; Umbreit & Fercello, 1997; Reimer, 2011; Arnott, 2007; Morrison & Martinez, 2001; Porter, 2007; Hayes et al, 1998; Bonta et al., 1998; Kim & Gerber, 2012; Boriboonthana & Sangbuangamlum, 2013; Latimer & Kleinknecht, 2000).

However, very few of these studies have focused on the perception of practitioners who facilitate and coordinate the various activities constituting the restorative justice process. Those who have considered these issues in the past have focused mainly on the perception of participants, they evaluated specific restorative justice programs, or did an assessment of

restorative justice by comparing it to the criminal justice system based on some of the above-mentioned themes. There is a little insight into how justice practitioners (mainly case workers, government justice workers, or community justice workers) who coordinate and facilitate the various programs define their involvement in the restorative justice process. Particularly, how they describe the impact of what they do, the challenges they encounter in their line of duty, as well as their understanding of what they perceive is adequate or may need improvement to make the approach to justice more effective.

Exploring restorative justice, and seeking the perspective of restorative justice practitioners in these areas has, therefore, become a major area of study to embark on. This aside from giving more insights into restorative justice, I believe would give room for the identification of factors that would help improve the system for more efficiency and effectiveness. This study, with a view to filling the identified gap in knowledge, and build on what has been documented about restorative justice in the past, is, therefore focusing on an exploration of the perception and experience of restorative justice practitioners on this approach to justice. The overarching research questions to uncover relates to; understanding the principles and procedures of restorative justice, the impacts of the approach to justice, the factors influencing compliance to the processes/outcome of restorative justice, and challenges in restorative justice programming. An exploration of restorative justice using the lens of these practitioners would help improve on previous discussions on the benefits and success of restorative justice, while also bringing to bear the challenges these practitioners face in the discharge of their duties, and how they can be addressed.

To achieve the objectives of the study, the research questions are explored within the framework of Pierre Bourdieu's theory of practice. A qualitative methodical approach is also

adopted in gathering data for the study, and both the theoretical framework and methodology are further expanded and outlined in relevant chapters of the thesis.

1.4 Research Questions

The study seeks an exploration of restorative justice from the perspective of restorative justice practitioners. The four main research questions are:

- i. What are the principles, processes, and procedures involved in the restorative justice program?
- ii. What factors influence how participants respond to and comply with the principles, processes, procedures, and outcomes of the restorative program?
- iii. What are the views and perceptions of justice practitioners on the impact of the approach to justice?
- iv. What challenges do practitioners face in the discharge of their duties, and how can these be addressed?

1.5 Scope of the Study

The study was conducted using the adult alternative measures program offered by Saskatoon Community Mediation Services (SCMS). The participants interviewed were restorative justice practitioners who facilitate and coordinate the adult alternative measures program of the organization and a government official with the Saskatchewan Ministry of Justice. The Ministry of Justice provides funding support, restorative justice training, and performs oversight functions on the activities of some restorative justice programs in the province, including that of SCMS. This is to have a rich and detailed perspective of the practitioners on the adult alternative measures programs offered by the organization.

Saskatoon Community Mediation Services (SCMS) as earlier mentioned was established in 1983 by the John Howard Society (Saskatoon) and the Mennonite Central Committee (Saskatchewan). The organization was incorporated in 1989 as a not for profit organization. The organization's choice for the study is because of its reputation and track record in successfully coordinating adult alternative measures programs in the province. This the organization does through an establishment of an alliance with "likeminded community groups and individuals" (SCMS, 2016:1), to implement various programs in the community. In addition to this, the organization annually offers several mediation training and mediation skill development management workshops in conflict management to members of the public (Ibid).

1.6 Significance of the Study

Exploring the perspectives of restorative justice practitioners will create a broader insight into the workings of the approach to justice. Specifically, the study intends to use the outcome of the research to bring to public knowledge, more evidence about the impact of restorative justice in Saskatchewan, discuss the challenges practitioners face, as well as offer suggestions on how these can be addressed. The study will also serve as a basis for more public awareness about restorative approach to justice, and advance the argument on the need to embrace its usage and usefulness.

Furthermore, coming particularly at a time when intense advocacy is continually being made for an increase in usage of alternative justice measures in communities with a significantly large presence of indigenous populations, (LaPrairie, 1990; Roberts & Melchers, 2003; Rudin, 2005; Knazan, 2003; RCAP, 1996), the study recognizes the need to ensure that the contact people have with the justice system in these communities, just as with every other sector of the society, is done in a culturally appropriate manner. By providing evidence from the perspective

of practitioners about the restorative justice process, and exploring the impact of the approach to justice for participants, the outcome of this study will therefore also serve as a valid foundation for situating further advocacy about the usage of a culturally appropriate method of attending to crime and conflict.

1.7 Structure of the Thesis

Chapter 2 of the thesis proceeds with the review of relevant literature. Significant developments in restorative justice in Saskatchewan and Canada at large were identified. The chapter includes a historical background, and overview of restorative justice in Canada, with an identification of the issues that necessitated its usage. I narrowed this down to focus on specific description of restorative justice in Saskatchewan, as well as the existing legal framework backing its existent. This chapter ended with a summary of the evaluations done in previous literature about victims and offenders perception of restorative justice using relevant themes.

Chapter 3 of the thesis offers a theoretical framework based on Bourdieu's theory of practice. The theoretical approach reviewed Bourdieu's work using his Habitus, Capital, and Field concept relationally with the social practice of restorative justice. I laid emphasis on the relevance of the theory to the study and argued that the practitioners and participants in restorative justice programs leverage on their newly developed restorative capitals to ensure participation in restorative justice activities, and the outcome of the program.

Chapter 4 of the thesis introduces the methodological approach and research design adopted for the study. Justification was made for the qualitative nature of the study, the sample size, as well as the viability of the data. A description was made of the sampling and data collection procedure, and the processes involved in analyzing the findings.

In Chapter 5, the findings and discussion of findings were presented. I discussed the themes that emerged from the data analysis and illustrated the perception of those interviewed on restorative justice in the province. Discussions were also made on the findings from my participant observation, and the data available from the Alternative Measures Program Customer Relationship Database (AMP CRM). The study among other things found that restorative justice practitioners have an expanded stream of definition on the impact of restorative justice, this is in addition to the themes used in defining the impact of restorative justice from the point view of program participants in previous literature. Additionally, while the habitus (internalized values) may have influenced individuals to opt for alternative measures over the criminal justice approach, cultural capital has a reduced influence on compliance with the final agreements of restorative justice in many instances. Other capitals such as economic, and symbolic capitals play a more significant role in how well participants can honor mediation agreements.

Chapter 6 is the final chapter of the thesis with the conclusion, a summary of the work done, and further recommendations on the application of restorative justice, or potential research in the future.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

This chapter presents the literature review for the thesis. The historical background, and overview of restorative justice in Canada, and particularly in Saskatchewan were identified. Numerous studies have been previously done about restorative justice, both in Canada, and other countries of the world where this approach to justice is being implemented. This chapter provides a literature review of these previous studies, by identifying the common themes that fit into the context of the research objectives.

The literature review formed the basis of which further gaps in knowledge were identified, and a stage set for further study. This chapter also helped illustrate a proper context for the significance of the research questions, as well as draw out perspectives on the strengths and gaps in previous studies, and how the new study will address them.

The review is presented under the following headings:

- i. Historical context and overview of restorative justice.
 - a. History of Restorative Justice in Canada.
 - b. Restorative Justice in Canada's Criminal Justice System.
 - c. Aboriginal Overrepresentation as a Concern Necessitating Restorative Justice.
 - d. History of Restorative Justice in Saskatchewan
- ii. Restorative Justice Procedures, Practices and Processes
- iii. How 'Restorative' is Restorative Justice?

2.2 Historical Context and Overview of Restorative Justice

Giving a historical context and overview of restorative justice will be incomplete without offering a definition of restorative justice. However, as Tomporowski et al., (2011) rightly noted, no single definition can rightfully give a holistic definition of all that constitute the approach to justice. This notwithstanding, the central themes guiding the definition of restorative justice has always been its focus on attending not just to the crime committed, but the parties involved; the reintegrative purpose of restoring the relationship among those who committed the offence and those affected; and the involvement of all parties in deciding how issues are to be resolved.

The Canadian Resource Centre for Victims of Crime (CRCVC) sees restorative justice not just as a program, but as a “way of looking at crime”, and defined it as “a response to crime that focuses on restoring the losses suffered by victims, holding offenders accountable for the harm they have caused, and building peace within communities” (CRCVC, 2011:2). This definition also has similarities with the one by Cormier (2002), who defined restorative justice as “an approach to justice that focuses on repairing the harm caused by crime while holding the offender responsible for his or her actions, by providing an opportunity for the parties directly affected by a crime — victim(s), offender and community — to identify and address their needs in the aftermath of a crime, and seek a resolution that affords healing, reparation and integration, and prevents future harm” (Cormier, 2002:1).

Going by these definitions, it becomes possible to say restorative justice sees an offence not just as a violation of the law, but as one that has caused serious pain to both the victim, as well as the community where the conflict or crime took place – hence the need to find an amicable resolution by involving them. In doing this, restorative justice seeks to put key

decisions in the hands of all involved and affected by the crime, make justice more holistic and transformative, and forestall a reoccurrence of the same, or similar offence (UNODC, 2006).

Historically, the principle and practice of what is now very well known as restorative justice have roots in the cultural practice of indigenous people. The overall conception of justice to indigenous people is that it should be reparative in nature, and not just punitive like the criminal justice system (Melton, 2005). In buttressing this viewpoint, Gray & Lauderdale (2007) argued that the modeling of the justice system by indigenous people makes it possible for relationship to be repaired among the victims, offenders and communities, as against the criminal justice system that is geared towards punishment.

The duo argued further that to make reparation possible, restorative justice relies on, and work interrelatedly with the already existing informal social control mechanism in indigenous communities to serve justice purpose (Gray & Lauderdale, 2007). As such, it becomes possible to say that paying attention to the restorative aspect of this system alone, without understanding and incorporating the structure of the informal social control mechanism could make justice seem evasive to some. This line of argument has contributed significantly to the adoption of indigenous methods of implementing restorative justice programs (such as mediations, and sentencing circles) even now that restorative justice is popularly used in harmony with the criminal justice system.

2.2.1 History of Restorative Justice in Canada

As with other places, discussions about the beginning of restorative justice in Canada cannot be done without tracing its roots to indigenous principles and values. Cormier (2002) argued that the root of restorative justice in Canada is in the cultures of Aboriginal peoples.

However, it is worthy to note that, the culture of Aboriginal peoples and their justice system comprises of a deeper cultural scope and rich traditions than what is implemented as restorative justice in the criminal justice system (Ibid). This deep cultural scope and rich tradition have, and continue to influence the popularization of restorative justice in Canada, particularly as the approach to justice continues to find a way to exist side by side with the criminal justice system.

In addition to having a root in the culture and tradition of the Aboriginal peoples, the argument put forward by the Canadian Resource Centre for Victims of Crime (CRCVC, 2011) suggests that some of the earliest restorative justice practitioners in Canada drew largely from faith values, principles and communities such as the Mennonites. This view was corroborated by Nuefeld (2013) who posited that the first implementation of restorative justice was through the efforts of the Mennonite community, with strong support by a joint group of Christian churches in Canada.

Cormier (2002) while tracing the modern application of restorative justice in Canada to the 1974 Kitchener – Waterloo victim-offender mediation introduced by the Mennonite Central Committee (Church) argued that, non-governmental, and faith-based institutions played, and continue to play a huge role in the implementation of restorative justice along with the criminal justice system since it first started in 1974. This is in addition to restorative justice sharing many of the principles and values of the Christian faith, particularly in respect to how crime and justice are viewed (Nuefeld, 2013).

Other forces have also been found to have influenced either the popularization of restorative justice or its rise in Canada. Tomporowski et al., (2011:2) identified three of such forces as “the development of victimology and victims’ advocacy, the community-based

corrections movement and efforts to rehabilitate offenders, and the work of faith communities in prison ministry and addressing social justice issues”, while Nuefeld (2013) similarly cites three other influences as argued by the Law Commission of Canada to include, firstly, the “failure of the punitive system to lower crime rates or contribute to greater public safety, and disillusionment of victims and their families with the criminal justice system”, secondly, the “emergence of the community justice movement, which seeks a return to local decision-making and community-building independent of the formal justice system” and thirdly, the growth of restorative justice in Aboriginal communities which was a “response to an overwhelming need for emotional and spiritual healing, as well as out of the movement to assert community control over government functions” (p. 11).

For Latimer & Kleinknecht (2000), the duo expressed that the 1970s popularization of the restorative justice movement was significantly driven by “a movement among prisoner’s advocates and academics to protect the rights of offenders” (p. 5). This was complemented by the need they saw in reducing incarceration of offenders, as well as improving the welfare conditions in the prison institution. The duo also argued that at the time there was an increasing understanding among social scientists, that the cause of criminal behaviors emanates largely from unfavorable social conditions which put pressure on individuals to commit crime. This line of thought lends credence to Robert Merton’s 1940s Strain Theory, which posits that improper balance in social structure and unfavorable access to economic resources is capable of pressurizing individuals into seeking unlawful means of achieving even acceptable goals in the society (Moffitt, 2014).

The slight differences in the forces that could have influenced the rise of restorative justice in Canada notwithstanding, one thing that has been evident over the years is that,

restorative justice has healthily existed and served as a veritable complement to the criminal justice system in Canada, with innovative mechanism being continually put in place to ensure the system of justice achieves the stipulated purpose(s).

2.2.2 Restorative Justice in Canada's Criminal Justice System

The 1970s popularization of the restorative justice movement in Canada marked the beginning of its integration into the criminal justice system in Canada (Cormier, 2002; Tomporowski et al., 2011; Nuefeld, 2013; Latimer & Kleinknecht, 2000). This integration according to Tomporowski et al. (2011) started first as experimentation. Restorative justice found the first usage in the 1974 victim-offender mediation meeting that brought together two offenders and their victims in a charge for vandalism that happened in Elmira – Ontario. Two young men were charged with a twenty-two (22) count criminal charge for vandalizing the properties of several victims (Nuefeld, 2013).

This vandalism case became a reference point for how restorative justice views crime. As Zehr (1990) puts it, restorative justice view crime not just as a violation against the victim, but also the community, and the relationship that may have existed between both the victims and the offenders. This thus creates the obligation for the offender to make right the wrongs committed, in a way that both the victims, the offenders, and the community where the crime was committed would contribute to the solutions that would promote reparation, reconciliation, and reassurance (Ibid).

Mark Yantzi, a frontline pioneer of restorative justice in Canada was the one who prepared a pre-sentence report for the court on the two young men accused of vandalism (Nuefeld, 2013). His Christian beliefs as a Mennonite himself influenced his perception of what

constitute a crime, and how criminal offences are to be resolved. Yantzi, after meeting with those involved and affected by the crime, approached the judge with a proposal to facilitate a meeting between the offenders and the victims, and experiment an alternative measure to address the crime committed (Ibid). The approval by the judge paved the way for the actualization of the first victim-offender mediation in Canada, which saw the two young offenders meet face to face with their victims, to listen to the impact their actions had on the victims, and provide the agreed restitution. The success of this mediation meeting and the satisfaction expressed by all those involved influenced the growth of the Victim-Offender Reconciliation Program in Canada (Tomporowski, et al. 2011), as well as the Church Council on Justice and Corrections which was established same year (Nuefeld, 2013).

Following this development, the Canadian Parliamentary (House of Commons) Standing Committee on Justice and Solicitor General reviewed the provisions on sentencing, conditional release, and related aspects of corrections in 1988 (Cormier, 2002). The outcome of this review culminated in the ‘Taking Responsibility’ report which was subsequently published the same year (Nuefeld, 2013). This report which is also known as the ‘Daubney Report’ focused on victims’ need and restorative justice. Recommendation 19 of the report stated that the government should “support the expansion and evaluation throughout Canada of victim-offender reconciliation programs at all stages of the criminal justice process which: a) provide substantial support to victims through effective victim services; and b) encourage a high degree of participation” (Canada, House of Commons, 1988:97-98).

Furthermore, restorative justice continues to gain more prominence in Canada starting from the 1990s. The various approaches to restorative justice were adopted by different justice stakeholders and institutions of government. An instance of this was when the Royal Canadian

Mounted Police in 1995 used the family group conferencing model of restorative justice, to attend to cases categorized as less crime, and in which offenders take responsibility for the crime committed (Nuefeld, 2013). Another instance was when the province of Nova Scotia also launched a major restorative justice program for young offenders in 1998. Other police forces such as the Edmonton Police Services and others in Ontario have also adopted and applied the family group conferencing model (Cormier, 2002).

Many expansions were also done to the Daubney Report, with more focus on how restorative justice can be applied to or harmonized with the criminal justice system to improve the latter (Cormier, 2002). This expansion also included how the purpose of sentencing such as reparation to victims and communities, and promotion of a sense of responsibility in offenders, can be included in relevant legislations (Nuefeld, 2013). This purpose and principles were in 1996 included in the *Criminal Code* of Canada, with subsections 718(e) and (f) making provisions for the objectives of sentencing as “to provide reparations for harm done to victims or to the community” and “to promote a sense of responsibility in offenders, and acknowledgement of the harm done to victims and to the community”.

2.2.3 Aboriginal Overrepresentation as a Concern Necessitating Restorative Justice.

Restorative system of justice is continually a topic of discussion in different fora across Canada. But as these discussions go on, the overrepresentation of Aboriginal peoples in the criminal justice system cannot be ignored as one of the significant developments that have very well shaped, and gave impetus to the restorative justice movement in the country. The term overrepresentation has over the years been used to describe the number and percentage of Aboriginal peoples in all correctional facilities (federal, provincial, and territorial), compared to their

population percentage in the country (LaPrairie, 1990). And as against some views held that restorative justice provides a more lenient approach to the criminal justice system, the Supreme Court of Canada in the *R. v. Gladue* and *R. v. Proulx* decisions rejected this notion. The court ruled against the notion that restorative justice gives lighter sentences, and gave backing to the use of restorative justice as an alternative to incarceration in sanctioning offenders. This was perhaps done with the intent of providing an avenue to address the issue of overrepresentation in the criminal justice system (Nuefeld, 2013).

Although the number of Aboriginal peoples in the Canadian population was about 1.5 – 2% around 1990, available statistics put their number at federal correctional facilities at about 8 – 10%, with an even higher number in provincial and territorial correctional facilities (LaPrairie, 1990:14). Further studies in 2001 also corroborated this view and showed that even though Aboriginal peoples accounted for 3.3% of the total Canadian population at the time, they represent 19% of those in provincial correctional facilities, and 17% in federal facilities (Roberts & Melchers, 2003:212).

The youth correctional statistics for 2014/2015 also showed that Aboriginal youths remain overrepresented in Canada's correctional system. Over 5,700 Aboriginal youths were incarcerated in Canada during this period. This number represented 33% of the total number of 17,752 people incarcerated at the time (Statistics Canada, 2016:1). Additionally, though Aboriginal youths between the ages of 12 – 17 were only 7% of the population in the reported jurisdictions, Aboriginal females alone were 44% of female youths incarcerated, while Aboriginal males accounted for 29% of male youths incarcerated (Ibid).

The adult correctional statistics also released by Statistics Canada for 2014/2015 showed an alarming overrepresentation trend for Aboriginal adults. While adult incarceration rate went down in general, numbers for Aboriginal adults showed that they were overrepresented in admissions to provincial/territorial correctional facilities. The statistics showed Aboriginal adults constituting 25% of all adult admissions, even though they represented only 3% of the total Canadian adult population (Statistics Canada, 2016:1). What this means is that one in every four admissions into provincial/territorial adult correctional services is an Aboriginal person. This overrepresentation is even more dominant for Aboriginal females than males. Available figures show 38% and 24% admissions into the provincial/territorial sentenced custody for Aboriginal females and males respectively; and 31% of Aboriginal females represented in federal correctional services. This is against 22% of Aboriginal males reported for the federal correctional services (Statistics Canada, 2016:1).

This continued overrepresentation of Aboriginal peoples in correctional facilities has propelled the demands for the use of community-based sentencing alternatives, and emphasized that incarceration should be the only option when no other option is available., This is consistent with the proclamation by the *Criminal Code* of Canada, Bill C-41 (Latimer & Kleinknecht 2000). The need for a restorative approach to justice has also been further buttressed by the Truth and Reconciliation Commission (2015) which recommended the need for culturally appropriate justice initiatives concerning indigenous peoples or communities.

Scholars have advanced many factors responsible for the issue of Aboriginal overrepresentation in the criminal justice system. One of this is that sentencing accounts in the court play a major role in enhancing the problem and that many Aboriginal peoples do not understand the workings of the criminal justice system (LaPrairie, 1990). Hansen (2012) in countering

imperial justice describes the downfall of many indigenous populations across the world (Canada inclusive) as emanating from their detachment from their original system of justice, a development argued to have led to a high number of indigenous people in prisons.

The roles also played by differential availability of social and economic opportunities, and disadvantage in the areas of education, employment, health, and mental health in local communities have also been emphasized (LaPrairie, 2002). Other factors are culture clash whereby the provisions and procedures of the criminal justice system are alien to indigenous people; the impact and notion of over-policing leading to reciprocated distrust between Aboriginal peoples and the police (Rudin, 2005); and the experience and legacies of colonialism as expressed by the report of the Royal Commission on Aboriginal Peoples (RCAP, 1996). All these have been properly outlined as major reasons for the overrepresentation of Aboriginal peoples in the correctional system across Canada.

It is, however, worthy to note that commendable steps have been put forward, and continually being taken by the government at all levels, the courts, the Police, and all stakeholders to address this issue. Sentencing principles as detailed in Section 38.2(d) of the *Youth Criminal Justice Act* (YCJA) mandates the consideration of alternatives to custody by courts, particularly in matters involving Aboriginal youth, while subsection 718.2(e) of the *Criminal Code* was amended also to reflect this need. This subsection of the *Criminal Code* suggests the scouting for alternative punishments to offences (Rudin, 2005), and states that “all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims, or to the communities should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders”. These steps notwithstanding, continuous efforts and further calls are being made for a more traditional

approach to justice for Aboriginal offenders. Chief among these calls is the use of alternative justice methods that would incorporate culturally appropriate methods like sentencing circles (Latimer & Kleinknecht 2000).

Calls have also been made for more initiatives that would either incorporate more elements of indigenous model of justice into the criminal justice system for indigenous people, or specifically target taking Aboriginal offenders out of the criminal justice system, and attending to their cases using the most suitable cultural methods. In response to these calls, there has been an increase in support by both the federal, provincial and territorial governments for such justice programs. Notable among these responses is the 2001 establishment of the Gladue (Aboriginal Persons) court in Toronto (Rudin, 2005), and the Aboriginal Court Worker Program in Saskatchewan, and Manitoba provinces, among others (RCAP, 1996).

In the Gladue (Aboriginal persons) Court in Toronto for instance, there is a Gladue caseworker that provides case-specific information about the life circumstances of an Aboriginal offender and recommends appropriate sentences (Rudin, 2005). This gives the Court an avenue to approach the sentencing of an Aboriginal offender from a different perspective. Importantly, it gives the Court the opportunity to give a sentence that is restorative in nature (Ibid). All these are in a bid to incorporate the provisions of restorative justice into sentencing.

The effectiveness of this initiative has however recently been limited, especially with the broadening by the Aboriginal Legal Services in Toronto. The extension of the services outside the jurisdiction of the Court has prevented the Court from getting the adequate information needed to deliver meaningful, and case specific restorative sentences for an Aboriginal offender.

Adding to this is the likelihood of many Aboriginal offenders pleading guilty to the offence they are accused of, as soon as their bail application is denied (Rudin, 2005).

Furthermore, Knazan (2003) affirmed the view that one important step that can be taken to address the issue of Aboriginal over-representation in the criminal justice institution is to bridge the cultural divide. By this, the author suggests a starting point of first revisiting the conclusions of the Royal Commission on Aboriginal Peoples (RCAP) report, which states among other things that “the Canadian criminal justice system has failed the Aboriginal peoples of Canada—First Nations, Inuit and Metis people—on-reserve and off-reserve, urban and rural—in all territorial and governmental jurisdictions. The principal reason for this crushing failure is the fundamentally different world views of Aboriginal and non-Aboriginal peoples with respect to such elemental issues as the substantive content of justice and the process of achieving justice” (RCAP, 1996:124). This is all in a bid to further strengthen the argument for the need to treat cases of Aboriginal offenders using the processes and procedures of restorative justice.

2.2.4 History of Restorative Justice in Saskatchewan

Saskatchewan adopted the principles and practice of restorative justice earlier than most other provinces in Canada and has been considered an early innovator in the field (Nuefeld, 2013). Although referred to as an alternative measures/diversion framework, the alternative measures program for young offenders (now referred to as the extrajudicial sanctions) started in Saskatchewan in 1985 (Ibid), and the restorative justice strategy for adults was first approved by the provincial government in December 1995 (Turner, 1997). In 1996, the adult alternative measures program was authorized for Saskatchewan, in line with the proclamation of Bill C-41 (Nuefeld, 2013), and as recognized in section 717 (1) of the *Criminal Code* which authorized community-based sentencing as an alternative (Government of Saskatchewan, 2013).

The province of Saskatchewan has an Alternative Measures and Extrajudicial sanctions policy and program manual that guides the conduct of all related programs and describes the procedures that relevant organizations involved in the programs, or those supported by the Saskatchewan Ministry of Justice must follow. Both provincial programs for adult and young offenders are influenced by the values, principles, and processes of restorative justice. This is evident in both the definitions of restorative justice and the outline of the approach to justice adopted by the 2011 AM/EJS policies manual. As contained in the version of the policies manual published by the government in 2013, the programs “provide individuals who are accused of committing a Criminal Code offence an opportunity to make reparation to victims and their community” (p. 2). The programs also “attempt to balance the needs of victims, the accused, and communities while ensuring that society is protected. They offer accused persons a chance to take responsibility for their behavior and address the harm they have committed. They take a problem-solving approach to crime which emphasizes healing while helping repair relationships between the victim, the accused and the community to the extent possible” (p. 2). This outline is consistent with what restorative approach to justice is.

The Ministerial Orders and Policies that mandates the usage of this AM/EJS Policies include the “Saskatchewan Ministry of Justice Adult Alternative Measures Policy (2011); the Saskatchewan Ministry of Justice Young Offender – Extrajudicial Sanctions Policy (2011); the Saskatchewan Ministry of Environment Enforcement Bulletin – Alternative Measures/Extrajudicial Sanctions Policy (2012); and the Federal Alternative and Extrajudicial Measures Policy” (Government of Saskatchewan, 2013:7). Additionally, while the Adult Alternative Measures Policy is, as the name implies used for cases involving adult offenders, the Extrajudicial Sanctions Policy is used for cases involving youths, and the Ministry of

Environment Enforcement Bulletin “guides conservation officers who are considering referring an accused person to an alternative measures/extrajudicial sanctions program” (p. 7).

The eligibility criteria for the alternative measures program are in parts divided into two. One as Statutory Conditions; and two as Policy Conditions. Section 3-1 of the AM/EJS Policy states the **Statutory Conditions** verbatim as:

“For a referral to an alternative measures program:

- (1) Either during or following contact with the police, the offender must accept responsibility for the act or omission that forms the basis of the offence that the person is alleged to have committed;
- (2) The prosecution of the offence is not in any way barred by law; and
- (3) There must, in the opinion of the Crown, be sufficient evidence to proceed with the prosecution of the offence” (Government of Saskatchewan, 2013:10).

While the **Policy Conditions** are stated verbatim as:

“In general the offender:

- (1) Must not have been diverted more than twice in the last two years;
- (2) Must not have failed diversion in the previous six months; and
- (3) Must not have a substantial criminal record for similar offences or similar recent convictions” (Government of Saskatchewan, 2013:10).

“The AM/EJS policy guide further states the offences that may not be diverted as:

- (1) Offences involving the use of or threatened use of a weapon where the Crown proceeds by Indictment;

- (2) Any offence involving the use of or threatened use of bladed weapons, firearms, or any restricted or prohibited weapons;
- (3) Offences involving violence against any person where the Crown proceeds by Indictment;
- (4) Offences involving sexual violence against children or the sexual exploitation of children (including sexual assault, sexual interference, luring, child pornography and procurement);
- (5) Offences involving spousal/partner violence;
- (6) Offences involving a sexual assault where the Crown proceeds by Indictment;
- (7) Perjury;
- (8) Criminal Code driving offences in which drugs or alcohol are a contributing factor or in which the offender was driving while disqualified;
- (9) Federal offences other than Criminal Code offences; as the availability of alternative measures regarding these offences is determined by the federal Department of Justice” (Government of Saskatchewan, 2013:10-11).

Restorative justice since its integration into the criminal justice system in Saskatchewan has continued to record great feats, attract support, as well as undergo more improvements. The province leads with the number of youth and adult criminal matters handled through restorative justice in Canada. Up to 6,000 referrals are made every year, for offences against individuals and property matters (Tomporowski et al., 2011:9). And even though Crown prosecutors have the discretionary power to determine which cases are referred to alternative measures programs, the number of referrals made yearly is a pointer to the fact that they are largely, favorably disposed to the use of alternative measures programs for eligible cases.

The Government of Saskatchewan through the Ministry of Justice and Attorney General also offers support for community justice programs, community justice committees, and the use

of fee-for-service mediation services across the province (CSC, 2012). Further support for restorative justice organizations come in the form of a comprehensive training for mediators, caseworkers, and community justice workers (Tomporowski et al., 2011). The provincial restorative justice programs coordinated through the Ministry of Justice and office of Attorney General also offers support through funding, research, resources, workshops, presentations, event planning, consultation, coordination of restorative justice programs, and direct service provision (CSC, 2012).

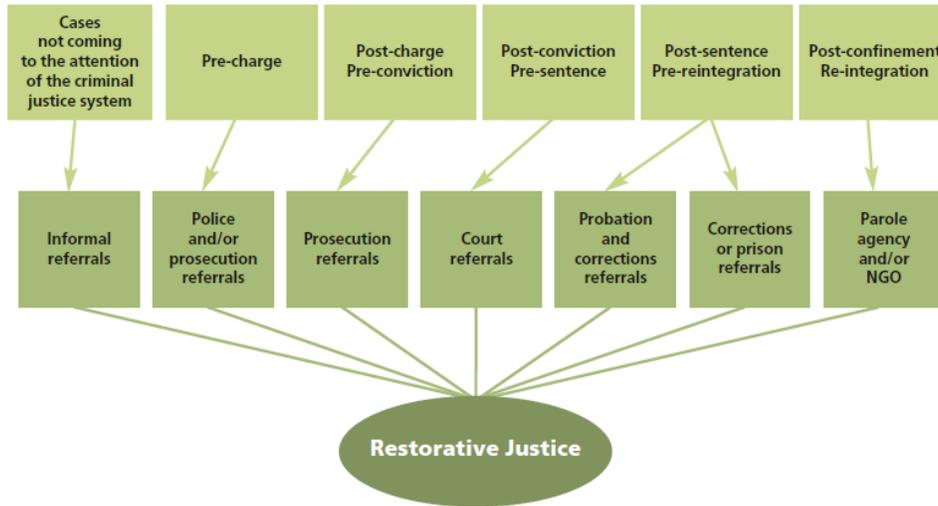
2.3 Restorative Justice Procedures, Practices, and Processes.

The decision of whether to seek justice or not (in a traditional setting) is usually initiated by the individual or family of the victim. And justice using the restorative approach takes a combination of “traditional dispute resolution, peace-making, talking circles, family or community gatherings, and traditional mediation described only by the languages of the tribal community” (Melton, 2005:1). When a minor offence, such as physical neglect or parental irresponsibility is committed, the family forum method can be used in resolving the issue, while more severe cases having grievous effects are attended to using the community elders or tribal officials (Melton, 2005). In both methods, the offenders are given fair hearing to verbally state their cases, express remorse, and apologize to the victim, victim’s family, and the entire community as the situation may require. The idea behind this verbal stating of cases is to make the offenders accountable for the misconduct, have a physical encounter with the victims and personally ask for forgiveness where need be (Ibid).

Contemporary integration of restorative justice into the criminal justice system have, however, now brought the use of referral methods, with the policy frameworks of the federal, provincial, and territorial governments playing an integral role in deciding the cases eligible (Tomporowski et al., 2011). Restorative justice referrals can be offered at any point in the criminal justice system. It could serve either as a pre-charge, or a post-charge measure. It could also be a preventive measure for resolving conflicts before they become criminal matters. Indications from provincial and territorial officials, however, show that majority of criminal cases handled using restorative justice approach are referred on a pre-charge or post-charge basis by the police, Crown prosecutors, or sometimes at the post-charge or pre-sentencing points by the Court. In Canada, restorative justice has also been extended to, and found post-sentence usage for serious violent offences, to offer circles of support, assistance, supervision, and accountability to high-risk offenders (Tomporowski et al., 2011).

As shown in the diagram below, the United Nations Office on Drugs and Crimes (UNODC, 2006) argued that the synergy between the criminal justice system and restorative justice can exist in six different ways. These are: cases traditionally attended to within local communities; pre-charge; post-charge; post-conviction; post-sentence; and post-confinement.

Figure 1: Synergy Between Restorative Justice and Criminal Justice System



Source: UNODC (2006:14) – *Handbook on Restorative Justice Programs*.

Restorative justice can also be applied to a variety of offences or situations, ranging from criminal to non-criminal ones such as work-place offence, schools, family and other related disciplinary settings (UNODC, 2006). But the nature of crime and time it is deployed notwithstanding, there is a notion that the approach to justice could help an offender express remorse, and accept responsibility for their action(s). It could serve as an informal social control mechanism that would deter both the offender and other members of the public from further committing same or related crime; and allow people to learn and internalize standards of acceptable behaviors (CRCVC, 2011).

As Melton (2005) noted, the implementation of restorative justice can as well take a variety of process or approach. Tomporowski et al., (2011) argued that in Canada, four of these processes are most dominant. The four are “victim-offender mediation, conferences, circles, and justice committees” (p. 3). To Kurki (2000), two out of these four processes (conferences and circles) are usually the most dominant ways of implementing restorative justice in traditional or

community settings. This is because conflicts or crimes are usually among closely knitted groups of people. Contemporary use of restorative justice with the criminal justice system has however made the usage of victim-offender mediations one of the most common approach or processes. A brief overview of the most commonly used processes is done below to enhance proper understanding of what each of them entails.

- **Victim – Offender Mediation**

In Canada, this type of restorative justice dates to over 25 years (CRCVC, 2011), and is one of the earliest forms of restorative justice. The process involves preparing and facilitating a face-to-face meeting between interested victims and offenders with an individual serving as a mediator. During the meeting, the victims are then given an opportunity to relate the consequences and pains the crime has caused them to the offender and can have answers to the questions bothering their mind about the crime. The victim – offender mediation which requires the active involvement of both parties to the crime thus give them the opportunity to interact mutually, dialogue, and find a lasting solution to the harm done (Ibid). The three (3) basic requirements that must be fulfilled before victim – offender mediation is initiated are acceptance of crime responsibility by the offender; the willingness of both victim and offender to be a part of the mediation; and assurance of a safe process for all participants (UNODC, 2006).

- **Conferences**

In broader terms, this is referred to as ‘community conferencing.’ It may also be referred to as ‘family group conferences’ in youth cases, or ‘community justice conferences’ in adult cases (CRCVC, 2011). Conferences take its root from Maori Culture in New Zealand (Ibid), and this restorative justice process has to do with directly involving the friends and families of the

offender. This is to discuss how an offender is to be held accountable, as well as the appropriate punishment (Umbreit, 2000). This is not surprising as the Maori cultural value is notable for emphasizing the role of family and the larger community in addressing social ills and wrongdoings (McGarrell, 2001). Family Group Conferences which was first introduced to the juvenile justice system in New Zealand to cater for youth crime is conducted in a structured circle setting, in the presence of the convener. The practice has subsequently been adopted in Australia, and fast gaining popularity in parts of United States, Canada, and other countries. Conferences follow the principle of re-integrative shaming closely and gives the offender an opportunity to apologize to the victim before an agreement is reached on what reparation should entail (CRCVC, 2011).

- **Circles:**

Circles are otherwise referred to as ‘circle sentencing,’ ‘peacemaking circles,’ ‘healing circles,’ ‘community circles’ or ‘talking circles’ in some literature (CRCVC, 2011; Tomporowski et al., 2011). This process is deeply rooted in the culture of Aboriginal peoples in Canada, with origin also from the traditional sanctioning and healing practices of native Americans in the United States of America (Bazemore & Umbreit, 2001). This restorative justice process is primarily based on the belief that the community is saddled with the responsibility of addressing the problems of criminal behavior, and not just the parties involved and their families. The process holds in high esteem the importance of not only addressing the criminal behavior at hand, but looking beyond it to also attend to the needs of the community where the crime is perpetuated and to restore balance as required. The process involved in the circle varies from place to place and culture to culture. It is, however, usually facilitated by a ‘keeper’ – who is a

trained member of the community, and discussion involves the use of a talking piece which is passed around, and which authorizes only the holder to speak from time to time (Ibid).

- **Circles of Support and Accountability**

In this type of restorative justice, a network of friendship is formed by volunteers for offenders who have served their sentences. The network provides friendly advice or help that would facilitate the restoration and reintegration of the offender back into the community. Circles of support and accountability are mostly applicable to sex offenders, courses of treatments are recommended, and a healthy environment is provided for the offender to live with other members of the society. This is done mainly through dialogue and mediating anticipated concerns among members of the society and the offenders (CRCVC, 2011).

2.4 How 'Restorative' is Restorative Justice?

One question that has always bothered the minds of many people is knowing how well restorative justice has fared over the years in achieving the stipulated purpose(s). And although restorative justice has been practiced for many years, research into the approach to justice often attracts slightly differing views and argument in literature. This is mostly noticeable in areas such as what constitutes effectiveness for the approach to justice. Additionally, having a standardized means of measuring the effectiveness of restorative justice is a near herculean task. Discussions usually differ on what should be the appropriate or standard procedures and processes involved in the approach to justice, the outcome, as well as the effect on participants.

For instance, in their examination of the effectiveness of restorative justice for juvenile offenders in the United States, Bergseth & Bouffard (2012) explained effectiveness in terms of the type of crime committed. They found that restorative justice processes are effective for some

types of juvenile offences such as group in-fighting and classroom disruptions, but showed differential effectiveness in other types, especially the categories of offences that are committed outside the school environment. Similarly, Boriboonthana & Sangbuangamlum (2013) while evaluating the effectiveness of restorative Justice on crime victims and adult offenders in Thailand found that the restorative justice process provides an opportunity for offenders to repair the damage caused to the victim, and enables all those concerned work on finding solution to the issues at hand. However, its effectiveness in achieving the stipulated purpose(s) often depends on the philosophy, principles, and procedural framework of implementation adopted. They also argued that these frameworks are often different from place to place, and based on cultural context.

This notwithstanding, as earlier mentioned in the introductory chapter of this thesis, numerous evaluative studies that have been conducted in the past to outline the effectiveness of the justice approach use certain common themes. These are participants' level of satisfaction with the procedure and outcome of restorative justice; monetary cost incurred or cost comparativeness with the criminal justice system; victims desire for revenge; success in reaching an agreement and compliance with same; perception of fairness; remorse expressed by offenders; re-offending or recidivism rate of participants; and deterrence to mention a few (Umbreit et al., 1995; Umbreit & Fercello, 1997; Reimer, 2011; Arnott, 2007; Morrison & Martinez, 2001; Porter, 2007; Hayes et al, 1998; Bonta et al., 1998; Kim & Gerber, 2012; Boriboonthana & Sangbuangamlum, 2013; Latimer & Kleinknecht 2000).

Although many of these studies were also commonly an evaluation of specific restorative justice programs (King, 2010), or a comparison of the approach to justice with the criminal justice system, it is worthy to note that the themes used by some of these studies are

inexhaustible in explaining the effectiveness of restorative justice over the years, or drawing conclusions about the shortcomings that may exist. However, the expected benefits of restorative justice, such as giving those involved or affected by the crime an opportunity to participate in what constitute justice, become empowered and have first-hand information about their case (Nuefeld, 2013) remain worthy of commendation. This is in addition to the healing process that follows the successful completion of the approach to justice, as well as the relationship been repaired among participants, and the reintegration of parties back to the community (Ibid).

In addition to this, a literature overview of some of the documented effectiveness of restorative justice is presented below using the following four themes:

- i. Agreement from mediation and compliance to agreement
- ii. Victims satisfaction and perception of fairness
- iii. Offenders satisfaction and perception of fairness
- iv. Impact of restorative justice on recidivism or re-offending

2.4.1 Agreement from Mediation and Compliance to Agreement

The ability of any restorative justice process to reach an amicable resolution among participants remain one of the greatest hallmarks of the approach to justice. Amicable resolutions are usually in the form of a verbal apology, personal service to victims, community service, or financial compensation for which both the victims and offenders agree upon and feel contented. The symbolic representation of an agreement in a restorative approach to justice is that the offender has accepted responsibility for the offence committed, and is taking the responsibility of repairing the harm done (Latimer & Kleinknecht, 2000).

- Boriboonthana & Sangbuangamlum (2013:279) found in their study that 77.7% of the cases which went through the mediation process of restorative justice have the tendency of ending up with an amicable resolution between the victims and offenders.
- The duo also found out that 97.4% of the offenders asserted they complied with these resolutions, while 83.4% of the victims felt the same (Boriboonthana & Sangbuangamlum, 2013:281).
- Reimer (2011:17) found evidence suggesting that 90% of all cases attended to using restorative justice methods in schools end up in agreement and compliance. All the school teachers who were trained in restorative approach to justice, and participated in the study also favored the usage of a restorative approach to justice, while 80% of teachers who were not trained showed support for it.
- A meta-analysis of 21 studies done by Latimer, et al. (2005:134), also found out that restorative justice yields an overall agreement rate of 91%, and that in cases where there are disagreements, there are usually endless discussions until consensus are reached.
- Morris & Maxwell (1998), reported in their study that 85% of juvenile cases attended to in New Zealand using family group conferencing yielded an agreeable resolution (Latimer & Kleinknecht, 2000:14).
- In a survey done for 116 victim-offender mediation programs in USA, Umbreit et al., (1998), found that in 87% of cases yielding an agreement, there were also up to 99% compliance rate (Latimer & Kleinknecht, 2000:14).

- Umbreit et al., (1995) also found in their consideration of four (4) Canadian restorative programs that successful restitution agreements were secured in 93% of the cases (Latimer & Kleinknecht, 2000:14).
- Also, Coates & Gehm (1989) in their study found a 98% agreement on restitution, with an 82% and 90% compliance with financial and service restitution respectively (Latimer & Kleinknecht, 2000:14).

2.4.2 Victims' Satisfaction and Perception of Fairness

One other dominant theme in the literature talking about the effectiveness of restorative justice is the perception of victims about the justice process and their satisfaction with the outcomes of the justice approach. Findings from literature popularly point to the direction of victims adjudging the process fair enough, and that they are satisfied with the outcome. This achievement constitutes one of the strong points used by advocates of restorative justice in justifying its impact and effectiveness. The satisfaction of victims in a justice approach that prioritizes their need is indeed a high-performance indicator. However, there were instances where low satisfactions were recorded, but most of these resulted not from dissatisfaction with the process itself, but often time with offenders honoring the agreement reached during the restorative justice program.

- Boriboonthana & Sangbuangamlum (2013:281) reported that 92% of the victims in restorative justice were satisfied with the process restorative justice followed, while 90.2% were satisfied with the outcome.

- Umbreit and Fercello (1997) reported in their study of young participants in a restorative justice program that 100% of the victims showed satisfaction with the outcome of the process, while 80% felt same applies to the offenders (Latimer & Kleinknecht, 2000:11).
- Umbreit and Coates (1993:574) also reported the percentage of victims who showed satisfaction with the restorative justice program they participated in as 79%, compared to 57% of victims who went through the criminal justice system. They also reported the factors that influenced this satisfaction as face-to-face nature of the encounter, fear reduction, and increased offender accountability. Similarly, the percentage of fairness as showed for victims is 83% and 62% for those in restorative justice and the criminal justice system respectively (p. 575).
- Using twelve (12) different family group conferencing program, Fercello & Umbreit (1998) also found 93% and 95% for satisfaction with the process and outcome of restorative justice respectively (Latimer & Kleinknecht, 2000:11).
- 93.8% of those who went through restorative justice also believed the outcome of their case is fair enough, compared to 92% of those who their case went through the criminal justice system (Boriboonthana & Sangbuangamlum, 2013:281).
- A clear majority of studies (Arnott, 2007; Morrison & Martinez, 2001; Porter, 2007), among others, have also shown that majority of the victims because of their satisfaction, reported their interest to go through the restorative justice process again if need be, and would gladly recommend same to others.

2.4.3 Offenders' Satisfaction and Perception of Fairness

Restorative justice seeks to balance justice between both the offender and the victim. That's why how offenders feel about the process, and outcome of the justice approach is equally important. Scholars have argued that contentment and satisfaction with the outcome of a case can help lower re-offending rate (Strang et al., 1999). Furthermore, unlike the criminal justice system which is punitive in nature, restorative justice seeks to mend the relationship among all the parties involved (Ibid). A good number of literature on restorative justice supported the claim that the system has been effective in giving satisfaction and perception of fairness to offenders and that offenders show their satisfaction for restorative justice is higher when compared to those who went through the criminal justice system.

- Boriboonthana & Sangbuangamlum (2013:282) reported that 95.7% of the offenders in restorative justice were satisfied with the process restorative justice followed, while 96.5% were satisfied with the outcome.
- The duo also found that 95.7% of those who went through restorative justice also believed the outcome of their cases were fair enough, while 97.3% adjudged the process as fair enough (Boriboonthana & Sangbuangamlum, 2013:282)
- Umbreit et al., (1994) reported that 87% of offenders who had gone through restorative justice are satisfied with the process compared to 78% for the other category (Latimer & Kleinknecht, 2000:12). The duo also reported that 89% of participants in the restorative justice circle see it as fair enough compared to 78% in the criminal justice system (Umbreit and Coates, 1993:575).

- Additionally, they also found that 90% of those in the restorative justice circle expressed satisfaction with the general outcome of the exercise, while 88% are satisfied with the agreements arrived at during their restorative justice programs (Latimer & Kleinknecht, 2000:12).
- Strang et al., (1999:127) also corroborated this view, in their study they found out that 58.8% of offenders in a re-integrative shaming experiment showed satisfaction with the way their case was dealt with when compared to 46.3% of those who went through the criminal justice system.
- In their study, Morris & Maxwell (1998) reported that 84% of the offenders showed satisfaction with the outcome of the case at a family group conferencing. But this was mostly associated with the lesser penalty being awarded to the offenders (Latimer & Kleinknecht, 2000:12).
- Similarly, Hayes & Daly, (2004:184) also found an approximately 100% satisfaction with the process and agreement emanating from restorative justice among young offenders.

2.4.4 Impact of Restorative Justice on Recidivism or Re-offending

The impact of restorative justice on the re-offending rate of offenders remain one (if not the most) contested aspect of the approach to justice. Discussions on whether the aim of restorative justice is to reduce recidivism for participants always attract divergent views in literature. The little existence of evaluative research on this also makes it harder to use available results as a basis for generalization. Adding to this is the number of cases considered, which are mostly for specific programs, or the research methodology in most of the studies that were not saturated.

Nuefeld (2013:19) referred to the discussion of recidivism in restorative justice as “the metaphorical element in the room” which needs to be addressed.

The author went further to argue that, many advocates of the approach to justice find it inappropriate to reduce the goal of restorative justice to reducing recidivism, although it is welcomed as a “happy side-effect” (Nuefeld, 2013:20). She identified two many reasons why recidivism may not necessarily be a yard stick for defining the success of restorative justice among advocates. The first is that some restorative justice advocates do not see it as a realistic goal, and secondly, that paying too much focus on making restorative justice reduce recidivism could devalue the other goals of the approach to justice (Nuefeld, 2013). This notwithstanding, many studies have shown the impact of restorative justice on the reoffending rate of participants.

- By gathering the re-arrest record of participants, Boriboonthana & Sangbuanglumlum (2013:283) reported in their study that 1.2% of those who went through restorative justice were re-arrested, compared to 2.3% of those from the criminal justice system.
- Kim & Gerber (2012:1072) found 43.5% of respondents in restorative justice conferences who claim their participation in the process can prevent future re-offending, as against 38.4% among those who went through the criminal justice system.
- McCold & Wachtel (1998) reported a recidivism rate of 20% and 48% respectively for those who participated in a police-led family group conferencing project and those who didn't, after 12 months of their participation (Latimer & Kleinknecht, 2000:12).
- Umbreit & Coates (1993:579) also found the recidivism rate of mediated offenders to be 18% within one year, as against 28% for offenders whose cases were not mediated.

Additionally, Umbreit et al., (1994) found that 41% of the new offences by those who went through restorative justice were also labeled as a lesser offence when compared to 12% of those whose cases were not mediated (Latimer & Kleinknecht, 2000:10).

- Beus & Rodriguez (2007:342) reported that 20.4% of the participants who went through a community justice program have a record of recidivism, compared to 32.0% of those who went through the criminal justice system.

In addition to the four (4) themes used for the review of literatures here, the benefits and successes of restorative have been outlined in different literatures using other parameters such as cost-benefits, increased participation and involvement of victims and offenders, empowerment of participants, greater access to information, and community benefits to mention a few (Nuefeld, 2013; Latimer & Kleinknecht, 2000; Bergseth & Bouffard, 2012; Kim & Gerber, 2012; Hayes & Daly, 2003). However, there are room for improvements, not only in the standards deployed in measuring the effectiveness of the approach to justice. More attention needs to be paid to areas such as the needs of victims rather than just offenders, and more consideration for the effectiveness of other restorative justice approach/process other than victim-offender mediations. This would help ascertain if one process of restorative justice is effective in yielding the desired results than others, and may thus influence more usage of such process.

Furthermore, empirical research is needed in areas such as the type of agreements reached during restorative justice; factors aiding successful compliance with such agreements; the longer-term effect such compliance have for participants, (for instance, whether it helps victims gain closure or not, as well as how long it took); the intricacies and decisions that come to play before and after a referral is made; how participants (particularly the victims) react to and

adjust to their contact with the restorative justice system, the experience and perspective of other categories of stakeholders involved in the restorative justice process, as well as the barriers restorative justice practitioners face in their day to day activities of trying to achieve the goals of the approach to justice.

The existing literature have provided a true foundation for this study and fostered a better understanding of the evolution of restorative justice in Saskatchewan, and in Canada at large. Through an exploration of the Adult Diversion Program of Saskatoon Community Mediation Services (SCMS), the aim of this study is to, therefore, use the point view of practitioners to develop a better understanding of restorative justice. This aside from giving more insights into the restorative approach to justice, I believe would also give room for the identification of factors that would improve the system for more efficiency and effectiveness. Findings from the study would also help create further awareness about the continuous use of the approach to justice in the province.

CHAPTER THREE

THEORETICAL FRAMEWORK

3.1 Introduction

This chapter of the thesis presents the theoretical framework used in exploring the relevant research questions for the study. It begins with a literature overview of the theoretical framework, and an explanation of how this fits into the context of the study, to answer the research questions. The chapter offered an explication of Pierre Bourdieu's theory of practice. It further argued the application of the theory to an exploration of the restorative approach to justice.

3.2 Explaining Restorative Justice: The Theory of Practice

The conception of crime from the point view of restorative justice is that crime or conflict is not just a violation of the law, but a violation against the victim, and the community or social bond. Given this background, it becomes imperative to situate the study in a theory that has cultural elements as well. The theory of practice facilitates an in-depth understanding of social action, institutionalized activities, social structures, and social order through the construction of social reality and symbolic structuring of meaning attached to such activities (Rouse, 2006).

Although there is no general definition as to what a theory of practice is, or in what area of academics it is strictly applicable, many scholars have expanded the theory of practice for various studies in the past, notable among whom we have Pierre Bourdieu, Sherry Ortner, Michel Foucault and Anthony Giddens. The central idea of the theory of practice is an in-depth analysis of the relationship existing between established structures or institutions in the society, and how individuals are guided by these structures to act within them (Rouse, 2006)

Pierre Bourdieu's theory of practice was adopted in explaining how elements in the restorative approach to justice serve as a guiding structure influencing the behavior of victims and offenders within the approach to justice. A further attempt was made, to use this theoretical framework in exploring the research questions for the study. The use of three key concepts of habitus, social fields, and capitals as detailed in Bourdieu's theory provided a conceptual framework for understanding the socio-cultural practice of restorative justice. This was also leveraged on to conduct an in-depth analysis of the perspective of practitioners about other key areas of the approach to justice.

3.3 Bourdieu's Theoretical Framework

In his work, Bourdieu argued that the actions of individuals in the society cannot be alone explained, by the structures they live in (that is their objective reality) enforcing its will on them, but also in regards to the role played by the habitus in influencing individual actions. The concept of habitus to Bourdieu can be understood as a predisposition towards certain values and actions, which then affects how a person behaves, and interact with others (Bourdieu, 1984). The social reality that emanates from this predisposition, Bourdieu argued to be a process of dialectic internalization of externality, and externalization of internality (Bourdieu, 1997). I interpret this to mean a process where external influences enter a dialectic relationship with the internalized values acquired by an individual in the process of socialization, to shape subsequent social behavior. He further named the three basic concepts in his theoretical approach to be habitus, social fields, and capitals, and illustrated with the aid of an equation, the dialectic relationship occurring among them. This set the basis for my discussion, and argument on how the theory of practice can be used to explain dominant social practice (such as conformity to restorative justice principles) in the society.

$$(\textit{Habitus} \times \textit{Capital}) + \textit{Field} = \textit{Practice} \text{ (Bourdieu, 1984:101)}$$

3.3.1 Habitus in a Restorative Approach to Justice

Habitus to Bourdieu is “not only a structuring structure, which organizes practices and the perception of practices but also a structured structure” (Bourdieu, 1984:170). Habitus can thus be likened to the collective conscience or values, which individuals have internalized as members of the society. This collective conscience has been developed over the years from interaction and co-habitation in the society and is, therefore, a reflection of the influence of external or environmental structures on the individual. The habitus is what guides and constraints (but do not authoritatively determine) individual’s act and actions (Bourdieu, 1984), and serves as a kind of informal social control mechanism when related to the discussion of crime and deviance. I argued that the habitus is what offenders leverage on, to recognize and accept their offences as a crime against the victim and the community, and not simply a violation of the law. This makes them see the need to repair the relationship, and first and foremost, take responsibility for their crime, to satisfy an important statutory condition for participating in a restorative justice program. The realization and acceptance that an offence is not just to the victim, but the larger community, pricks the collective conscience in offenders, makes them see that a violation of the values and ethical conduct in the community has occurred, and allows them to see the need to repair the relationship that has been severed. This same habitus (internalized values), is what the victims of crime leverage on to accept and alternative approach to justice. An approach that gives them the opportunity to state their grievances, seek healing and reparation, and contribute to what the outcome of justice should be, as against simply seeking punishment for the offender.

This is very consistent with how Bourdieu sees habitus as something emanating from history, and which has the tendency to produce practices that are in agreement with the scheme engendered by history (Bourdieu, 1984). Although the habitus is a durable entity, it is evolving and continually adjusts to present situation, reinforced by further experience, and is acquired during the period of socialization (Ibid). The habitus, therefore, guides individual's unconscious practice aimed at achieving their goals. Bourdieu's habitus is also strongly connected to the field (Bourdieu, 1992). The class habitus that stems from our position as individuals in the social field leads to the individual belief, an example of which is the knowledge of what should be taken for granted in a field, or that which sets social boundaries and limits an individual's social behavior.

In this respect, the habitus, therefore, limits practices and strategies and “entertains with the social world” by ensuring that we act “intentionally without intention” (Bourdieu, 1990:12). As such, the habitus can then be explained as a tool helping to mark the boundary, and reinforcing, societal norms and values, as well as used in ensuring strict conformity to these norms and values. Additionally, the internalization of the habitus also brings about the maintenance of social order either on the part of offenders, victims or other members of the larger society. Habitus for this discussion thus helps us understand why some individuals or group of individuals in the same community seem to be more readily predisposed to restorativeness than others.

3.3.2 Bourdieu's Capital and Developing Restorative Capital

In addition to this, Bourdieu also outlined four categories of capitals which work interrelatedly with the habitus to give meaning to social reality. These four capitals are social (influential social networks), cultural (cultural goods and capacity), economic (material wealth)

and symbolic capitals (honor, prestige, and recognitions). He further divided cultural capital into embodied, objectified and institutionalized (Bourdieu, 1986). The embodied cultural capital which could be personal, emotional, or intellectual, is closely related to knowing and exhibiting the proper standards of behavior in the society. The objectified cultural capital is the tangible cultural goods such as books, machinery, and musical instruments that individuals possess; while the institutionalized cultural capitals are made up of various recognitions such as educational attainment and qualifications (Green, et al., 2013).

I argued that in leveraging on their habitus (the internalized values or dispositions) as earlier explained, participants in a restorative justice program also come with a form of capital which can be called a “restorative capital” (Green, et al., 2013). This new restorative capital takes the form of economic, symbolic, or (embodied) cultural capitals as outlined in Bourdieu’s work. At any point during the restorative justice process, the restorative capital becomes the capacity which predisposed participants to restorativeness, and through which they negotiate their participation in the approach to justice. Using cultural capital for instance, a victim or offender who only sees the justice system in ‘black and white’, and who is favorably predisposed to the punitive nature of the criminal justice system alone, would not subscribe to the ideals of the restorative approach to justice. Such a person would likely not also agree to being referred to alternative measures, because they do not possess the restorative capital to leverage on.

Cultural capital, particularly in the embodied state, unlike other forms of capitals identified by Bourdieu, are not easily transferable from person to person, because it is individual specific. It comes in the form of long-lasting dispositions of the mind and body, and implies an activity of conscious inculcation or assimilation, which costs time – time which can only be personally invested by the individual (Bourdieu, 1984). Embodied cultural capital can only

become personalized after being consciously acquired, or passively inherited through socialization to values, traditions, or cultures.

3.3.3 The 'Field' of Restorative Justice

Bourdieu also sees the field as spheres of actions. His explanation for the concept of field is that it is “a network or configuration of objective relations between positions” (Bourdieu, 1992:85). I interpret the field to be the social or institutional environment where objective interrelations take place between the habitus and capital, to form social reality. The field is where people combine their habitus and capitals in the development of specific social reality or practice. The field in a restorative justice program are the different processes or approach of implementation (such as victim-offender mediations, sentencing circles, family group conferencing, circles of support, and other forms earlier identified) adopted by the specific organization to achieve the aims and objectives of restorative justice. Field help us make sense of the differential display of behaviors. It defines the behavior of entities and helps in defining the entities as well. For instance, the context of the environment in which people find themselves at any point in time determines which behavior is being expressed, and the field represents this environment. Individuals would naturally comport themselves more, and be of good behaviors when they are in a public arena so as not to bring shame upon themselves; compared to when they are in a private environment. This may have been an integral reason for adherence to process and principle of restorative justice. After there is an admittance of responsibility on the part of the offenders, and willingness on the part of the victims to entertain an amicable resolution of the crime or conflict, both parties meet in the field to finally work towards a beneficial outcome for their referred case(s).

Green et al. (2013) drew on Bourdieu's theoretical framework to investigate how restorative justice is experienced and effective in an organizational setting. Their argument was on the imbalance existing in how people experience the introduction of restorative justice in the workplace, and how they struggle to make sense of the principle and purpose attached to it. The authors employed the concept of field, habitus and capital to understand the interpersonal and organizational dynamics that are facilitated by the introduction of restorative justice process in a work place. They also used it to understand how these dynamics help in ensuring that the outcome of the restorative justice process is not only adhered to or respected, but also effective in yielding desired outcomes.

They posited that these new interpersonal and organizational dynamics could be explained or understood to be the introduction of a new form of cultural capital, which is the restorative capital. The restorative capital thus becomes a basis for explaining why some people adhere to and react more speedily and positively to the principles of the restorative justice process than others (Green et al., 2013). This new dynamic also provides a framework for understanding the disparity in the inclination of individuals towards restorativeness, and how this disparity can affect the social or institutional environment.

Taking the field to further represent a social institution or system where certain rules apply, individuals would, therefore, need to be endowed with a certain level or quantity of resources which will give them a privilege to enter and survive in the field. These privileges which are the capitals (social, cultural, economic, symbolic), and though distinctive, are related and work closely together to guide individual actions in the society. In addition to this, a comparison of personal capital in the field helps determine an individual's position, and how they can leverage on this to achieve conformity. Various points emanated from the discussion

with restorative justice practitioners on the types of capital participants possess, and how this may have an overbearing influence on their compliance with the processes and outcome of the restorative justice process. This is discussed elaborately in the findings section of the thesis.

3.4 Justification of Theoretical Framework

With the theoretical explanation advanced above, and knowing fully well that individuals learn to role play in the society through the internalization of habitus, and subsequently conform to societal rules and norms, I argue that it becomes possible to use the theory of practice to explore restorative justice. The theory offers the opportunity to know the roles played by internalized and learned values in predicting behaviors or conformity to societal rules, as well as the expectations embedded in the restorative approach to justice. The theory also helps to understand how societal expectations bestowed on both the victims and offenders can be effective, to especially ensure strict compliance with the outcome of social practices such as restorative justice.

The restorative and reintegrative nature of this approach to justice subtly begin to alter and reshape the practice through what Green et al. (2013) called the “predilections of particular groups” (p. 306). This means that being restorative can be likened to Bourdieu’s concept of habitus, where predisposing mentality towards an established set of norms, values, or action orientation can guide how a person or group of persons are favorably disposed to these values. This can also explain how people are influenced to interact and behave based on their habitus, albeit not entirely enforced to do so. In instances where fields are also seen in the context of institutions and cultures, Bourdieu’s theoretical framework, especially the intersection between habitus and social or cultural capital can also be used in explaining socio-cultural practices like

restorative justice. The categories of capitals embolden my explanation and use of Bourdieu's theory of practice in exploring the restorative approach to justice. This is because it serves as the principal cause for the distinction between individuals regarding material and immaterial resource possession in the society, and how this is capable of influencing actions. Also, lying at the heart of the restorative justice process is the habitus - a set of durable, yet continually evolving cultural values and norms which individuals in the society combine with their capitals to shape, and reshape their behaviors within the restorative justice system.

Additionally, knowing that restorativeness fosters an inclusive and more participatory decision-making process among those involved in the crime, the involvement of an interaction between the offenders, the victims, and other members of the society thus creates a flatter decision making process unlike the unidirectional type obtainable in the criminal justice system. As such, the fact that the input of all those concerned or affected by the crime are solicited before a decision is taken makes the resolution more binding on all those involved and gives them a shared sense of responsibility in seeing to its full implementation. This conforms with Bourdieu's theoretical position which points to the dialectic relationship existing between established structures or institutions in the society (the habitus, field, and capital), and how individuals are guided by these structures to act (the social practice) within them.

CHAPTER FOUR

METHODOLOGY

4.1 Introduction

The methodology chapter outlines the research design and methodology used for the study. It detailed the overall methodological approach adopted and describes the processes, and techniques used in gathering data for the study, as well as how the responses were analyzed. The chapter in addition to providing a background for how the study was carried out, also provides insight into the extent to which expected findings can be generalized. The structure of the chapter is presented under the following headings:

- i. Research Methods and Design
- ii. Study Participants and Sampling Procedure
- iii. Instruments and Data Gathering Procedure
- iv. Data Analysis
- v. Ethical Consideration

4.2 Research Methods and Design

Exploring the personal perspective of a person or group especially on a subject matter that has elements of indigenous approach should utilize culturally appropriate research methods. This is to ensure that the rich details the study is interested in getting are not lost. For this reason, this study adopted the qualitative interpretivist research approach that included open-ended interviewing, structured participant observation, and a review of existing data compilations. Specifically, the interpretive phenomenological standpoint proposed and developed by Martin Heidegger was adopted. Creswell (2013:28) describes a phenomenological standpoint as “the

meaning for several individuals of their lived experiences of a concept or phenomenon.” While to Heidegger, individual experiences are shaped by their life-world, and are influenced by their circumstances (Kellett et al., 2010), therefore, human experiences cannot be separated (bracketed) from their life world (Yin, 2011). As a study setting out to explore the perspectives of practitioners on how they view the restorative approach to justice, and as Creswell (1998: 17) advises that qualitative research is suitable when the primary research question asks ‘how’, the phenomenological standpoint which offers an opportunity to know people’s perception, perspective, and understanding of a situation, provided a veritable platform to leverage on in posing the research questions to the practitioners.

Qualitative research facilitates a holistic approach to understanding and evaluating the individual experience. It also gives the researcher an opportunity to pay more attention to the nuances and complexities of the subject matter (Silverman, 2011). For Creswell, qualitative research offers: i) A systematic procedure for inquiry; ii) Access to natural, cultural settings; iii) Collection of a variety of empirical resources including case study, personal experience, interviews, introspection, observation in cultural context, historical, international and visual texts (Creswell, 1998: 15); while the interpretive phenomenological viewpoint is aimed at interpreting the subjective meaning people give to situations (Ibid). The open-ended interviewing approach was used to establish an informal and non-structured conversation with the practitioners, in a way that required information was easily solicited from them, albeit in a non-coerced way.

The research questions already outlined in chapter one are suitable for qualitative research. As Creswell (1998: 15) recommends that when it comes to qualitative research, “the researcher builds a complex, holistic picture, analyzes words, reports detailed views of informants, and conducts the study in a natural setting.” The traditions that were utilized in this

research are also consistent with what the qualitative interpretivist research approach have listed to include open-ended interviewing, structured participant observation, narratives, case study and review of existing data compilations.

4.3 Study Participants and Sampling Procedure

Notable among the forms of restorative justice initiatives existing in Saskatchewan are adult alternative measures and youth extrajudicial sanctions. These programs are implemented in the province under the coordination of the Ministry of Justice, and by “a variety of community-based organizations, tribal and band councils, and service providers” (Government of Saskatchewan, 2016:1). The government’s use of alternative measures and extrajudicial sanctions report published in 2016 showed a list of 46 individual programs/organizations, with a little below 4,000 referrals made to these organizations in the years 2014-2015, and 2015-2016 covered in the report (Government of Saskatchewan, 2016).

The preliminary research I did showed Saskatoon Community Mediation Services (SCMS) as one of the organizations handling adult alternative measures which was my focal area for the study. The prominent status of SCMS among other restorative justice organizations in the province is also evident through the numbers of referrals SCMS receives yearly. In 2014-2015, SCMS had 973 referrals out of 3,895 referrals in the province, and 854 out of 3,689 referrals in 2015-2016 (Government of Saskatchewan, 2016:2). In these years, SCMS also had all the 973 referred cases as adult alternative measures, and no youth extrajudicial sanction in 2014-2015 (Government of Saskatchewan, 2016:17). The same was obtainable in 2015-2016 where all 854 referrals the organization handled were adult alternative measures with no case as youth extrajudicial sanctions (Government of Saskatchewan, 2016:18). The report further showed that

91% of the cases handled by SCMS in 2014-2015 were post-charge referrals, and 9% pre-charge referrals (Government of Saskatchewan, 2016:19). In 2015-2016, the organization had 89% post-charge, and 11% pre-charge referrals respectively (Government of Saskatchewan, 2016:20). This impressive number of referrals handled by SCMS and the welcoming nature of members of the organization made the organization a perfect choice as my lens into the restorative approach to justice in Saskatchewan.

Additionally, SCMS has an adult diversion program through which the organization deploys the victim-offender mediation approach in the delivery of its adult alternative measures program, as such the organization satisfies all the areas of interest for the study. Firstly, the organization delivers an adult alternative measure program. Secondly, it handles post-charge referrals, and thirdly, this is done using the victim-offender mediation approach. Participants for the study, therefore, included restorative justice practitioners (called caseworkers or community justice workers) who are affiliated with the program of the organization and an official from the Saskatchewan Ministry of Justice. The Ministry of Justice performs oversight functions on the activities of restorative justice programs, and provides funding support for organizations such as SCMS.

Saskatoon Community Mediation Services (SCMS) which was established in 1983 by the John Howard Society (Saskatoon) and the Mennonite Central Committee (Saskatchewan) was incorporated in 1989 as a, not for profit organization. The organization establishes an alliance with like-minded community groups and individuals to implement mediation programs in the community. The organization also offers several mediation training and mediation skill-development workshops in conflict management to the public each year (SCMS, 2016).

A purposive sampling technique was deployed by the study to have access to all the categories of justice practitioners that were interviewed. Purposive sampling as the name indicates targets participants with specific characteristics. Based on the research questions and objectives, the study purposefully targeted restorative justice practitioners and not any other group of persons involved in the mediation programs offered by SCMS. In a purposeful sampling, a researcher selects a sample size based on a strategy. This is also consistent with what Ogunbameru (2010) argued that purposive sampling technique involves focusing on unique characteristics of a population or participants that are of interest, and which will enable a researcher to answer the research questions in the study.

This strategy was used to obtain a specific group of people based on characteristics they possess. It aims to access information-rich participants to shed light on issues of central importance to a researcher (Silverman, 2011; Yin, 2011). Thus, the inclusion criteria for the study includes; working presently as a restorative justice practitioner, affiliation or partnership with the adult diversion program of SCMS, knowledge, and experience as a coordinator of restorative justice programs for adult participants, and a minimum of 5 years' work experience as a restorative justice practitioner. This gave room for the in-depth examination of the experience of participants, and the exploration of the restorative approach to justice through it. The management of Saskatoon Community Mediation Services (SCMS) was very much of tremendous help in ensuring adequate access to their workers and facilitated my access to an official of the justice ministry who is very well familiar with the activities of SCMS, and restorative justice programs in the province.

However, recent developments including a reduction in budgetary provision have necessitated a reduction not just in the workforce of the organization, but in the number of

restorative justice practitioners in various organizations across the province. Due to this, I only had four (4) interview participants for the study. I complemented this interview data with participant observation of the post-charge referral process at the Provincial Court of Saskatchewan (in Saskatoon). I also observed the mediation activities at SCMS (where I saw the mediation and completion of two different referrals), and reviewed the alternative measure and extrajudicial sanctions program reports compiled by the Saskatchewan Ministry of Justice using the Alternative Measures Program Customer Relationship Database (AMP CRM). From the combination of all my data source, various themes emerged that guided my analysis of findings, conclusion, and recommendations for the study.

It is also important to note that, the sample size for the data may not be overwhelming, but the discussions from the interviews were rich, reliable, and very detailed. As a qualitative study, the aim of the study was also not to generalize findings. While quantitative studies on the one hand usually involve large samples of participants to be able to generalize findings to the entire population, this qualitative study sought to learn about the experiences of the target sample, and explore their knowledge about the subject matter. In the study, the objective was to learn about the experiences of frontline restorative justice practitioners.

Though the number of participants in the study may not be enough to make certain generalizations, Creswell (1998: 63) states, “what motivates the researcher to consider a large number of cases is the idea of generalizability”. Although generalizability fits well with quantitative research, qualitative research does not aspire to generalize. Osborne (1990) further notes that “natural science methodology looks for statistical generalizability while phenomenological research strives for empathic generalizability” (p. 86). This empathic generalizability is the aim of the study. Charlton and Hansen (2016) also concur to this and state

that when it comes to, “qualitatively based narrative research, it is the human-lived experience that takes center stage. Within such rubric, validity is contextual. As such, a different researcher undertaking this research would never duplicate entirely the interpretations” (p. 404). The data collected were therefore not taken as empirical evidence to generalize about the position of all restorative justice practitioners in the province, but rather as Thomas (1993) puts it, they are viewpoints or perspectives from those who share similar experiences.

4.4 Instruments and Data Gathering Procedure

The primary research instrument used for data gathering was a semi-structured interview guide for the interview participants. The interview guide was open-ended and gave room for in-depth discussions. The semi-structured interview provides a researcher the opportunity to obtain an in-depth description of a participant’s experience of a phenomenon (Silverman, 2011). Different open-ended questions were posed to participants from the standardized interview guide on the key themes, and issues identified from the literature. With the in-depth interviews, I paid attention to ensuring that participants were not pressured into supplying any information they do not feel comfortable sharing. Their rights as a participant were disclosed through the consent form they signed prior to the commencement of the interview, and they had the option of indicating the level of confidentiality they want.

The interviews facilitated an opportunity to explore the experiences of these practitioners and allowed me to access their thoughts and understanding of the subject matter. The interview proceeded first with an icebreaker question about what participants perceive restorative justice to be, from their knowledge and years of experience, and this was subsequently built on to raise and discuss other critical issues in the interview guide. This approach to interviewing participants

which Kvale & Brinkmann (2009) referred to as the ‘funnel approach’ allows a researcher to start the interview with simple and straightforward questions, before proceeding to more complex issues of discussion. The strong point of this approach is that it allows the researcher to build on responses, ask further questions, seek clarifications in responses, and probe participants further on issues raised, which may not necessarily be indicated in the questions earlier prepared.

A considerable number of visits, physical presence, and participant observation were also made at both the Provincial Court of Saskatchewan (in Saskatoon), and the mediation activities of the adult diversion program at SCMS. The fieldwork took place over a period of 4 months (September 2016 to January 2017) during which I made regular visits to the study location, and interacted with various officials. The reason for this participant observation was to gain insights into the interactions and nuances that come to play when the referrals are made, and when the caseworkers broker a mediation between the participants. As Marshall & Rossman (1995) argued, participant observation provides the researcher an opportunity to check for nonverbal expression of feelings, determine interactions, and understand the intricacies coming to play when individuals or groups of people communicate with each other. It is also a veritable way for the researcher to observe events that informants may be unable to share with the researcher verbally (Ibid). My participant observation at the adult diversion program of SCMS gave me the opportunity to witness two different referrals and how they were resolved. Although I had no interactions with the participants of the referral programs, I took note of the procedures, and this gave me more clarification on some of the things the interview participants have said and helped my findings and conclusion.

The last part of my data was a review of data provided from the provincial database and the use of alternative measures and extrajudicial sanctions report published in 2016. Relevant

information was extracted from the report to either answer or corroborate the responses from the interview participants. These secondary data were very useful in arguing the effectiveness of a restorative approach to justice in Saskatchewan. The report on the use of alternative measures and extrajudicial sanctions is an annual report published about the activities of various restorative justice programs in the province, and it contains information from the Alternative Measures Program Customer Relationship Database (AMP CRM), a database where “information about all alternative measures (AM) and extrajudicial sanctions (EJS) referrals in Saskatchewan is stored” (Government of Saskatchewan, 2016:1).

Additionally, the interviews and participant observation provided me an opportunity to establish the linkage between the theoretical framework, and the methodology for the study. The three-main concept of habitus, capital, and field was very evident all through the methodological exercise. The habitus (internalized values) I noticed to be the victims and offenders’ understanding or acceptance of crime to be wrong doing against the larger community, and that which requires an amicable resolution that would facilitate reintegration back to the society. The restorative capital reflects itself as mostly the economic capacity of the offender to honor the outcome of the restorative justice exercise in cases where monetary restitution is involved. It could also be the symbolic capital (prestige and recognition) which participants of the programs leverage on to negotiate a favorable outcome, and ensure a speedy resolution of the case. While the mediation approach represents the field, that is, the institutional environment where all parties involved bring in their habitus and capital to form the social practice of restorative justice. From this understanding I derived a restorative justice equation, which is similar to the one formulated by Bourdieu in his theory of practice:

$$***(Internalized Values x Restorative Capital) + Mediation = Restorative Justice***$$

4.5 Data Analysis

The data analysis process consisted of three stages; a transcription of the interviews that were earlier audio recorded; analysis of data collected; and presentation of research findings. After all the interviews were transcribed, and before the second stage of analysis began, copies of the transcription were emailed to the practitioners for review. This provided them an opportunity to clarify their position further, and make corrections where necessary. The purpose of doing this was to ensure that the position of the practitioners on the issues discussed were not misrepresented. The analysis of all responses gotten from the participants was then done thematically by categorizing responses into common themes using the interpretive phenomenology approach. This categorization was done using Nvivo open coding, and then thematic coding, to make sense of the experiences documented from all the practitioners.

Specific quotes referenced by the practitioners during the interview also guided me in creating themes on their perspective on the issues discussed. The literature review process and the gaps previously identified, as well as the constant reading of field notes from the participant observation, were also of help in creating common themes for the data analysis and presentation of findings. All collected information – interview transcripts, field notes from observation, and secondary data from the Alternative Measures Program Customer Relationship Database (AMP CRM) were included in the analysis and discussion.

4.6 Ethical Consideration

The research adhered strictly to established research ethics guidelines by the University of Saskatchewan. The proposal for the study was first reviewed by thesis committee in the Department of Sociology, University of Saskatchewan, and valuable suggestions and

contributions were made. The proposal was then submitted to the University of Saskatchewan Behavioural Research Ethics Board for review and approval. This was informed by chapter nine of the Tri-Council Policy Statement (TCPS) 2010 on ethical conduct for research involving humans. The TCPS statement provides guideline specific to research with humans.

Additionally, before the data was collected, the practitioners were adequately briefed on the purpose, benefit and anticipated harm the research may have. The voluntarily informed consent of all those who participated in the study was secured, and they were given the opportunity also to indicate the level of confidentiality they want in either the study, the conference presentations, or the publications that may result from the study. Interview participants were also recruited in collaboration with Saskatoon Community Mediation Services (SCMS), and individuals in the adult diversion program of the organization were duly informed of my participant observation in the mediation activities. In instances where mediation participants objected to my presence, their objections were duly respected, and I vacated the premises of the organization immediately. All information and views gotten from the interaction with the interview participants were also relayed back to them to ensure their points of view and the perspective expressed were not misrepresented.

CHAPTER FIVE

RESEARCH FINDINGS AND DISCUSSION

5.1 Introduction

In this chapter, I presented the key findings from my data gathering process, as well as my thoughts through various discussions on the themes that emerged. The four themes that emerged are procedures/processes of the restorative justice program; the impact of the restorative justice program; factors influencing compliance, and lastly, challenges in the delivery of the restorative justice program. These themes illustrate very key components of restorative justice which are unique to the Adult Diversion Program of SCMS. In the discussion, I put the findings in proper context as it relates to the research questions and objectives of the study, and used the information brought to light to formulate my discourse on the subject matter. For confidentiality, pseudonyms were also used as names of participants for the study.

The other sections of the chapter will be discussed under the following sub-headings:

- Presentation of Data and Findings
- The Adult Alternative Measures Process and Procedure
- Current state of Impact for the Restorative Justice Program
- Factors Influencing Compliance to the Restorative Justice Program
- Challenges in the Delivery of the Restorative Justice Program
- Significant Insights in Participants' Responses

5.2 Presentation of Data and Findings

In developing the themes for the study, I read and reviewed the transcript of the interviews, as well as my field notes during the several participant observation and interview

exercise. I discussed my observation of the processes and procedures of referrals, and the mediation activities of the Adult Diversion Program of SCMS. Based on the information from the practitioners, there is a consensus showing the positive impact of restorative justice from their perspective. The Adult Diversion Program of SCMS and other similar programs in the province show an outstanding adequacy in achieving the stipulated purpose(s) that were outlined in the policy guidelines for the programs. I also further noted the areas where further improvements may be necessary to improve on this effectiveness. I discussed the factors the practitioners identified as contributing to a successful restorative justice program or compliance with the outcome, and further discussed the challenges and how they can be addressed. I majorly presented the responses of participants in each of the four themes, then built my thoughts on that, by offering a common interpretation of what they said through my follow up discussions.

5.3 The Adult Alternative Measures Process and Procedure

A significant percentage of what the Saskatoon Community Mediation Services (SCMS) does through its restorative justice program involves adult offenders, with cases mostly drawn through post-charge referrals. The organization attends to these adult alternative measures referrals using its Adult Diversion program. This is mainly done through the mediation approach, facilitated and coordinated by a caseworker. In some instances, the Saskatoon Community Mediation Services (SCMS) jointly handles referrals in partnership with Métis Family & Community Justice Services Saskatchewan Inc (MFCJS), depending on the nature of the offence and category of individuals involved.

In this section, I explained the processes involved in facilitating and coordinating both the referrals and mediation of the Adult Diversion Program. The restorative justice process

usually starts with the caseworkers going to the provincial court on specific days of the week for referrals. After an accused person has been arrested and a charge laid in the court, the Crown prosecutors are saddled with the responsibility of deciding and advising the court about which case, or which offender is eligible for an adult alternative measures program. A favorable decision for a case to be referred to an alternative measures program marks the beginning of the duty for the caseworkers who are already present in court. There are policy guidelines for both the referrals, and all other activities involved, and these are further detailed in the sub-sections below.

5.3.1 Policy Guidelines for Referrals

The eligibility criteria (statutory and policy conditions), as well as the discretionary guide for Crown prosecutors, are detailed in Section 3-1 of the Alternative Measures and Extrajudicial Sanctions (AM/EJS) Policy. This is in addition to the exclusionary criteria set by the government (Government of Saskatchewan, 2013).

“The statutory conditions states that:

- (1) Either during or following contact with the police, the offender must accept responsibility for the act or omission that forms the basis of the offence that the person is alleged to have committed;
- (2) The prosecution of the offence is not in any way barred by law; and
- (3) There must, in the opinion of the Crown, be sufficient evidence to proceed with the prosecution of the offence” (Government of Saskatchewan, 2013:9-10).

“While the Policy Conditions states that, in general, the offender:

- (1) Must not have been diverted more than twice in the last two years;

(2) Must not have failed diversion in the previous six months; and

(3) Must not have a substantial criminal record for similar offences or similar recent convictions”
(Government of Saskatchewan, 2013:9-10).

The types of offences usually handled through the restorative justice program include theft, minor assault, property damage, possession of stolen properties, vandalism, shoplifting, and drug use/abuse. These offences are mostly categorized as theft under \$5,000, mischief under \$5,000, assault, and possession of narcotics in the annual use of alternative measures, and extrajudicial sanctions report (Government of Saskatchewan, 2016).

“The offences that may not be diverted to the AM/EJS programs in Saskatchewan include:

(1) Offences involving the use of or threatened use of a weapon where the Crown proceeds by Indictment;

(2) Any offence involving the use of or threatened use of bladed weapons, firearms, or any restricted or prohibited weapons;

(3) Offences involving violence against any person where the Crown proceeds by Indictment;

(4) Offences involving sexual violence against children or the sexual exploitation of children (including sexual assault, sexual interference, luring, child pornography, and procurement);

(5) Offences involving spousal/partner violence;

(6) Offences involving a sexual assault where the Crown proceeds by Indictment;

(7) Perjury;

(8) Criminal Code driving offences in which drugs or alcohol are a contributing factor or in which the offender was driving while disqualified;

(9) Federal offences other than Criminal Code offences; as the availability of alternative measures regarding these offences is determined by the federal Department of Justice” (Government of Saskatchewan, 2013:10-11).

5.3.2 Crown Discretion in Referrals

I, however, got to know that, these provisions in the AM/EJS policy notwithstanding, the final decision to recommend the referral of a case to alternative measures lies in the discretion of the Crown prosecutors. I got to know that there are other factors that may come into consideration in referring a case to alternative measures and that the statutory and policy conditions serve as a guide when the referral decision is made. After reviewing the eligibility and exclusion criteria for both the offence and the offender, each case file is assessed on an individual basis before a final decision about referral is made.

In exercising Crown discretion on the referral of a charge laid, the AM/EJS policy listed some of the factors considered as, “the triviality of the alleged offence (as any offence involving serious violence or threat of violence cannot be referred); significant mitigation (usually for young offenders) or aggravating circumstances (involving breach of trust, and or grievous offences such as sexual violence); age and intelligence of the accused person and victim; the physical or mental well-being of the accused person; and the victim’s attitude and interest in exploring alternative approach to justice” (Government of Saskatchewan, 2013:11).

Other factors that are put into likely consideration are “the circumstances or needs of the accused person (such as whether they would be able to deal with things in the alternative measures way); the likely effects of the prosecution on public order, morale, or public confidence in the administration of justice; availability and appropriateness of alternative measures to

conventional prosecution; prevalence of the alleged offence in the community, and whether the consequence or outcome of the prosecution will be disproportionately harsh for the offence committed”, to mention a few (Government of Saskatchewan, 2013:11). Additionally, while the referrals must have the approval of the Crown prosecutor, suggestions on referrals may as well come from other sources including the police, workers of alternative measures programs, the defense counsel, community justice workers, and other justice stakeholders (Ibid).

5.3.3 The Duties of the Caseworker

After an offence has been favorably considered for alternative measures, the Crown prosecutor advises the court on that, and an adjournment is requested to allow the caseworker meet with the accused person. At first, the caseworker meets with the offender in court to establish contact with them, brief them about the organization and the Adult Diversion Program. After this, a follow-up meeting is scheduled, which marks the beginning of the mediation exercise. The meeting is to formally review the offence they were charged for, further establish their eligibility, and commence the process of resolving it.

What I observed as the procedure of referral and mediation was corroborated by the practitioners. When I asked them ‘Can you tell me about the next line of action that follows the referral of an offence from the Crown prosecutor?’ One of the practitioners responded that:

“Sometimes what would happen is that, I will start with the initial meeting with the accused, that’s always our first step, to determine if they are eligible. And eligibility is the one requirement, that is kind of mandated, you know that they are responsible for what they have been charged with, erm, they have to acknowledge it, you know, you and I might be able to look through the disclosure package and say, wow, yeah, they are responsible, but then they (the offender) says, no, I’m pleading not guilty, then you have to... because you can’t do a mediation without the accused accepting responsibility for the crime” -- Rob

In a similar vein, another responded:

“So my duties as a caseworker would be (we have a procedures manual somewhere), but basically it’s to coordinate the cases in court, you know, so if we have somebody that has court date, we try and get a hold of them, and then interview all the partner parties, (those are the accused and the victims?) yes, but sometimes there are other people involved, like in the sense of, there could be care givers, there could be... typically, we are not involved with witnesses, the assumption is if the accused has taken responsibility, then, you know, there won’t be a need for the witness to be involved, kind of thing. So, we don’t really do investigations, like, although sometimes we kind of do that” -- Sarah

In answering the question, another practitioner talked about the routine of going to court, and how cases could either come as pre-charge or post-charge referrals. He explained:

“So once the files comes here, it has been referred from the court (post-charged), or best case scenario, they’ve sent it in in advance (pre-charge), so we would go to the court house, we pop in in the morning and get the docket for the afternoon, that’s a list of everybody that’s in court, and then we would go through that docket list, determine if, you know, sometimes we will match a name of everybody that would be in court, and then I will prepare a list, and I will take that to court in the afternoon. Hopefully, I would have spoken to them so I can say, this is done, and then I would provide a letter to the crown prosecutor that it has been completed in the mediation, or I have spoken to the person and we have agreed upon return date.” -- Joe

It is worthy to note that, an offender voluntarily taking responsibility for the offence committed is one of the hallmarks of restorative justice. As stated in the 2011 Saskatchewan Alternative Measures and Extrajudicial Sanctions (AM/EJS) policies manual, a key objective of the programs is to “offer accused persons a chance to take responsibility for their behavior and address the harm they have committed” (Government of Saskatchewan, 2013:2). Taking responsibility for the offence has been reechoed by many scholars as an essential foundation for a successful restorative justice program to be built on. According to Tomporowski et al. (2011), restorative justice means an opportunity to take responsibility for the harm caused, and have a pathway to be reintegrated back into the community. Nuefeld (2013) also argued that in

attending to cases categorized as a lesser crime, offenders in a restorative justice program are first obliged to take responsibility for the offence committed.

While speaking further on the duties of the caseworker, one practitioner revealed that after a referral has been made, they are also responsible for keeping track of this in the provincial Alternative Measures Program Customer Relationship Database (AMP CRM). They input necessary information about the referred case, and this forms a data source for the province to generate its annual report on restorative justice programs.

*“The very next line is, there is a provincial database, so then we input that case into the provincial database, and how it works is, each organization in the province has their access, so I could see, like if I open up the database, I could see all the names of the people, but I won’t be able to access a file, say from North Battleford. So, we input it into this system, and then it is assigned to a case worker (that’s me), then I would send a letter out to the parties involved” --
Joe*

After these has been done, a decision is made about what process is to be deployed in resolving the crime or conflict. A review of the case file would help determine whether the case is to be treated as victim-offender mediation or diversion, and the level or form of victim involvement. Although restorative justice seeks an amicable resolution of a crime or conflict, through the involvement of both the offender and the victim, there are instances where victim participation is only encouraged, but may not be necessary, or be a prerequisite for program consideration. In some instances, victim participation may either be voluntary, through consent or take other forms such as having a representative or surrogate victim, depending on the situation at hand. One of the practitioners presented the distinction between mediation and diversion by saying:

“We get two kinds, so once we get the file, we determine if it is what we refer to as Mediation or, Diversion. Mediation is when there is a previously identifiable victim that wants to participate, and typically those would be mischief charges like willful damage, assault charges, other charges, theft charges, and then... except for shoplifting. We sort of have a separate kind of

category for shoplifting, in the sense that, if it's from a major big box store like Walmart, or Superstore, we typically don't facilitate mediation. Like who do we talk to, the store manager, loss prevention manager, maybe we can convince the CEO to come from Toronto down to kind of meet with the shoplifter, you know, they are not interested in it anymore, you know, so we would divert those" – Rob

I got to understand what the difference between mediation and diversion means, and this was specifically explained regarding who the victim of the alleged offence is. In situations where the victim is not an individual, or when the crime committed is against the public, the process usually deployed is a diversion, and when there is an identifiable victim, the victim-offender mediation process is usually deployed. The diversion would mean that restorative justice is done even without a victim physically present for the exercise. This would entail deciding the appropriate sanctions or remedy to the situation, responsibility to be carried out by the accused person, or offering of support to the accused person as may be required. The decision on whether a case is classified as mediation or diversion would also determine the parties involved, and their level of involvement.

One of the practitioners further corroborated this distinction between diversion and mediation by saying:

"And then anything like say, causing a public disturbance, criminal public disturbance, possession of marijuana charges, erm, those we refer to straight diversion. There is no victim here, so (it has to do with the public), the Queen has been offended, maybe we can facilitate her coming (laughs). So, then what we do is we work out our resolution specifically with the individual, you know, using the example of the lady I was talking about, I would have you know, whatever is going on, mental health, working with her, convince her to go talk to her doctor, and see a psychiatric, you know things like that. So that's part of what we do, we get cases like that, not always" -- Rob

In instances where the exercise to be deployed is victim-offender mediation, what usually follows the offender taking responsibility is getting in touch with the victim before the commencement of the mediation program. Victim-offender mediation process stipulates the

involvement of the victim in the restorative justice exercise (CRCVC, 2011). However, the participation of the victim is still voluntary. Provisions are made for victims to decide the level of involvement they desire, or their approval to have the case resolved without their physical presence. I saw a possession of both the habitus (internalized values) and cultural capital as detailed in Bourdieu's theory of practice playing a significant role in whether a victim agrees to mediation or not.

The existence of cultural capital in its embodied form, and the habitus through the value orientation an individual has acquired from being a member of the society, determines to a large extent the disposition of such individual to a restorative approach to justice. The embodied cultural capital which is personal, emotional, and intellectual, is closely related to knowing and exhibiting some specific norms and cultural values dominant in the society (Bourdieu, 1986). An individual who is more favorably disposed to the punitive means of justice may see no reason for a restorative approach to justice and would most likely be more interested in having the accused person punished for the offence. It would, therefore, be more challenging for the caseworker to convince such an individual even after an offence has been referred to alternative measures. The response by one of the practitioners further illustrates this:

“So sometimes, I will start the process thinking we are going to do, mediation, I’ve met with the accused, they have taken responsibility, then I will have a conversation, typically over the phone with the victim to begin with. Sometimes, they’ve been advised that it is going to alternative measures, but often, when I call them, that’s the first they’ve heard it and the first that they’ve ever heard of alternative measures (laughs). So that conversation can go two ways, they can say, oh no, absolutely not, I do not want this person in mediation, I want him to be in front of a judge. You know those are the ones that sort of see the legal system as very black and white. You do something bad; the police arrest you, the judge puts you in jail” -- Rob

This response was very revealing as it provided a great insight into the work and duty expectations of frontline restorative justice practitioners. When a challenge like this is

encountered, the professionalism of the caseworker then comes to play. How a caseworker approaches a victim (just like the offender) goes a long way in determining the successful recruitment of these parties for the mediation exercise. The choice of words, the patience in taking the time to explain what the mediation program is about, and effectively communicating the anticipated benefits for both the victim and the offender goes a long way in convincing participants to be a part of the program.

However, in general, I perceive there is still room for improvement in the approach used in seeking the involvement of victims in a mediation exercise. Some victims are unaware their cases have been referred to alternative measures until they receive the phone call, or a letter from a case worker, and do not usually understand what that means at first contact. The possibility of either the Police or Crown prosecutors advising and first intimating victims of the possibility of their cases being referred to alternative measures should be further explored from the time an offence is committed. More training should also be provided for caseworkers on victim engagement, and renewed emphasis on the first contact with the victim not just focusing on the offender or the mediation process, but also the incentives of participation for the victim as well.

Similar to previous responses, one of the practitioners reiterated the voluntariness that comes with victim participation. There are provisions for surrogate victims, victim consent through letters or by phone, participation without physical appearance, or in some instances, someone familiar with the situation at hand could be picked to represent the victim. The practitioner stated:

“So, as a caseworker, we need to meet with all the parties... interviews, because you don’t always meet the person, sometimes victims will phone and say, you know what, I just want my restitution, you know, I want my window fixed, I want my car repaired, I want my fence fixed, you know, I want money for the stuff that was stolen, you know, and that’s it. So then, we will just

work out a resolution with the accused, which would include restitution. It might not just be restitution; it might be some other things that we will require them to do. You know, see counseling, addictions counseling, anything like that, and then make restitution. And then the victim isn't directly involved; they just want to be compensated for whatever loss they've incurred." – Sarah

Whether through the court or alternative measures, some victims are also just interested in having the situation resolved with or without their active participation. They either want the damage to their property fixed, they want to be adequately compensated, or they want the justice system to make provisions for the help and support an offender may require. In some cases, the victims themselves are even interested in offering support for the offender. Furthermore, at every point after a case has been referred to alternative measures, caseworkers are saddled with the responsibility of going back to inform the court about the progress of the case or otherwise. The outcome of this may result in whether a case gets pulled back to the court, adjourned for more time to enable the completion of the mediation or diversion process, or get completely withdrawn by the Crown prosecutor after it has been successfully resolved. As explained by one of the practitioners:

"Hopefully, I would have spoken to them (the victims and the offender), so I can say, this is done, and then I would provide a letter to the Crown prosecutor that it has been completed in the mediation, or I have spoken to the person, and we have agreed upon return date. So, the returned date, that's going to be the next court date. So, then we go to court, they appear, and we agree that it should be set over to like a month down the road, to give us time to get things completed. And we do that, typically, we are probably the most forgiven, set up in the province. Like other jurisdictions, Regina, Prince Albert, North Battleford, if they don't get it done in one shot, you know, unless there is a good reason for them not to have gotten it done, like they are making restitution or something, they will get pulled. Whereas in Saskatoon, there is just like, give him more time, and it's unique in the province in that way." – Joe

The letter the caseworker provides to the Crown prosecutor after a case has been successfully resolved is the closure letter. This letter states what the parties involved have done to complete the restorative justice program. Furthermore, in pulling a case back to the court,

other factors that may influence this decision are; the offender not honoring either the justice process, the expectations, or the outcome of the mediation or diversion exercise. In some instances, because the offenders involved may be people challenging to deal with, getting a hold of them, getting them to honor the agreement they have entered with the victim, or getting them to follow up with other recommendations (even regarding personal care) may sometimes prove difficult. When this happens, the caseworkers go back to court to inform the court about this development, and after enough grace period has been given, without any significant change in the situation, the case gets pulled to be prosecuted in the court. If after this, it is still impossible to get a hold of the offender, a bench warrant is issued by the court for their arrest.

The caseworkers, however, try as much as possible to get a hold of offenders, no matter how difficult it may be to relate to them, or how long it may take. One of the practitioners stated:

“We sometimes have people in mediation for like a year before we finally get to complete it. And this is completely a judgment on my part, I will keep people in mediation if I think they are strugglers. You know for you and me, if I was charged for an offence, my number one priority is to get to court and get it done, but other people, you can’t estimate how far they’ve screwed up their life. Right, even if you can’t even make it, you know if you don’t they are going to come and arrest you, put you in jail. So in court, then we would adjourn it, we would give them contact information, sometimes update our own contact information, just because sometimes people we are dealing with are so transient, in the 3 or 4 months they are in mediation they would have 3 or 4 phone numbers, 3 or 4 addresses, right, and so part of that is just my standard procedure to say which phone number, is this your address, and they are like... oh yeah, it has changed, you know, then you see other files and its new address.” -- Rob

The above response illustrates that, before a final decision to have a case pulled back to the court is made, the caseworkers do enough due diligence to ensure that a case is resolved through alternative measures. However, pulling a case may become inevitable if all, or either of the parties involved is not pulling their weight, that is, doing what is expected of them in the restorative justice process. Restorative justice gives all parties involved (the victim, the offender,

and the community in some cases) an opportunity to have a say in the justice process, as efforts are made to arrive at an amicable or favorable solution for all. The absence of this cooperation by all those involved may contribute a significant hindrance to the success of the process or the outcome.

5.3.4 The Adult Diversion Program

As earlier indicated at the beginning of this chapter, the Saskatoon Community Mediation Services (SCMS) handles adult alternative measures referrals through its Adult Diversion Program. It is through this program that referred cases are resolved using either the mediation or diversion exercise, depending on the categories of parties involved. During my data gathering, I was privileged to observe two different cases, falling under both diversion and mediation, and how they were both resolved.

Case One – Diversion

The first case involved an accused person arrested for being in possession of stolen property with a value not exceeding \$5,000. The accused person had purchased a device through an online advertisement platform, an item which was subsequently traded in for an upgrade at a store. In both transactions, the accused person paid for the purchase, firstly to the individual who sold it online, and secondly for the upgrade at the store. It was not until the store attempted to input the item into its database that it was discovered this was a stolen item. At this point, the accused person had successfully facilitated her transaction, and left the store premises. The matter was reported to the police, and an investigation commenced, and an arrest warrant was issued for the accused person.

Few months after this incident, a Police officer pulled the accused person over for a traffic offence, ran her record, and found out there was an outstanding warrant issued for her arrest. She was arrested, and charges were subsequently laid in court. The case was referred to alternative measures by the Crown prosecutor, and a decision was made by the caseworker to resolve it through diversion. This is because the victim, in this case, was a store, and they were willing to have the case amicably resolved without their physical representation.

Throughout the period the diversion lasted, I observed the accused person who also has no previous criminal record, was interested in complying with both the processes and outcome of the adult diversion program. In doing this, I argued the accused person leveraged significantly on two different forms of capital identified by Bourdieu in his theory of practice. Firstly, she leveraged on her embodied cultural capital which made her recognize the offence in line with how restorative justice sees a crime or conflict. To restorative justice, a crime or conflict is not just a violation of the law, but something that has caused serious distress to both the victim, as well the community where the crime or conflict took place – hence the need to repair the harm and seek an amicable resolution.

In coming to an amicable resolution, I further argued that the accused person also leveraged on her symbolic capital which Bourdieu interpreted as the honor, prestige, and recognitions an individual has acquired in the society (Bourdieu, 1986). As a person with no previous criminal record whatsoever, having the opportunity to amicably resolve the offence presented the accused person an avenue to maintain this no criminal record status and recognition. She leveraged on this all through the diversion exercise, and both parties were finally able to negotiate and agree on a favorable amount to be refunded to the store. After series of meeting with the caseworker, and communication with the court, the restitution was paid by

the accused person, a closure letter was issued, and the charges were withdrawn, marking the end of the diversion exercise.

Case two – Mediation

The second case was a dispute between a mother and a son that had involved the Police. The mother had called the police to intervene in the dispute, and the son was arrested for disturbance and minor assault. A charge was subsequently laid in court, and the Crown prosecutor referred it to alternative measures. The offender has over 12 years of having issues dealing with alcohol, which the mother said she had tried unsuccessfully to accommodate or deal with his mostly erratic behaviors under the influence of alcohol. The offender also has no criminal record, and the mother revealed that although he is an ‘ugly drunk,’ he is always a charming individual when not under the influence of alcohol.

The mediation exercise after being referred from the court started first with separate meetings with both the offender and the mother who is the victim. Each of the parties narrated their side of events, both previous situations, and the one that led to the case at hand. I observed that the behavior exhibited by the accused person were true of a different nature when he was sober compared to an account of what had transpired the night of the incident. He took responsibility for all that transpired and explained how he had found solace in using alcohol as his getaway from every other problem.

All the accused person said were mostly corroborated by the victim, even though the meetings with the two parties were held separately. The victim described the accused person as ‘having a relationship with his alcohol addiction.’ Drinking to the victim has become a sort of coping mechanism for the accused person, and he is fast going beyond the point of self-

regulation. The victim also revealed that the accused person has an issue with depression and has been indulging in self-medication. Although there have been times within the last 12 years that he has gone weeks or months without drinking, he has recently come back to it, and every time he drinks is a 'potential for disaster.'

After these separate meetings, a joint mediation session was facilitated between the two parties. This gave both the victim and the offender an opportunity to state how the actions have hurt them to each other, a step which is very necessary for the healing process to commence. What followed this was the resolution by the caseworker, as well as recommendations on what might be done to improve the situation. Although the victim stated her own efforts in trying to help the offender overcome excessive drinking, through regulating the number amount of drink he is permitted to have under her roof to 15 beer cans, the caseworker recommended that beyond regulating the amount of alcohol consumption, the cause of the drinking behavior needs to be addressed. Depression had been brought up as one of the influence of the excessive drinking, as such a mental health help is necessitated.

Additionally, even though the offender had revealed that his behavior towards the victim has never been deliberate, dealing with such behavior has been very exhaustive for the victim to deal with, and causing her emotional trauma as well. I recall the victim saying at the mediation that the son is her biggest stress, she is very frustrated with his behavior, and she is now getting worried about even his health. She stated, "he was once choking in his dream after passing out, the sound made by the cat called my attention to him, I am afraid this may kill him young." The victim was also very ready to offer support to the accused person in whatever way possible but insisted he must first come to the realization that alcohol or his alcoholic way is a problem. The

failure to realize this means she is ready to follow up with prosecution if things continue to happen this way between them.

What made the situation more conflicting for both parties were that they both live in the same house, the offender never goes out to drink, the victim is always the closest person to him, and the first person to experience his behavior. After series of engagement with both parties, the caseworker regularly reports back to the court for updates and adjournment, after which final resolutions were jointly worked towards between all those concerned. The final resolution bordered ultimately around a referral to an addiction service for the offender, apologies tendered by the parties to each other, and a recommendation of a counseling program for the victim, to help her deal with the trauma the offender's behavior might have caused her.

The case worker also assisted in making the mental health and addiction services intake appointment for the offender, as well as the counseling program for the victim. A periodic follow up with the progress of this, and occasional discussion meetings were also ongoing up to the time I completed my data gathering. Although the charges laid have not been officially withdrawn at the time I completed data gathering, a resolution has been arrived on, and the progress of this was monitored. The processes and procedures involved in this case were also very consistent with the provisions of restorative justice. Both parties concerned were given an opportunity to express their feelings, they both had an input into what justice should look like, and the severed relationship between them was harmoniously restored.

5.3.5 Summary of Theme and Final Thoughts

The processes and procedures involved in a restorative justice program may at times be long and cumbersome, but adequately following the laid down principles culminates in greater

success for the program. It is also worthy to note that these processes may differ from place to place, just like there is no one approach to executing restorative justice. The processes are also mostly designed based on the needs of the society, and the kind of programs being implemented. Although there may be areas of similarities in policy guidelines, the goal of each restorative justice program is to achieve an amicable resolution of conflict or crime, that involves the participation of those affected and promotes healing for all categories of individual.

From both my participant observation and interview sessions, I noticed the role played by both the Crown prosecutors and caseworkers in ensuring that those who are eligible for alternative measures are not denied the opportunity, while also ensuring the successful involvement of concerned parties in both the referrals and mediation or diversion exercise. However, I observed the area needing improvement to be victim engagement and participation. Alternative methods should be designed to make this less cumbersome, and improved further to facilitate a more favorable implementation of the various program for the benefits of all those concerned. By offering more training for caseworkers, and reviewing the approach for contacting victims, caseworkers would also be better prepared, to engage parties involved in the crime or conflict actively, and discharge other duties or expectations of their position more efficiently and effectively.

5.4 Current State of Impact for the Restorative Justice Program

In knowing the perspective of the frontline justice practitioners about the impact the restorative justice program has made over the years, I began by first asking them what they think restorative justice is. The aim of this is first to have them define what restorative justice is from their knowledge and experience. To this question, one of the practitioners replied:

“It’s about fixing what’s broken, and that doesn’t necessarily mean property or anything like that. Sometimes it’s about restoring the relationship, and restoring, hopefully sort of looking at restoring dignity to people, and restoring trust and faith, in the sense that, when someone have something happen to them, and they now fear for their safety, what we can accomplish with restorative justice approach is for them to help them put it into proper perspective, so they can feel safe again” – Rob

This response points majorly to the healing purpose of restorative justice for the victim, as well as repairing and restoring a harmonious relationship between the victim and the offender.

In responding to the same question, another practitioner stated:

“It’s basically a process in which a victim and offender can deal with their issues. It’s an opportunity for a victim and an offender to come together, and repair any damage that has been done as a result of a criminal charge. And it provides the victim with an opportunity to participate in helping develop a strategy in order to have the offender give back to the community, and or them (the victim personally). To repair the harm, and work together to find a solution that is good for both (the victim and the offender). And sometimes, just by knowing why, some people (victims) just want to know why, and restorative justice allows the victim to ask that question, you know, why me?” -- Joe

In addition to the healing purpose of restorative justice, and repairing the relationship between concerned parties that was earlier mentioned, the above explanation of what restorative justice means throws more light into the role of the victim in shaping the outcome of the restorative approach. Restorative justice gives all parties involved the opportunity to decide what justice should look like in the end; it also promotes an active involvement of victims, that may not be available through the criminal justice system. As an approach to justice that also views crime or conflict as a wrong doing against the larger society, restorative justice also provides an avenue for the offender to give back to the community either regarding community service hours, or restitution payment.

Similarly, one of the practitioners in response to the question talked about restorative justice as an approach that facilitates the involvement of all concerned parties, including the community.

The practitioner stated:

“I think it’s an approach based on addressing the harm caused by crime or conflict, and an approach that should ideally involve the victim, the offender, and the community if possible.” --

Kim

Although there is no single definition of restorative justice, common elements are guiding an understanding of what the approach to justice is. These elements are its focus on attending not just to the crime committed, but the people involved; the reintegrative purpose of restoring the relationship among those who committed the offence and those affected; and the involvement of all those involved in deciding how issues are to be resolved. All these common elements were reflected in the definition by the participants and formed the backdrop against which one can explore the impact of restorative justice in achieving the stipulated purpose(s).

I followed up the ice-breaker question on defining restorative justice with asking ‘what role does the government play in the various restorative justice programs existing in the province?’ One of the practitioners stated the role of the government as:

“So, in Canada, including Saskatchewan, the federal government also plays a role. About half of the programs in Saskatchewan are co-funded between the federal government, namely Justice Canada who funds them on behalf of the Aboriginal Justice Strategy, and Saskatchewan Ministry of Justice (and I can send you some information on this). So, about half of the programs in Saskatchewan are co-funded by the federal-provincial government, and the other half are funded by the provincial government, Saskatchewan Ministry of Justice only.” – Kim

The practitioner further talked about government’s role in training restorative justice workers (caseworkers, and community justice workers), as well as providing a database – the Alternative Measures Program Customer Relationship Database (AMP CRM) for tracking the work restorative justice practitioners do across the province.

“We do also do training, so one of the unique things about Saskatchewan is that for all the years that we’ve been doing this work, since about 1998, we’ve had an ongoing training program. So, anyone who participates in the program that we fund has to take part in the training program. A case worker, a community justice worker, has to take part in the training program, and we also have training for community justice committees, and for the fee-for-service mediators. [coming

up] in Saskatoon [in a few days] we have some meetings with our community justice workers, and we also have some training this weekend for the fee-for-service mediators.

Something else that is unique about Saskatchewan is that we collect data through a database, ever since the program started around 1997 or 1998, so we have about 20 years of data on how these programs work which is quite unique. Because in lots of other places in the country, they either don't collect this information, or they are just getting started. So, Saskatchewan has a lot of unique features which has been supported. And I will say lastly... working with the communities and community agencies to help them develop the programs they want, and to offer it on an ongoing basis." -- Kim

The above response further described how the government supports communities in figuring out their restorative justice programs. The support comes in the form of how to get it started, how to access funding, and the training options available to workers. It also includes helping them establish, or rebuild relationships with other stakeholders such as the police, Crown prosecutors, and the court.

In response to the same question, another practitioner further corroborated what others have said, and emphasized the role of the government in providing funding, training, and a database to track the progress of work. He stated:

"They provide funding, they provide training, and they also have developed a policy guideline in order to state what should be done. They do this right. The Ministry of Justice of does. They also developed a database in order to enter all the information as well. So that's called CRM, we input the data that they request, then they have statistics on what has been done. So, we don't necessarily have to worry about that anymore, we used to, but now we don't. But we always have to provide an annual report to them." -- Joe

The above statement and that of other practitioners point to the ease the support of the government has brought to the work of restorative justice practitioners over the years. The ease in tracking the progress of work done through the AMP CRM database, as well as the immense support they attract through the funding options, and the policy guidelines for the work they do. They also revealed that the support from the government is on an ongoing basis, with periodic

meetings happening between restorative justice practitioners and representative of the government, to gather and discuss emerging challenges, and fashion a way out.

In discussing the impacts of restorative justice, the practitioners used the common sub-themes I have identified as: meeting the needs of victims and offenders; holding accused persons responsible and accountable for their actions; providing help and support to participants; community involvement and contribution to community safety; and cost effectiveness compared to the criminal justice system. These themes are unique in that it offers a fresh perspective to the discussion of the impact of restorative justice away from what previous literature have done. It also incorporates key components such as victim and offender satisfaction with the process and outcome, recidivism, and cost effectiveness from previous literature.

5.4.1 Meeting the Needs of Victims and Offenders

While answering the question on ‘how well restorative justice is adequately meeting the needs of both the victims and the offenders’, two of the practitioners tied the ability to meet victims, and offenders need to firstly, their voluntary agreement to be a part of the program. One of them stated:

“Again the key is victim participation, there is a range of participation that victims can do, it is purely voluntary on their part. Like there is no requirement for them, and its important that that is sort of explained to them that you don’t have to participate in this, as your right as a victim. But at the same time, you want to be able to explain to them what the benefits to them would be if they give you an opportunity. Because sometimes, people are emotionally raw, they are not interested, you know, they’ve just spent two months since this thing happened, and they haven’t heard anybody, and the person they are hearing from is you guys, and you are just going to give this guy a slap on the wrist. And we are like, no, you get to have a say on how these things are resolved, and that’s what we want to discuss with you. And you know, so once you convince them that okay... and they say okay, I’m supportive of the process... here are your options for your participation, you can, erm... after a process of meeting with you, meeting with them, sharing and everything, it is going to be successfully resolved, I will tell people right up-front, I will not put you guys in a room together, if I don’t think we can come to an agreeable resolution that both parties agree on, I just won’t do it.” -- Rob

Successfully convincing the victims and offenders to be a part of the programs, and unpacking the benefits in participation form the first stage of meeting their needs to this practitioner. Through this process, participants are therefore able to express themselves and determine the outcome of the restorative justice process to their satisfaction. Giving the participants an opportunity to express themselves, state their grievances, and have inputs in what the outcome is would promote healing and reparation. This also ultimately provides a leverage through which their needs are met.

In response to the question, another practitioner similarly stated that:

“Meeting the needs of victims and offenders must first be done how they want it. Restorative justice is all about allowing the participants have a say, and we are doing well in that regards. For instance, a victim may feel the way to meet their needs is to have the caseworker negotiate on their behalf. They might say, you know what, I don’t have any need or desire to meet with this person (the offender) in person, but I would like something. So, I want to have my restitution, I would like to see this person get counseling for addictions, and essentially then what I do is that I would negotiate on their behalf with the accused. Because again, as much as it carries a stick for the accused, it’s also voluntary, they don’t have to participate in mediation, they can say, you know what, I just want to go through the regular court process. And hardly enough, while most accused people will eventually say, okay, I will meet with them, I have had accused people say no. I can’t do it; I will rather stand in front of the judge, I will rather plead guilty than actually meet that person (the victim). Right, so you are going to work with them in terms of their own shame, even fear, you know. But it’s telling right, that somebody would say, I’d rather face the judge than this person that I have harmed. So, in summary, I would say to every extent where the participants voluntarily participate or act on our recommendations, we are doing well meeting their needs.” -- Sarah

The point here is that, in meeting the needs of the victims and the offenders, the parties themselves have a role to play either through participation or decision-making. If both parties are not able to reach a consensus on what should be done for an amicable resolution to be arrived at, deciding if their needs have been met would remain a discussion at large. However, based on the number of cases, and the experience of the caseworkers over the years, there has been an impressive track record of helping both parties meet their needs. As soon as the parties agree to

have their cases resolved through restorative justice, there is usually significant cooperation between them, and only a few cases end up without an agreement.

This was reflected in another response by one of the practitioners. It was stated that:

“For victims and accused, or victims and offenders, I would say generally they (restorative justice programs) do meet the needs of these people very well. So, the research about restorative justice overall in Canada and elsewhere shows that victims and offenders are generally much more satisfied with the restorative justice processes than they are with the traditional criminal justice matters. There is a foundational study that was done by some Justice Canada researchers namely Latimer and his colleagues which found that victims and offenders who participate in a restorative justice program around the world were generally much more satisfied with restorative justice than with probation or other [court-based] restitution programs and things like that. And then the communities have said these programs are really valued and appreciated and that they do very good work. So, yes, I think there is a lot of evidence around the world that they are much better at promoting a sense of satisfaction.” -- Kim

The sense of satisfaction derived from the outcome of the restorative justice process is a key indicator of meeting the needs of the parties involved in a restorative justice process. Other indicators that the practitioners talked about are the sense of justice to all participants, the high success in reaching an agreement, and the number of cases (about 4,000) handled annually in the province. They also mentioned the healing process that takes place for both the offender and the victim and the high rate of compliance with the final agreement. Out of the 5,040 cases that were closed in the province in 2015-16, 3,876 cases which represented 76.9% of the total case closed reached an agreement, while 1,164 representing 23.1% did not reach an agreement (Government of Saskatchewan, 2016:10).

Another practitioner while responding to the question stated that:

“Generally speaking, I think it has been successful, there is a positive return or feeling between... you know not everybody is going to be happy, but for the most part, most people are. But you know, we are looking to find ways to shorten the process up, so that everybody can be accountable sooner than later, and therefore it should be more meaningful between everybody, you know. And then the healing can start earlier for the victim, as opposed to taking so long time to get things done.” -- Joe

While this response corroborates what others have said, the practitioner also alluded to meeting the needs of parties involved as ensuring that people become accountable and that the time lag for this to be achieved is fast enough to allow the healing process take place.

5.4.2 Holding Offenders Responsible/Accountable

One other theme used by the practitioners in discussing the impact of restorative justice is its ability to hold offenders responsible and accountable for their actions. One important criterion for offenders to be eligible for participation in a restorative program is, accepting responsibility for their behavior and becoming accountable in addressing the harm they have caused. In buttressing this point, one of the practitioners stated:

“I think it does a very good job of holding offenders accountable. Sometimes offenders would agree to participate in restorative justice because they think it is the easy way out, but again, our experience and the interviews that have been done in other research found out that’s not the case. They find it much harder to have to be face to face with the family or community members who may be understandably angry, and upset than to just have a quick 5 minutes sentencing hearing from the judge who they don’t know. And the offenders actually have to put in a lot of work and time to prepare for this process to participate, and then to try and fulfill the agreement. So, it’s a long period of responsibility.” -- Kim

The practitioner further clarified the popular misconception between accepting responsibility and pleading guilty (in court), as both do not mean the same. It was further stated:

“But I just want to clear off a misconception, they don’t necessarily have to formally plead guilty in order to participate, it depends on the part of the country and how the program works, and what the policies are that guide the program in that place. Here in Saskatchewan, they have to accept responsibility, they have to say yes, they have something to do with it, but that’s not the same as formally pleading guilty in court. So again, usually if an offender participates in this process and fulfils the agreement, often the charges might be stayed, so there would be a record in the police database, the police information system that they did participate in this process, but no, they won’t have a criminal record directly as a result. As long as they actually participate and show up, normally, charges would be stayed.” -- Kim

Restorative justice in getting people to voluntarily accept responsibility for their behavior satisfies a unique condition that is not available in other systems of justice. In the court system,

accused persons could plead guilty or not to the offence they are charged with, but whatever position they take is not a determining factor for their involvement in the prosecution or not. Whether pleading guilty or not in the criminal justice system, prosecution takes place, whereas in restorative justice, accepting responsibility is the first step in being eligible to participate in the program. Without genuinely accepting responsibility for the crime committed, and showing readiness to remedy the situation, offenders are not eligible to participate in a restorative justice program.

One of the practitioners stated further that:

“You know we use words like take responsibility, when I’m talking to people the first time, I use the word “be responsible.” You have to be responsible, and it is an important distinction because basically, that means you are responsible, or you know that you are responsible, as opposed to I’m going to acknowledge responsibility. And you know, they say, okay, and then given the opportunity to think, and asked you know what that means? That basically means you have to say that you did this, then if you can acknowledge that, then we will work out a resolution outside the regular court process. And once that is complete, then on the following court day, the charge would be withdrawn.” -- Rob

Placing the participation of offenders in part on their voluntary, and genuinely taking responsibility for their behavior has afforded restorative justice the opportunity to hold them accountable for their actions. The process of achieving this also makes it possible for restorative justice practitioners to review the situation of what transpired with the offenders, and offer them the best advice. As one of the practitioners stated:

“Well, by reviewing what happened with them, and explaining that in order for them to be part of the program, they have to genuinely admit what they have done, and take responsibility for their actions. They have to say yes, I’m responsible for what I did. So once that process has been done, then, they can move to the next step and say, okay, you are accepting responsibility, so, you can come to the program.

So, the next step is, okay now we have to contact the victim to see if we can have the victim participate. And if the victim doesn’t want to participate, then whatever needs to be done as a result of that is discretionary, and there is a process where we ask the victim if they want to be part of the mediation, if they want to not be part of the mediation but still ask some questions, or

have some inputs into what they would like to have the accused do, as far as community service work hours, or donations to a charity, or whatever, then they still have some say. Or an apology letter, or an essay, or whatever it is. So, there are a number of ways to compensate the victim without money, but it is the person (offender) being accountable for what happens.” -- Joe

The various approaches adopted by the caseworkers in ensuring that offenders take responsibility for their actions has made this a genuine, and voluntary acceptance of responsibility, not a coerced one. Following taking responsibility for their actions, other aspects such as accountability, readiness to achieve an amicable resolution, and compliance to the outcome of the program are ensured, and all these ultimately makes holding offenders accountable for their actions possible.

5.4.3 Providing Help and Support to Participants

Beyond giving offenders the opportunity to take responsibility for what they did, and both victims and offenders an opportunity to express themselves, the practitioners also talked about the help and support being provided for both victims and offenders. This is one of the impact of restorative justice that has received little to no attention in previous literature. One of the practitioners while extolling the virtues of restorative justice in this area stated that:

“Yeah, there would be a variety of things that could be employed. Counseling and I have specifically put people on a job search. You are going to come back to me with you know, ten (10) places every week, that you have applied for a job. As far as I am concerned, gainful employment is a massive crime prevention strategy. You know, because... and then some of the strategies such as, when you are dealing with someone with a mental health illness, is now reconnecting them with some of the services that are available. And I say reconnecting because quite often, they’ve been in before. Mental illness is a tough call, we all say, well, we should do more for people with mental illness and stuff. The reality is that there is a lot of people that are struggling with mental illness, without knowing they have a mental illness.” -- Rob

In this response, the practitioner placed emphasis on the various attempts being made to help offenders look for a job as a crime prevention strategy, support victims in seeking trauma counseling, and allowing offenders to seek mental health treatment. He alluded to the fact that

many of these people don't even know they struggle with mental health illness until the caseworkers identify the possibility of such while interacting with them, and then they are referred to appropriate help as part of the justice process.

Partly corroborating what was said about employment as a crime prevention strategy, another practitioner pointed to the need to do more with offering employment support to offenders. While responding to the question, it was stated:

“In addition to what is being done to promote healing, I am not aware of the employment side of things, again especially in bigger communities that have services, some of the restorative justice programs have links to refer people to addiction services, or other kinds of services, cultural services they might need and so on. I agree that in the long term addressing things like employment is really critical, but to my knowledge, I don't think many restorative justice services do much of that.” -- Kim

This additionally shows that some restorative justice programs also have links to refer people to addiction services, and in helping, participants seek mental health support or seek jobs as the case may require. Some are also offered help to overcome their addiction problems. I saw this come to play in the mediation case I observed, and which I narrated in the earlier part of my findings. The offender in the case was referred to an addiction program to enable him to overcome his alcohol addiction. In another dimension, one of the practitioners responded with how offering help and support to offenders can help prevent the rate of reoffending for some people. This point opens the discussion on the impact of restorative justice in reducing recidivism, as previously documented in previous literature. The practitioner stated:

“So, in terms of recidivism and a person like that, the key is to get them to see services. That doesn't necessarily stop everything, but it certainly has an impact on ongoing... or future involvement with the court. Simply because they are either getting a medication that is existing... you know, because there is no magic goal with medication. You know there are many ways to deal with certain mental illnesses, and stuff, there is no perfect way... each individual's mental illness manifest itself uniquely.” -- Sarah

Knowing fully well that everyone's mental illness manifest itself in different ways, helping people seek individual specific help could, therefore, help further put them in the right state of mind to prevent involvement in criminal activities, that may have been influenced by their state of mind.

In addition to this, I further specifically asked the participants about how well the restorative justice program has fared in impacting recidivism. The responses to this are however very diverse. The practitioners expressed their perspectives in terms of how restorative justice is reducing the rate of recidivism, how the primary purpose of restorative justice must not be limited to reducing the rate of reoffending alone, and the need to do more research on this. I found out that although there are previous works that have been done to prove the effectiveness of restorative justice in preventing re-offending, more of the practitioners indicated an interest in tracking this for their specific restorative justice program, and in the province at large. Also, although my participants generally have a positive sense of disposition in the programs helping to prevent offenders from recidivism, they suggested a need to include this as one of the things to be documented in the AMP CRM database, to have more evidence to show.

One of the practitioners stated:

"I think overall, some research that was done a few years ago in Canada indicates that people who participate in restorative justice have about a 10 percent reduction in recidivism on average. That was statistically significant, it's not a massive reduction, but it is a reduction, and it is again statistically significant.

Now more recent research shows that the reductions of reoffending may be much higher than that, and I think there is some public data from Justice Canada, which used a sample of Saskatchewan people who have gone through restorative justice, which shows that it is more like a 30 percent reduction in reoffending." -- Kim

Although there are country-wide studies showing the percentage reduction in reoffending for restorative justice participants, specifically tracking same at the provincial level, or for individual

programs is also required, and would help lend further credence to the ability of restorative justice to prevent reoffending for participants. The 2011 Aboriginal Justice Strategy (AJS) evaluation report indicated that after the first year of completing an alternative measures program, only 10.9% of participants have re-offended compared to 18.2% of the comparison group. And by the eight-year 32% of alternative measures participants have re-offended compared to 48.8% of those in the comparison group (Government of Canada, 2011:34). This is a significant statistic showing the impact of restorative justice in reducing recidivism in the country.

While responding to this question, one other practitioner alluded to the need even to redefine what recidivism is in the context of restorative justice. He specifically pointed out how we are to categorize someone who went through restorative justice for an offence, completed the program, and honored the agreement but was arrested and charged with another different offence many years later. He opined that recidivism for the first offence could not have been said to have taken place, and the factors responsible for committing this new offence may be far beyond the reach of what the person earlier went through restorative justice. He stated:

“So, this person here, she is 35 years old, I don’t have any indication of any previous criminal record, sometimes we get it, sometimes we get a previous criminal record, and sometimes we don’t. That’s sort of... that could mean she doesn’t have a previous criminal record, she is 35 years old, and she has a shoplifting charge for stealing some air fresheners while she was buying groceries. Now, or she has a previous criminal record, and they haven’t provided it to us, right, because it goes back to she is 35, maybe when she was 18 or 19, she had several charges, and they just haven’t included them. And then she has had no connection with the criminal justice system for 10 years or 15 years, and then suddenly, she is now back and charged with an offence. So, would you consider that recidivism, if after 15 years you’ve not been in trouble with the law, and getting charged... so how would you measure recidivism in that case? I have dealt with guys who have a significant previous record, and after they had done you know 5 years, and then now they’ve stayed out of trouble for six or seven years.. and then they got a public disturbance charge, right? Different crime, but they’ve put together 7 years of staying out of trouble, and quite often the court would reward somebody for that.... So, you were a major problem 15 years ago, and you’ve done really well, they will send that person to mediation. And

it could be for whatever the charge is, would you consider that recidivism. Or we dealt with somebody we've dealt with on a shoplifting charge, 20 years old, and a year later they get another charge of wilful damage. You know they got into a fight, they punched a hole in their girlfriend's wall." -- Rob

The insight from this practitioner is one that is worthy of consideration. What do we define recidivism to be after an offender has successfully gone through restorative justice in the past? Is there a time lag within which committing an offence would be deemed recidivism or not and is there a need to consider the category of crime committed among other things? All these are what further keeping a database of reoffending for participants could also help uncover. His further response to this question also reflects the need for a database for recidivism, for their program and in the province. He stated:

"I would be giving you purely speculations on my opinion. I have suggested that we try and keep that kind of statistics, but it hasn't really been done. So, we don't know, the straight honest answer on that, we don't know. I will suggest, just in my personal opinion that I would put up my recidivism rate upon the court at any time, but there is no statistical analysis to say, someone who has gone through restorative justice, or say alternative measures, what their recidivism rate is compared to someone who hasn't. You know, it might be another field of study. The problem is, we can maybe try and keep those statistics, in the sense that we could totally watch for people that are back in the system. Like people are not perfect, I've dealt with people in mediation and a year later they are back on another charge, so if I see that, you know what, we get it fixed. But somebody might leave here and get charged in Prince Albert; they might leave here and get charged in Regina, or Yorkton, or Calgary. So, you will have to look at it from at least the provincial, and then you will have to look at keeping a list of everybody who has gone through alternative measures, and then match that against." -- Rob

In his response to the impact of alternative measures on recidivism, another practitioner partly reechoed what the above person has said. He indicated the need to have more of the record to show further how what they do has been able to reduce the rate of reoffending. He stated:

"Well, that's partly what we would like to look at, I don't know what the answers are right now, I mean, it should lower recidivism, but I don't know by how much. That's something we can maybe look at to see if we can do that. That is going to be a major question. A big part of our focus should be on how we achieve that." -- Joe

In general, the responses of participants point to the fact that while there is country-wide evidence about the effectiveness of restorative justice programs in preventing recidivism, having more of such evidence being documented would further help prove and showcase this. This could also be future areas where longitudinal studies could be conducted to explore the subject matter and reveal the factors that could make a person who has successfully gone through restorative justice program reoffend.

5.4.4 Community Involvement – Contribution to Community Safety

The role of restorative justice in involving the communities, and contributing to community safety was also duly underscored by the practitioners. In response to the question “how would you say the restorative justice program is contributing to safety in the community?”, One of the practitioners stated:

“Well, the reduction in reoffending is obviously the most clear example of how restorative justice contributes to community safety. But I actually think the impact of restorative justice for the community is much broader. As I said it’s an opportunity for the community to get involved in addressing their issues. In Saskatchewan and much of Canada, most restorative justice programs are done directly by volunteers, faith groups, non-profit corporations, and Aboriginal justice groups. So, community-based groups do much or most of this work instead of government justice officials, so communities are directly involved in the services and restorative justice programs. The community also gets to see that there is actually justice been done, and the matters being handled by the people most directly involved (by the victims and offenders) and that the offender is actually taking responsibility and fulfilling the agreement in a practical way.”-- Kim

The involvement of the community in the restorative justice process has a potential impact in ensuring safety in the community. In seeing how cases are handled, the decisions meted out to offenders, and the conditions served by offenders (either in the form of community service hours, or restitution payments), members of the larger take a cue from this, and are many times encouraged to nip issues in the bud. They are also encouraged to seek peaceful resolutions even before the issues escalate into criminal behaviors.

Likewise, in responding to the same question, another practitioner explained the benefit of restorative justice through community involvement. To her, this is an opportunity to build and repair severed relationship among people, and give both parties an avenue to help each other overcome whatever issue might have led to committing the crime. She stated:

“That’s a broad question. But ultimately it is by engaging people. It has an impact on building relationship, providing two different parties insights into what has transpired. And I will use the example of say, some young guys who... say young First Nations kid who grew up in a single-parent home, maybe some foster care, always been in the system for social assistance, never really had you know much, then gets into trouble by breaking into somebody’s house, big fancy house on the east end... now from the perspective of victim-offender, the victims have been victimized, and the offender has done a bad thing... But in terms of real life, sort of emotional, moral, cultural power, the rich person on the east end is a much more powerful person, and then normal people see that. So, what happens is, I could put those two parties into a room together, and very quickly see people realize this is not a monster, this is just a poor messed up kid, and you will see them say, what can I do to help you? So, they go from I want this person to suffer the consequences of their behavior, to what can I do to help you. I have seen that happen tons of time. So, people can sort of build relationship from restorative justice, and help prevent a reoccurrence of the crime. I think, this better off makes it a safer and makes it a better community.” -- Sarah

Restorative justice makes it possible for people to move from victims to helpers, to forestall a reoccurrence, and ensure safety. It also gives community members an opportunity to know why an offence was committed, and build relationship with each other. The outcome of which as one of the practitioners said makes everybody proud of being a part of a safe community. While responding to the question, the practitioner stated that:

“Yeah, it makes everybody feel safe. It makes everybody proud to be in a community that the crime should be going down. We need to work on really ensuring this, but on really serious violent crimes, we don’t have a say on that, like robberies, that kind of stuff, those are not referred to us. I’m not saying they couldn’t be referred to us as a presentence, to kind of help these people out that have some issues, and then maybe as part of that, there may be some sort of reduction or credit given to them by participating in alternative measures or programs... that would help them in learning how to cope, and not return (to crime) as soon as they get released.” -- Joe

He further advised on the need to have more community involvement in some aspect of even more severe crimes, as a presentence, to further help those with serious issues. Deploying the use

of restorative justice for more serious crimes, or in other areas beyond pre-charge and post-charge referrals could help make the community a more safer place for all.

5.4.5 Cost Effectiveness

The restorative justice program is deemed to be more cost-effective when compared to the criminal justice system. The participants opined that it cost less to have the parties concerned go through restorative justice than through the court system. The cost-effective nature of restorative justice has been one of the hallmarks of the approach to justice. This is consistent with what previous literature have pointed out, especially when comparing restorative justice to the criminal justice system. One of the practitioners pointed out that:

“It’s certainly a cost-effective way for the court to reduce crime, to reduce budget... just overall it costs less money to have people going to the court. From being arrested, from the police all the way up. Less people getting arrested means less police or better use of the police.” -- Joe

This response illustrates that the monetary, workforce or other resources that could have been expended on the minor cases in the criminal justice system are finding good usage when such cases are referred to alternative measures. This I believe is also properly reflected in the number of referred cases that are handled through alternative measures annually in the province, among other things. One of the practitioners had earlier pointed out this by stating:

“Saskatchewan already does about 4,000 adult and youth cases a year, which is again a huge number compared to other places, but I think there is certainly room to expand across the whole justice system, so our cases are more alternative measures and extrajudicial sanctions, property crime and minor assaults, but there are other parts of the country where cases are being referred at the court, corrections and after corrections, so again with more support, we could be doing a lot more here in Saskatchewan with restorative justice in the future I hope. And certainly across the country, I think there is room to continue expanding these approaches.” -- Kim

Restorative justice programs according to the practitioners make use of just a fraction of what it cost to prosecute a case in the court, and there is a reduction in the number of justice

stakeholders involved in resolving a crime or conflict. This was reflected in the response of one of the practitioners on the same issue. It was stated that:

“Oh, absolutely! I won’t be able to give you any sort of percentages or numbers, but we take a thousand cases out of the court a year, and then deal with them through this process. Court processing you know, just in courts you have crown prosecutors, you have sheriff, you have a judge, you have a lot that goes on behind that.... You know we deal essentially with three (3) people (the case worker, the victim, and the offender) and get resolution with just a fraction of what the court cost. You know with just a fraction of the manpower involved. So, looking at that alone, you can see that it is way more cost effective.” -- Rob

With more support from the government and other stakeholders, this cost-effectiveness of restorative justice can continually be leveraged on to ensure more eligible cases are referred to alternative measures. This would save the court some time, and cost that would have hitherto been expended on minor charges that are eligible for adult alternative measures programs.

5.4.6 Summary of Theme and Final Thoughts

The practitioners reiterate the significance of the alternative measures program through the various impacts they achieve for both the victims, offenders, and for the community. They talked about the impact of meeting the needs of the participants which entailed giving them a sense of satisfaction with the processes and procedures, and a sense of justice with the outcome of the mediation or diversion exercise. They also talked about how well the alternative measures program is doing in holding accused persons accountable for their actions, through first ensuring that they are genuinely and voluntarily taking responsibility for their actions, and committing to honoring the agreements emanating from the exercise.

Providing help and support for both victims and offenders also constitute a significant level of impact. As an approach to justice dedicated to the healing of concerned parties, the programs go beyond finding amicable resolutions to crime or conflict, to ensuring that those who

need additional help and support can access that. Referrals are made to mental health programs, addiction services, counseling sessions, and even employment opportunities, as a means of rehabilitating offenders, and helping victims deal with trauma. This is done as a crime prevention strategy, and as a way of reducing what may turn out to be recidivism. Specifically, for the Adult Diversion Program of the SCMS, a longitudinal study could, however, be done to keep track of how well the program achieves a reduction in recidivism. The result of such an evaluation would help complement available country-wide reports such as the 2011 evaluation of Aboriginal Justice Strategy (AJS) which indicated that participants in AJS funded programs are “significantly less likely than comparison group members to re-offend” (Government of Canada, 2011:34). The comparison group of this evaluation were those who were referred to community justice programs but did not participate in any aspect of the program from 1998 to 2007 (p. 15).

The impact of restorative justice in involving the community, thereby contributing to community safety was also duly underscored. In giving community members an opportunity to be part of the programs, they can contribute to what justice should entail, and use that as deterrence for other members of the community. Involving the community also helps build relationship among the people, a relationship they leverage on to ensure the safety of their community. Lastly, the cost effectiveness of restorative justice programs compared to what is obtainable in the criminal justice system were discussed. This was evidently linked to the number of referrals successfully handled yearly in the province, and the need to ensure this is sustained was further reiterated.

5.5 Factors Influencing Compliance with the Restorative Justice Program

The success or level of impact of a restorative justice program would amount to nothing if the final outcomes or agreements arrived at do not receive adequate compliance by all

concerned parties. After establishing the role cultural orientation (habitus/internalized values) play in the agreement to participate in a restorative justice program, I sought to ask the participants to identify the factors that influence compliance with the final outcomes of the approach to justice. Specifically, I was interested in knowing if cultural capital through the value orientation or cultural background of participants plays any role in ensuring compliance, and if not, whether they are other factors of influence.

When asked “Is there a role that the cultural orientation of participants play in how well they comply with the restitution or agreements, or how they respond to the mediation process in general? Or are there other factors?” One of the practitioners replied:

“I don’t think there is a difference (in compliance based on cultural orientation), I think one of the big issues is there is a lot of Aboriginal peoples that just don’t have the financial means. So that gets them into the situation that they are in, but that doesn’t necessarily mean... because I would say, employability, poverty, has a bigger impact on successfully completing their own line of restitution than cultural orientation.” -- Rob

This response reemphasized the argument by LaPrairie (2002), who underscored the roles played by the differential availability of social and economic opportunities, and disadvantage in the areas of education, employment, health, and mental health as the cause of criminal behaviors. This was similarly reiterated by Hansen (2015) who argued the disproportionate levels of incarceration for Aboriginal peoples in Canada’s criminal justice system and emphasized the role played by their educational and income disparities in this development. In addition to economic disparity as a cause of crime, the response further situates the compliance to the process and outcome of restorative justice to the financial abilities of the parties involved. Especially in situations where restitution amounts are involved, the ability to honor that would play a more significant role than the cultural background of the parties.

Similarly, another practitioner also tied compliance to the economic ability of the offender. She stated:

“Well, economically, the process saves them a lot of money, they don’t have to hire a lawyer. The fact that they also have the opportunity to make payments if the outcome has to do with restitution, or donation, or community service hours has also helped. And even when restitution is involved, we don’t have to necessarily get it right off at once. So, it allows them some more time to make their payments basically. So that also helps and holds them accountable because, when they have not finished making their payments we don’t withdraw the charge. So, I would say their ability to make the payment, and how realistic what they are to do is would be more influence than their cultural background.” -- Sarah

The above response further threw more light on the need to factor in the economic ability of the parties involved before a final agreement on justice is made. The outcome must reflect what is in their powers to do, or else that could amount to setting them up to renege on the agreement.

One of the practitioners while responding to the question started by making further clarifications on the different types of outcome that may come from a restorative justice program. She explained:

“So, restitution is one possible outcome, often community service hours, where the offender works in a community agency and gives their time to help with some project or something is another common outcome, donations to charity is common, speaking in schools and other community events about their behaviors are other common outcomes. So, there’s a whole range of things besides restitution that often comes out of this. We are trying to encourage agencies that they could have a range of creative ideas about what to do, victims and offenders need to decide what works for them as a reasonable agreement, and they can be creative about that. So, it doesn’t have to only be restitution, although often that’s a good outcome.” -- Kim

She also spoke about the need to be creative with the outcome or agreement of the mediation or diversion exercise, and the role of the victims and offenders in deciding what is reasonable and works best for them. All parties involved in a restorative justice program should have input into what the outcome is. She further stated:

“So, your question though, about what roles or factors might ensure compliance, is a very good question, and something that we are just really starting to think about. One critical factor is

following up with the victim and the offender afterward. The facilitator or the caseworker or community justice worker handling the case needs to be in contact with the offender to ensure that they are making payments, or following up on their conditions over time. Usually the offender is not going to be able to pay all the restitution or do all the community service hours or whatever right away, so it might take over a period of few months, if it's a lot of restitution, it could be a few years, so even if the offender has very good intentions, and especially with young people, like over a month, they might forget. So, it's really important for the facilitator to be in touch with them regularly to make sure, they continue to follow up and providing the money, or doing the hours, or whatever they have to do.

So, follow up is very critical there, it's important that the agreement is realistic, because again, a lot of offenders may be unemployed, so, even if the victim really wants thousands and thousands of dollars in restitution, it may not be realistic to think they are ever actually going to be able to get that, so it helps that the agreement is actually something the offender could do.

I am not sure about cultural orientation, I haven't thought about that, but we might be able to look into the stats. I don't know who would know whether people from different cultural background would be more or less likely to fulfill an agreement. I think if a victim has directly participated, that makes a difference." -- Kim

She identified the factors that influence compliance as follow-up by the caseworkers or facilitators, and similarly mentioned how realistic the agreement is just like another practitioner has earlier mentioned. Other factors she identified as influencing compliance are, the direct participation of the victim in the process, which has the biggest impact on the offender honoring the agreement they make face to face with the victim, and the economic factor also mentioned by other practitioners.

5.5.1 Summary of Theme and Final Thoughts

What I found out from the responses of the practitioners is that while cultural capital and the habitus (internalized values) that the theory of practice talked about may have influenced the participation of parties in the restorative justice process, other types of capital, such as economic and symbolic capitals have a higher influence on the ability of participants to honor the agreement and outcome of the restorative justice program. Bourdieu (1986) sees economic capital as material wealth, and symbolic capital as the honor, prestige, and recognitions

individuals have achieved in the society. In particular, for offenders who have no previous criminal record, they often leverage on this prestige to comply with the procedures and outcome of restorative justice, speed up the resolution of their cases, to among other things, have their charges stayed. This was evident through the desire and compliance showed by the offenders in the two referrals I also observed. I noticed that offenders leverage on their prestige, and recognitions in the society to additionally ensure that they speedily fulfill the expectations of the agreement, to ensure a speedy conclusion of the crime or conflict, and put it behind them. Leveraging on societal recognitions and prestige thus reflects the role of symbolic capital in the exercise of social practices such as restorative justice. In the responses of the practitioners, the economic or financial ability which may be interpreted as what Bourdieu saw as the material wealth that individuals have in the society, was also identified as a prominent factor that influences the compliance with the outcome and agreements from a restorative justice process. Individuals are more likely to comply with an outcome they have the economic capacity to quickly attend to, especially in instances where the final agreement involves the payment of restitution.

5.6 Challenges in the Delivery of the Restorative Justice Program

In this theme, the practitioners identified what constitute barriers in their day to day activities as restorative justice professionals. I asked them “From your experience, what are the barriers being faced in discharging the duties and expectations of restorative justice?” To this question, one of the practitioners replied:

“Well, for the most part, financial. The number of people that are doing it, I mean the amount of people that are actually working (as caseworkers and practitioners of restorative justice) has been reduced. Instead of increasing the number of people that are doing it, there are other places that have more volunteer people doing it, but again, that takes more work, more effort, more supervision, more viability, more everything. Some of the other barriers are too much

work, not much time for learning, there just doesn't seem to be any places that... and even the places that are offering those training opportunities are becoming less and less, or and farther away. So, it's becoming more expensive to send people to training. So, less people are doing it, and if less people are doing it, prices go up. So, the training places are a barrier because they are far away, and more time consuming to take the courses, and then the actual cost of the courses are becoming more difficult. And then again the actual caseworker being able to take the time to do it. Those are some of the barriers." -- Joe

This response, for the most part, centered on the financial aspect. The recent funding challenge experienced by the organizations in the province has led to an inevitable reduction in the number of caseworkers, with some organizations now depending on volunteer workers. The practitioner also talked about the high cost of training, and the distance to such training facilities that makes enrolling workers in training more difficult. The above response was corroborated by another practitioner who stated:

"Currently, our barriers are financial. We had a huge cut this year (2016), in terms of our overall budget, and, as a result, lost a couple of caseworkers. We are in the process of finding someone, getting some other people in place. Actually, two people are taking training today. Other barriers are people's attitude towards alternative measures. The public awareness about most of the programs is low. Having been here for as long as I have, I am of two minds about whether we should really go on and advertise what it is that we do or not, or if it is better to sort of operate under the radar, I don't know. I don't know if it would be beneficial to go really explain to people that this is what we do, this is how we do it, and whether that could negatively impact us or not." -- Rob

This response also touched on the impact the financial challenge is having on the work they do, as well as attempts made to remedy the situation. The organization at the time was recruiting, and training new caseworkers, to cope with the situation. The response further mentioned the low level of awareness members of the public have about the program and is uncertain about the role publicity can play in helping to address this. The practitioners, however, expressed optimism about things improving and stated how they are doing their best to manage the financial challenges properly. One of them expressed hope that the situation they currently experience

may in turn work in their favor for the funding situation to be revisited. While responding to the question, she stated:

“All the money they (government) were giving to every program got reduced, a fairly significant cut. Like we are basically running at a shoe’s string budget right now, and we are still taking the same amount of referrals from the Crown prosecutor office. They’ve decided that’s what they are going to do to support us. You know, that can have some positive impact. Somebody in the funding board is going to go, wow, we’ve got things piling up here, we need to give them the funding back. And that may happen... or as soon as oil gets to \$50 a barrel... hopefully, they would find money too. Because it saves the court a lot of money, that’s the other benefit. We save, you know, we do this a lot cheaper than what the court would do.” -- Sarah

The practitioner talked about the barriers finance is constituting to their work, and how they still attend to the same number of referrals even with a reduced number of caseworkers. She anticipates that the longer time it may now start taking to conclude a referral, or increase in the pile up of cases because of reduced number of caseworkers may propel a need to revisit further and further increase funding as soon as the situation becomes more obvious.

However, though there has been a reduction in funding provisions for restorative justice programs in the province, one of the practitioners indicated that the financial support currently provided by the government is higher when compared to the state of funding for restorative justice programs in some other parts of the country. This was reflected in her response to the question, where she explained how the financial support from the government has helped put restorative justice in a better shape in the province and contributed to the number of referrals handled annually. She also reiterated the importance of government funding in keeping the programs in a better shape. She stated:

“Well, we are lucky in Saskatchewan that between Justice Canada and Saskatchewan Justice, there has been funding to communities for them to do this work for almost 20 years. Much of the country gives very little funding or none, so here the programs are much better shaped that way. And our experience is that it is really important because if there is some government funding for these programs, then they are able to have trained, experienced staff, and to keep their staff. In contrast the programs that are across the country, which are only run

by volunteers who are doing it [restorative justice] on the side, not their paid work, so they just put in a few hours whenever they have time, those programs are doing valuable work too, but they can't really, the staff don't get real experience, and the level of training that would enable them to take more serious cases, and of course they can't keep people. So, we are lucky in Saskatchewan that we do have ongoing funding here for these programs, that's a big part of the reason why we are able to do about 4,000 cases in a year, and have such relatively stable ongoing programs." -- Kim.

In addition to this, she identified other challenges such as the need for more training, public awareness of the programs, as well as addressing the challenge of staff turnover. She further stated:

"The turnover of both restorative justice workers and criminal justice workers is an ongoing issue, so community agencies have staff turnover, the police and Crown prosecutors who make the referrals change periodically, so we find that we always need to do re-training, and educating people about these programs. Even without turnover there is always a need for additional training, so besides the basic training that we try to provide on how the criminal justice system works, and what restorative justice process itself is, there is also this bigger training that is needed around how to engage victims, the trauma victims face and how to address it, how the workers are going to deal with the broader underlying causes of crime, like I said, identifying abuse, mental health issues, and addictions. So, they need a lot more of training in those kinds of bigger areas.

I think there is still a lot of people both in the justice system that probably aren't aware of what restorative justice is, or how effective it can be, so a lack of knowledge, about restorative justice and its effectiveness is another barrier that might need to be addressed." -- Kim

This response in addition to the financial barriers that other practitioners have identified also underscored the need for continuous training and re-training of restorative justice workers. The improved training would specifically enable practitioners to meet the demands of their job, and attend to the underlying causes of crime. In addition to this, there is a need for more training in areas concerning victims. This would include areas such as addressing the trauma victims face because of the crime or conflict, and how to engage them in the restorative justice process properly.

5.6.1 Summary of Theme and Final Thoughts

The current funding challenge was significant among the barriers mentioned by the practitioners. They also explained how this is impacting the work they do in different form. Although there is an indication that the funding support currently received by various restorative justice organizations in the province is higher when compared to some other parts of the country, there is a need to ensure that funding is situation specific, and considers the individual needs of each part of the country or particular organization. The 2016 budget cut has become very noticeable through the reduction in the number of caseworkers across various restorative justice organizations including SCMS. The impact of this in areas such as the increase in time required to complete cases and the piling up of work was also stated by the practitioners. This notwithstanding, the number of referrals received have so far remained unchanged, and the caseworkers are hoping to sustain this, as they remain optimistic that the funding issues would also receive adequate attention in due time. The practitioners also mentioned other areas such as public awareness about restorative justice programs, appropriate training or re-training for workers, and managing the rising staff turnover as part of the challenges needing prompt and proper attention.

5.7 Significant Insights in Participants' Responses

The discussions with the practitioners were very rich and insightful. Each of the interviews brought a fresh perspective and clearer understanding of the subject. Relating their experiences to all the questions asked gave me a detailed knowledge of the work they do, the impact it has on the victims, offenders, and community. It also provided insights into the challenges they face in their duties and what they perceive needs to be addressed. In this section,

I presented an overview of the significant insights garnered from the practitioners. This is based on the four themes that emerged from the presentation of findings.

The study interviewed a sample of restorative justice practitioners affiliated with the Adult Diversion Program of the Saskatoon Community Mediation Services (SCMS). I complemented this with participant observations from the referral process at the Provincial Court of Saskatchewan (in Saskatoon), and the mediation activities of the Adult Diversion Program at SCMS. I also interviewed one government official working with the Saskatchewan Ministry of Justice, as the ministry coordinates the activities of restorative justice programs in the province, in addition to providing funding support, and training for practitioners. The study was done to explore restorative justice in the province from the perspective of frontline practitioners who facilitate and coordinate the various programs. I used the Adult Diversion Program of the SCMS as my lens into this exploration.

The four broad themes that emerged are procedures/processes of the restorative justice program; the impact of the restorative justice program; factors influencing compliance to restorative justice process/outcome, and lastly the challenges in the delivery of the restorative justice program. These themes broadly explained what restorative justice is about, as well as the level of impact it has, for participants and the community. Broadly speaking, the findings support the positive impact of restorative justice that has been documented by previous literature, albeit, how the practitioners define the impact of what they do differs slightly from what previous studies have done in the past. The positive impact of restorative justice is consistent with the argument from previous literature on restorative justice through the works of scholars such as Latimer & Kleinknecht (2000), Porter (2007), Reimer (2011), Morrison & Martinez (2001), Kim & Gerber (2012), and Umbreit et al. (1995). These scholars have previously explored restorative

justice either from the perspective of participants (victims and offenders), by comparing it with the criminal justice system, or by evaluating specific restorative justice programs.

In addition to this, findings from the study uncovered the factors that influence compliance with restorative justice processes and outcomes, and situated this in the context of the theoretical framework used for the study. It also offered insights into the challenges practitioners face in restorative justice programming. Notwithstanding the changes and challenges encountered in restorative justice over the years, as well as the now more popular acceptance of its use as a complement to the criminal justice system, the impact of restorative justice continues to grow. This impact is among many other things, evident in the province through the number of referrals yearly handled by various restorative justice programs, the successful completion of mediation exercises, and the high rate of compliance with the final agreements.

5.7.1 Procedures/Processes of the Restorative Justice Program

The alternative measures process and procedures as observed through my participant observation and discussion with the practitioners revealed that the policy guidelines for restorative justice in the province is very comprehensive. It states in detail the conditions of eligibility for participants, the duties of various categories of practitioners, as well as the procedures for a referral. The provincial policy guideline used for various restorative justice programs in the province also aligns with international best practices, as for instance detailed in the UNODC (2006) handbook.

Although the decision to refer a case is at the discretion of the Crown prosecutor, I observed that there exists a positive working relationship between all the stakeholders involved

in the Adult Diversion Program of SCMS, to ensure that eligible cases are referred as appropriate. The caseworkers also do a good job intimating participants (especially the offenders who they have physical contact with at the courthouse) about the program before getting them on board. There is, however, more opportunity for improvement when it comes to victim engagement in the referral process. Many victims do not get to know that their cases have been referred to alternative measures until they are contacted mostly over the phone by the caseworkers. Ensuring that victims are adequately advised of the possibility of their cases going to alternative measures, either by their first contact with the police, or later through the Crown prosecutors could help increase their participation in cases that are classified as mediation. This notwithstanding, the caseworkers through the various approach and professionalism they deploy have been doing their possible best to convince victims on why it would be best to have their referred cases resolved in an amicable manner so that healing can be promoted for both the victims and the offenders.

I saw first-hand how caseworkers broker peace between two aggrieved parties, one through diversion, and the other through mediation approach. Previous records of cases completed by SCMS also indicated that victims who were initially angered by the crime committed would leave a restorative justice session happier than they came. In some instances, victims are even ready to offer help to offenders after having the opportunity of meeting face to face with them, seeing them accept responsibility for what they have done, shown remorse and willingness to remedy the situation, and reintegrate themselves back as important members of the society. While it is also always a big relief for both parties (victims and offenders) to state their grievances, and have an input in what justice should entail, it is also an opportunity for the

offender to take responsibility, be a part of the healing process, and work towards preventing a reoccurrence among many other benefits.

5.7.2 Impact of the Restorative Justice Program

The level of impact and success recorded in the restorative justice program also serve as an encouragement. Meeting the needs of all parties involved in a restorative justice exercise is a big component of the program. This exhibits itself through of the sense of satisfaction expressed with the process and outcome of justice, the involvement of victims and offenders in the decision-making exercise, and promoting a sense of justice for all those involved. Furthermore, by the provisions of the restorative justice procedure that requires offenders to take genuine and voluntary responsibility for their actions to be eligible for participation in the restorative justice program, the program has been able to promote a sense of responsibility and accountability among offenders.

This is a feat that is unique to restorative justice, as the restorative justice process is even not possible without first achieving this. In taking responsibility voluntarily, offenders are accepting their role in the crime or conflict, and are committing to being held accountable through the agreement that comes from the mediation. Practitioners must however continue to ensure that best practices are deployed in achieving this, to prevent both the victims and offenders from being respectively coerced or pressured into participating in the process, or forced in any way to take responsibility for their actions. As Nuefeld (2013) puts it, “the responsibility to minimize the risk of coercion falls to the justice professionals who refer the case to mediation, and the mediator once it has entered the program” (p. 32). The likelihood of some inequality of power existing between the parties (victims and offenders) who attend a mediation

exercise must also be efficiently checked whenever such is noticed. Leaving such unattended to may result in participants' dissatisfaction with the outcome of the process, and this may hamper the impact of the exercise. The duty of the caseworker must be to adequately and equally represent the interests of all parties at every restorative justice process, the possibility of any imbalance promptly identified, and appropriately managed using a responsive and responsible approach.

The participants further provided insights into the impact of restorative justice through the provision of support for the parties involved, the cost effectiveness of the approach to justice, and the benefits to the larger community. Support comes to both the victims and the offenders in the form of referral to mental health or addiction services, counseling programs, and employment support. Restorative justice also comparatively cost less and involves fewer numbers of justice workers than the criminal justice system. The recognition of this is visible in the about 4,000 cases annually referred to both alternative measures and extrajudicial sanctions programs in the province (Government of Saskatchewan, 2016).

The data from the Alternative Measures Program Customer Relationship Database (AMP CRM) further provides evidence for the impact of restorative justice in the province. In the year 2015-2016, the number of adult cases that were closed was 5,040. Out of this, 3,876 referrals, which represented 76.9% of the total case closed reached an agreement, while 1,164 representing 23.1% did not reach an agreement (Government of Saskatchewan, 2016:10). Agreements from the adult alternative measures programs were also categorized in the form of apology to victims, community services, donations to charity, restitution to victims, essay/presentations, and educational programs. Several reasons were also noted as responsible for cases that did not reach an agreement. Some of these reasons are the inability to contact the offenders; offenders' refusal

to participate; offenders' denial of responsibility; offenders not completing agreement; victims' refusal to participate; inability to reach agreement; inappropriate referral; Crown veto or staying of charge; and lastly the death of either of the parties involved in the case. Additionally, the agreements yielded \$198,850 restitution payment to victims in 2015-2016, \$94,820 in donations to charity, and 8,975 community service hours ordered in the same period (Government of Saskatchewan, 2016:15)

The 2016 Aboriginal Justice Strategy (AJS) evaluation corroborated the 2011 edition and indicated that those accessing AJS funded programs have a lower recidivism rate than those who do not. Eight programs were included in the recidivism analysis conducted for this evaluation, and the result showed that about 40% of community justice participants are "less likely to reoffend than those eligible but not participating" (Government of Canada, 2017:40). The evaluation further showed that in the first year after the completion of the program, 11.9% of those who participated in community justice programs reoffended, compared to 20.7% in the comparison group. And by the eight-year after the completion of the program, it was 29.6% and 47.3% respectively (Government of Canada 2017:48).

In addition to this, further evaluation of the reoffending rates for participants of restorative justice programs in the province, and specifically for individual restorative justice programs in Saskatchewan would also help in promoting the effectiveness of restorative justice, especially as it relates to reducing the reoffending rate of participants in the province. The involvement of the community in restorative justice must also continually be leveraged on to create public awareness, serve deterrence purpose, and build relationships that would help in keeping the community safer.

5.7.3 Factors Influencing Compliance to the Restorative Justice Program

The perspective shared by the practitioners revealed that factors such as the economic ability of the offender, the realistic nature of the agreement, the involvement of both the victims and offenders in deciding the outcome of justice, and follow-up by caseworkers or facilitators have more influence in determining compliance than the cultural orientation of the parties (victims and offenders) involved.

The study explored whether various categories of individuals feel bound because of their cultural orientation to honor the final agreement from a restorative justice exercise. Although nothing specifically suggests the existence of cultural orientation influencing compliance to the outcome of restorative justice, a more comprehensive study can be dedicated to further exploring this as well. Ultimately, responses from the restorative justice practitioners indicated that participants leverage more on what Bourdieu (1986) called economic capital – which is the material wealth individuals possess, and the symbolic capital – the honor, prestige, and recognitions they have in the society to ensure compliance with the outcome of a restorative justice process.

Especially for the offenders, cultural capital – the internalized norms and values of the society may have played a significant role in recognizing that their action is not just a violation against the victim, but also the community. It could also have made them subsequently see the need to get involved in a program that ensures an amicable resolution of the crime or conflict, and reintegration back to the community, they, however, require more than this to ensure compliance to the final agreement. Economic and symbolic capitals are among the other factors that play a prominent role in their compliance with the outcome of justice. The economic and

financial capacity to afford payments where restitutions to victims or donations to charity are ordered would to a large extent determine compliance than the cultural orientation of participants. Also, leveraging on symbolic capitals would determine compliance in situations where apology to victims, or community service hours are ordered.

5.7.4 Challenges in the Delivery of the Restorative Justice Program

The participants provided various insights into the challenges they face in the discharge of their duties. They identified the major barriers as funding, low public knowledge, and awareness about their activities, need for more training and retraining of workers, the rate of staff turnover, and having to rely on volunteer workers, among other things. Although the funding support received by restorative justice organizations in the province both from Justice Canada and Saskatchewan Justice was indicated to be better when compared to the obtainable situation in some other parts of the country, the recent reduction in budget is having a noticeable effect on the job done by the workers. This the practitioners pointed out as manifesting itself through the reduction in numbers of workers, and more time required to facilitate the mediation and diversion of referred cases. As one of the participants put it, the cases are piling up, and the practitioners are expressing hope that this may work in their favor to have more funding consideration when the backlog of cases become more noticeable. There is continued need for funding as reflected by the demand from the practitioners, so that expedite actions can be carried out on the backlog of referred cases that is now increasing.

In addition to this, there is a need to make funding consideration more specific based on individual programs, or funding needs. Restorative justice organizations can also intensify efforts with looking inwards to raise funds to complement what the government offers. This can be done

through means such as offering restorative justice training for companies, schools, or institutions that may find restorative justice knowledge valuable in addressing conflicts within their organizations before they escalate into serious issues.

There is also need to make more training and re-training available for already existing workers, and new workers, as well as continue to educate other stakeholders such as the police, and Crown prosecutors who are also constantly changing as well. There is need to continually ensure that the practitioners are adequately prepared to cope with the duties and expectations of their job. This should include training in other broad and emerging areas such as victim engagement, addressing victim's trauma, identifying the underlying causes of crime, ensuring appropriate referrals of participants to the services or support they may require, and creating more public awareness about the activities and the impact of restorative justice.

CHAPTER SIX

CONCLUSION

6.1 Introduction

This last chapter did an overview of the study, the recommendations from the study, and potential areas of research in the future. The study explored the perspective of restorative justice practitioners affiliated to Saskatoon Community Mediation Services (SCMS) over the work they do in implementing and coordinating the alternative measures program in the province of Saskatchewan, Canada. As an exploratory study, the study was aimed at further understanding restorative justice in the province of Saskatchewan, Canada through the perspective of frontline practitioners who facilitate or coordinate the restorative justice process. The study explored the procedures and processes adopted in the adult alternative measures program in Saskatchewan and the impact it has recorded over the years. It further identified the factors that contribute to participant's compliance with the processes and outcomes of the restorative justice program, as well as some of the challenges practitioners encounter in their line of duty.

To have an in-depth understanding, and actualize the research objectives, the study adopted Pierre Bourdieu's theory of practice framework. The concept of the habitus, capital, and field as a determinant of social behaviors in the society were relationally used in explaining the social practice of restorative justice. In conducting the participant observation, and interview sessions with the practitioners, questions were asked based on the gaps identified in the literature already reviewed, and the responses were noted to arrive at the four themes that emerged in the study.

6.2 Overview of the Study

Broadly speaking, the findings from the views of restorative justice practitioners, point to the positive impact of the restorative justice program in achieving the stipulated purpose(s). The processes and procedures of restorative justice that was observed, as well as the restorative justice policy guidelines in the province clearly states the expectations of the program for adult participants. It also states the eligibility criteria for would-be participants in the available restorative justice programs (adult alternative measures, and youth extrajudicial sanctions) in the province. Findings about the impact of the Adult Diversion Program explored also corroborate previous studies done by scholars like Latimer & Kleinknecht (2000), Porter (2007), Reimer (2011), Morrison & Martinez (2001), Kim & Gerber (2012), and Umbreit et al. (1995), who explored restorative justice either from the perspective of participants (victims and offenders), by comparing it with the criminal justice system, or by evaluating specific restorative justice programs in different places. In addition to the themes used by these previous scholars in stating the impact of restorative, this study indicated other areas of impact such as meeting the medical and employment needs of offenders, supporting victims through counseling, and comprehensive attempts being made to hold offenders accountable for their actions.

Furthermore, the cost-effective nature of restorative justice compared to the criminal justice system, the impact on recidivism of offenders, and its role of community involvement and keeping the community safer were properly outlined by the practitioners. The study also identified the factors that majorly influence compliance with the processes or outcome of restorative justice. This aligns with the theoretical framework adopted for the study. The factors can be categorized as what Bourdieu in the theory of practice identified as cultural, economic and symbolic capitals in his forms of capital. While individuals (victims and offenders) may

leverage on their habitus and cultural capital to take part in a restorative justice program, other forms of capital such as economic, and symbolic capitals have more influence on compliance to the outcome or final agreement than the cultural orientation or background of participants. And finally, the study identified some of the challenges the justice practitioners are currently experiencing in their line of duty. Prominent among these challenges were the concern about adequate funding provision that was raised by the practitioners. The manifestation of the funding challenge is evident through staff turnover, referred cases that are now piling up, and the longer time now required to complete referrals with the shortage of caseworkers.

Other challenges that were raised was the need for adequate and affordable training to prepare caseworkers, and other categories of justice workers on new, or emerging issues. These emerging issues were identified as appropriate referrals, victim engagement, appropriate approaches to be deployed in contacting victims and recruiting them for the programs, dealing with victim trauma, dealing with difficult offenders, identifying the underlying causes of crime, appropriate identification of health challenges of participants, and the subsequent referral of restorative justice participants to the required support services. There is also need to train practitioners on how to create public awareness and improve on community engagement about the work they do.

6.3 Limitations and Recommendations for Future Research

In adopting a qualitative approach with a small number of study participants, the aim of the study was not to make any significant generalization from the perspectives expressed by the practitioners. The number of respondents for the interview was partly this small because of the purposive nature of the study, the time constraint, available resources, and the recruitment

criteria which limited my exploration to restorative justice practitioners affiliated with the Saskatoon Community Mediation Services (SCMS) in Saskatoon, Canada. As of the time the data gathering exercise started, the number of caseworkers in the services of the organization has reduced, and two new individuals were currently being trained to assume the position.

Further research could, therefore, by adopting a more holistic research methodology, involve the perspective of practitioners from other organizations, and other restorative justice programs such as the youth extrajudicial sanctions program, the Aboriginal Court Worker program, and other restorative or community justice programs available in the province. In addition to this, as reflected in the desire of the practitioners I interviewed, a longitudinal case study analysis of offenders who have participated in the Adult Diversion Program of the SCMS could be done, and same replicated for other restorative justice organizations or programs existing in the province. Similarly, a study on what constitute recidivism, and the factors that may be responsible for this could prove insightful and fascinating.

Another area of research could focus on comparing how participants relate to the process and outcome of restorative justice based on their cultural background or orientation. This would help explain the cultural diversity of participants in restorative justice and unveil the differences in how diverse groups of people access restorative justice programs, as well as their experiences in the approach to justice. Further cross-cultural comparisons of restorative justice programs could also be made across countries to explain the similarities or differences that may exist.

The study contributed to the understanding of restorative justice, and I am thankful to all those who offered tremendous support in making this possible.

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APPENDIX: INTERVIEW GUIDE

Study Title: An Exploration of Restorative Justice Using the Adult Diversion Program of Saskatoon Community Mediation Services (SCMS)

Preface: I will like to duly state that this interview exercise is purely for academic purpose. Your participation in the exercise and consent has been voluntarily secured, and your identity as a participant will not be revealed (except otherwise indicated). You are also very well assured of the right to discontinue from the interview at any point in time. Thank you.

Ice Breaker:

From your knowledge and experience working as a caseworker in a restorative justice program, what would you say restorative justice is?

Interview Questions

In your view:

1. What role does the government (through the Saskatchewan Ministry of Justice) play in the various restorative justice programs existing in the province, and how is this structured?
 - a. Could you please explain the roles of the government further, especially as it concerns practitioner working as caseworkers, and other justice officials?
 - b. Are there existing frameworks put in place by the government to evaluate the activities of various restorative justice programs in the province?
2. What are your thoughts on how well restorative justice is adequately fulfilling its purpose for both the victims and the offenders?
 - a. What are your perceptions about how both the victims and the offenders feel about the laid down procedures and processes that restorative justice follow?
 - b. How effective would you say both the procedures and outcomes of restorative justice is, in attending to referred cases?
3. How well would you say restorative justice is doing when it comes to holding offenders accountable for their actions?
4. What are your thoughts on how well the restorative justice program is doing to rehabilitate offenders?
5. What do you perceive needs to be done to promote healing for both the victims and the

offenders?

- a. After a successful agreement has been arrived at, how does the restorative justice program ensure it is complied with?
6. To what extent does the restorative justice program decrease the chances of re-offending for participants?
7. What could likely cause an accused person who has undergone a restorative justice or mediation process to re-offend?
 - a. From your experience, what factors are likely to be responsible for this, and what attempts have been made in the past to address them?
8. What roles does the cultural orientation of participants play in ensuring compliance with the restorative justice process, or compliance with the agreement?
9. How would you say the restorative justice program is contributing to safety in the community?
10. From your experience, what barriers do practitioners face in discharging the duties and expectations of restorative justice?
 - a. What can be done to address these barriers, and to improve on the effectiveness of restorative justice?
11. Is there anything you would like to add?