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Table of Contents

ACKNOWLEDGEMENTS	4
ABSTRACT	5
CHAPTER I: Introduction	6
CHAPTER II: What is Restorative Justice?	10
‘Changing Lenses’	12
‘Crime’ as a ‘Violation of People and Relationships’	13
Justice as ‘Making Things Right’	15
Stakeholders in Justice	15
Restorative Processes	18
Restorative Outcomes	20
Values & Principles: Precursors to Restorative Action	21
CHAPTER III: The Emergence of Restorative Justice	24
<i>More of the Same: The Tale of Prison ‘Reform’</i>	24
‘The Proven Failure of Imprisonment’	27
Incapacitation: Inaccurate, Immoral and Gaining Credence	28
Deterrence: Let’s Sacrifice A Few Sheep So That the <i>Others</i> Will Follow	30
Punishment and Justice: A Story of Cats with Feathers and Furry Birds	32
The Rehabilitative Ideology: Discourse Used to Mask ‘Reality’	32
<i>Measuring Failure: Treatment Programs and Recidivism Rates</i>	35
<i>Prisons: Dangerous, Overcrowded and Counterproductive</i>	36
‘Nothing Works’: <i>What to do?</i>	37
<i>More of the Same in Places New: The Destructuring Movement</i>	38
Dissatisfaction and the Rise of Diversion and Informal Justice Models	41
Meeting the Needs of Victims	42
Meeting the Needs of ‘Offenders’	45
Meeting the Needs of the Community	47
CHAPTER IV: Revisiting Restorative Justice in Canada	49
‘Criminal Justice’ Experiments	49
A Legal Framework for ‘Alternatives’ in Canada	52
A ‘Restorative’ Snapshot	56
National Overview	57
Programming Levels	60

Other Pertinent Developments	64
Moving Forward: A Research Agenda for Proponents of RJ in Canada	66
CHAPTER V:	
Towards a Research Object	67
Research Object Revisited	67
Research Object - Episode I	68
Research Object - Episode II	71
Research Object - Final Episode	72
Smaller Questions to Answer a Larger Question	72
Social and Theoretical Importance	73
CHAPTER VI:	
Methodological Approach	74
Qualitative Methodology	75
Critiques and Rebuttals	76
Empirical Framework	77
Research Materials	78
Locating and Accessing Materials	79
Ethical Considerations	79
Data Collection	80
Sampling	81
Method of Analysis	81
Qualitative Content Analysis	82
Preparing the Field	82
CHAPTER VII:	
Operationalization of Restorative Justice by CSC	85
A 'Restoratively-Oriented' History	87
Restorative Justice and Dispute Resolution Branch	88
Framework for Restorative Justice	89
Activities	92
<i>Education and Training</i>	92
<i>Research and Development</i>	94
<i>Capacity Building</i>	98
CSC's Raison-d'être	99
Mandate	100
Mission	101
Core Value 1	102
Core Value 2	102
Core Value 3	103
Constructing a 'Restorative Prisons' Project	104

CHAPTER VIII:

The Restorative Justice (Just Us) Unit – Grande Cache Institution 105

'Living' by the Principles and Values of Restorative Justice (Just Us)	105
Taking Responsibility for 'Crime'	106
Here There Is Justice (Just Us)	108
On 'Empowerment'	111
Acquiring New Attitudes, Behaviours and Skills (Rehabilitation)	112
On the Ordering of Self	113
Punishing the 'Incorrigible' as Conflict Resolution	115
'Making Things Right' with Grande Cache	118
On Voluntary Participation and Institutional Dominance	121
Structure Justice (Just Us)	128
Mission Statement	128
Guiding Principles	129
Objectives	133
Evaluation Framework	134

CHAPTER IX:

Discussion 140

Research Object Revisited: Summary of Findings	140
Contours of a Cognitive-'Restorative' Marriage	141
'Crime'	143
Justice	143
Stakeholders in 'Just Us'	144
Processes and Outcomes	145
Values and Principles	146
Deflecting <i>Conscience</i> for Reasons of <i>Convenience</i>	146
'RJ' According to CSC as Another Story of <i>Conscience</i> and <i>Convenience</i>	147
<i>Neutralization Techniques</i>	151
Restorative Justice and the 'Unfinished'	152
RJ as an 'Unfinished' Project	153
Restorative Justice: A <i>Master Movement</i> or <i>False Alarm</i> ?	154
Towards RJ Becoming Another <i>False Alarm</i>	155

CHAPTER X:

Stories of Reactionary Justice 158

BIBLIOGRAPHY 163

APPENDICES 170

Appendix A: 'Ideal Type' Restorative Justice Model	170
Appendix B: Inventory of Canadian 'Restorative Justice' Programs	171
Appendix C: Content Analysis Template	194
Appendix D: CSC / RJ Unit 'Restorative Justice' Model	196

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Opa, you are missed a great deal and I only wish
I could have been able to share this with you.

ABSTRACT

In its infancy, restorative justice emerged not only as an 'alternative' to prison but also as a competing justice model that sought to reduce our reliance on the existing retributive 'criminal justice' system. It is said that restorative justice initiatives distinguish themselves from the prevailing punitive approach to 'crime' as they are guided by a different set of questions, objectives, values and principles that provide opportunities for restorative outcomes. In theory, these community-based 'alternative' programs were to divert cases away from the retributive 'criminal justice' system so that reparations between 'offenders', victims and affected community members could be made possible.

In my study, I have identified 277 initiatives that claim to be in the business of restorative justice, many of which are either funded, administrated or receive their case loads from institutions within the existing 'criminal justice' system. In these cases, we must ask ourselves whether the restorative justice initiatives operating within the parameters of the 'criminal justice' system adhere to the objectives, values and principles outlined in the philosophy of restorative justice.

To begin to address this very question, which is the central objective of this study, I examine one particular pilot project administrated by Correction Service Canada (CSC) from April 2001 to November 2005 called the Restorative Justice Unit (RJ Unit). This program, which was housed in Grande Cache Institution (GCI), was created by CSC to determine whether or not it would be feasible to transform the prison into a restorative correctional environment. In my analysis of this program, I unpack this notion and demonstrate that CSC has merely adopted the descriptors of the restorative approach to legitimate punishment and control under the guise of restorative justice and the rehabilitative rhetoric of the cognitive behavioural approach.

In a story that reads more of the same, I conclude that the RJ Unit failed to adhere to the objectives, values and principles of the restorative approach due to the clear absence of political, relational and operational changes at the structural level of the organization and of the prison in which the program participants were housed. As such, I argue that CSC has and continues to be involved (with its other 'restorative justice' initiatives) in a process of absorption, whereby only the descriptors and practices of the restorative justice model that do not threaten the interests of the organization are incorporated into its existing framework. I contend that such a process allows CSC to maintain the dominant punitive character of its prisons by employing the language of restorative justice to deflect criticism from those who argue that the 'criminal justice' process, especially imprisonment, does not address the needs of 'offenders', victims and affected members of the community and also further contributes to the pain and marginalization experienced by these parties.

Chapter I: Introduction

You are the Chief Executive Officer of a Canadian entity that over the years has made a business out of destroying the lives of others, though you claim it was never your intention. Your stated goal is to protect the citizens of Canada by incapacitating the unlawful while at the same time transforming them into law-abiding citizens using less than ‘usual’ means, a goal that is rarely achieved. In the boardroom, you sit with your associates of the ‘criminal justice’ corporation and ponder another year of failure characterized by recidivism and a fearful public demanding answers, safety and justice. Said objectives unmet, what to do? You think to yourself, maybe if we throw more money into the fire, hire more staff and offer ‘new’ services to our clients – perhaps then the enterprise could meet its mandate and be considered successful. As time ticks away, *more of the same*, but yours is not a story of meeting your stated objectives, yours is a tale of expansion and survival in the face of criticism.

With the evidence of your failures becoming omnipresent much like the air we breathe, ‘alternative’ forms of punishment and supervision schemes come to take your place, but your empire is resilient, diversifies its portfolio, as the business of ‘corrections’ transcends prison walls and now enters the community. As a result, an increasing number of individuals are deemed disposable by judges and juries of their ‘peers’, and are now finding themselves entangled in the web of this growing societal apparatus. Attempts to ‘reform’ the ‘correctional’ system from within and from the outside have had little to no impact, as you benevolently continue to profess to the masses that one day, given the resources, you will succeed. Today, we are bearing witness to the emergence of the latest ‘alternative’ to punitive imprisonment called *restorative justice*.

In its infancy, restorative justice emerged not only as an ‘alternative’ to prison but also as a competing justice model that sought to reduce our reliance on the existing retributive ‘criminal justice’ system (Jaccoud, 2003). It is said that restorative justice initiatives distinguish themselves from the prevailing punitive approach to ‘crime’ as they are guided by a different set of questions, objectives, values and principles that provide opportunities for restorative outcomes (Zehr, 1990; 2002). In theory, these community-based ‘alternative’ programs were to divert cases away from the retributive ‘criminal justice’ system so that reparation between ‘offenders’, victims and affected community members could be made possible.

As the restorative justice approach has gained credence and popularity over the years, institutions within the existing ‘criminal justice’ system are now also claiming to be in the business of ‘restorative justice’ and are creating programs in its name. Thus, in the spirit of past ‘alternatives’ we must ask ourselves if restorative justice is just another version of the same old song, becoming but another punitive instrument in the system’s repertoire of pain or if these programs manage to heal the wounds caused by ‘crime’ within the retributive parameters which have historically constrained their activities.

In order to determine whether the restorative justice initiatives operating within the ‘criminal justice’ system adhere to the objectives, values and principles outlined in the philosophy of restorative justice, which is the central object of my attention and this research study, it is important that a clear yet flexible vision of restorative justice be established for this purpose. In *Chapter II: What is Restorative Justice?*, I articulate the basic tenants of the restorative approach that are recognized by key proponents of this model such as Zehr (1990; 1998; 2002), Van Ness and Strong (2002), that form the basis

for my Weberian ‘Ideal Type’ Restorative Justice Model. This schema I have constructed will serve as a basis for comparison with other discourses put forward by institutions within the Canadian ‘criminal justice’ system.

In *Chapter III: The Emergence of Restorative Justice*, I locate the birth of restorative justice within the broader search for ‘alternative’ forms of punishment and justice processes that surfaced during the alleged *destructuring movements* that began in the late 1960s in response to the ongoing failure of imprisonment. I will also examine how the notion of taking responsibility for one’s actions – which is central to the restorative approach – became the rallying cry of western ‘democracies’ that experienced a shift from welfare to neo-liberal models of governance during this very same period.

In *Chapter IV: Revisiting Restorative Justice in Canada*, I describe the emergence of restorative justice in Canada, including the explicit endorsement of this approach by the Canadian courts and government, which has led to the creation of numerous ‘restorative justice’ programs by entities within the ‘criminal justice’ system. This section will also contain an overview of initiatives said to have been in the business of restorative justice within the Canadian context.

In *Chapter V: Towards a Research Object*, I explain the process that was undertaken to arrive at the research question and sub-questions for this study which focuses on one particular program administrated by Correctional Service Canada (CSC) from April 2001 to November 2005 called the Restorative Justice Unit (RJ Unit).

In *Chapter VI: Methodological Approach*, I describe the methodological tools that were used to collect the necessary data for my analysis, including an overview of the research materials that were assessed in this study and also my method of analysis.

In *Chapter VII: Operationalization of Restorative Justice by Correctional Service Canada*, I provide a thorough overview of how CSC describes its involvement in the business of restorative justice, which they refer to as ‘restorative corrections’. I will then discuss how the structure of the organization served as a barrier to their ‘restorative’ initiatives, essentially bringing to the table *more of the same* under the guise of one of today’s popular buzzwords in ‘criminal justice’ circles.

In *Chapter VIII: The Restorative Justice Unit (RJ Unit)*, the program objectives, evaluation criteria and activities as described by Grande Cache Institution (GCI) officials are discussed in great detail so that we can come to an understanding of what CSC sought to accomplish with this program. This set of discourses will also be weighed against my ‘Ideal Type’ Restorative Justice Model to demonstrate how this program failed to adhere to the objectives, values and principles of the restorative approach.

In *Chapter IX: Discussion*, I draw from the works of critical criminologists and penal abolitionists to inform my theorization of what has taken place within the walls of the RJ Unit and what may be at stake as a result for proponents of restorative justice, institutions within the ‘criminal justice’ system and society as a whole. I argue that the fact that such a program can be created demonstrates that the language of the restorative philosophy can easily be incorporated and transformed by institutions within the ‘criminal justice’ system in order to meet their ‘usual’ objectives of punishment, control and risk management.

In *Chapter X: Stories of Reactionary Justice*, I propose how we should move forward as a society which continues to look for a beacon to guide our approach to a ‘disease’ we have constructed (‘crime’) for which we have yet to find a cure.

Chapter II: What is Restorative Justice?

In recent years, there have been an increasing number of groups both situated within the community and the ‘criminal justice’ system that have claimed to be in the business of restorative justice. From the schoolyard to the ‘correctional’ facility, it seems that the recent application of the restorative justice label knows no boundaries. It is with this in mind that we must ask ourselves the following question: what is restorative justice?

Why must we answer this question? As the restorative justice label is now being used to describe what is taking place in various social and institutional contexts, it is important to revisit the salient characteristics that proponents of this approach claim set restorative practices apart from those who simply adopt the label as a means to achieve other ends. Such exercises are of the utmost importance as Zehr (1990) reminds us that if we do not engage in these types of evaluation activities “we may unwearyingly lose our way” (:236).

How can we answer this question? Over the years, there has been great debate amongst practitioners, academics, policy makers and the international community over the development of standards for restorative justice. There are those who argue that by imposing such standards we may in fact stifle the flexible nature of the restorative approach and choke the life out of the movement itself which is still in the developmental phase (see Brookes, 2000). Others will simply concede that we will never completely agree on a single definition of restorative justice, therefore to provide a criterion from

which we can evaluate the restorativeness of initiatives is not feasible¹. But there are also many proponents who argue that standards are needed in order to separate model restorative practices from those that betray its fundamental values and principles (see Zehr & Mika, 1998; Braithwaite, 2002). As Allison Morris (2002) points out, “The essence of restorative justice is not the adoption of one form rather than another; it is the adoption of any form which reflects restorative values and which aims to achieve restorative processes, outcomes and objectives” (:600). It is in this spirit that we must agree that although we may never arrive at a universal definition of restorative justice that satisfies all, we can nonetheless agree on a set of fundamental values and principles that serve as the framework from which we can evaluate ‘restorative’ practices.

In this chapter, I construct a Weberian ‘Ideal Type’ Restorative Justice Model (see Appendix A). This schema includes the fundamentals of this philosophy that have been articulated time and time again in the literature. It is loosely constructed, thus allowing “a lot of space for cultural difference and innovation while giving us a language for denouncing uncontroversially bad practice” (Braithwaite, 2002:565). My framework draws from the literature put forward by many different theorists, but is largely informed by the works of Howard Zehr, who is recognized by most who work in this area to be the “grandfather of restorative justice” (see Bazemore, 1998; Jaccoud, 2002; Van Ness & Strong, 2002). This model is then used as my *unit of analysis*, from which I evaluate whether or not programs carrying the restorative label adhere to the fundamentals I have identified.

¹ Note: In 2003, Statistics Canada proposed a study that would attempt to identify restorative justice programs operating within Canada, but the study was abandoned due to a lack of consensus between project stakeholders on the criteria that would be used to identify restorative initiatives.
– Personal Communication with David Daubney of Justice Canada (November 2005).

‘Changing Lenses’²

In order to construct an ‘alternative’ approach to ‘criminal justice’, Zehr (1990) argues that we must first change the lens through which we view ‘crime’ and justice as our approach is determined by a paradigm, “a lens through which we understand phenomena” (:86). He explains that in the natural and social sciences, paradigms “determine how we solve problems” and “they shape what we ‘know’ to be possible and impossible” (ibid). The author argues that the retributive approach to justice is but one way of understanding and responding to ‘crime’ and that change is possible, even desirable.

Zehr extrapolates this idea from the work of Thomas Kuhn (1970), who in his book *The Structure of Scientific Revolutions* discusses the conditions in which new paradigms emerge in society. For change to occur Zehr explains, the deficiencies within the approach must emerge and be identified. In addition, any attempts to fix the paradigm (‘epicycles’) must also fail. This will create a sense of dysfunction surrounding the approach that can no longer be ignored, thus causing the model to breakdown and to be replaced by a new paradigm. Zehr argues that “the history of our justice paradigm shows some of the symptoms of paradigm change...the paradigm has long been recognized as having certain inadequacies and dysfunctions...A series of ‘epicycles’ has been used to patch it together, but the sense of dysfunction is becoming too great to allow these remedies.” (1990: 92). Essentially, Zehr is stating that we in society recognize that the ‘criminal justice’ system is a failure in a number of ways and are ready to replace it with another vision.

² Note: Heading borrowed from Zehr (1990).

Although *Changing Lenses* seems to put forward the idea that by changing the framework through which we view ‘crime’ we can construct ‘alternative’ ways of dealing with it, his analysis falls short in one key area. Let us imagine that you are staring at a clock at the top of a tall building. If you are near-sighted like me, you can put glasses on so that you are able to tell the time. While staring up into the heavens the sun may begin to bother you and in response you will likely put on sunglasses so that you may perform this same task. But whether you have 20/20 vision or are wearing rose-colored glasses, you are indeed looking at the same thing – the clock at the top of a tall building. Thus, we must ask ourselves whether *changing lenses* is enough to transform assumptions related to ‘crime’ and justice or if the problem lies in the fact that even when we construct ‘alternative’ approaches we often continue to be looking at the same thing.

‘Crime’ as a ‘Violation of People and Relationships’

According to Zehr (1990), the failure of the ‘criminal justice’ system to deal with ‘crime’ in a manner that reflects the needs of affected parties can be attributed to the lens in which we view this social phenomenon. He explains that our current retributive justice approach defines crime as “a violation of the state, defined by lawbreaking and guilt” (:181). Zehr argues that this narrow definition of ‘crime’ results in an inadequate response from the justice system, which places its primary focus on determining guilt and administering pain to those whom are judged responsible (ibid). Furthermore, he believes that this approach fails to recognize that “Crime is a result of a legal system which makes arbitrary distinctions between various harms and conflict” (:183). As a result, all ‘crime’ is treated the same. Zehr believes that such a conception fails to recognize the particularities of ‘crimes’ and skews the significance of the incident (ibid).

As ‘crime’ is a complex issue affecting victims, ‘offenders’, and community members in different ways, Zehr (1990) proposes a new definition. According to his perspective, ‘crime’ is essentially “a violation of people and relationships” (:181), a founding pillar of the restorative justice model. This description of ‘crime’ allows us to understand that such unwanted acts create interpersonal quarrels which often emanate from other conflicts (:183). It also lets us appreciate that ‘crime’ causes harm to all those affected, including ‘offenders’, and provides an opportunity to strengthen social bonds through healing processes.

By defining ‘crime’ in such a manner restorative justice has garnered some criticism. Allison Morris (2002) notes that some have criticized restorative justice based on its conceptualisation of ‘crime’, which some argue trivializes the significance of ‘criminal’ acts. In response, she reminds these critics that in criminal matters “the law remains as a signifier and denouncer” (:603). In this light, it must be noted that some proponents of the restorative approach seem to reify the legal framework of the state. Martin Luther King Jr. (1963) once wrote:

...there are two types of law: just and unjust. I would be the first to advocate obeying just laws. One has not only a legal but a moral responsibility to obey just laws. Conversely, one has a moral responsibility to disobey unjust laws. I would agree with St. Augustine that ‘an unjust law is no law at all’.

- King Jr., M. L. in Mason, A. & Baker, G., 1963:741.

Are we to believe that all laws on the books are fair? Are we to believe that the enforcement of laws is just and applied equally across the population? The overrepresentation of Aboriginals who find themselves trapped within the nets of social control due to overpolicing is but one example that shows that many laws are both unfair and applied in a disproportionate fashion to the marginalized many (see Hamilton &

Sinclair, 1991). Moreover, Ruth Morris (2000) argues that the restorative justice model does not address racism and classism that is embedded in the structures of our society. Instead, she advocates that we need to move towards a paradigm of *transformative justice* which could better address ‘crime’ by attacking and altering the components of our society that produce and reproduce inequalities.

Justice as ‘Making Things Right’

In a restorative justice model where ‘crime’ is recognized primarily as a violation of people that causes harm to all those involved and secondarily as law-breaking, what is justice? From Zehr (1990) to Van Ness and Strong (2002), all agree that justice should be a process aimed at ‘making things right’, to heal the wounds to the extent that is possible through inclusive and participatory justice processes rather than imposing more pain through exclusionary and stigmatizing practices (Zehr, 1990). Thus, restorative justice “focuses on what needs to be healed, what needs to be repaid, what needs to be learnt in the wake of a crime. It looks at what needs to be strengthened if such things are not to happen again.” (Sharpe, 1998:7).

Stakeholders in Justice

As will be discussed in the following chapter, when a ‘crime’ takes place those most affected have a laundry list of issues that need to be dealt with in a tangible manner, thus “victims, offenders and the affected communities are the key stakeholders in justice” (Zehr, 2002:37). In the voyage to repair the harms caused by ‘crime’, Bazemore and Walgrave (1999) argue that the “injuries and losses inflicted on the individual victim and his or her intimates are most concrete and must be at the center of any restorative action”

(:49). Thus, *primary and secondary victims* need to be involved to the extent that is possible in the justice process if repair is to truly take place.

‘*Offenders*’ must also occupy a central place in restorative processes, as they must take on their obligation to ‘make things right’ to their victim(s) and community (Zehr, 1990). It is also recognized that ‘offenders’ are often themselves victims of abuses, thus they also have needs that require our attention (see Zehr, 1990; Morris, 1998).

For restorative justice to take place, it is also important that *community* be involved in the process. McCold and Wachtel (1998) argue that ‘crime’ affects communities and that they themselves should be responsible for administering ‘criminal justice’. Elliott also explains the importance of community involvement in the justice process, stating:

The actual as opposed to symbolic inclusion of community in responding to harm is a salient feature of restorative justice in at least two ways. First, communities are the best crime prevention resource, at least in the limited role of being the pragmatic providers of services that meet the basic needs of their members (Roach, 2000:267)... The second aspect of restorative pragmatism acknowledges that people in the community who have not been harmed directly also experience fear of crime... Participation in the process of discerning what happened, how what happened affected everyone, and what should be done to repair the harm – through a process that cuts through the symbolism of rules, laws and justice and gets to the heart of the community itself – is an example of community inclusion in restorative justice.

- Elliott, 2002:461-462.

But in a world where community has for some been eroded or for others has altogether disappeared, defining the concept becomes a rather tedious task. Not only is community seen as an ideal that is rarely achieve in contemporary society, there are those such as Ronald Cohen (2001), who argue that restorative justice proponents assume “that the three major actors in an injustice – victim, offender (perpetrator), and third party

(community) – can be identified, even if that identification is not uncomplicated” (:218).

Even more problematic is the use of the term to describe and to mobilize support for existing state activities. For instance, the language of *community policing* has been adopted by many law enforcement organizations that have yet to actually transform their practices in a manner that reflects their rhetoric (McCold & Wachtel, 1998). To not fall in the same trap, proponents of the restorative approach have refined their vision of community to include those who are interested in participating in the process of helping victims, ‘offenders’, and themselves address ‘crime’ (see Braithwaite, 1989; Van Ness & Strong, 2002). According to McCold and Wachtel (1998), this interest must also be accompanied by a sentiment of collective responsibility whereby members of the community are accountable to each other and are engaged in the initiatives.

As restorative justice was first constructed as an alternative to the state operated ‘criminal justice’ system, what role, if any should governments play in the realm of restorative justice? In the larger context of community justice initiatives, McCold and Wachtel (1998) believe that the role of government should be reduced to preserving order and to facilitate processes when communities are unable to provide services to victims and ‘offenders’ that would foster the process of healing and community reintegration. This conceptualization of state-involvement is also shared by Ashworth (2002), who argues that the state should “have a residual role in providing facilities and in enforcing post-offence agreements reached by conferences, etc” (:581). He adds that the *facilitative state* would leave room for the procedural flexibility needed for restoration to be made possible.

Although restorative justice is presented as an informal archetype, the popularity of the approach has led to the growth of a class of professionals and volunteers within the sphere of ‘criminal justice’, that of the mediator or facilitator. This role is recognized as key to the success of restorative processes, as encounters between those affected by ‘crime’ are often delicate and require an intermediary “to regulate and facilitate communication within the encounter setting, not to represent one side or to impose a solution” (Van Ness & Strong, 2002:73). What is important to consider here, is whether the involvement of go-betweens may lead to the formalization of restorative justice. At the same time, it is difficult to imagine a restorative process taking place without someone acting as a balancing agent.

Restorative Processes

In the literature, three models are commonly recognized as being best-equipped to achieve restorative outcomes: victim-offender mediation / victim-offender reconciliation, circles (healing, sentencing and peacemaking), and group conferences (family and community) (ex: Sharpe, 1998; Zehr, 2002; Jaccoud, 2003). These models share many characteristics including “an encounter between key stakeholders – victim, and offender at a minimum, and perhaps community and justice people as well” (Zehr, 2002:44). More importantly, Zehr observes that “Each model allows an opportunity for participants to explore facts, feeling, and resolutions. They are encouraged to tell their stories, to ask questions, to express their feelings, and to work toward mutually acceptable outcomes.” (ibid:45). In order to ensure maximum participation, all of these inclusive models require that a facilitator be at hand and that all participants present are there of their own volition.

At this time, it is important to note that as the restorative approach has gained increasing popularity amongst the public and ‘criminal justice’ officials, other forms of programs have been placed under the restorative justice umbrella that are either ‘offender’ or victim-focussed such as victim sensitive offender dialogue and community service. Zehr (2002) among others has suggested that these developments are important as they help the ‘criminal justice’ process become more restorative-oriented and that programs should be evaluated along a continuum of restorativeness, from non-restorative to fully-restorative.

Although the development of restoratively-oriented programs are likely needed if the contemporary ‘criminal justice’ system is here to stay, proponents of restorative justice must be aware that by making concessions, by evaluating programs along a continuum, the risk of bastardized versions of restorative justice becomes greater. From Mathiesen (1974) to Zehr (1990), there is no escaping the fact that such compromises often (if not always) lead to the cooptation and transformation of ‘alternatives’ by the ‘criminal justice’ system. As we move further away from the Zehr’s vision of restorative justice presented in *Changing Lenses*, are we achieving progress or are we in fact stifling the possibility for veritable change? Some will argue that it is utopian to dream of replacing the system without some form of partnership (see Rothman, 1980). But experience has shown us that it is even more unrealistic to dream of ‘reforming’ the system with its explicit cooperation – a path which is certain to lead restorative justice down the road of political concession, thus contributing to the continued survival (and success) of our punitive institutions.

Restorative Outcomes

Earlier in this chapter, I defined justice within the framework of the restorative approach as ‘making things right’, but it is necessary that this notion be unpacked so that we may evaluate whether or not restorative programs are indeed fulfilling their promise to achieve restorative outcomes. For most RJ theorists, products of the restorative justice process may be considered restorative should they be decided and agreed upon as acceptable by those involved in the proceedings (see Braithwaite, 1999).

A primary way to ‘make things right’ is for the parties to agree upon “a fair and mutually acceptable form of restitution and/or compensation” (Brookes, 2000:2). According to Bazemore and Walgrave (1999), “These actions may be direct or indirect, concrete or symbolic” (:50). Another possible restorative outcome is reconciliation. This involves an apology from the ‘offender’, and where possible, forgiveness from the ‘victim’. Such exchanges lay the groundwork for the collective denunciation of the ‘criminal’ act and also allow the victim and the ‘offender’ to be fully reaccepted (reintegrated) into the community (Brookes, 2002). This process is key to addressing shame experienced by all victims of ‘crime’, including ‘offenders’.

Lastly, restorative justice theorists also agree that “reducing the likelihood of future harm” is an important restorative outcome (Van Ness & Strong, 2002:49). Thus, it seems that although restorative justice advocates argue that the programs carrying the label should not be judged by the recidivism gauge (ex: Zehr, 1990; Morris, A., 2002), as to do so would be to measure restorative justice with punitive instruments – another activity that may lead to cooptation – the irony of the matter is that when talking about

the successes of this approach, most of these same proponents will be the first to cite these figures.

The contradictions within the restorative camp do not end there. Some even go as far to say that “any outcome – including a prison sentence – can be restorative if it is an outcome agreed to and considered appropriate by the key parties” (Morris, A. 2002:599). Once again, it seems some restorative justice proponents do not seem to be cognizant of the slippery slope they have descended upon. If prison sentences can be restorative, prisons can also rehabilitate ‘offenders’ on a large-scale. To pass-off punishment as restorative action is in religious terms blasphemous. Consensual agreements in restorative justice should never include the imposition of pain and suffering on another – that is if we are to dress-up this version of social-control in ‘alternative’ clothing. As such, prison sentences will not be considered as restorative outcomes within my ‘Ideal Type’ Restorative Justice Model.

Values & Principles: Precursors to Restorative Action

Sharpe (1998) notes that restorative justice “is an orientation, not a type of program. It is a set of values and beliefs about what justice means, which in turn points to principles for responding to criminal harms.” (:19). For Zehr (2002) such an orientation includes three core values. The first is *interconnectedness*, that “We are all connected to each other and to the larger world through a web of relationships” (:35). Under this conceptualization of society, ‘crime’ signifies a disruption that necessitates restorative justice to take place. The second core value of restorative justice identified by Zehr is *particularity*. The author notes that this value emphasizes the fact that we are all individuals that have experienced life in a unique manner and also recognizes that when

looking to resolve disputes, the context in which events takes place is important and needs to be considered during the justice process (ibid). The third core value of restorative justice is *respect*. Zehr states that for restorative justice to take place in an acceptable fashion we must respect everyone involved, “even those who are different, even those who seem to be our enemies” (ibid:36). He argues that respect must steer and shape the justice process so that the concerns of all involved may be balanced (ibid). If these values are not respected during the justice process, Zehr warns that restorative approaches may not produce restorative results (ibid:35).

Accountability and *responsibility* are also important pillars for proponents of the restorative approach. Accountability involves the stakeholders in justice taking a lead role in making sure that ‘offenders’ take concrete actions address/repair the wounds they have caused to victims and their communities (see Bazemore, 1998). It also entails the community accountability, whereby stakeholder groups are responsible for making sure that the needs of ‘offenders’ are also fully addressed during the process. Taking responsibility requires the ‘offender’ to at the very least provide “a basic acknowledgement that they hold responsibility for damage or harm resulting from action they took”, which is the necessary starting point for any restorative process (Sharpe, 1998:21).

As restorative justice is an approach rooted in the belief that we are all interconnected, the justice process must above all maximize the potential for *participation*. Thus, a necessary component of participation must be the *inclusion* of those most affected by the unwanted act which consists of “an invitation, acknowledgement that the person invited has unique interests, and recognition that he or

she might want to try alternative approaches” (Van Ness & Strong, 2002:125). It is important to note that although restorative justice seeks to be inclusive, participation must be *voluntary* and uncoerced, as forced participation is likely to create harm in the form of supplemental victimization (Sharpe, 1998). Restorative justice also involves *empowerment* through participatory *dialogue* between victims, ‘offenders’, and interested community members, which involves story-telling and asking questions, respectful listening, non-domination and control over the outcomes of the process (see Zehr, 1990; Braithwaite, 2002). Lastly, restorative justice processes necessarily involve *consensus*, whereby “parties to decide together what to do” in a manner that is judged to be fair and meets the needs of stakeholder groups (Sharpe, 1998:8).

In this chapter, I have developed the framework for my ‘Ideal Type’ Restorative Justice Model. The fundamentals included in this schema serve as the baseline from which to I evaluate whether or not so-called ‘restorative justice’ initiatives adhere to the objectives, principles and values that guide the restorative approach.

Chapter III: The Emergence of Restorative Justice

Restorative justice is the latest in a long series of ‘alternatives’ that have been constructed by a number of different groups in society that are united in their belief that the institutions and processes of the contemporary ‘criminal justice’ system are innately flawed due to their retributive and destructive character. In this chapter I will outline the voluminous discourse articulated by academics and critics of the system that led to the emergence of informal and community-based ‘alternatives’ such as restorative justice.

More of the Same: The Tale of Prison ‘Reform’

Since its very inception, the prison has been subjected to a great deal of criticism, even from its very own masters. This is especially true if one were to examine the Canadian context, where a number of Royal Commissions (Brown, 1849; Archambault, 1938; Fauteux, 1956; Ouimet, 1969; MacGuigan, 1977) have assessed the operations of the ‘correctional’ systems and have revealed a pattern of failure. The recurring ‘truth’: the prison is unable to deliver on its promises other than those of punishment and control. The chronic and seemingly addictive governmental ‘response’: we can succeed if we do X (improve the administration of prisons), Y (invest more resources in the ‘correctional’ system and ‘offer’ new programs to ‘offenders’) and Z (change the lexicon from which we come to understand the mandate of prisons³). The answer lay in ‘reform’, to

³ Note: Opening in 1835, Kingston Penitentiary’s original mandate was to punish ‘offenders’ and deter both ‘criminals’ and everyday citizens from committing any future ‘crimes’. Following the Brown Commission (1849), the goals of the penitentiary also included discipline and moral reform (Cellard, 2000). As violence and uprisings were becoming increasingly common in Canadian penitentiaries, the federal government established the Archambault Commission (1938). The report found that Canadian prisons were unsuccessful in their quest to transform ‘criminals’ into upstanding individuals that could be safely returned to their respective communities. Archambault recommended that “the prison should be, not merely the temporary protection of society through incarceration of captured offenders, but the transformation of

transform the prison within so that it could then in turn transform ‘criminals’ into law-abiding citizens.

What was taking place in Canada mirrored what was happening in western ‘democratic’ societies, including the United States, which were also in the business of so-called ‘progressive reform’ (see Rothman, 1980). For Rothman, the *conscience* of the system, which he called the ‘Progressives’, were interested in improving the conditions of the prison system by advocating for greater discretion in ‘corrections’ so that each individual case could be treated independently. Such an approach also required more resources and the creation of new programs to address the specific needs of each ‘offender’.

Rothman observes that the ideas put forward by the ‘Progressives’ were well-received by the administrators of the American ‘criminal justice’ system for reasons of *convenience*. You see, with more resources and discretion at their disposal, the actors within the enterprise became more powerful. Rothman argues that this ‘Progressive alliance’ did plenty to suffocate the potential of ‘Progressive’ initiatives and “What remained was a hybrid, really a bastard version – one that fully satisfied the needs of those within the system but not the ambitions of reformers” (:7). Rothman concludes

reformable criminals into law-abiding citizens, and the prevention of those who are accidental or occasional criminals from becoming habitual criminals.” (Archambault, 1938:9). In this light, he recommended that Canadian penitentiaries should refocus their policies and practices towards rehabilitation; “the readaptation of the inmates, with the hiring of specialists, the creation of education programs and more adequate professional training.” (Cellard, 2000:16). Rehabilitation remained an objective of corrections in Canada until 1969, when the Ouimet Report recommended that rehabilitation was best suited to take place in community settings and that the goal of penitentiaries should be the reintegration of ‘offenders’ into society (Gamberg & Thompson, 1984). In his report, Macguigan (1977) stated that rehabilitation was a ‘false promise’ made by ‘corrections’ officials to Canadians and suggested that the ‘criminal justice’ system consider increases in community-based ‘alternative’ programming. But the report failed to recommend the abolition of the prison system based on the findings by proposing that ‘correctional’ institutions should provide opportunities for ‘personal reformation’, whereby prisoners could take on the responsibility to transform themselves into law-abiding citizens should they be interested. Rehabilitation-reintegration-reformation, the same story told using different headings.

“that the Progressive measures themselves, in terms of both conception and implementation, did not succeed in reforming the asylum, in elevating conscience over convenience” (ibid: 421).

For Mathiesen (1990), the issue was not simply a matter of *convenience* taking precedence over *conscience*, but rather was the result of a systematic effort by ‘corrections’ officials to neutralize any efforts to ‘reform’ the prison vis-à-vis the implementation of rehabilitation programs. He explains that ‘corrections’ officials utilize *neutralization techniques* to defuse proposed changes from the outside in order to maintain the status quo. These techniques “vary from the more or less open dismissal of ideas which are in conflict with prevailing system interests to techniques which more subtly and unnoticeable delete them from the agenda” (ibid: 37).

Based on a study he conducted as a young researcher, Mathiesen lists six *neutralization techniques* used by prison officials to avoid transforming their practices. So let us pretend that we are government officials and have proposed that changes be made to Canadian federal (CSC) prisons. Mathiesen would say that Correctional Service Canada could simply respond by making *reference* to the suggestions in reports or evaluations without actually changing any of their practices. CSC could also reply to the proposed changes by claiming that they are *irrelevant*, as they do not correspond to the ‘reality’ of what takes place in prisons. Another possibility for the organization would be to argue that the new ideas are *impossible to implement*, as they do not have the resources to make such sweeping changes. CSC could also avoid making adjustments to their activities by simply putting-off the planned reforms until they are forgotten, which Mathiesen refers to as *postponement*. *Puncturing of ideas* is also a possibility, “whereby

the practical significance of the new idea is diminished, while a front of understanding, interest and perhaps even enthusiasm for the idea is maintained. The idea is not rejected, not even postponed, just ‘given its proper dimensions’.” (ibid: 38). As a final possibility, *absorption* would enable CSC and like-minded institutions to incorporate an idea that threatens the interests of the system and implement it “in a way which subtly and imperceptibly changes the new element in it, so that it in practice fits into the prevailing structure” (ibid: 39), giving the illusion that something ‘new’ is taking place in prison. In sum, Mathiesen argues that rehabilitation and any attempts at reforming the way treatment programs are delivered to prisoners have always been neutralized in one way or another by the ‘corrections’ enterprise. Without any real change taking place in prisons, it is not a mystery how rehabilitation continues to be one of many failures of imprisonment.

Whether it be a case of *neutralization* or *convenience over conscience*, it seems that ‘reform’ in the ‘correctional’ sphere is a process through which administrators acquire more power through new sets of rhetoric that legitimates the existence of the prison and what takes place within its walls. In other words, the idea of ‘reform’ has little or nothing to do with advancing the transformative capacity of the prison.

‘The Proven Failure of Imprisonment’

There is not a jailer that I have met around the world... who does not have serious doubts about the effectiveness of incarceration as a general tool for correcting behaviour.

- Former CSC Commissioner Edwards in Sharpe, 1998:16.

In light of the ongoing failure of prison ‘reform’, many academics and countless other social actors stepped-up their critique of the growing draconian gulags of a different

name. These critiques, which sought to debunk the naturalization of the ‘corrections’ enterprise, were central to the discourse regarding prisons in the 1960s and 1970s. These arguments were strongest in the emerging penal abolitionist camp – assertions which have since been summarized and discussed by Mathiesen (1990) in his book *Prisons on Trial*. Mathiesen argues that imprisonment is largely accepted as a primary means of dealing with ‘crime’ in Western societies due to the fact that the authorities have been able to convince the public that the prison is successful in rehabilitating individuals, providing the public with security by means of incapacitating ‘offenders’, by deterring ‘criminals’ and the general population from committing future ‘crimes’, and delivers justice by handing out ‘just’ punishment to those who break the law. Mathiesen’s work sheds light on evidence that suggests that the prison does none of these things. Put simply “the prison is a fiasco in terms of its own purposes” (Mathiesen, 1990:137). Let us explore his arguments.

Incapacitation: Inaccurate, Immoral and Gaining Credence

According to Mathiesen (1990), an important goal of imprisonment is to incapacitate the ‘offender’. The author explains that this theory claims “that the offender’s ‘capacity’ to commit new crimes is to be concretely obstructed or reduced through a prison sentence” (ibid:79). This *collective incapacitation* “implies that whole categories of offenders are sentenced across the board to extended prison sentences in view of an estimate of the probability of preventing future crimes” (ibid:89).

In response, Mathiesen argues that such an arbitrary practice raises questions of accuracy. He notes “that proponents of incapacitation have been unable to demonstrate empirically the offending frequency of individuals. This fact, which makes effect

extremely uncertain, implies that accuracy is at best just as uncertain and that there is no guarantee against either many *false positives* or *false negatives*.” (ibid:88). *False positives* take place when ‘offenders’ are “mistakenly predicted to recidivate” (ibid:90), while *false negatives* occur when ‘offenders’ are “mistakenly predicted not to recidivate” (ibid). The inability of ‘criminal justice’ officials to accurately predict future criminality raises an important moral issue. If one cannot accurately predict the criminogenic propensity of an individual, how can one be imprisoned on the basis of incapacitation? The answer is that the incapacitation argument is morally reprehensible and ethically flawed and that is why it must be considered a failure – although we must recognize the prison is able to prevent those living within in its walls from directly harming those on the outside.

Despite this argument, Mathiesen recognizes the need for *selective incapacitation* whereby “high risk individuals within given groups” (ibid: 89), are to be imprisoned based on this justification. In this context, one must ask how ‘criminal justice’ officials can effectively identify these folks. What will be the criteria for identifying these ‘offenders’? One could put forward that the same arguments made against *collective incapacitation* could also be made against *selective incapacitation*, and that incapacitation in any form must be abandoned. Unfortunately, at this time we are witnessing the intensification of risk discourse in penal politics and practice whereby the neutralization or warehousing of our most marginalized and poorest members of society is being advanced as the best instrument to fight ‘crime’ by *law-and-order conservatives* (Cohen, 1985). But those who share such views forget that “Sooner or later, almost all

offenders return to the community” (Sharpe, 1998:17). Thus, incapacitation is at best a temporary solution which by design is destined to fail.

Deterrence: Let's Sacrifice A Few Sheep So That the *Others* Will Follow

Another goal of imprisonment that has been articulated by government and prison officials over the years is general deterrence, referred to by Mathiesen as *general prevention*. The underlying notion of this discourse is that by its very existence, the threat of imprisonment deters individuals in society from committing ‘crimes’. Mathiesen argues that the research that has taken place does not quantify such an argument, and that at best, the threat of imprisonment produces “meagre results” (Mathiesen, 1990:55). For prison to effectively deter, he explains that through punishment the state must be able to effectively convey the message that “crime does not pay (deterrence)...that you should avoid certain acts because they are morally improper or incorrect (moral education)...that you should get into the habit of avoiding certain acts (habit formation).” (ibid:58). Mathiesen adds that the effectiveness of this message will depend on how it is received and interpreted. He argues that the language used by the state and the media in regards to ‘crime’ skews this message. Depending on one’s life experiences or position in society, the author explains “that punishment is not necessarily received and experienced as intended” (ibid: 74). Sharpe (1998) also argues that there exists no evidence that ‘offenders’ weigh the costs and benefits prior to engaging in ‘criminal’ activity as many ‘crimes’ are unplanned. If anything, planning reflects the concern with getting caught. As a result, “general prevention functions in relation to those who do not ‘need’ it. In relation to those who do ‘need’ it, it does not function.” (Mathisen, 1990:68). More importantly, Mathiesen raises important ethical and moral

concerns related to this theory, stating that “if we punish people on the grounds of general prevention, we actually to a very large extent sacrifice poor and stigmatized people in order to keep others on the narrow path” (ibid:72). Is it right to sacrifice those who already suffer from the pains of inequality in order to curtail the behaviours of others? All of these arguments suggest that not only the ideology of the prison needs to be abandoned, but also the notion that punishment is an ethical and effective method of deterring human beings from committing ‘crimes’.

Mathiesen also notes that *individual* (specific) *deterrence*, whereby through the prison experience, the ‘offender’ comes to believe that ‘crime’ is wrong and curtails his or her behaviour to avoid committing ‘crimes’, is also an objective of imprisonment. In theory, this is to be achieved by instilling fear into prisoners with the threat that if they act ‘out of line’ they will be severely punished. Zehr (1990) explains that for punishments to have a positive effect on ‘offenders’ they “must be viewed as fair and legitimate...because we cannot experience justice unless it provides a framework of meanings that make sense of the experience. For punishment to seem fair, outcome and process need to relate to the original wrong...the societal context must also be viewed as fair.” (:210). Mathiesen argues that ‘offenders’ do not experience prison in this manner, rather that the experience “causes frustration and bitterness, which have the opposite effect” (Mathiesen, 1990:99). Such feelings cause individuals to lash-out at society, perhaps engage in violent and ‘criminal’ behaviour. On this matter, Mathiesen concludes that the “distrust and hostility which is produced in the prison speaks equally strongly against the argument of individual deterrence” (ibid:101).

Punishment and Justice: A Story of Cats with Feathers and Furry Birds

A central objective of imprisonment is to *punish* ‘offenders’ as a means to “fulfil demands of just retribution” (Mathiesen, 1990:103), to carry out ‘justice’. Ruth Morris (1994) argues that “Prisons achieve only punishment” (:2). One cannot dispute the fact that prison punishes those who live within its walls, whether or not prison delivers on its promise to provide justice is another story. If one considers that justice is balancing the harm caused by the ‘criminal’ offence with the pains caused to the ‘offender’ by imprisonment, perhaps justice is served. Mathiesen’s analysis suggests that such a calculation cannot be made. He argues that these “two ‘versions’ of pain are...not commensurable entities. Therefore, it is not possible to ‘weigh’ one by the other.” (Mathiesen, 1990:131). He substantiates this argument by pointing out the fact that with the degree of pain that is inflicted on prisoners, “prison time is not objective or intersubjective: there is no agreement on what prison time means” (ibid:133). Therefore, measuring the punishment value of imprisonment by the amount of time that an individual spends in prison is impossible, irresponsible and necessitates that we redefine the concept of justice.

The Rehabilitative Ideology: Discourse Used to Mask ‘Reality’

Time and time again, it has been stated that the primary goal of the prison is to rehabilitate the ‘offender’, to return the ‘criminal’ to social competence. Through a series of work programs, schooling, moral influence, and discipline ‘offered’ by prison authorities, the ‘offender’ “is to be restored to his or her old form, notably the form before the crime. The prisoner is to be reinstated to his or her old dignity and privileges, before the ‘fall’. And the prisoner is supposed to have his or her honour returned.”

(Mathiesen, 1990:20). Mathiesen argues that the prison achieves none of these objectives and the argument “that today’s prison does not rehabilitate, has a social-scientific basis” (ibid:40).

According to Mathiesen (1990), the idea that time in prison can rehabilitate the ‘offender’ “is as old as the prison itself” (:22), and is supported by an ideology, “a unified belief system which lends meaning and legitimacy to one’s activities.” (ibid). The author identifies four components of the *rehabilitative ideology* that are intended to assist the ‘criminal’ in the process of transforming himself into a law-abiding member of the community.

The first ‘rehabilitation’-oriented activity of prisons is to provide prisoners with the opportunity to work and develop the skills needed to retain employment on the outside. Mathiesen argues that though inmates are put to work, the types of labour made available to them does not correspond to the jobs found in society. If one were to be released from prison they would not have acquired any marketable skills while incarcerated that would allow them to find a job. The author argues that the true purpose of forced prison labour was and continues to be to allow penitentiaries to make money to offset the costs of running their institutions (ibid:27). Even if work programs offered today within prisons do provide prisoners with the skill-set needed to find employment on the outside, one must be aware that their criminal record will surely take precedence over their qualifications in the hiring process, making the search for employment very difficult.

Education is a second ‘rehabilitation’-oriented activity of the prison. Mathiesen observes that throughout history, ‘offenders’ that found themselves within prison walls

and participated in education programs very much benefited from the experience. He explains, “that interested prisoners regularly experience education as something positive, perhaps the only positive aspect of prison life” (ibid:29). Unfortunately, when the internal security of the prison becomes a concern, schooling loses out (see Mathiesen, 1990; Taylor, 1997; Duguid, 2000).

A third aspect of the *rehabilitative ideology* is moral influence. In essence, time in prison is supposed to restore a sense of responsibility, honour, and decency to the ‘criminal’ through their own volition. In the past, moral influence would usually “take place through religious activity” (ibid: 30). Mathiesen explains that in the 1960’s and 1970’s morality “was to take place through treatment” (ibid). Similarly to education programs, Mathiesen explains that when other interests, notably those related to security arise they take precedence over moral teachings.

Discipline is the fourth component of the *rehabilitative ideology*. Mathiesen does not argue against the idea that prisons are a place where punishment takes place, but rather, questions whether or not penalizing prisoners based on a strict set of rules can transform them into better people. One must ask whether it is possible to help someone while hurting them.

Mathiesen concludes that though the rehabilitative purpose of imprisonment has been made explicit by those responsible for the operations of prisons, they have yet to achieve this said objective. The criminologist argues that even at times when it seems that the prison could be a place where prisoners could learn to develop a solid work ethic, become educated, moral and disciplined individuals through programs offered in the institution, that security and other concerns of ‘corrections’ officials have and always will

take precedence over the imperatives of programs. As such, one could state with confidence that the *rehabilitative ideology* has been used as a veil to hide the true repressive nature of the prison. Let us examine the empirical evidence that will allow us to assess the validity of Mathiesen's claims.

Measuring Failure: Treatment Programs and Recidivism Rates

Today and in years past, the indicator that prisons and treatment programs use to measure success is recidivism. Should recidivism rates be low, they have succeeded in meeting their targets. Should they be high, they have failed. Mathiesen (1990) argues that there is a vast body of evidence that suggests that rehabilitation in prison produces poor treatment results and has failed particularly when looking at "studies measuring 'results' in terms of recidivism" (:40). To support his claims he refers to the findings put forward by Martinson in 1974. Though it is recognized that his study was methodologically unsound, Martinson's article *What works?* did provide startling evidence that clearly indicates that treatment programs offered in prisons have little to no effect on recidivism. From the data collected, the researcher concluded, "With few and isolated exceptions, the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism" (Martinson, 1974:25).

Gamberg and Thomson's (1984) arguments also highlight the prison's poor performance where recidivism is concerned. Looking at the case of Canadian corrections in the 1970s, they explain:

... [in] the middle 1970's this attempt to devise programmes to correspond with the latest ideology in corrections had been declared a failure. The official conclusions had been based on the growing number of studies which rejected the rehabilitation concept in practice and as ideology. As usual, recidivism statistics were used to demonstrate the ineffectiveness of

programmes. According to the figures published by the Solicitor General's Department, only 20 percent of admissions to federal prisons in Canada were first offenders, and 80 percent of reconvicted offenders were free 18 months or less.

- Gamberg & Thomson, 1984:117.

As recidivism rates are the measure by which Canadian prisons and others around the world measure success, it is neither irresponsible nor inaccurate to argue that treatment programs within prisons and imprisonment itself are both proven failures⁴.

Prisons: Dangerous, Overcrowded and Counterproductive

Why do prison treatment programs fail to reduce recidivism rates? According to Mathiesen, efforts to rehabilitate 'offenders' in prison are an utter failure as the dangerous and overcrowded environment of this punitive structure is "very far from any 'treatment situation'" (Mathiesen, 1990:40). The Ouimet Report (1969) written by a Canadian Commission asked to uncover the malaise that was causing prisoners to organize and carryout riots in our penitentiaries found that "among the 'shortcomings' of the penitentiary were the aged facilities, the overcrowding, misclassification, too much time in cells, the absence of effective channels for grievances, a poor staff attitude, the lack of adequate staff and an inconsistent and unstable enforcement of regulations" (Gamberg & Thomson, 1984:120). In a violent, inhumane and unjust place, how can one expect prisoners to be law-abiding citizens within the prison, let alone outside of the institution once they are released into the community? It is clear that the prison environment has and continues to be a place where rehabilitation is not likely to take place.

⁴ Note: In his review of the Canadian 'correctional' system, Macguigan (1977) argued that "Incarceration has failed in its two essential purposes – correcting the offender and providing permanent protection to society. The recidivist rate of up to 80 per cent is the evidence of both." (:35).

Mathiesen also refers to Clemmer's concept of *prisonization*, explaining that prison culture and the structure of the prison itself both impede any attempt of the prison to modify the behaviour of 'offenders' (Mathiesen, 1990:40). In other words, if we are to lump together societies 'criminals' in one confined area, place them in situations where they must abide by the (said and unsaid) rules and relationship structures of the institution that are often in complete contradiction with our expectations on how one should conduct themselves in day-to-day life on the outside, how does one expect them to develop law-abiding tendencies? Mathiesen concludes that we cannot stating, "Not only can we most certainly say that the prison does not rehabilitate. Most likely we can also say that it in fact dehabilitates." (ibid: 47). This is a strong argument made against the prison and suggests that either we need to make changes to this institution or consider penal abolition as a serious option.

'Nothing Works': What to do?

'Nothing worked' - the attack against rehabilitation was in full swing and it seemed every faction in society had something to say. While *law-and-order conservatives* uttered 'we told you so' and advocated for warehousing-style 'corrections', *tender-hearted liberals* pled for another chance (Cohen, 1985). As *tough-minded liberals* argued that we "abandon rehabilitation and substitute less ambitious goals", others also advocated for the abandonment of the rehabilitative paradigm citing that rehabilitation infringed upon human rights and served as additional punishment, thus violating the 'just-deserts' principle of sentencing (ibid:36). All the while, *Marxists* and *Foucaultians* expressed their lack of surprise with the failure of prison rehabilitation programs. The

idea of rehabilitating the prisoner seemed all but dead, the rehabilitative prison experiment was recognized as a failure, mais quoi faire avec nos chers ‘criminels’?

More of the Same in Places New: The Destructuring Movement

The prison and other large institutions, such as mental hospitals, were judged to be ineffective and their high price tag was deemed to be unjustified. *More of the same* could no longer be tolerated even by the masters of the ‘corrections’ enterprise. It was time to try something ‘new’, to search for community-based ‘alternatives’ that took justice out of the hands of the state, its ‘experts’ and institutions (Cohen, 1985).

The state off-loading of its responsibilities in the field of ‘corrections’ known as *decarceration* was justified by proponents of this particular *destructuring movement* on three major fronts. First, prisons and juvenile institutions were deemed to be ineffective and rather than rehabilitate ‘offenders’, more often than not, the prison seemed to make things worse (Cohen, 1979). Second, given the highly-centralized and bureaucratic operational framework of the prison, the costs were judged to be much too high during a period of fiscal crisis in western welfare capitalist nations such as Canada, the United States and Britain. Thus, community-based programs were seen as much less costly alternatives (ibid). Third, there was a belief that given the draconian nature of the prison, community justice programs would without a doubt treat ‘offenders’ in a more humane fashion (ibid). Therefore, for practical, fiscal and ethical reasons, the community was seen to be better-equipped to deal with ‘crime’ and punishment or at the very least couldn’t produce worse results (Cohen, 1985).

The goal of *community corrections* was not punishment, nor rehabilitation, but rather to reintegrate the ‘deviants’ back into society. According to Cohen (1985), this

philosophy was rooted in theoretical wisdom that had established that institutional ‘care’ is often a harmful and stigmatising experience, and thus, must be a measure of last resort. This view was also supported by the idea that the root causes of ‘crime’ and ‘delinquency’ originate in community settings such as the family and in schools, and thus, ‘deviancy’ must be dealt with in those very same locations. Cohen notes that the policy of *decarceration* also gained credence due to rising popularity of a neo-liberal governing ethos whereby the goal of any government policy “should be less harm rather than more good” (1985:34).

According to Cohen (1985), *something was happening*. At best, prisons were being closed and at very least, new institutions were not being built. At the same time, there was a proliferation of community-based ‘alternatives’ such as “parole, indeterminate sentences, psychological counselling, psychiatric and other medical servicing, suspended sentences, half-way houses, temporary absence programmes, wilderness camps, restitution orders, attendance centres, police cautioning schemes, family-based control contracts, pre-trial diversion contract schemes, and one-quarter-way houses” (Chan & Ericson, 1981).

Unfortunately, in the spirit of past penal ‘reform’ efforts, the promise of *decarceration* did not produce the intended results that were articulated by the proponents of this *destructuring movement*. In their attempt to save a few bucks, Scull (1977) argued that welfare capitalist states had essentially created ‘fend for yourself societies’, where those who most needed our help, both the ‘criminals’ and their marginalized communities were all but left for dead. With little to no tools at their disposition to realistically deal with shared problems, ‘corrections’ model 2.0 was anything but ‘humane’.

The critique did not end there. For Cohen (1985) and others (see Matthews, 1979; Chan & Ericson, 1981), the *decarceration* project did little to address the fiscal concerns of welfare capitalist states, but instead was a rather costly endeavour. In addition to the growth of community ‘alternatives’, institutions remained opened, bureaucratic structures had not disappeared and the justice system certainly did not reflect the diversionary rhetoric of informalism as people seemed to be diverted into the system rather than away from it. The politics of *decarceration* did not reduce our reliance on the punitive structures in our society, but rather served as a rhetorical shield legitimating the expansion of the carceral into the community, “subjecting more and newer groups of deviants to the power of the state and increasing the intensity of control directed at former deviants” (Cohen, 1985:37-38).

With so much hope, many were left wondering what had happened. Was it simply a question of good intentions gone bad? Rothman (1980) argued that it was the ‘Progressives’ benevolent belief that institutions “could coexist with, and even sponsor, non institutional programs” that led alternatives to “often become add-ons to the system, not replacements” (:12). For others, more time and resources were needed. For Cohen (1985), “it was not merely a question of reform ‘going wrong’. The benevolent-sounding destructuring package had turned out to be a monster in disguise, a Trojan horse. The alternatives had merely left us with ‘wider, stronger and different nets’.” (Cohen, 1985:38). In the realm of penal ‘reform’, it “was business as usual” (ibid: 39). The so-called search for ‘alternatives’ was but another oratorical tool used by the ‘criminal justice’ system to expand its reach and power in society, revealing the existence of a *master pattern* guiding its operations (Cohen, 1985).

Dissatisfaction and the Rise of Diversion and Informal Justice Models

As our reliance on punitive measures such as imprisonment and community-based punishment models increased during the 1970s (see Chan & Ericson, 1981; Cohen, 1985), critiques pertaining to ‘criminal justice’ moved beyond prison talk. Different stakeholder groups concerned with social justice, including penal abolitionists, the victims’ movement, evangelicals and feminists’, put the entire system on trial (Van Ness & Strong, 2002). From the moment suspects are arrested and tried in court to sentencing and community release, the sentiment was that the needs of victims, ‘offenders’, and those of the community were not being addressed by the rigid processes of the ‘criminal justice’ system⁵. Their concerns stemmed from an increasing recognition of the conflict-based nature of ‘crime’, which came to be seen as a form of property that has recently been taken from us by the state that has failed through *modern control systems* and technologies to take advantage of the opportunities that arise when ‘crimes’ occur (Christie, 1977). These advocates began to argue that we needed to recuperate conflict as our property in order to improve community life and denounce unwanted acts, to have “institutions, processes and rights which would be ‘legal’ but unofficial (dissociated from the state power); non-coercive (dependent on consensus rather than force); non-bureaucratic; decentralized; non-professional; autonomous from the formal legal system and with substantive and procedural rules which are unwritten, democratic and flexible” (Cohen, 1985:35). This discourse was indicative of a time where the proliferation of so-called informal and diversionary programs within the domain of social control was well

⁵ Note: Although we must recognize that groups concerned with victims’ rights were not necessarily concerned with the rights of ‘offenders’ and vice-versa (see Zehr, 1990).

underway. Through these initiatives, there was hope that the needs of those most affected by crime could be met, necessities that will be explored in the next few sections.

Meeting the Needs of Victims

In her article *Two Kinds of Victims: Meeting Their Needs*, Ruth Morris (1998) argues that in her research she has found that the existing punitive ‘criminal justice’ system does not meet any of the primary needs of victims. She notes that the retributive approach further isolates those who are victimized by ‘crime’. The author also expands her definition of victims of ‘crime’ to include ‘offenders’ who also suffer as a result of their actions.

Morris identifies five primary needs shared by all victims that need to be met in order for them to recover from the trauma caused by ‘crime’. A first need of victims is answers to their questions that only ‘offenders’ can provide. Zehr (1990) explains that “victims must find answers to six basic questions: 1) What happened? 2) Why did it happen to me? 3) Why did I act as I did at that time? 4) Why have I acted as I have since that time? 5) What if it happens again? 6) What does this mean for me and for my outlook (my faith, my vision of the world, my future)?” (:26). He explains that information given by the ‘offender’ can go a long way in providing the basis so that victims can answer these all-important questions for themselves. One could argue that the adversarial nature of court proceedings, whereby the victim is not even represented and the defendant is not encouraged to take responsibility unless they are to receive a lesser penalty, discourages any valuable exchange of information between victims and ‘offenders’ from taking place.

A second need of victims of 'crime' identified by Morris is the recognition that they were harmed and are not simply witnesses in the states retributive 'criminal justice' system. This implies that in order to recover, victims need to be included in the justice process. Similarly, Zehr recognizes that victims need to be empowered so that they can regain "a sense of control or involvement in the resolution of their own cases" (Zehr, 1990:28). Furthermore, victims also "need to have their 'truth' heard and validated by others" and "need opportunities to express and validate their emotions, their anger, their fear, their pain" (Zehr, 1990:27). In sum, recognition implies that victims of 'crime' need to be given the opportunity to express their thoughts and must also have the opportunity to play a central role in the justice process. Under the current scheme, such opportunities are few and are not readily available.

A third need of those victimized by 'crime' identified by Morris is the need to reestablish the feeling of safety. Without information from the 'offender' about the event in question, how can a victim know whether or not the very same person will victimize them or others again? Zehr explains that justice processes that are inclusive of both the victim and 'offender' can provide the victim with the "assurance that this will not happen again...that steps are being taken towards this end" (1990:28). It is evident that the adversarial justice system we have today does not restore the feeling of safety amongst victims and in fact contributes to the myth in society that 'criminals' are all dangerous individuals and forever 'offenders'. This in turn, increases our fear of 'crime' which prompts us to completely ignore the harm we are imposing on individuals. Dan Cahill (1998) best describes how 'offenders' are victimized by our existing approach to 'crime' in the following passage: "In the eyes of society, I am condemned forever to the

underclass, to sub-citizenship. I will carry the stigma of a convicted career criminal for the rest of my life – never to be accepted by society as a person worthy of any meaningful degree of respect or dignity.” (:52). Subsequently, what is needed are opportunities for all those affected by ‘crime’, including ‘offenders’, to rid themselves of this stigma and to be reaccepted into the community as a means of reestablishing safety.

A fourth need of victims identified by Morris is that they require restitution from the ‘offender’ and also from the community. Restitution could come in a variety of forms including monetary compensation and actions that demonstrate that both the offender and the community recognize that they were harmed and are in need of reparation. It is said that such action “may provide a sense of restoration on a symbolic level” (Zehr, 1990:26), which can greatly contribute to the recovery of victims of crime. Though compensation and victim assistance programs are emerging, Zehr explains that “these efforts remain mere beginnings, veritable drops in the bucket, when compared to the needs” (ibid:31). Such a statement suggests that much work needs to be done in this area and perhaps that our ‘criminal justice’ system must change its focus from punishing ‘criminals’ to meeting the needs of those most affected by ‘crime’.

Lastly, Morris explains that victims also need “to find significance in what they have experienced” (1998:95). It could be argued that this need could be fulfilled if the other needs are met by the justice process. Having information about their cases provided to them by the ‘offender’, being given a voice and a central role in the justice process, and also receiving compensation for the pains associated to the ‘crime’, could provide the possibility for the victim to find significance in what they have experienced and move on with their lives.

It is evident that Morris believes that the current ‘criminal justice’ system is not equipped to adequately meet any of the needs of those victimized by ‘crime’, but what about revenge? Is retribution or vengeance a basic human need when one feels that they have been victimized? In her research, Morris found that revenge through punishment of the offender “was not generally found to be a primary need of victims” (Morris, 1998:93). If this is true, then why in so many cases the punishment of ‘criminals’ via imprisonment is a primary solution to dealing with ‘crime’?

Meeting the Needs of Offenders

In addition to victims, ‘offenders’ also have a series of needs that must be addressed as a result of their actions. Zehr (2002) provides the framework from which we can understand what ‘offenders’ require from the justice process:

1. Accountability that addresses the resulting harms, encourages empathy and responsibility, and transforms shame.
2. Encouragement to experience personal transformation, including healing for the harms that contributed to their offending behavior, opportunities for treatment for addictions and/or other problems, enhancement of personal competencies.
3. Encouragement and support for integration into the community.
4. For some, at least temporary restraint.

- Zehr, 2002:17.

Aside from temporary restraint, much of the literature suggests that the existing ‘criminal justice’ process does not meet any of these needs and in fact may cause more harm than good.

Zehr defines accountability as “an opportunity to understand the human consequences of one’s acts, to face up to what one has done and to whom one has done it...Accountability also involves taking responsibility for the results of one’s behavior.” (1990:42). Zehr also believes that in order to move forward and grow as individuals

“Offenders must be allowed and encouraged to help decide what will happen to make things right, then to take steps to repair the damage” (ibid). Despite the rhetoric, it is clear that the system fails to hold ‘offenders’ accountable in this manner as “they are rarely encouraged or allowed to see the real human costs of what they have done” (ibid:41).

When looking at the prevailing retributive approach to ‘crime’, one can argue that ‘offenders’ undergo a personal transformation, but it is not the type of transformation that Zehr argues ‘offenders’ need in order to bring positive change to their lives. As discussed by Mathiesen (1990), the prison experience not only negates such change and in fact has proven to harden and/or further deteriorate the mental state of these ‘offenders’, resulting in an increase in their tendency towards violent responses to events in their lives that often lead to criminal offences. Zehr (1990) also observes that the legal process and the prison experience only heighten an ‘offender’s’ sense of alienation from society. Thus, it could be argued that such resentment towards society could negate any efforts by those looking to help integrate the ‘offender’ into the community. Zehr argues that other solutions with a non-punitive focus are needed to help ‘offenders’ transform their lives in a positive manner so that they may be successfully reintegrated into society. At the same time, we must also be aware that Zehr and the like seem to lodge a disproportionate amount of the responsibility for ‘criminal’ acts on the ‘offender’, while claiming to be mindful of the precipitating social and environmental factors that lead to ‘crime’.

Meeting the Needs of the Community

It is also evident that ‘crime’ has an impact on the community, which generates a set of needs that requires attention. Zehr (2002) argues that communities require the following from the justice process:

1. Attention to their concerns as victims,
2. Opportunities to build a sense of community and mutual accountability,
3. Encouragement to take on their obligations for the welfare of its members, including victims and offenders, and to foster the conditions that promote healthy communities.

- Zehr, 2002:18.

This statement recognizes that when a ‘crime’ takes place, members of the community also feel victimized and may experience trauma as a result of this event. Similarly to those directly victimized by ‘crime’, they also require answers to their questions and concerns that only ‘offenders’ can provide. They need opportunities to speak about how they have been impacted by the actions of the ‘offender’. They also need to regain the feeling of security and need assurances from the ‘offender’ that they will not themselves become victims of ‘crime’. Communities also require that ‘offenders’ make reparations to those they have harmed. If these needs are met, one could argue that citizens would be compelled to want to help ‘offenders’ transform their lives for the better, which would foster the sense of mutual obligation that is needed to build healthy communities. Zehr (1990) argues that under the current justice arrangement “the process is mystified, mythologized, until it is larger than – and distant from – life. In that process, we all become more fearful.” (:58). The fear that emerges as a result of our current justice process does not promote the sense of community needed to address the needs of victims, ‘offenders’, and certainly not those of citizens. Overall, our current ‘criminal justice’

system seems to be a failure on multiple levels requiring a profound transformation in philosophy, policy and practice.

Chapter IV: Revisiting Restorative Justice in Canada

Although a first movement that is crucial to any discussions surrounding the fledgling field of ‘alternative’ practices such as restorative justice is that of *responding to failure*, it is also important to trace the history of its emergence within the Canadian context. I contend that this can be accomplished by examining two additional overlapping and inseparable movements that I feel best explain what is taking place in the name of restorative justice in Canada today. The purpose of this exercise is to provide a framework from which we can investigate what is taking place under the guise of the label of restorative justice.

‘Criminal Justice’ Experiments

With failure came an impetus for *experimentation*, the second movement which contributed to the development of ‘alternative’ ‘criminal justice’ programming. As part of the diversionary and informal justice movement that sought to better address the needs of those most affected by ‘crime’, *Victim-Offender Reconciliation Programs (VORPs)*⁶ emerged in both Canada and the United States in the mid-1970s.

In his book *Changing Lenses*, Zehr (1990) tells the story of two young men living in Elmira, Ontario. In 1974, the two plead guilty to vandalizing a number of properties, a series of events that shocked their community. Mark Yantzi, an individual of the Mennonite faith and a probation officer with the “mandate...to help explore community-oriented alternatives” (:159), proposed to the presiding judge that the ‘offenders’ meet

⁶ Note: Due to the fact that the victim-offender reconciliation process implies by its very name that reconciliation between victims, ‘offenders’ and their respective communities is to take place, some have opted to rename this process victim-offender mediation as this label does not carry the same connotations (ex: Umbreit, 2001).

with their victims and arrange restitution. After an initial refusal, the judge later accepted. From there, the youth met with each of their 22 victims, discussed the impacts of their actions, negotiated restitution and the payments were made in full. Zehr explains that “From this beginning the victim-offender reconciliation movement was born in Canada” (ibid).

Since that time, hundreds of similar initiatives or processes have been developed and are in operation across the world, including over 100 such projects in Canada (Church Council on Justice and Corrections, 1996). Umbreit (2001) explains that the VORP or VOMP process is usually comprised but is not limited to face-to-face meetings between victims, ‘offenders’, and affected community members. In these gatherings, these stakeholders share their accounts of what has taken place, voice their particular concerns and are empowered to determine the outcomes of the process in the form of a consensual agreement. In contrast with the existing ‘criminal justice’ system, Zehr (1990) explains that “VORP serves as a reminder that there are other ways to understand and respond to crime – that justice can repair” (:173).

A pioneer of restorative justice, Zehr (1990) credits the Mennonite-led *Victim Offender Reconciliation Program* movement for providing him with the framework from which he could understand ‘crime’ in a different way, that ‘crime’ could be dealt with in an inclusive and restorative manner. A long time advocate for the rights of ‘offenders’, he explains that “VORP forced me to meet and listen to crime victims, and that caused me to begin rethinking what crime is and what ought to happen” (:172). This experience also motivated him to examine other cultures and look to history to see how disputes such as ‘crime’ could be resolved differently.

Proponents of restorative justice also recognize that governments and local social justice advocates in countries such as Australia, Canada, New Zealand and the United States have in the past and continue to search for culturally relevant justice processes that can address the needs of Aboriginal populations who continue to be overrepresented in prisons. Of these practices, another Canadian experiment, *circles* (healing, sentencing, peacemaking), are recognized as having a prominent role in the emergence of the restorative justice model. The first documented circle took place in 1983 in the Aboriginal community of Hollow Water, located approximately 100 kilometers north of Winnipeg, Manitoba (Jaccoud, 2003). Circles typically bring together the ‘offender’, the victim, interested community members and in some instances ‘criminal justice’ officials in an effort to engage in healing by addressing the causes of harm. Some processes also seek to uncover the underlying causes of ‘crime’ as they believe such incidents represent a symptom of broader dysfunction within the community that needs to be addressed in order to improve the living conditions of all inhabitants. According to Jaccoud (1999), the number of these types of initiatives grew significantly in Canada during the 1990s, notably in the provinces of Manitoba and Saskatchewan, the Northwest Territories and the Yukon.

Family group conference (FGCs) experiments in the sphere of juvenile justice in New Zealand in the mid-1980s have also contributed to the restorative justice landscape in Canada (Shaw & Jané, 1998). More often than not, FGCs bring together the youth ‘offender’, the victim, their supporters, interested community members and the police in an effort to provide them with an opportunity to explore what occurred, to voice their thoughts and feelings, and to come to an agreement about how the conflict should be

resolved. The Royal Canadian Mounted Police (RCMP) adopted this model in 1997, with the deployment of their *Community Justice Forums* (CJFs) initiative. Since that time, detachments across Canada have been ‘offering’ these initiatives to interested youth who voluntarily wish to be diverted away from the punitive ‘criminal justice’ process.

An often forgotten development both in Canada and elsewhere that also greatly contributed to the emergence of restorative justice was the increasing use of *restitution* arrangements such as direct victim restitution payments and community service orders beginning in the 1960s (Shaw & Jané, 1998). This coincided with the official endorsement of such restitution practices by the Law Reform Commission of Canada in 1974 (Hudson & Galaway, 1977). Other *diversion* schemes oriented towards diverting youth and adults away from the retributive ‘criminal justice’ process were also being called for (see Law Reform Commission of Canada, 1975), contributing to the emergence of an increasing number of restorative justice programs in Canada.

A Legal Framework for RJ in Canada

With the failure of punitive approaches in dealing with ‘criminal’ matters and the early successes of informal experiments, the Government of Canada began to recognize the value of the initiatives. For instance, in 1980, the office of the Solicitor General Canada sponsored the *International Conference on Alternatives to Imprisonment*, where ‘criminal justice’ officials and practitioners from around the world assembled to discuss the need to reduce incarceration which many felt could be accomplished by including promising practices such as VORPs in the ‘criminal justice’ process (Solicitor General of Canada, 1982). Over the years, this sentiment permeated government circles resulting in

the creation of laws that now form what I will describe as the *legal framework* for ‘alternatives’ within the *Criminal Code of Canada*.

Changes in the legal parameters of the ‘criminal justice’ system began with the introduction of the *Young Offenders Act* (YOA) in 1982, which came into force in April 1984. According to Johnson (2003), Section 69 of the Act, gave government and non-government representatives the option to divert youth between the ages of 12 and 17 accused of committing ‘crimes’ into *alternative measures* programs including restorative processes. These initiatives were also intended to divert youth away from the proceedings and sanctions of the ‘criminal justice’ system. Sharpe (1998) notes that this section also gave the provinces and territories the power to establish Youth Justice Committees, voluntary networks of citizens that would deliver the programs and services specified in the YOA. This led to a proliferation of community-based organizations geared towards responding to issues related to youth ‘crime’.

After two decades of operating under the auspices of the YOA, the Youth Criminal Justice Act (YCJA) (2003) came into force in a so-called effort to better meet the needs of young persons who have engaged in ‘criminal’ activity. This legislation placed a particular emphasis on extrajudicial measures aimed at promoting accountability and diverting youth away from the ‘criminal justice’ process. In theory, this was to be accomplished by mandating police officers and Crown attorneys to consider *alternative measures* such as informal and formal warnings, cautions, extrajudicial sanctions or referrals to community-based programs for non-violent and first time ‘offenders’. As a result, we have seen an increase in the use of such ‘alternative measures’ schemes including restorative justice initiatives (Bala, 2004).

As previously mentioned, a legal framework for *alternative measures* was also established in the adult ‘criminal justice’ system after many years of discussions that began with ideas that were advanced by then Member of Parliament, David Daubney. As head of the *Parliamentary Standing Committee on Justice and Solicitor General on its Review of Sentencing, Conditional Release and Related Aspects of Corrections* (1988), Daubney suggested that the purposes of sentencing in ‘criminal’ matters should include the “reparation of harm to the victim and the community and promoting a sense of responsibility in offenders” (Cormier, 2002:3-4). The committee also proposed that the federal government “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” (Daubney, 1988:98). Although certain VORPs, such as those run by the Community Justice Initiative in Langley, B.C. received some modest support from the government, the recommendations in the report pertaining to sentencing were far from being adopted in a hasty and robust fashion.

After years of collecting dust, Daubney’s recommendations were finally tabled in legislation following the release of the *Prison Population Growth Report* in 1996, which recommended that *alternative measures* be considered for adult populations, notably Aboriginals living on reserves and in urban areas, as this particular segment of the population was grossly overrepresented in Canadian prisons at both the provincial/territorial and federal levels. With this in consideration, *section 718 of Criminal Code of Canada* was amended to include items e) and f) in the Purpose and Principles of Sentencing:

718. The fundamental purpose of sentencing is to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives:

- (a) to denounce unlawful conduct;
- (b) to deter the offender and other persons from committing offences;
- (c) to separate offenders from society, where necessary;
- (d) to assist in rehabilitating offenders;
- (e) to provide reparations for harm done to victims or to the community; and
- (f) to promote a sense of responsibility in offenders, and acknowledgment of the harm done to victims and to the community.

- Criminal Code of Canada.

Section 718.2 was also modified to include the following sentencing considerations:

- (e) all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders.

- Criminal Code of Canada.

By passing these amendments, *alternative measures* were now legally available to those accused of having committed a 'crime'. Unfortunately, this change was met with some resistance as was illustrated in the case of Jamie Tanis Gladue, who was refused referral to an *alternative measures* process following the stabbing and death of her partner whom she suspected of having an affair with her sister. Gladue did not accept the decision of the judge to send her to prison and appealed her case all the way to the Supreme Court of Canada. Upon hearing her case, the panel of judges ruled that the judge who had sentenced Gladue did not consider *alternative measures* and overturned the decision citing the considerations provided in Section 718.2 e) of the Criminal Code of Canada. In the end, Gladue received day parole with certain conditions after having served a six-month prison term. To many, the verdict rendered by Canada's top court

essentially confirmed that judges need to carefully consider all sentencing options in the event of serious ‘crimes’ (Roberts & Roach, 2004). The Court also stated that *alternative measures* such as restorative justice processes should be considered in all ‘criminal’ matters regardless of whether the accused is Aboriginal or not if it is in the interest of society and those directly affected by the act in question (ibid).

A ‘Restorative’ Snapshot

Emerging from failure, growing out of experimentation and the development of a legal framework for ‘alternatives’, restorative justice has come to be a recognized procedural and sanctioning practice in both the youth and adult ‘criminal justice’ systems in Canada. To date, a few comprehensive lists of Canadian ‘restorative justice’ initiatives have been produced, but they are all grossly outdated. As such, I felt that an inventory of Canadian programs that either claim to be in the business of restorative justice or have been identified as such by a third party needed to be created. The goal of this inventory is to provide a snapshot of initiatives taking place in the name of restorative justice in Canada. At this time, it is not possible to provide a definitive list as much research is needed in order to differentiate between programs which adhere to the values and principles of the restorative approach and those that do not. This inventory was assembled utilizing information available in the websites of provincial governments, non-governmental organizations, the Conflict Resolution Network (www.crnetwork.ca), and CSC’s *Inventory of Canadian Restorative Justice Initiatives* (1998). It is important to note that conferences, courses and events related to restorative justice were excluded from this inventory.

National Overview

Based on the criteria established for the purposes of this exercise, there were at least 277 programs claiming to be in the business of restorative justice in Canada⁷ (see table below). It is important to consider that there are a variety of factors that shape the landscape for restorative justice in each Canadian province and territory, including the involvement of community-based organizations, the development of strategies in many provincial and territorial strategies, and the creation of special grant programs aimed to support ongoing and new programs. We will explore such developments in each part of the country so that it may be possible to frame the emergence of restorative justice practices within the Canadian ‘criminal justice’ system.

Overview of Canadian ‘RJ’ Initiatives

Province / Territory	# of Programs	Rank
Newfoundland and Labrador	37	3
Prince Edward Island	4	10
Province of Nova Scotia	13	7
New Brunswick	3	12
Québec	41	2
Ontario	23	6
Manitoba	11	8
Saskatchewan	36	4
Alberta	25	5
British Columbia	72	1
Territory of Nunavut	1	13
Northwest Territories	4	10
Yukon Territory	7	9
NATIONWIDE	277	--

* Note: consult Appendix B for the complete inventory.

⁷ Note: The research and the development of the inventory took place from November 2005 to January 2006.

As previously noted, there are many provincial and territorial governments within the Canadian context that have developed strategies that outline how community justice initiatives such as restorative justice programs should operate. For instance, the Government of Prince Edward Island added community justice forums to their *Alternative Measures Policy* in 1998.

In terms of advancing policy to support restorative justice programs within their jurisdiction in a much more robust fashion, the Government of Nova Scotia has taken the lead within the Canadian context by putting forth their *Restorative Justice Program*. This initiative began in November 1999, offering youth and adults the opportunity to participate in a victim-offender conference (better known as victim-offender mediation), family group conferences or circle processes. These dispositions are available at four entry points of the 'criminal justice' process (pre-charge, post-charge / pre-conviction, post-conviction / pre-sentence, post-sentence) depending on the seriousness of the 'crime'. Program delivery is made possible via a referral process that is initiated on behalf of victims, 'offenders', members of the community and other interested parties such as police officers, crown attorneys, judges, the provinces' Corrections Services or Victims Services staff, who then communicate the request to one of the 12 participating community-based agencies. These agencies are then responsible for handling the dossier and may refer the accused or convicted person back to the 'criminal justice' process should the restorative approach fail to produce the desired outcomes sought by those involved. This of course may be interpreted as a form of coercion which would clearly interfere with the principle of voluntary participation which is central to the philosophy of restorative justice.

The Province of Saskatchewan has also developed their own *Restorative Justice Strategy* (1995), which seeks to integrate the principles of restorative justice into the framework of the existing ‘criminal justice’ system. This development coincided with the implementation of the provinces’ *Aboriginal Justice Strategy* (1995) that aimed to create policies and offer services such as restorative processes that better meet the particular needs of the Aboriginal Peoples living in the province. As a result of these combined strategies, 36 community-based organizations offer restorative justice processes receive ongoing support from the Government of Saskatchewan.

Within the Canadian context, the provincially funded *Regroupement des organismes de justice alternative du Québec* (ROJAQ) has also greatly contributed to the restorative justice movement. A provincial association, the ROJAQ pools together the resources of 38 non-profit organizations with the goal of providing youth and adults with diversion opportunities that promote accountability and reparation as outlined in the YCJA and Criminal Code of Canada. Under a similar arrangement, the Government of Newfoundland has partnered with 29 local Youth Justice Committees who offer victim-offender mediation and what they call *conciliation programming* as part of their strategy to implement the alternative measures provisions in the YCJA.

British Columbia is the most active of all provinces and territories in the funding of restorative justice initiatives in Canada. Bala (2004) notes that this “government was already concerned in the 1990’s about high rates of youth custody use, and various program and policy changes were made in the late 1990’s and early years of the millennium” (:7-8). This led to a drastic reduction in incarceration rates for youth, which can largely be accredited to the number of restorative justice initiatives in the province.

Also contributing to the sheer volume of RJ projects in B.C. is the number of provincially-funded *Community Accountability Programs* that facilitate restorative processes who have been receiving funding from the Government of British Columbia since the coming into force of the YCJA.

In terms of providing financial assistance, the Community Justice Branch of the Government of Manitoba funds a number of community-based initiatives such as the Community Holistic Circle Healing Program of the Hollow Water First Nation. These programs address amongst other concerns, the overrepresentation of Aboriginals that find themselves shackled by the ‘criminal justice’ process and imprisonment, a central theme outlined in the *Report of the Aboriginal Justice Inquiry of Manitoba* (1991).

Citing similar concerns, the Ministry of the Attorney General of the Province of Ontario also called for the development of *Aboriginal Community Justice Programs* that would receive referrals from crown attorneys in an attempt to divert accused Aboriginals away from restrictive sanctions such as imprisonment. The Province of Ontario’s *Crown Policy Manual* (2005) also instructs crown attorneys to consider *restorative measures* in the event that an ‘offender’ is mentally disordered or developmentally disabled.

Similar to Ontario, the Province of Alberta also does not have a strategic policy on community or restorative justice, but the province’s Office of Solicitor General and Public Security offers *Alberta Community Restorative Justice* (ACRJ) grants to build community capacity to deliver restorative justice programming and to provide training of staff and volunteers. In the 2004-2005 fiscal year, \$350,000 in grants were available and awarded to 13 programs.

Given its small population estimated at 30,245⁸, Nunavut does not have a plethora of restorative justice programs, but nonetheless, the territory has a *Community Justice Program*. The initiative aims to “promote community justice and victim services development, including the promotion and establishment of programs to prevent crime within communities, through greater community participation and control” (<http://www.justice.gov.nu.ca/english/commjust.html>). Of similar circumstance, the governments of the Northwest Territories and the Yukon claim to have community justice at the core of the philosophy of their respective departments of justice. Both promote and support *Community Justice Committees* and other community-based organizations that provide alternative processes to the existing system. It is important to note, that sentencing circles in the Yukon have also been a component of the territory’s ‘criminal justice’ system since 1992 (Jaccoud, 2003).

Programming Levels

As discussed in previous sections, there are many programs claiming to be contributing to the field of restorative justice in Canada and according to Cooley (2002), “there are five identified entry points into the criminal justice system where offenders may be referred to a restorative justice program:

1. police (pre-charge);
2. crown (post-charge);
3. courts (pre-sentence);
4. corrections (post-sentence); and,
5. parole (pre-revocation)” (:5).

Typically, programs at the *pre-charge level* ‘offer’ interested suspects the opportunity to participate in an RJ program in order to ‘make things right’ and to be

⁸ January 1, 2006 population estimate – Statistics Canada.

diverted away from getting charged. The RCMP's *Community Justice Forums* (CJFs), a nationwide initiative, is one example of a program that provides youth and adults (in some regions) who are willing to accept responsibility for their actions the opportunity to participate in the initiative. In this process they meet with their own family, victim(s), their supporters, and interested community members in order to discuss what has taken place, identify needs of those impacted by the event, and to come to consensus on how to repair the harm that was caused as a result of their actions.

In the event that a suspect has been charged with an offense, Crown Attorneys can decide to refer them to a restorative justice program aimed at either diverting away accused parties from further reprisal from the judiciary and/or to provide an opportunity to victims, 'offenders' and community members to 'make things right'. One such program operating at the *post-charge level* that has received a great deal of attention is the *Collaborative Justice Project* (CJP) of the Ottawa Court House. This initiative receives referrals from not only crown attorneys, but also defense lawyers and judges. Unlike some programs, the CJP does not aim to divert accused parties away from the judicial process or to impact sanctioning, but rather seeks to provide interested suspects who acknowledge their culpability (within the framework of the program and not necessarily in court proceedings) and their victims the opportunity to engage in dialogue aimed at healing and repair.

Once an individual has either pled guilty or has been found guilty as a result of court proceedings, 'offenders' can then be referred to a restorative justice program that will bring together the 'offender', victims and interested community members in a process aimed at repair and to provide a sentencing recommendation based upon a

consensual agreement reached by the participants, to the judge in the case who would have the final decision. One example of a project operating at the *pre-sentence level* is the Kwanlin Dun Community Justice initiative, where the aforementioned stakeholders in the restorative justice process, the judge and other representatives of the ‘criminal justice’ system may also be present to help determine the appropriate sentence that the ‘offender’ should receive from the community.

In some cases where individuals are convicted of an offense and find themselves in prison, they may be able to request, be referred to or be asked by a victim to participate in a restorative justice program. Typically, these *post-sentence* programs do not provide an avenue for a reduction in sentencing, but rather aim to bring together interested parties in a process ultimately aimed at reparation. Correctional Services Canada (CSC) is one institution within the ‘criminal justice’ system that offers different forms of victim-offender mediation. This organization has also sponsored ‘offender’ programming projects such as the *Restorative Justice Unit* (RJ Unit) in Grande Cache Institution, that aimed to provide them with the skills and opportunities to ‘make things right’.

Within the Canadian context, there are also some programs at the back-end of the system known as *pre-revocation* initiatives that claim they are in the business of restorative justice, such as *Circles of Support and Accountability (COSA)*. COSA circles are found in many communities, and are for the most part setup to provide support to warrant expired ‘offenders’ who committed sexual offences and are deemed a high risk for re-offending (Wilson et al., 2002). The intention is to safely reintegrate these men and women into the community while addressing the security concerns of the public. There are also programs that have been setup, such as the *Restorative Justice Options Program*

which ran in Victoria, B.C. from 1997 to 1999, that gave ‘offenders’ who had violated the conditions of their parole the choice to enter into a restorative justice process rather than to be sent before a judge (ibid).

Surveying the deployment of restorative justice in Canada also requires that we acknowledge that there are many initiatives that do not operate at all within the framework of the ‘criminal justice’ system. In other words, there are restorative justice processes that operate as stand alone alternatives. Thus, it is important that we amend Cooley’s entry points to include a sixth category of restorative justice projects that comprise those initiatives that are *unrelated to the ‘criminal justice’ system*. These community-based programs do not depend on referrals from police, attorneys, judges and other ‘criminal justice’ officials – although they do on occasion receive referrals from our ‘socializing’ institutions – but rather facilitate different restorative processes based on requests for such services from victims, ‘offenders and community members. Such organizations include *Centre de services de justice réparatrice*, based out of Montreal and the aforementioned *Community Justice Initiative* of Langley, British Columbia.

Other Pertinent Developments

There are also many other developments that have contributed to the growth of the restorative justice movement in Canada. For instance, once a year, Correctional Service Canada (CSC) spearheads *Restorative Justice Week*, a series of local educational and social events across the country aimed at promoting RJ in Canadian communities and elsewhere in the world.

Numerous conferences focused on the restorative approach have also been held. Events such as *Achieving Satisfying Justice* (1997), the *Restorative Justice Coalition*

Symposium 99 (1999) and the 6th *International Conference on Restorative Justice* (2003) have also greatly contributed to the visibility of RJ in Canada amongst prisoners, victims of ‘crime’, academics, ‘criminal justice’ practitioners, policy makers, and the general public.

Education and training programs are also contributing to the growth of restorative justice. In a Correctional Service Canada study released in March 2001 entitled *Canadian Resources Guide to Restorative Justice and Conflict Resolution Education Programs – A compendium of programs and courses offered by universities, colleges and other post-secondary or community-based institutions*, there were 40 organizations who offered training in restorative justice and dispute resolution.

Important publications in the field of restorative justice have also promoted restorative initiatives and processes within the Canadian context. *Satisfying Justice* (1996) written by The Church Council on Justice and Corrections, Susan Sharpe’s *Restorative Justice: A Vision for Healing and Change* (1998), Mylène Jaccoud’s compilation entitled *Justice réparatrice et médiation pénale – convergences ou divergences?* (2003), and a video entitled *A Healing River – An Invitation to Explore Restorative Justice Values & Principles* (2004), are but a few major works that have helped to shape discourse on restorative justice philosophy and practice in Canada.

There is also a *Federal-Provincial-Territorial Working Group on Restorative Justice* which has been in operation since 1998. This group composed of policy makers and practitioners in the sphere of ‘criminal justice’ meet every few months via teleconference to discuss recent developments in the field of restorative justice in their jurisdictions. The members also serve as advisors within their organizations by

suggesting possibilities for applying restorative practices within the ‘criminal justice’ system. Agencies in the Government of Canada such as the Law Commission of Canada, the Department of Justice and the Department of Public Safety and Emergency Preparedness, have also published a number of consultation papers and research papers for these purposes.

Moving Forward: A Research Agenda for Proponents of RJ in Canada

The restorative justice landscape within Canada is quite diverse in terms of programming purposes and the degree in which actors and institutions within the ‘criminal justice’ system are involved in this fledgling field. By my assessment, there were at least 277 initiatives within Canada that either claimed to be in the business of restorative justice or have been identified as such by a third party. My findings represent but a tip of the iceberg of what is currently taking place in the name of RJ in Canada. Whether you are a proponent of restorative justice wishing to eventually replace the existing punitively-oriented ‘criminal justice’ system, an advocate for the use of restorative processes to arrive at ‘alternative’ outcomes and to meet the needs of those most affected by ‘crime’, or are a believer that we can ‘reform’ our institutions by incorporating RJ into their discursive and operational framework, research aimed at evaluating restorative justice initiatives needs to take place. To not engage in such a process is to avoid discovering whether we are in the process of setting the backdrop for changes in the way we address ‘crime’ or if we are once again treading water in an all too familiar lake. With so much territory to cover – where to start?

Chapter V: Towards a Research Object

In science, much like in life, there are many questions, questions that require answers or at the very least possible explanations. The curious sit at their desks staring at a computer screen waiting for one question to emerge that peaks their interest above all others. At the same time the cursor flickers keeping us constantly aware that the seconds, minutes, hours and days are vanishing. These moments are never to be recovered much like the trees we destroy to print the story we call our lives.

After much thought, a question emerges from the depths of our psyches that stimulates the mind and if one is lucky the soul. This question needs to be answered, but before one can even begin to comprehend the body of knowledge that awaits us new questions emerge, followed by countless others. Left drowning in a pool we call confusion it is time to refocus, rethink, and reimagine our world in ‘practical’ terms and pick a research object, because otherwise nothing would ever be said about what we perceive to be something. We select one question we consider is worth answering, and settle on a number of smaller questions that we hope will enable us to paint a ‘complete’ portrait of this very object – that is if we are to believe that portraits can be complete, whole, and explain phenomena with pinpoint accuracy.

Research Object Revisited

As researchers, we often begin the research process by formulating a research object that we believe is reasonable, rather limited in scope and can be explored in-depth only to realize after a few discussions with ourselves and our peers that we have engaged in the study of a monster with many heads which direct us in far too many directions. At

this point, we have become a canoe trying to navigate the ocean where we will undoubtedly get lost if not drown.

From the beginning, I thought that it would be possible to conquer the world, studying one Canadian 'restorative justice' initiative after another, so that I could meet the following research object: Do the restorative justice initiatives operating in Canada adhere to the objectives, values and principles outlined in the philosophy of restorative justice? As I first presented this research question to my colleagues and indicated to them that I had discovered that there were dozens upon dozens of programs claiming to be in the business of 'restorative justice', they reminded me that I did not have the budget or the research assistants at my disposal needed to complete such a large study. Put simply, I needed to refine the scope of my research.

Research Object - Episode I

As I have outlined in the introduction and in subsequent chapters, restorative justice was first presented as an alternative approach to that of the 'criminal justice' system to address 'crime', but there are an increasing number of programs claiming to be in the business of restorative justice that have emerged within the framework of the Canadian 'criminal justice' system. Why is such an observation significant and worthy of further scrutiny?

Proponents of restorative justice argue (see Zehr, 1990; Braithwaite, 2002; Van Ness & Strong, 2002) that restorative justice is different from the programs and processes of the 'criminal justice' system that primarily seek to punish the 'offender'. Thus, one must question what is happening as restorative justice is increasingly become adopted as an activity of the 'criminal justice' system in the Canadian context; has restorative justice

merely been adopted and transformed to meet their usual goals of punishment and control or has the philosophy of restorative justice infiltrated the system in such a manner that it is transforming policy and practice from within? To address this very issue, my research object became: Do the restorative justice initiatives operated by institutions within the Canadian 'criminal justice' system adhere to the objectives, values and principles outlined in the philosophy of restorative justice?

To provide an answer to this question would have required that I conduct a thorough analysis of 'restorative justice' programs operating at five different levels of the Canadian 'criminal justice' system as identified by Cooley (2002). At that point, I determined that such research was not feasible due to the sheer number of programs that would need to be evaluated for these purposes. As such, I had to once again refine my focus and decided to examine the 'deployment' of restorative justice in one particular area of the Canadian 'criminal justice' system.

As discussed in *Chapter IV*, there are unique characteristics and sets of problems that accompany the emergence of restorative justice initiatives within the different sectors of the 'criminal justice' system. For instance, I felt that the *pre-charge* programs run by or in collaboration with policing institutions such as the RCMP's Community Justice Forums are unique in comparison to other types of initiatives due to the discretionary powers of police. Thus, at this stage of the 'criminal justice' process, it would be important to determine whether those who enter such programs *diverted away* from the court process or if they are being *diverted into* restorative processes when in the past police would have used their discretionary powers by giving a warning?

When looking at *post-charge* and *pre-sentence* programs run by or in partnership with the judiciary such as the Collaborative Justice Project in Ottawa, we run into similar issues. In these instances, we must ask ourselves whether accused parties are being *diverted away* from punitive sanctions of the State by participating in such programs or are they being *diverted into* a process where not only they receive a sentence from the State but also subject themselves to the restorative justice process. In this light, it seems that this form of ‘dual-track’ justice seems to in fact increase the burden on the ‘offender’ who may come to internalize such an experience as a form of dual or increased punishment (see Zehr, 1990).

Restorative justice has also been presented by ‘criminal justice’ officials and advocates of the restorative approach as having the potential to be an effective community reintegration tool (see Bazemore, 1998; Cormier, 2003). There is also a concern that restorative opportunities need to be provided to those who violate the conditions of their parole in order to divert them away from spending time in prison. In these instances, *pre-revocation* programs such as Circles of Support and Accountability which claim to provide opportunities for reintegration (and thus restoration) to ‘offenders’ may in fact be engaging in the business of supervision and control, thus expanding the reach of the prison into the community (more so than probation and parole) under the guise of restorative justice. Whether such outputs are intended or unintended is a whole other matter which would require that we examine the framework of these programs. In these cases, it is also clear that coercion in relation to program participation becomes an issue. But of even greater importance is the possibility that

‘offenders’ may be *diverted into* ‘restorative’ processes where in jurisdictions without such services, parole violators would receive a tap on the wrist.

Research Object - Episode II

Although the different concerns noted above are quite interesting and examination in these areas is very much needed, I felt that a necessary starting point for the research that I proposed had to begin with a careful and thorough examination of *post-sentence* programs operated by correctional institutions, such as those found within CSC penitentiaries. As we may recall, when the contemporary philosophy of restorative justice emerged, it was constructed in opposition to the existing retributive approach. On one hand, we have the restorative justice model which proponents claim is guided by a different conceptualization of ‘crime’ and justice, and different objectives, values and principles. Then, on the other hand, we have the retributive justice model which guides the activities of the ‘criminal justice’ system. This framework is said to be in complete opposition to that of the restorative approach. Within this schema, the prison is recognized as the ultimate symbol and instrument of retribution in Canada.

If we are to buy into this story of polar opposites put forward by many of the supporters of restorative justice, can the promise of restoration be realized in a milieu recognized as the pinnacle of punishment? Is it possible to ‘make things right’ behind bars, with little to no access to victims or the affected community? Thus, I decided to focus on the following research question: Do the restorative justice initiatives operated by Correctional Services Canada (CSC) adhere to the objectives, values and principles outlined in the philosophy of restorative justice?

Research Object - Final Episode

After careful examination of the different programs operated by CSC that they claimed were restorative justice initiatives, Grande Cache Institution's Restorative Justice Unit (RJ Unit) emerged as the primary object of my fascination and examination. The reason for this was simple; it was a pilot project that if deemed successful (through evaluation by CSC which is currently nearing completion), was to be adopted in many of the federal penitentiaries across Canada, which in my view is problematic for the following reason. Unlike so many restorative justice programs, this initiative was not geared towards uniting 'offenders' with their victims and communities in effort to 'make things right', but rather was primarily oriented towards improving the prison environment by creating a milieu within the concrete walls of Grande Cache Institution (GCI) which was to be guided by the principles of restorative justice. Such an example seems to indicate that one of two things was taking place: (1) there may be a case of clear co-optation and transformation of the philosophy of restorative justice or (2) restorative justice was taking place behind bars as claimed by officials at Correctional Service Canada. In order to unravel this puzzle the ballot question and *research object* for this study reads as follows:

Did the Restorative Justice Unit operating within Grande Cache Institution and administrated by Correctional Service Canada between April 2001 and November 2005 adhere to the objectives, values and principles outlined in the philosophy of restorative justice?

Smaller Questions to Answer a Larger Question

To answer the question that was the central task of this study, several smaller questions also needed to be addressed. In *Changing Lenses*, Howard Zehr (1990)

identifies a number of key concepts that are central to the restorative approach that I have broken-down into the following categories: definitions of crime, definitions of justice, program objectives, processes, outcomes, principles and values. From these categories I drafted a series of questions that were used to analyse the ‘restorative justice’ initiatives operating within CSC institutions:

- How did the initiative define crime?
- How did the initiative define justice?
- What were the objectives of the program?
- What were the processes that were undertaken by CSC in order to achieve ‘restorative’ outcomes?
- What were the principles and values that guided the operations of this initiative?

I also used these questions to analyze the organizational policy of Correctional Service Canada, which enabled me to situate the role of ‘restorative justice’ in this organization. Once the answers to these sub-questions were constructed, I then contrasted them to the components of my ‘Ideal Type’ Restorative Justice Model discussed in Chapter II (see Appendix A). These questions were best suited to meet the imperatives of this study as they were extrapolated from the analytical categories presented by Zehr (1990), one of the first major works to establish the main tenants of the restorative approach prior to the growth that occurred in this area of discourse and practice.

Social and Theoretical Importance

This study is of social importance for the simple reason that for hundreds of years the retributive ‘criminal justice’ system has failed our society in numerous ways. This system has proven itself to be a failure, as it is incapable of meeting the needs of victims, ‘offenders’, and those of the community (see Zehr, 1990; Morris, 1998). When an ‘alternative’ to dealing with ‘crime’ and disputes presents itself such as ‘restorative

justice', it deserves to be examined to see whether or not such a 'reform' would lead to positive social change or will just bring us *more of the same* – stigmatization, repression and utter failure (see Cohen, 1985; Mathiesen, 1990; Zehr, 1990).

From a theoretical and criminological standpoint, this study is relevant to this area of research as past attempts and failures to 'reform' 'criminal justice' during the supposed *destructuring movement* has shown that the 'criminal justice' system, notably 'correctional' institutions are able to absorb 'alternative' visions and practices, and transform them to meet their declared objectives of deterrence, incapacitation, rehabilitation and punishment (see Mathiesen, 1974; Cohen, 1985). By examining the activities of the RJ Unit, we may begin our journey of discovery which seeks to determine whether restorative justice is transforming the Canadian 'justice' system from within or if this philosophy is being altered to expand the reach of this punitive societal structure. Much terrain in this area needs to be covered and this study is one in a long series of research activities that need to take place in order to unravel what is taking place within the context of Canada's 'deployment' of restorative justice.

Chapter VI: Methodological Approach

In the last chapter, I outlined the key questions that will be addressed in the following chapters of my study. Let us now explore the methodological approach that was utilized to answer these questions and to assemble the puzzle that slowly pieced itself together in my mind, only to be unravelled and subsequently pieced back together over and over again.

Qualitative Methodology

In research there are always choices to be made and one choice the researcher must make is to "...choose the scheme of reference adequate to the problem you are interested in, consider its limits and possibilities, make its terms compatible and consistent with one another, and having once accepted it, stick to it!" (Schutz, 1970:270). In other words, our methodological approach provides us with the tools needed to not only make sense of the material we are examining, but more importantly, to explain to others how conclusions were drawn (Blummer, 1954). As there exists countless numbers of methods we can use to construct knowledge, our task is to select one or a combination of techniques that are best suited to meet our research object. As there are many options, how is one to proceed?

In this study, I sought to determine whether or not the Restorative Justice Unit (RJ Unit) operating within Grande Cache Institution (GCI) and administrated by CSC adhered to the objectives, principles and values outlined in the philosophy of restorative justice. To provide a grounded understanding in this area of research, drawing conclusions from numbers would have been insufficient and would not provide the data

or understanding required for the in-depth analysis needed to meet the imperatives of this study. Thus, the quantitative approach was not considered as my guide for this lengthy journey.

As it is widely recognized by researchers in the social sciences that qualitative research tools are best-suited for in-depth research pursuits as they are more flexible and better adapted to the study of actors in the social realm (Poupart & Lalonde, 1998:71), the *qualitative approach* was my research methodology of choice for a number of reasons. For one, the qualitative approach is not necessarily interested in establishing causal links but rather aims to uncover the significance of social problems (Groulx, L.H. in Poupart, J. et al., 1997:58). Thus, this research method allowed me to understand the underlying meanings of the discourses and activities of ‘restorative justice’ initiatives ‘offered’ to prisoners at GCI by CSC so that I could determine if they did in fact respect the essentials of the restorative approach. The qualitative approach also allows the researcher to form new interpretations and perspectives on social phenomena (ibid: 59). As such, this scheme allowed me to establish what CSC means when they say that ‘restorative justice’ is taking place in their institutions.

Critiques and Rebuttals

Over the years, there has been much criticism directed at researchers who use the qualitative approach from proponents of quantitative methods. One argument made against this type of research is that qualitative studies do not provide valid findings that can be reproduced. To this critique, “some would argue that qualitative research has higher validity (because it stays closer to the real meaning of social existence) than does research producing numerical findings” (Baker, 1999:245). Others “reject validity as a

goal of qualitative research because direct knowledge of the social world (which is not socially constructed) is impossible to produce” (ibid). In either case, the validity argument presented by both sides demonstrates that a consensus on this issue is not to be reached for those who strictly define the boundaries of the types of research in which they engage.

Proponents of the quantitative approach consider themselves to be ‘objective’ scientists as they claim to adhere to rigorous research procedures. This camp also argues that qualitative research processes are far too ‘subjective’. This critique is weak at best as quantitative researchers fail to recognize that “scientists construct an image of reality based on their own preferences and prejudices and their interactions with other” (Bachman & Schutt, 2003:20). As such, qualitative researchers need not to consider objectivity as a goal of our intellectual pursuits. Rather, establishing ‘truth’ or ‘facts’ “is a matter of the best-informed and most sophisticated construction on which there is consensus at a given time” (Schwandt, 1994 in Bachman & Schutt, 2003:20). My research provides but one small piece of the puzzle that contributes to our overall understanding of what is taking place in the field of ‘restorative justice’. It is my version of events and “perceptions are the reality – or realities – that social science should focus on.” (Rubin and Rubin in Bachman and Schutt, 2003:20-21). I for one have and will continue to leave ‘objectivity’ to the positivists who claim to be able to engage in their analyses and ignore their humanity simultaneously.

Empirical Framework

In this study I looked to the past and deconstructed the discourses of officials from GCI and CSC. In doing so, I gathered research materials that have provided the

information needed to construct answers to my research questions, which allowed me to meet my research object.

Research Materials

As the RJ Unit is no longer in operation, it was not possible for me to go to Grand Cache Institution for the purposes of direct observation, thus other forms of research materials were needed. I could have also potentially conducted interviews with CSC staff, prisoners and others that had participated in the RJ Unit Program. But given that both CSC and University of Ottawa qualify contact with prisoners for the purposes of academic inquiry as “sensitive research”, I would have had to apply for ethics approval, a lengthy process that would have greatly stymied the progress of my research. More importantly, even had I been approved to conduct field interviews, it would have been extremely difficult to establish a representative sample of past RJ Unit participants as the program is no longer in operation.

These arguments convinced me that interviews would not provide the basis from which I could draw accurate conclusions. Instead, *written documents* provided the foundation for the empirical framework of my study, as they were already constructed and were easily accessible (Landry, R. in Gauthier, B., 2000:329). Written documents are also an extremely valuable resource for all social scientists, as they allow the researcher to reconstruct events and discourses (Cellard, 1997:251). It is also important to note that documents contain discourses that provide the underpinning or guidelines for practices. Therefore, a key technique that can be used to understand if CSC can legitimately claim to be in the business of ‘restorative justice’, is to begin by examining

their discourses and contrast them to those articulated by proponents of the restorative approach.

In this study, I analyzed *official documents*, which included program proposals, participant application forms, reports/evaluations, articles, pamphlets and any other documents pertaining to the RJ Unit managed by CSC. These documents provided me with an understanding of how the CSC officials define ‘crime’ and justice. They also helped to shed light on the objectives, principles and values that shape what took place in the RJ Unit. Moreover, these documents spell out the processes that are used to achieve the desired outcomes and which indicators were used to evaluate their initiatives.

Locating and Accessing Materials

The documents that were gathered for this study were obtained through personal visits at government and university archives / libraries, by accessing the Internet, and via contacts in the fields of academia and ‘criminal justice’.

Ethical Considerations

As all the documents compiled for this study are available to the public, there was no need to pass through the research ethics approval process of the University of Ottawa. One issue that needed to be addressed was the presence of the names of prisoners that were mentioned in the documents that I obtained. In every one of these instances, these names were excluded as I do not want to contribute to the marginalization experienced by prisoners due to their ‘offender’ master status. In addition, the anonymity of those who provided me with the documents is also protected.

Data Collection

As I analyzed written documents to meet my research object, the data collection technique used in this study was **document research**. This process involves a creative and sustained effort to gather potential sources related to the research object, but also with regards to larger questions (Cellard, 1997:254). It also requires the researcher to exhaust all possible avenues that may provide relevant materials (ibid). As mentioned in a previous section, I gathered documents in a number of different ways and will quickly explore the process in which I was engaged.

When a document was obtained, as a first step, I would read the different portions of the material to decide whether or not it met my sampling criteria (see the following section). Should it pass that first test, I then wrote a short summary that included identifying how the document was pertinent to the study, how I planned to use this material in the future and took note of relevant bibliographical information. Based on the particulars of the write-up, I then placed the document in a file for future analysis. It is important to note that during my analysis, I became aware of other materials and documents that contained very valuable and pertinent information. In these cases, I adjusted the theoretical framework outlined in chapters II and III which provided me with the base from which I made sense of the CSC and RJ Unit discourse. Such a process demonstrates that research is an on-going process that often requires us to take a few steps back prior to taking a small step forward. We must not be foolish to think that proper research in the social sciences can be done in a series of uniform successive steps. Rather, it is an activity that requires that we engage and maintain a dialectical

relationship with the subject matter, whereby we consider and then reconsider, formulate and then reformulate our interpretations of the ‘reality’ we are concerned with theorizing.

Sampling

Sampling is by and large the result of any operation that is aimed at constituting the empirical framework for one’s study (Pires, 1997:113). Two sets of filters were used in order to determine which materials were to be included in the study and which were to be excluded.

First filter - every document that was included in this study either:

(1) Discusses the RJ Unit operating within GCI and operated by CSC;

or

(2) Provides background information on the policies of CSC that allowed me to situate the role of ‘restorative justice’ in this punitively-oriented organization.

In cases where documents did not meet any of these criteria, they were put aside for future research endeavours. This sampling method was an effective tool in sorting out the numerous documents that were available for the purposes of this particular study.

Method of Analysis

Once a sufficient number of documents were accumulated, how were ‘facts’ extracted and linked together? When working with documents, a number of techniques can be used to analyze the written word. Document analysis, discourse analysis and content analysis are all options available to the researcher, but for the purpose of completing this study in a reasonable amount of time I chose just one.

Qualitative Content Analysis

When content analysis first emerged in American journalism schools, this form of quantitative research was principally concerned with the identification of words and drawing conclusions based on the frequency in which they appeared. As researchers in other disciplines adopted this analytical approach, qualitative content analysis emerged as a research tool used frequently in the social sciences (Landry, R. in Gauthier, B., 2000). Those who engaged in this type of research believed that the significance of documents lied within the meaning of messages not in their quantitative properties (ibid:332). As I compared the particularities of the RJ Unit ‘made available’ to prisoners by CSC to the elements of the ‘restorative’ approach discussed by proponents of restorative justice (Zehr, 1990/2002; Bazemore, 1998; VanNess & Strang, 2002), *qualitative content analysis* was the method of analysis used for this study. This technique was chosen, as it permitted me to deconstruct the meaning of discourses gathered for this study.

Preparing the Field

Before beginning the actual content analysis process, the researcher utilizing this analytical approach is required to make a number of decisions concerning the specifics of the process. First, the research must decide whether they wish to scrutinize what is said (*manifest content*) or what is implicit, the unsaid (*latent content*) (Landry, R. in Gauthier, B., 2000:333). As many of the documents I analysed were written by officials from CSC, a dominant and often secretive institution in Canadian society (Jackson 1983; 2002), I recognized that my analysis not only needed to identify and deconstruct what has been said, but also needed to examine what was not said.

Dominant readings need to be deconstructed in order to make sense of the specific ways texts teach their audience to structure personal systems of meaning. Through deconstruction, readers can find in each text the information to construct opposite readings...Instead of succumbing to this realist temptation to identify a 'true' version, my idea is to be reflective about this nasty tendency...By finding the points of discontinuity between the texts, one can illuminate the mythologizing strategies and tools unique to that text.

- Reinharz, 1992:149.

By engaging in qualitative content analysis that is concerned with the examination of both *manifest and latent content*, I was able to determine whether the 'application' of restorative justice was a myth constructed by CSC used to mask the retributive character of the prison or if restorative justice was actually taking place in Grande Cache Institutions' RJ Unit.

A second task of the researcher prior to engaging in the content analysis process is to select the type of unit that will be studied. For the purposes of this study, a Weberian 'Ideal Type' Restorative Justice Model was constructed, which incorporated themes including concepts, definitions and practices that most proponents of restorative justice have agreed are central to this approach, which I have outlined in *Chapter II*. This schema was then contrasted with concepts, definitions and practices that emerged within my analysis of CSC discourse.

To ensure that the themes were classified in an orderly fashion that facilitated comparison in later stages of my study, a *mixed analysis grid* was used to categorize the data. This scheme permits researchers to divide themes into analytical categories derived from theory and also from categories that emerge from the analysed materials (Landry, R. in Gauthier, B., 2000:336). Thus, when analysing the content of a document, identified themes were either placed in analytical categories extrapolated from my 'Ideal Type'

Restorative Justice Model or formed the basis for new analytical categories as they were deemed to be important and relevant to my analysis.

A third and on-going task for the researcher is to establish a process for content analysis. For these purposes, I created a template which served as my guide in the content analysis process (see Appendix C). This task included four levels of analysis. In the *1st level* of analysis, a document was quickly read in order to determine its usability. In cases where material was deemed to be pertinent to my research, I then moved-on to the *2nd level* of analysis. In this stage, themes and sub-themes that emerged from the document were identified. From there, I would then proceed to the *3rd level* of analysis, where the themes and sub-themes that emerged from the document were then entered into the mixed analysis grid. Upon further refinement I would also enter pertinent information into the CSC / RJ Unit 'Restorative Justice' Model (see Appendix D) and contrasted it with my 'Ideal Type' Restorative Justice Model. At this point, themes and sub-themes that best illustrated whether the constituting elements of the RJ Unit were '*fits*' or '*contradictions*' were selected. Themes were considered to be '*fits*' in cases where they adhered to the principles, values and objectives of the 'Ideal Type' Restorative Justice Model developed in this study. In the event that themes did not 'fit' in this manner, they were then classified as '*contradictions*'. In the *4th level*, I took the time to identify the next steps in the research process, where necessary adjustments to the previous levels of analysis needed to be made and which documents needed to be examined next. This process continued until it was determined that I had analysed a sufficient amount of content from which conclusions could be drawn.

Chapter VII: Operationalization of Restorative Justice by CSC

Over the years, prison officials have engaged in numerous campaigns to try and reinvent the purpose of the prison. From moral reform, to rehabilitation, to reintegration, efforts to transform this societal apparatus have failed time and time again. In *The Prison: Studies in Institutional Organization and Change* (1961), a number of authors discuss the characteristics of the prison and suggest that its' political, physical and relational structures are the root of many of the problems associated with prison life and its failure to achieve its reformatory ends. Let us explore a few of these arguments that will frame my analysis in the following chapters.

Cressey (1961) argues that the decisions within the institutional context of the prison are carried out to meet two types of purposes and needs: institutional and personal. Institutional purposes and needs are described as the official policies or viewpoint of the organization, which include assumptions about the status and characteristics of the prisoners. Personal purposes and needs are described as those that belong to prison staff and prisoners. When decisions are made to meet the 'needs' of inmates, Cressey notes that they are framed by the institutional framework of the prison and have little to do with meeting the actual needs of the individual. Conversely, the decisions of staff, notably those made by guards, are always portrayed as necessary to meet the higher purposes of the organization itself, even in cases where much of the violence and control exercised by them is arguably manifested for personal reasons.

Goffman (1961a) notes that the prison is one of a number of *total institutions* in society. The author argues that what distinguishes these types of institutions from others is that every activity of its members takes place in the same location under a strict preset

schedule, while under the supervision and control of one authority in a supposed effort to meet the stated goals of the institution. It is with this in mind, that both Cressey and Goffman argue that in order to change the way that institutions such as the prison operate, concomitant changes need to be made to the structure of the organization itself.

Duguid (2000) observes that in the late 1980s CSC adopted a *cognitive panacea* which shaped their operations. Through this interpretive lens, the prisoner became the eternal ‘offender’, someone who had committed a ‘crime’ for reasons emanating from cognitive troubles requiring that the ‘blameworthy’ individual be given ‘opportunities’ to acquire new skills, attitudes and behaviours through ‘correctional’ programming. It is through this organizational paradigm, that all of CSC’s activities are currently framed. For example, a fight between prisoners is reduced to a violent conflict between individuals who are incapable of handling conflicts via peaceable means. All the while, institutional variables that may contribute to the event are left unaddressed by such a simplistic judgement. The fact that numerous individuals who would not normally associate with each other on the outside are forced to live with each other in the same confined space where numerous disagreements result from such ‘living’ arrangements are but a few factors that can contribute prison violence that are ignored. This context and others are left untouched, despite the fact that it is known that such occurrences take place “because there is an organizational place for them to occur, and they do not recur when the place is eliminated” (Cressey, 1961:8-9). But under CSC’s official viewpoint, the meta-narrative of the prison is left for others to consider, as in their view, all problems that arise in their institutions are analyzed and presented as symptoms of individual dysfunction despite evidence to the contrary.

It is with these points in mind, that I set out to discuss how the initiatives put forward by CSC's *Restorative Justice and Dispute Resolution Branch* (RJDR Branch) have not had any impact on the way the organization conducts its' business on a day-to-day basis. I argue this point as my analysis of CSC discourse reveals a failure to make changes to the political, physical and relational structures of this bureaucratic institution which ultimately led to the creation of *more of the same* under the guise of restorative justice.

A 'Restoratively-Oriented' History

Although CSC had not formally declared itself as a player in the restorative justice movement until 1996 with the creation of the *Restorative Justice and Dispute Resolution Branch* (RJDR Branch), a policy directorate located at its national headquarters, the organization claims to have been involved in this particular field years before. It is with this in mind that CSC laid the groundwork for future participation in this particular area of 'criminal justice' practice. Of note, officials cite a number of initiatives which they claim embody elements of the restorative approach including:

- Providing *funding* to organizations who facilitate *victim-offender mediation* processes such as those offered by Fraser Valley Community Justice Initiative (CJI);
- Creating specialized facilities such as *healing lodges* for incarcerated Aboriginal Peoples "which have restorative processes at their core";
- Developing *Circles of Support and Accountability* (COSA) to help sex 'offenders' safely reintegrate into their respective communities;
- Continuing 'offender' programming that places an emphasis on developing empathy for victims, fostering accountability and promoting healing;
- Expanding the role for the families of prisoners, victims of 'crime' and community volunteers in correctional decision making and programming; and
- Using mediation to resolve disputes within the organization.

- See RJDR Branch, 1998:9-10.

To what degree any of these initiatives are restorative is open to debate but based on their discourses it becomes apparent that CSC is engaged in a spin campaign dedicated to deflecting criticism from groups who have been critical of the organization in the past by claiming that they are involved in business of ‘alternative’ programming without actually making any significant changes in the way they conduct their affairs. As such, I feel it is appropriate to add a seventh neutralization technique to those presented by Mathiesen (1990), that I will call *we’re already doing it*.

Restorative Justice and Dispute Resolution Branch

As mentioned previously, CSC launched the RJDR Branch in 1996 in order to explore how the organization could become involved in the field of restorative justice. This entity was also mandated with exploring and implementing alternative dispute resolution mechanisms to respond to internal conflicts between the employees of CSC and prisoner grievances. The funding provided to ‘RJ’ initiatives by CSC management to carry out this mandate is tokenistic at best. Elliott (2002) notes that in the 2000-2001 fiscal year⁹, the RJDR Branch (Unit) at CSC national headquarters operated with a total budget of approximately \$988,000, including the cost of staff. That very same year, CSC’s operating budget was \$1.32 billion dollars (CSC, 2001). By my calculations, the funding dedicated to ‘restorative justice’ programming within the organization amounts to less than .0075% of its total budget, “which is a meaningful indication of the Unit’s influence on the system as a whole” (Elliott, 2002:469). The figures speak for

⁹ Note: Attempts were made to obtain the current budget of the Restorative Justice and Dispute Resolution Branch, but the data was unavailable.

themselves as to even say that CSC's 'commitment' to restorative justice is half-hearted is by any estimate a gross overstatement.

Framework for Restorative Justice

The first major task of the RJDR Branch was to identify areas in which CSC could apply the philosophy of restorative justice to their work and develop a detailed plan outlining how this could be achieved. After much consultation and planning, the Branch released their *Framework Paper on Restorative Justice* in May 1998. This document outlined three key areas in which CSC would structure their initiatives under their restorative justice umbrella.

Given the fact that over the years CSC had been the target of many of the critiques made by various groups against the institutions of the 'criminal justice' system regarding questions of effectiveness, ethics and fiscal concerns, the organization felt it could and should play a central role in *criminal justice reform*. The idea was that the RJDR Branch could help to transform the system through (internal and external) training and promotional initiatives aimed at demonstrating that restorative justice processes can be used to address cases of serious 'crime' and could equally serve as a legitimate alternative to incarceration (RJDR Branch, 1998). Essentially, CSC proposed that it be included in the process of determining the potential applicability of restorative justice. This is what Mathiesen (1990) would call a *puncturing of ideas*, a process through which 'corrections' officials neutralize the threat posed by 'alternative' approaches such as restorative justice by giving the 'new' idea "its proper dimensions" (:38), deciding where it is and is not applicable. Under this rubric, CSC also believes that reparation and reconciliation should be part of the mandate of the 'correctional' enterprise in an effort to

‘help’ prisoners transform themselves into law abiding and productive members of the community (RJDR Branch, 1998). In other words, restorative justice could be used to meet CSC’s existing stated objectives of rehabilitation and reintegration.

The second component of CSC’s framework for RJ was to develop *prison-based restorative opportunities*, originally named *reintegration* (1998). Guiding this policy is CSC’s organizational viewpoint that no matter how much we ‘reform’ the ‘criminal justice’ system, there will always be ‘crimes’ that both authorities and the public believe require prison terms - an outlook that is indeed not surprising given the fact that the survival of ‘corrections’ depends on this very assumption (Cressey, 1961, Christie, 2000). As such, CSC claims that opportunities for interested ‘offenders’, victims and community members to take part in restoratively-oriented encounters that would contribute to the ‘safe reintegration’ of ‘offenders’ into society need to be made available. In addition, CSC believes that as they deal with prisoners on a day-to-day basis, they should be the ones coordinating such initiatives, as they claim to have the expertise to do so in the most effective manner possible (RJDR Branch, 1998).

Given the current political climate, it is important to recognize that penal abolition will not be on any government agenda for sometime, thus providing concerned parties with opportunities to engage in restorative processes is important. At the same time, we must put into question the power-knowledge spiral constructed by CSC, whereby they delegate to themselves the role of facilitator in these initiatives and specify the prison as a milieu for healing. Given the community-based orientation and participatory nature of restorative justice, participants would be better served if the processes did not take place behind prison walls and were facilitated by concerned members of society.

A third and final component of CSC's restorative justice strategy is the development of *restorative work environments*, which were later renamed *restorative correctional environments* (Lecky, 2003). This strategy aimed to implement restorative and alternative dispute resolution processes within the fabric of prisons in order to reduce tensions resulting from conflicts within the institutions which would in turn foster a healthier and more positive 'correctional' environment. The underlying premise that CSC adopted here is the assumption that prisoners who cannot resolve their disputes within the institution in a 'respectful' fashion will be unable to engage in a restorative process with their victims and communities. Although the 'logic' behind this idea seems to intuitively make sense, Cressey (1961) argues that institutional conflicts are more often than not a product of the environment of the prison which is shaped by both official and unofficial aspects of the organization responsible for its governance. In their discourse and practices CSC ignores this very fact, preferring to engage in a process of reification, whereby the notion that 'offenders' are neither equipped, nor ready to engage in processes of social interaction is presented as fact - an operational viewpoint that justifies their 'temporary' exclusion from society.

Viewed in its entirety, it is not far-fetched to state that the three-pronged framework for restorative justice put forward by Correctional Service Canada looks quite familiar. Once again, CSC has put forward a plan to neutralize critique by engaging in a 'mini-reform' campaign lacking structural transformation which is destined to reduce the effect of the wind of restorative justice to a mere passing breeze – a point which will be discussed further along in this chapter.

Activities

While developing their strategy for restorative justice, staff from the RJDR Branch identified and implemented a series of initiatives to advance their newly formed agenda. For the purposes of clarity, CSC broke down their RJ activities into the following three categories:

- 1) Education and Training;
- 2) Research and Development; and
- 3) Capacity Building.

Education and Training

In conjunction with their agenda for so-called *criminal justice reform*, Correctional Service Canada has provided funding and helped to organize a number of prominent events in the field of restorative justice such as the *Achieving Satisfying Justice* conference held in 1997. This national symposium held in Vancouver is credited by CSC as having led to the creation of the Restorative Justice Program by the Government of Nova Scotia (Harris, 2001). The organization has also funded publications such as *Satisfying Justice* by the Church Council on Justice and Corrections (1996) and also assembled the *Inventory of Canadian Restorative Justice Initiatives* (1998). Both projects served to inform Canadians of the number of restorative initiatives operating within Canadian context. CSC has also contributed to the sphere of academia by providing funding to the *Centre for Restorative Justice* at Simon Fraser University in Burnaby, B.C., an initiative that “aims to support and promote the principles and practices of restorative justice” (<http://www.sfu.ca/crj/about.html>).

Perhaps the most visible initiative emanating from the RJDR Branch at national headquarters involves their work to organize the *Restorative Justice Week* in Canada.

Every year since 1996, the Restorative Justice and Chaplaincy teams at CSC produce and provide materials to organizers of local Restorative Justice Week events in Canada. This event draws community members, scholars, ‘criminal justice’ professionals and members of the media together to discuss innovative and promising restorative justice practices within both the Canadian and international context. Also during this week, the annual ‘Ron Wiebe Award’ is presented to a Canadian who has “...demonstrated, through their work or lifestyle, ways of transforming human relationships, by enabling and promoting communication and healing between people in conflict, be they victims, offenders, colleagues, families or neighbours” (http://www.csc-scc.gc.ca/text/prgrm/rjstc/award/hist_e.shtml).

But in the grand scheme of things, what have any of these initiatives contributed to CSC’s *criminal justice reform* agenda? As this study is not aimed at determining how these initiatives have impacted public opinion vis-à-vis restorative justice and its applicability to address matters of serious ‘crime’, I do not have the data needed to answer this question. On the other hand, Goffman’s analysis of what he calls *institutional display* can help us clarify why CSC is engaged in these educational and training activities. Goffman (1961b) argues that during institutional visits members from the public, including the family members of inmates, get to see what life is like inside by taking tours in parts (often new) of the institution or by attending plays put on by staff and inmates. The author contends that such events take place in order to maintain the *fiction* that life on the inside is good. I contend that much of what CSC has done in the name of restorative justice is an exercise in window-dressing or *institutional display*, whereby a significant portion of their public activities are dedicated towards promoting restorative justice in a manner that aims to convince those who are interested that in spite

of their failures over the years, life on the inside is not so bad and that CSC is indeed trying to advance ‘criminal justice reform’ despite evidence to the contrary.

Research and Development

As an organization that is just beginning to test the waters in terms of identifying the potential applications of restorative justice in the sphere of ‘corrections’, much of the resources of the RJDR Branch have been dedicated to research and development. The main initiative of the branch is to oversee CSC’s *Victim-Offender Mediation Program*. This initiative is a joint operation with the Victim Services Office of the Department of Justice. Its mandate is to provide restorative opportunities such as mediation to interested parties and to evaluate its subsequent impact on program participants.

Under the current scheme, victims of ‘crime’ can make requests to initiate the mediation process through the Victim Services Office of the Department of Justice. Prisoners cannot initiate the process themselves unless their Case Management Team (CMT) agrees to make the request on their behalf. CMT’s can initiate the process by contacting the RJ Unit at CSC’s National Headquarters. Thus, it can be inferred that due to their security classification or assessment by CSC officials, many ‘offenders’ are not likely to be eligible for such programs. Also, if we were once again to reflect upon the participatory nature of restorative justice, one could argue that such an arrangement not only stifles the ability of ‘offenders’ to engage in the process, but also does not allow concerned members of the community to kick-start the process. This indeed runs counter to this approach which seeks to provide a forum through which the needs and relationships of all those affected by ‘crime’ are to be addressed.

Once the process is initiated, CSC and Department of Justice officials work together to open the lines of communication between victims and their ‘offenders’, through mediation. The process can be stopped at any time should any of the parties wish to not participate in the voluntary mediation sessions or should officials believe that the safety of the participants, including the security of prisoners might be at risk. The objectives of the mediation sessions are determined by the participants themselves and can take in a number of forms. Shuttle mediation is one such practice that allows victims and offenders to exchange thoughts, feelings and accounts related to the crime via letters and videotaped statements. Another popular practice is face-to-face mediation. This process involves a direct meeting between ‘offenders’ and their victims guided by a neutral facilitator.

It is important to note that a number of barriers exist that could hinder or prevent the mediation process from actually taking place. Firstly, it must be reiterated that ‘offenders’ and interested members of the community cannot directly initiate the process themselves. Secondly, one of the parties may not be willing or able to participate in restorative processes. Thirdly, there are also logistical concerns to this process. As a prisoner housed in a CSC institution, it is possible that you may be transferred to a location far from where you committed the ‘crime’ that both yourself and the victim wish to address by engaging in a restorative process. Even if the parties are willing to meet, it may be logistically unrealistic due to costs. Lastly, in cases where ‘offenders’ are not allowed to enter the community on a temporary basis to engage in the mediation process, the prison is not likely to provide the environment needed for healing to take place. Thus, one must question the level in which ‘offenders’ can make amends to their victims

and to what extent the needs of prisoners can be adequately addressed when such processes are taking place behind bars.

The Restorative Justice and Dispute Resolution Branch has also acted as a policy development shop, advising on the implementation of restorative initiatives within the Canadian federal government and elsewhere. From 1999 to the end of the 2004 fiscal year, the RJDR Branch allocated \$300,000 annually to fourteen restorative justice or dispute resolution oriented *pilot projects*, such as the Collaborative Justice Project in Ottawa, and an additional \$56,000 per year to the “development and implementation of a ‘Culture of Change Pilot’ [¹⁰] at penal institution (Grande Cache) which would utilize restorative justice principles to resolve conflicts” (Department of Justice, 2003). These subsidies were part of a series of grants given by the Department of Justice’s *Dispute Resolution Fund* to the departments of the Government of Canada to develop and implement alternative dispute resolution pilot programs. This fact demonstrates that much of the pressure for CSC to adopt new practices often emerges as a result of larger initiatives of the Government of Canada and not necessarily from inside the organization itself. This may help to explain the degree in which CSC is committed to changing the way they do business.

The performances of the fourteen DRF pilot projects were evaluated by the following indicators outlined by the Department of Justice:

- Result 1: Funded organization would reduce costs and time spent in managing disputes;
- Result 2: Parties to disputes would experience increased satisfaction with resolution outcomes;
- Result 3: Funded organizations would foster further internal DR developments; and

¹⁰ Note: This project was later renamed the Restorative Justice Unit.

- Result 4: Funded projects would serve as catalysts and/or models for other organizations.

- Department of Justice, 2003.

With the exception of the *Culture of Change Pilot* that was housed at Grande Cache Institution (also known the *RJ Unit*), full evaluations of the other fourteen projects have taken place. In response to 'Result 1', the pilot projects had "some demonstrated achievements" in that a large number of disputes (between offenders, between offenders and staff, or between staff) within CSC institutions were resolved through alternative dispute resolution processes, according to CSC data. By diverting complaints away from more formal channels, the organization was able to save a considerable amount of money. In response to 'Result 2', the programs had once again "some demonstrated achievements". The research gathered on the projects by CSC demonstrated that 'offenders' were willing participants in restorative and alternative dispute resolution processes. In response to 'Result 3', many of the pilot projects "achieved" implementing the similar projects in other CSC institutions. In response to 'Result 4', it was determined that many of the funded projects had "high potential" of being applied to other federal government departments in order to address conflicts and disputes within these institutions.

From these findings we can deduce, that the outcomes of the pilot projects administered by CSC's RJDR Branch were evaluated as successful initiatives by the Department of Justice for reasons mostly related to cost savings. Unfortunately, the information disclosed in the *Summative Evaluation of the Dispute Resolution Fund* of October 2003 does not allow us to verify the data that provided the basis for the claims made in the evaluation.

Capacity Building

CSC officials note that in 1996 many of its employees were unaware of the restorative approach and extensive training was needed (RJDR Branch, 1998). In order to address this challenge, the RJDR Branch launched the *Training the Trainers Program*. This program was created to train qualified CSC facilitators to deliver orientation sessions on restorative justice to interested parties. The training also provided information on the concepts and principles guiding restorative justice initiatives, along with an overview of the ‘restorative justice’ projects in which Canadian citizens could become involved. The participants were then asked to present the very same orientation session to CSC employees, prisoners and members of the communities in their respective regions of the country.

The goal of the *Training the Trainers Program* was to create awareness of restorative justice in Canada and to promote the ‘restorative’ opportunities that are made available by CSC. In turn, the branch expected that victims of ‘crime’ and prisoners housed in their institutions would use the services they offer. It was also hoped that by promoting prisoner-run programs such as the *RJ Coalition* at William Head Institution, similar (low cost) initiatives would emerge in other Canadian federal prisons. It is important to note that RJ coalitions have sprung-up in other institutions such as Grande Cache Institution and the Grierson Centre in Alberta as a result of such activities.

In another effort to build the capacity required to deliver restorative justice initiatives such as CSC’s *Victim-Offender Mediation Program* (VOMP), the organization also needed to identify potential mediators, both internally and externally, and provide them with training in the area. At this time, there are currently nine mediators working in

all five CSC regions (Atlantic, Québec, Ontario, Prairie, and Pacific). Given the potential for demand¹¹, the number of trained mediators working for CSC is low. At the same time, the number of restorative processes taking place within CSC prisons remains low due to the fact that victims of ‘crime’ and prisoners are often not aware that these services exist¹².

CSC’s Raison-d’être

When an organization is said to be injecting ‘new’ ideas into the organization, one would think that changes to its operational framework would indeed be the first location of institutional transformation. But instead, CSC’s so-called ‘commitment’ to restorative justice is indicative of an organization that is involved in transforming the discursive elements of the restorative approach and retro-fitting them into existing policy and programming without actually engaging in any, let alone significant, structural change. This indeed flies in the face of logic and a quick thought experiment can help us understand the impact that CSC’s recent ‘commitment’ to restorative justice has had on the organization as a whole.

Imagine you have just been hired on as a consultant for a large corporation. As you enter the boardroom, the executives indicate that they would like to transform the way they do business but they are unsure of where to start. Given the request and assuming that you have already done research on the way the company operates, what would be the first suggestion you make to the board? In the spirit of Cressey (1961), I for one would suggest that if the company truly wanted to adopt a new ethos, the first series

¹¹ Note: According to Statistics Canada, there were 12,641 prisoners in federal custody in 2003-2004 fiscal year (<http://www.statcan.ca/Daily/English/051216/d051216b.htm>).

¹² Note: Personal Communication with Scott Harris – Director, RJDR Branch, CSC – National Headquarters (February 2006).

of organizational transformations would have to involve changes in the political structure of the organization. This would include making changes in the mandate, objectives, guiding principles and values of the corporation. I would then also propose that changes in the way staff conduct themselves vis-à-vis their clients, by attending to and transforming the operational structure of the organization. Over time, I would expect that all components of the organization would eventually adopt this new way of thinking and of doing business.

If we are to repeat this thought experiment using CSC as our case study, it becomes rather apparent that the so-called injection of 'restorative justice' has not had any impact on the policy or operations of this Canadian federal government agency. This is demonstrated by the fact that CSC's mandate, mission and core values have remained unchanged for some time. Thus, I argue that restorative justice has been incorporated in a way to fit into existing organizational structures.

Mandate

Section 3 of the Corrections and Conditional Release Act 1992, which defines the mandate of Correctional Service Canada as follows:

- to contribute to the maintenance of a just, peaceful and safe society by:
- a. carrying out sentences imposed by courts through safe and humane custody and supervision of offenders; and
 - b. assisting in rehabilitation of offenders and their reintegration into the community as law-abiding citizens through the provision of programs in penitentiaries and in the community.

- CSC Report on Plans and Priorities 2004-2005, page 5.

If one is to carefully examine CSC's mandate (see above) as outlined in the *Corrections and Conditional Release Act* (1992), it is not at all apparent where restorative

justice ‘fits’ into CSC policy and programming. In fact, in the documents I analyzed for the purposes of my research CSC did not even attempt to establish such a link. This indeed does not reflect an institution that is committed to restorative justice. At best, restorative justice could be seen as an avenue for ‘offender’ programming that will be evaluated through the cognitive-behavioural lens of CSC, a point that will be illustrated in my discussion on the now defunct RJ Unit in *Chapter VIII*.

Mission

The Correctional Service of Canada (CSC), as part of the criminal justice system and respecting the rule of law, contributes to the protection of society by actively encouraging and assisting offenders to become law-abiding citizens, while exercising reasonable, safe, secure and humane control.

- www.csc-scc.gc.ca/text/organi/organe01_e.shtml.

Although restorative justice is not part of CSC’s operational mandate, the *Framework Paper on Restorative Justice* (1998) clearly states that the philosophy of restorative justice is “consistent with CSC’s Mission and Core Values” (CSC, 1998:12). When examining their mission statement outlined above, such a claim cannot be substantiated. For many years, it has been established that imprisonment for the purposes of reducing recidivism through ‘correctional’ programming has been largely ineffective, therefore the idea that CSC can provide reassurances to victims of ‘crime’ and community members that prisoners will not ‘re-offend’ is quite ludicrous. If ‘re-offending’ is a concern for the parties affected by ‘crime’, other options need to be explored, which restorative justice approaches removed from punitive institutions may offer. Also, given the evidence presented in every single Royal Commission on the

Canadian 'correctional' system, it is even more ridiculous to claim that through incarcerating 'offenders', CSC is engaged in "reasonable, safe, secure and humane control". In this context, CSC's argument that the philosophy of restorative justice is consistent with their mission statement cannot be legitimately substantiated.

Core Value 1

...to 'respect the dignity of individuals, the rights of all members of society, and the potential for human growth and development'.

- RJDR Branch, 1998:12.

The second component of CSC's claim declares that three of their core values are indeed reflective of those found within the restorative approach. Once again, we are dealing with the idea that if tailored in a certain way, such a claim can be validated. For instance, *Core Value 1* (see above) asserts that 'criminals' can transform themselves into law-abiding and productive citizens and CSC claims this can be achieved through existing programming and the creation of 'restorative' initiatives within their institutions. Once again, restorative justice is thrown into a pre-packaged punitive entity which has not only proven itself to fail at meeting its operational goals of rehabilitation and reintegration, but as will be discussed in the following chapter, CSC's claim that they can achieve restorative outcomes also cannot be substantiated.

Core Value 2

... to 'recognize that the offender has the potential to live as a law-abiding citizen'.

- RJDR Branch, 1998:13.

Core Value 2 (see above) also recognizes the ‘potential’ within ‘offenders’ to be like the rest of ‘us’. CSC suggests that this goal maybe achieved by creating programs that “foster understanding, participation and trust” and to allow ‘offenders’ to establish relationships with the community and “to grow personally” (RJDR Branch, 1998:13). Once again, given the literature on the prison, it is hard to see how such an environment can be a breeding ground to achieve these goals. By incorporating restorative justice into existing organizational structures, CSC is engaged in a process of reifying its role within the sphere of ‘criminal justice’.

Core Value 3

... our strength and our major resource in achieving our objectives is our staff and that human relationships are the cornerstone of our endeavour.

- RJDR Branch, 1998:14.

Restorative justice and other forms of conflict resolution processes are also seen as being capable of allowing CSC to adhere to *Core Value 3* (see above), as they believe that by providing ‘non-adversarial’ opportunities to rectify institutional quarrels between staff and prisoners, the penitentiary can become a positive environment. In other words, CSC has in this instance equivocated alternative dispute resolution mechanisms with restorative justice in a manner that completely ignores the primary objective of this approach which is to provide opportunities for ‘offenders’, victims and interested community members to engage in a process aimed at deciding together how to repair the harms related to ‘crime’. More importantly, as the ‘endeavour’ remains the same, all relationships within the institution to a lesser or greater extent are governed by the

operational viewpoint which does not place restorative justice at the forefront of its activities or decision making processes, but rather, is informed by a *cognitive panacea* (see Duguid, 2000), and the dominant institutional need to maintain control and disciplinary order (see Goffman, 1961b).

Constructing a 'Restorative Prisons' Project

At this point, it has been established that CSC's framework for restorative justice has had no impact on the macro-level policies within the organization illustrated by the fact that the mandate, mission and core values have remained unchanged for sometime. With the political structure of the parent institution remaining in tact, it is on this basis that I argue that any attempts to incorporate 'new' initiatives into the operational framework of CSC have and will continue to fail to bring any measurable changes to the way the organization functions, including where 'offender' programming is concerned. As discussed in this chapter, all 'restorative justice' related activities within CSC are tokenistic, small-scale, window-dressing initiatives that do little to address the needs of 'offenders', victims and their respective communities, or institutional problems emanating from the structure of the prison. To illustrate this point, I will critically examine and provide an analysis of the objectives, principles, values and activities of the Restorative Justice Unit, a demonstration project that operated within the walls of Grande Cache Institution from April 2001 to November 2005. The goal of this pilot project was to evaluate whether restorative justice principles and values could be incorporated to transform the prison setting into a positive environment that would be capable of facilitating healing. This will be the focus of the following chapter.

Chapter VIII: The Restorative Justice (Just Us¹³) Unit – Grande Cache Institution

Penal history yields plenty of examples of apparently benign policies resulting in repressive controls.

- Ashworth 2002:590.

With a number of pilot projects underway said to be aimed at raising the profile of restorative justice within the organization as part of the *Dispute Resolution Fund* (DRF) initiative, Correctional Service Canada sought to consolidate the lessons learned to create a single pilot later named the *Restorative Justice Unit* (RJ Unit). This initiative was created to assess the feasibility of developing a *restorative correctional environment* (Harris, 2001). Developed in 2001, the project called for the creation of a ‘living’ space within the prison where ‘offenders’ would govern themselves by the principles and values of restorative justice. But what does it mean to govern yourself by the principles and values of restorative justice? In a story that reads as *more of the same*, the initial portion of this chapter will be dedicated to answering this very question by providing a analytical summary of what took place within the RJ Unit during its short operational life. From there, I will demonstrate how the structure of the program itself in addition to that of CSC, which are both guided by assumptions made about ‘offenders’ through a cognitive behavioural lens, are central to the RJ Unit’s failure to adhere to the objectives, values and principles outlined in the philosophy of restorative justice.

‘Living’ by the Principles and Values of Restorative Justice (Just Us)

For a prisoner participating in the RJ Unit at Grande Cache Institution, ‘living’ by the principles and values of restorative justice can be described as a process of

¹³ Note: ‘Just Us’ is the formulation of justice used by critiques of the ‘criminal just us’ system (ex: Culhane, 1985) to illustrate its ‘offender’ and punitively focussed orientation.

introspection, characterized by self-blame, attempts to acquire new skills, attitudes and behaviours, “intense supervision”, and in some cases punishment. By juxtaposing these salient characteristics of this particular project with those of the restorative approach, I intend to prove that what took place at GCI certainly does not mirror CSC’s stated commitment to principles and values of the latest ‘alternative’ justice model.

Taking Responsibility for ‘Crime’

Earlier in this study, ‘crime’ was defined as primarily a violation of people and relationships causing harm to affected parties, including ‘offenders’, victims and the community. The fact that the law has been broken is seen as secondary within this approach. One could argue that anyone who finds themselves locked-up in a CSC institution is primarily seen as a person who has broken the law. This is illustrated by the fact that when ‘offenders’ filled out their applications to live on the RJ Unit (see below) their ‘criminal’ histories were part of the items considered by CSC officials who would then determine if the interested parties were to be allowed to participate in the program. It is important to note that there was no space on the form asking prospective participants how ‘crime’ had affected their lives. Only questions of motivation, accountability and defining restorative justice are asked to assess the ‘readiness’ of the prisoner to take part in the program. Such a formulation demonstrates that CSC was in the business of playing the blame-game before the ‘offender’ had even entered the program. In other words, ‘offenders’ were made to understand that it was their fault that they are behind bars, it was their responsibility to take advantage of this program, and if they failed to do so it was because they were not ready to hold themselves accountable for their actions.

Restorative Justice Application

NAME: _____
FPS: _____
CURRENT UNIT: _____
PAROLE OFFICER: _____

This is not a “test”, with answers that are “right and wrong”.
This form is to be used as a guideline to assist the Restorative Justice Community in determining how “ready” an individual is to profit from this unit.

Tell us what you think we need to know about you in your own words, please try and respond to these questions. Take as much time as you need. Feel free to use additional paper if you need more space.

What does “Restorative Justice” mean to you?
What has motivated your interest?
What does “accountability” mean to you?

- Grande Cache Institution, Unknown:1.

In my analysis, I also found that in order to live in the ‘Restorative Justice Unit’ at GCI, prisoners we required to accept responsibility for what they had done (or did not do) in the past and demonstrate that they were taking steps to ‘make things right’ with their victims and communities. In cases where they did not meet these expectations, prisoners were removed from the unit. For instance, [REDACTED] was removed from the program because he was “appealing his sentence and his attitude and motivation were deemed unacceptable” (Blanchet, 2002a:6), which by CSC’s standards, demonstrated that he was not willing to take on his responsibilities to the level required by the project. Instances such as these may confirm to those wearing punitive lenses that the principle and value of taking responsibility was at times being followed by the program. But Zehr (1990)

reminds us that in recognizing that their actions have harmed others and by demonstrating a willingness to take on their responsibility to ‘make things right’, ‘offenders’ are merely providing the foundation from which they can be forgiven by their victims and their communities, and be reaccepted into society. The larger framework which steers CSC’s transforms this concept by locating the responsibility for engaging in the ‘restorative justice’ process squarely on the shoulders of the ‘offenders’. In doing so, victims and community members need not take responsibility to address the needs of ‘offenders’ or to re-establish their place in society by making efforts to mend the relationships harmed by ‘crime’, which is indeed not indicative of the restorative approach. As a result, all ‘criminals’ that find themselves in the shadow of the CSC umbrella, even those who were housed in the RJ Unit, were considered to be the same, rendering the principle of particularity meaningless within prison walls.

Here There Is Justice (Just Us)

‘Offenders’, victims and interested members of the community represent the key stakeholders in restorative justice. From April 2001 to November 2005, there were over 100 prisoners who participated in the program – some who had chosen to live on the RJ Unit and others who did not. Although I will save my discussion on voluntary participation for an upcoming section, it is important to note that the inclusion of prisoners who had not chosen to live on the RJ Unit in the program undermined their autonomy as individuals and the efforts of those who wanted to be there given the circumstances. Also, the absence of victims in the program also runs counter to the philosophy of restorative justice.

One area in which the program was successful, at least in the initial stages, was to include members of the community in some of the activities of the Restorative Justice Unit including RJ Coalition meetings. Blanchet (2003) notes that by “Having community members attend the Restorative Justice Coalition meetings is very important for the inmate participants as they have a chance to share their stories with law-abiding citizens and hone their social skills” (:3). Although community involvement is important to the restorative approach, it is interesting to note that their participation was not directed towards healing the participants, but instead was framed in manner to meet rehabilitative aims. At the same time, it is important to note that the RJ Coalition is a prisoner-led initiative, in which the prisoners themselves set the agenda for the meetings and decided who gets to participate.

Involvement from members of interested community members in the RJ Unit program was not limited to the discussions that took place in RJ Coalition meetings at GCI. In one promising development in May 2002, visitors from Edmonton began to visit the RJ Unit and committed to setting up an RJ Coalition in their community to provide support to ‘offenders’ once they left the institution (Blanchet, 2003:5). Shortly thereafter, coalition meetings began to take place at Grierson Centre, a CSC administrated minimum-security institution located in Edmonton.

But these two minute success stories did little to help prisoners establish viable links to communities in Alberta. For the most part, the ‘Restorative Justice Community’ was composed of interested GCI staff, prisoners living on the unit and a few volunteers.

Petrellis (2005) notes:

An integral part of restorative justice is making contact with community groups to assist offenders in their re-entry and to ensure ongoing objective

support when they leave Grande Cache Institution. Visitors from several different groups in Edmonton visited Grande Cache Institution and attempted to establish a restorative justice support group in Edmonton. Unfortunately, conflicting schedules made this a daunting task and lasted only a short time. (:4).

This example sheds light on one of the major challenges faced by any prison program that wishes to include members of the ‘offenders’ community. The argument is simple – access to institutions is often made difficult due to their isolated locations. This is especially true for the RJ Unit, a program that was housed in GCI which is located 445 kilometres northwest of Edmonton. This alone, served as a tremendous barrier to anyone living on the outside who was interested in participating in the initiative. As such, the notion of community was often restricted to that of the prison, a place where participating ‘offenders’ were depicted by their fellow prisoners as individuals living in “the rat unit”, “the I’m sorry Unit”, “the fag unit” and “the purple unit” (Blanchet, 2003:16). Such a finding suggests that the prison – even when injected with a bastardized dose of ‘restorative justice’ – continues to be a negative environment that is certainly not best-suited for the deployment of a program that wishes to foster a sense of community on the inside. These statements also point to the fact that many of the ‘offenders’ living in general population at GCI believed that to be an RJ Unit participant was to accept full responsibility for having committed ‘crime’ and to subject oneself to increased scrutiny from fellow prisoners, ‘corrections’ officials and even yourself. Meanwhile, the meta-narrative of the purpose of the prison must also be left unaddressed and certainly not critiqued as such activities would demonstrate that you are not taking responsibility for your actions (see Duguid, 2000; Bonnycastle, 2006) – all this to say, that social factors were essentially let off the hook.

On 'Empowerment'

As 'crime' affects a number of people who are said to be interconnected, 'restorative justice' processes seek to involve "the victim, the offender, and the community in a search for solutions which promote repair, reconciliation, and reassurance" (Zehr, 1990: 181). Traditionally, there has been little stature given to those most affected by 'crime' in the decisions made regarding the activities of the Canadian 'criminal justice' system.

Although the prisoners living in the 'RJ Unit' were required to abide by the rules of Grande Cache Institution, the participants were included in some aspects of the decision making process regarding the project. For instance, when a prisoner was being considered for the program, participants met with the candidates without CSC staff, so that they have the "opportunity to voice their expectations and ask questions" (Blanchet, 2002a:3). Based on their observations, a representative of the group was then able to share the groups concerns with the Project Coordinator who would then decide whether or not the prospective candidate would be accepted into the program.

Those living on the Unit were also asked to give their feedback and suggestions on the future direction of the program. But, we must also ask what this has to do with meeting the objectives of the restorative approach when the fact remains that prisoners are hidden away from the rest of 'us'. This alone serves as a physical barrier to the sense of interconnectedness that is allegedly supposed to link together 'offenders', victims and interested members of the community to address 'crime'.

In a prison environment that usually excludes prisoners from administrative decisions that affect their lives behind bars, the 'RJ Unit' did not provide much more than

a few tokenistic opportunities to partake in the decision making process. It must also be noted that all the key decisions affecting the unit took place in a top-down manner, whereby certain key elements of the initiative including the development of the mission statement, program objectives and admission criteria were constructed with the occasional consultation process, but with little to no input from the main project stakeholders (the prisoners), let alone victims and affected members of the 'offenders' community. Such decision making demonstrates that much of what took place within the RJ Unit was imposed on participants, which indeed contradicts the notions of empowerment and the value of the 'dialogue' that takes place which are central to the restorative approach.

Acquiring New Attitudes, Behaviours and Skills (Rehabilitation)

Given that the RJ Unit was a CSC administrated initiative, it comes as no surprise that a significant portion of the initiative and its' subsequent evaluations were focused on the 'correctional' goal of rehabilitation. Such an end intersects with the desire of RJ proponents to provide victims and communities with a feeling of safety. According to CSC, the initiative was successful in providing participants a milieu where they could develop pro-social attitudes, could deal with problems in pro-active ways and could acquire the skills needed to become law-abiding and productive citizens once released on the outside. This claim was based on the observation that relationships between 'offenders' living on the Unit with other prisoners and prison staff had significantly improved (Blanchet, 2002a:8). The Project Coordinator further supported her claim by citing an increase in the number of applicants to the RJ Unit and the rise in attendance amongst GCI prisoners at RJ Coalition meetings in 2003 as indicators of program success

in this area (Blanchet, 2004). In this instance I will take these claims at face value, but I do so to illustrate the fact that the principle measure which was used to evaluate the program is the degree in which it contributes to a positive prison environment that can meet rehabilitative ends. Restorative outcomes as identified by proponents of the approach seemed to have little importance when it came to assessing the value of the Unit that carried the RJ menarche.

On the Ordering of Self

As it is operationalized by CSC, restorative justice serves as a tool aimed at helping prisoners internalize the rules of society and of the institution in the form of self-supervision and control. As part of their program requirements, RJ Unit participants were required to complete one progress report every month so that ‘corrections’ officials and they themselves could monitor their ‘progress’ (Blanchet, 2003:2). Drawing from Foucault (1975), one could argue that this exercise permitted all involved to examine the subject (the prisoner), to classify their behaviours, and if needed, apply institutional sanctions in an effort to ‘normalise’ actions that were deemed to be out of line with the cognitive behavioural brand of ‘correctional’ thinking.

The form of self-surveillance exerted by participants onto themselves also represents an extension of the notion of the *total institution* presented by Goffman (1961). In Goffman’s description of *total institutions* there existed hierarchical relationships, whereby officials would scrutinize the actions of the subject in order to ensure conformity. I argue that the RJ Unit went beyond this conceptualization of *total institutions* by creating a vertical supervision relationship between prisoners who were charged with the responsibility of dissecting and ‘correcting’ the behaviours of their

peers. The goals of these activities were to essentially breakdown their fellow prisoners and ‘help’ them conduct themselves in the ways of the institution, to become docile inmates. Now one may be sceptical of the assertion I am making but let me erase any doubt of what is going on here. One only has to look at the *Admission Criteria* of the RJ Unit (see below) to see that CSC has engineered “an intense supervision environment” where program participants are subjected to additional rules and regulations. At the same time, it is important to note that most of the criterion does mirror (to an extent) the expectations that need to be met to ensure full participation in the restorative process, but to describe the focus of RJ as “intense supervision” is clearly a bastardization of the approach. It is one thing to be accountable; it is another to be subjected to increased supervision superior to that of the control-oriented environment of prisons in the name of restorative justice.

Admission Criteria

- ✓ Sincerity / Motivation
- ✓ Participation is strictly voluntary
- ✓ Willingness to abide by confidentiality of personal disclosure.
- ✓ Participants must be willing to sign consent form indicating their willingness to abide by the rules of an intense supervision environment.
- ✓ Willingness to be open / honest and accountable to RJ Community as a whole.
- ✓ Expectation that participants will adopt and practice a pro-social value system.
- ✓ Preference may be given to those who have a minimum of six months remaining in their incarceration as the dynamics of the unit must be considered at all times.
- ✓ 30-day Reviews will occur and involve the participant and his case management team.

- Grande Cache Institution, 2005:2.

To live on the RJ Unit, was not only to monitor your own progress by completing monthly progress reports and “to reside on an intense supervision unit that challenges its

residents to practice restorative justice principles daily” (Petrellis, 2005:1), but also to be “actively involved in their Correctional Plans” through institutional work and core programming (ibid:3). To participate in the program one must also “display pro-social behaviour with staff and other offenders” (ibid). Such rhetoric sheds light on the fact that under the guise of restorative justice, officials from CSC acquire more power by being able to hold RJ Unit ‘residents’ to a laundry list of additional expectations that are ultimately aimed at meeting rehabilitative and punitive ends. Cases where ‘offenders’ demonstrated any unwillingness to engage in the aforementioned ‘correctional’ activities signalled to CSC that the ‘offender’ was not abiding by the values and principles of restorative justice and punishment was often the prescribed pill to cure such ‘incurable’ behaviour.

Punishing the ‘Incurable’ as Conflict Resolution

According to Blanchet (2004), “Inmates who voluntarily reside on the restorative justice unit are being held accountable, not only for their offences but also for their daily behaviour. This is done while treating them with respect, ultimately providing a safer, healthier environment for everyone.” (:12). The following examples fly in the face of this assertion and demonstrate the prevalence of punishment as an un-stated component of this initiative – instances which demonstrate the extent to which CSC was ‘mindful’ of the principles of restorative justice when RJ Unit participants broke institutional rules.

On January 14th inmate, [REDACTED], suffered a setback that resulted in his being sent to segregation. He was transferred to the Regional Psychiatric Centre in Saskatoon on January 15th and is currently incarcerated at Riverbend Institution.

- Blanchet, 2003:1.

Pens with residue were found in one inmate's cell. He took responsibility for having the pens and offered to leave the unit. However, he was not using, but trying to quit smoking so had been given the pens by someone else. A lesson was learned and he did get a charge and extra duties, however he remained on the Unit.

- Blanchet, 2004:4.

During a cell search one of the participants had an altered coke can in which he was storing beads removed as it contained white residue. Urinalysis testing returned negative, but the subject was charged with contraband and learned a valuable lesson not to take things from other people.

- Blanchet, 2004:6.

Two inmates on Lower Unit 12 got into a fight on July 26th and were moved off the Unit the following Monday. No charges were laid as other measures were implemented.

- Blanchet, 2004:7.

In all of the cases above, exclusion or punishment schemes were CSC's response to psychological problems, legal and illegal drug use, and fighting amongst prisoners. Is administrative segregation an outcome recognized as being a usual outcome of the restorative justice process? Does handing out charges, extra duties and in some cases removing institutional 'wrongdoers' from the program demonstrate that RJ Unit participants, including CSC officials, dealt with disputes in a restorative manner? What I see here is *more of the same* – this program was setup in a manner that its very own ideals were easily displaced by the imperatives of institutional discipline and order maintenance.

By its' very name, one would not be foolish to assume that the RJ Unit would be a place where prisoners who participated in the program would be involved in VOMPs/VORPs, circle processes or group conferences with their respective victims and communities, but amongst the 'offenders' who took part in the initiative, only a handful

took part in such processes. This is not surprising given the fact that much of the impetus for this program was to create an environment within the Unit where institutionally based disputes could be solved utilizing restorative models of dispute resolution. Much of the evidence provided by CSC does suggest that such things were at times taking place. For instance, in 2003 “members of the Unit developed a mediation process for dealing with unit conflicts” (Blanchet, 2004:3). According to CSC officials, this practice was often used to address quarrels between prisoners living on the Unit, but it must once again be reiterated that this process often did not come into play when a drug offence or other forms of institutional conflicts occurred.

In one incident in 2002, ‘offenders’ left the meal line prior to their scheduled allotted time which staff felt needed to be addressed. To hold the ‘offenders’ ‘accountable’ for their actions, personnel locked the door that gave the prisoners access to their cell block. This “did not sit well with the guys, discussions were held and a resolution reached. The inmates agreed to wait until meal-line was called before leaving through door 46 and this door now remains open.” (Blanchet, 2003:6). This is but one case that illustrates how GCI staff hijacked the principles of restorative justice as an excuse to exert control over prisoners.

Another incident in July 2002 involving drugs also illustrates the degree to which actions were taken by prison officials at GCI under the guise of the restorative approach.

On the morning of July 27th drugs were found in the cleaning supply room of Unit 13. As a result, a food drive planned for August 1st was cancelled. There was sufficient evidence that one of the occupants of the RJ Unit was involved in the drug trade within the institution so he was sent to administrative segregation. It is believed that the inmates on the Unit were directly responsible for correcting the problem by assisting in sorting out who brought the drugs onto the unit.

- Blanchet, 2003:7-8.

This case highlights the fact that punishment remained as a primary response to deal with those who break the rules of the institution and that some of the RJ Unit participants were complicit in the process. These prisoners also contributed to increasing supervision and control on the Unit by calling on management to setup a urinalysis program to make sure that the RJ Unit would be a drug-free environment (Blanchet, 2003:8). The response to this incident truly puts into question the degree that CSC and program participants were committed to the principles and values of restorative justice. Could a restorative process have been utilized to deal with this issue? Apparently not and worse the prisoners living on the Unit seem to have been engaged in a campaign of policing the members of their own community in the name of accountability while excluding the possibility for restorative outcomes. This incident sheds light on the possible reasons that prisoners living in general population at GCI referred to the project as the “the rat unit” and “the I’m sorry Unit”.

‘Making Things Right’ with Grande Cache

As discussed in previous chapters, under the restorative approach justice is seen as attempt to ‘make things right’, to heal the wounds to extent that is possible through inclusive and participatory justice processes. During my content analysis, I made sure to document all attempts by program participants to engage in this process to decide together how to put right the wrongs caused by ‘crime’. Unfortunately, if I were to stay true to this formulation I would have rarely been in a position to identify such events taking place due to the fact that members of the community were rarely involved in the

process and victims were entirely excluded. I will explore a few examples to illustrate this point.

On a number of occasions, ‘offenders’ living on the RJ Unit would meet to discuss how they could symbolically give back to the local community. At one such meeting, ideas included: “fence painting, calling bingos for seniors, window washing for local businesses, and having a car wash with funds being donated to a local charity” (Blanchet, 2003:3). Two prisoners recorded a gospel music CD with the intention of donating the proceeds from the first 200 copies sold to two charities in the region (ibid: 11). Others shovelled snow during the winter months for residents in Grande Cache (ibid: 3). It is important to note that acts of symbolic restitution are part of the process of ‘making things right’, but the one-sided way in which the wrongs are put right excludes victims and the community from the process. These parties did not contribute to deciding how restitution was to be made and more importantly in these cases were not participating in addressing their collective needs (‘offenders’, victims and community members) and broken relationships, which in theory are central concerns of the restorative approach. The RJ Unit brought nothing new to the business of ‘corrections’, as prisoners have been involved in ‘giving back’ to society for sometime (ex: blood donor clinics, Rick Sauvé’s *Con Walk*, the Colin’s Bay Olympiad, etcetera).

For CSC, it seems that the concept of justice under the restorative rubric is reduced to the ‘offender’ giving back to society through symbolic restitution. This is illustrated by the following example:

One of our current participants made a circular mat for our round conference table and coasters from the Unit, utilizing purple wool, the colour of healing. This act of ‘giving back’ via symbolic restitution represents one way that some participants begin their path to recovery.

- Blanchet, 2004:1.

‘Making things right’ is described here as giving back to one’s prison community and although such actions are not out of synch with restorative philosophy, usually symbolic restitution should be made to those most directly affected by the ‘crime’ committed by the individual. This example has little to do with ‘making things right’ illustrated by the fact that under CSC’s direction this process is one-sided, whereby prisoners drafted proposals to this effect without input from their victims and members of the community. Subsequently, their needs such as being accepted back into their communities were left unaddressed in addition to those of the other affected stakeholders in justice.

Another extraneous component of the ‘offenders’ efforts to give back to the community of Grande Cache is the fact that the “goal of these projects is to contribute to the town without taking any jobs away from its citizens” (Blanchet, 2002a:5). This stipulation indeed limited the efforts of ‘offenders’ to ‘make things right’, but one must also note that if the parties directly affected by a particular ‘crime’ were themselves empowered to decide how to put right the wrongs, this provision put forward by CSC would not have been needed as they would not asked the ‘offenders’ to give back in a manner that would be harmful to their own community. Instead, we have a one-sided process where barriers were put in place to ensure that the restoratively-oriented actions of ‘offenders’ were not perceived as causing harm to a community who arguably benefits from having a prison that provides employment to many of Grande Cache’s residents.

Again, it is important to reiterate that ‘making things right’ is simply not a matter of engaging in acts of symbolic restitution, but rather a process through which those most affected by ‘crime’ come together and decide how this end can be achieved. Without such processes, the restorative journey is one-sided as it may denounce the ‘criminal’ acts

of offenders but does nothing to contribute to their reintegration into the community, who outside of RJ Coalition meetings were largely absent from the initiative. Moreover, the possibility for ‘offenders’ to apologize to those directly affected by their transgressions and to potentially (ideally) be forgiven were not priorities of the RJ Unit program. Thus, the idea of re-establishing the relationships that were weakened, if not severed, by ‘crime’ in a restorative manner is rather unlikely.

Institutional rules also served as a barrier to the efforts of prisoners who wished to do their part in the process of ‘making things right’. In one case in July 2002, “inmate [REDACTED] inquired about ordering a birthday cake for his brother who was coming for a visit” (Blanchet, 2003:7). Unfortunately, permission was not granted due to security concerns. It seems that if a choice was to be made between institutional customs and programming, the lock-down orientation of the prison took precedence (see Mathiesen, 1990).

On Voluntary Participation and Institutional Dominance

A central guiding principle and value of the ‘restorative approach’ is voluntary participation. The idea behind this concept is that healing and forgiveness cannot take place if the process is forced. In the case of ‘offenders’, Zehr explains that “We can require offenders to make right, but they cannot be fully responsible without some degree of voluntarism” (1990:198), meaning that we can require those who break the law to pay restitution and fines, but that does not mean full restoration has taken place. For justice to be ‘restorative’, all parties involved must give it their all and want to find ways to make things right. Without the will to achieve this objective, failure is a certainty and restoration cannot take place.

When examining CSC discourse, it seems that there were instances where participation in the program, although often one-sided, was in fact voluntary, with the understanding that the degree to which the program was voluntary was limited as those who ‘lived’ in the RJ Unit found themselves forcibly confined in prison. Most who participated in the program apply to live on the Unit, thus it can be assumed that they chose to take part in the initiative. Participants were also free to leave the program in cases where they no longer wanted to be involved with the project. For example, [REDACTED] chose to leave the program “as he was not motivated to address his issues or practice the principles of restorative justice” (Blanchet, 2003:4). At the same time, it must again be noted that CSC is now guided by what Duguid (2000) calls a *cognitive panacea*, which subjects prisoners to rigorous analysis in the goal of assessing their ‘criminogenic’ propensity. In this classification process, ‘risk factors’ and so-called ‘deficiencies’ are identified by CSC officials, who then construct a ‘correctional’ plan to address these ‘needs’. Thus, one must ask whether or not [REDACTED] chose to leave the program because he felt he was not addressing needs he had identified himself, or rather, did not feel like subjecting himself to a process where he needed to attend to the ‘deficiencies’ identified by CSC.

To demonstrate the degree in which voluntary participation was at times respected by those responsible for the administration of the program, let us examine an incident that took place in 2002. In a report, the Project Coordinator explains: “I was asked how we could increase our numbers, a difficult question when the root of restorative justice is based on voluntary participation and involved a specific mindset” (Blanchet, 2003:10). In response to the demands from management to increase program capacity, Blanchet

responded by stating: “To mandate offenders to become involved would totally undermine the entire philosophy of the process” (ibid). This demand is not at all surprising given the fact that the RJ Unit was a pilot project that could not survive unless it demonstrated some marketable gains such as an increase in the number of participants. Nonetheless, management agreed to respect this argument in this particular instance.

As previously noted, for restorative justice initiatives to be successful, those participating in the program must choose to partake in the process. Based on the documents available, it seems that this guiding principle and value of the ‘restorative approach’ was often ignored so that the needs of the institution could be met. For example, when other units in Grande Cache Institution were full and beds were needed, new prisoners were often housed in the RJ Unit. Using the program’s facilities as an ‘overflow unit’ surely undermined the concept of voluntary participation. In their defence, Blanchet (2002a) argues “This is less than an ideal situation but one that challenges participants to be open and flexible” (:8). This argument, used to justify violating a principle and value of ‘RJ’ is at best very weak. If one does not want to participate in the program what commitment could they have to adhering to any of the guiding principles of the initiative?

Later that year, “There was also a push to fill beds on the Unit as institutional bedspace was at a premium” (Blanchet, 2003:4). The use of the program housing space as an ‘overflow unit’ continued in May of 2002, where “the short side of the Unit (4 beds) was used as an overflow unit as all of our general population beds were full. This meant some adapting for the RJ Unit and served as a lesson for adjusting to unexpected change.” (ibid:5). Reading this statement, it becomes obvious that the author of the

report continued to use the same self-justifying rhetoric to defend the ongoing use of the RJ Unit as a release valve for an overcrowded Grande Cache Institution. At times, 'voluntary' participation in the RJ Unit program was a myth, not a reality for a number of those who found themselves locked-up in this Unit.

The guiding principle and value of voluntary participation was also undermined when security concerns arose in GCI. Consider the following example:

On June 28th we had a unit meeting to discuss the placing of inmate [REDACTED] who had been beaten in general population on Lower 12. Many members of the group were upset; stating that the Unit would be labelled a PC Unit. Members of the management assured the RJ participants that this was a temporary measure until beds were available in general population. This appeased most of the members who were reminded that operational requirements necessitated this plan of action being taken. Unfortunately, [REDACTED] (a lifer) opted at this point to leave the Unit and go to general population.

- Blanchet, 2003:7.

Such use of the RJ Unit obviously lowered the morale of those who were there to partake in the program which clearly violated the concept of voluntary participation. One participant was so upset by what had transpired, that he decided to leave the program. What this event demonstrates is that CSC was willing to undermine the efforts of individuals who were committed to the principles that in theory were supposed to guide the activities of those participating in the program, including those at CSC administrating the program, to meet the dominant imperatives of the institution.

A documented incident that took place in June 2002 also illustrates the fact that staff represented a major barrier to the achievement of the goals of the RJ Unit initiative. The following excerpt is but one example of how certain 'corrections' personnel working in Grand Cache Institution undermined what was trying to be accomplished:

Last Friday morning a staff member had difficulty clearing 0700 hrs. count. The officer became verbally upset and made inappropriate comments. In addition, he ripped the newly made curtains off the cell doors. One of the inmates had made these curtains and was understandably upset at the officer's actions. I arrived at work approximately an hour after this incident occurred. While acknowledging that several inmates were very upset, I decided to wait for tempers to cool before speaking with the officer about what happened. He did agree to meet with the inmates who were upset but then made no attempts to return to the Unit to take part in the dialogue. The inmates involved have talked through their concerns and are not looking for apologies – just open communication. I am finding that educating staff is the biggest challenge.

-Blanchet,2002a:7.

In order for the Restorative Justice Unit to have succeeded, all participants, including staff, would have had to abide by the principles and values of this proposed approach. By not participating in the dialogue aimed to address this particular conflict, the staff member completely undermined what the initiative was trying to achieve. The report went on to say that “Ongoing staff awareness is necessary, keeping in mind, however, that the restorative justice process is VOLUNTARY” (ibid:8). If the ‘restorative justice’ process is voluntary as the author suggests, we should expect that those working with the prisoners living in the RJ Unit would have also been willing participants in the program. If they are unwilling, they should not be permitted to have access to the Unit, as the potential exists that any one of their interventions could nullify the positive goals that were trying to be achieved. Throughout the reports produced by the Project Coordinator, staff resistance from those working on the RJ Unit and elsewhere in the institution was seen as one of the greatest challenges to the viability of the program (see Blanchet 2002a; 2002b; 2003 and 2004).

The resistance from staff to the imperatives of the RJ Unit program seem to coincide with one pitfall identified by Zehr. The author explains that ‘restorative justice’

programs often fail to meet restorative outcomes because even when “leaders articulate a grand vision, the staff may come from traditional criminal justice jobs and hold traditional criminal justice values. Guided by a traditional perspective instead of an alternative paradigm, they tend to do things the traditional way. If not all share alternate values, it is hard to make a real difference.” (Zehr, 1990:234). Thus, it is not surprising that restoration was not taking place in the RJ Unit as many of the personnel that worked with participating prisoners were not committed to upholding the principles and values that guided the project, let alone those of the restorative approach. It seems that many of the staff at GCI were not interested in becoming part of the ‘community’ developed within the walls of the RJ Unit. This can be explained by the fact that all relationships and roles within the prison, including amongst staff, are structured in a certain manner (Goffman, 1961b). Thus, in an environment in which staff consider themselves to be superior to ‘cons’ and are required to enforce that hierarchical relationship as part of their ‘profession’, there is little incentive to engage in restorative processes to resolve their disputes which would place them on an equal footing with prisoners.

**Here Today, Gone Tomorrow:
A Discussion on Unit Location, Growth and Closing**

After having developed the core parameters for the project, CSC’s National Steering Committee on Restorative Justice chose to house the program within the walls of Grande Cache Institution (GCI), a minimum security facility located on the outskirts of the small town of Grande Cache, Alberta. This site was chosen as many staff and prisoners were already familiar and interested in restorative justice as a result of *The Making Things Right Project*, a DRF pilot project that sought to “increase understanding about restorative justice among participating offenders” and to “increase empathy toward victims among participating offenders” (Harris, 2001:15). GCI was also selected as a number of prisoners had established a *Restorative Justice Coalition* (RJ Coalition), a weekly discussion group where ‘offenders’, prison staff and interested community members meet to talk about a variety of subjects including

victimization, the impacts of 'crime' and the philosophy restorative justice¹⁴.

One important detail that clearly was not adequately considered during this particular decision making process is the fact that GCI is located approximately 445 kilometres north of Edmonton. This point is important, as Blanchet (2003; 2004) notes that many of participants in the RJ Unit project returned to Edmonton once they were released from prison. Thus, if an important part of the restorative journey and of the RJ Unit (see discussion on *Guiding Principles* – p.129) is to establish viable links with the community in order to allow 'offenders' to 'make things right' and be reaccepted back into their respective communities, it is evident that GCI's location served as a significant barrier to this process (see discussion on Making Things Right With Grande Cache – p.118).

In the planning stages, it was hoped that the RJ Unit would house 80 offenders at any given time, but to achieve this goal resources were needed to transform the physical layout of the prison wing where the pilot project would be located. Funds were also required for programming and to hire a dedicated staff person to oversee the activities of the project. To address these needs, CSC allocated an additional \$70,000 to GCI in 2001 to support the first year of operations of the initiative. This funding allotment was intended to allow officials to have time to adjust their resources accordingly so that the project could operate within the institutional budget in the years that followed.

With the space and funding for the project in place, the RJ Unit opened in April 2001 with a capacity of 16 beds. By 2002, a Restorative Justice Coordinator was in place overseeing the day-to-day operations of the project. This official was also responsible for the development of a singular mission statement, along with program objectives, guiding principles and admission criteria to reflect the overarching rationale for the program (CSC, 2002). Also in 2002, CSC's *Performance Assurance Sector* developed its *Evaluation Framework* to assess the gains and challenges faced in implementing the pilot project. This assessment was also constructed to evaluate the future applicability of the project in other CSC institutions across Canada¹⁵.

As interest for the program grew, by 2003, the capacity of the RJ Unit had grown to 28 bed spaces. Despite this growth, the RJ Unit closed in November 2005, as a new warden with different priorities decided the space could be used for other purposes given his belief that staff and prisoners seemed rather unsupportive of the initiative¹⁶. By shutting down the program in such a manner, GCI's warden essentially neutralized this particular small-scale 'reform' project by judging it to be *irrelevant* to the 'reality' of 'correctional' work. Also, given the time and resources invested by the over 100 prisoners who participated in the program (Petrellis, 2005) and some of

¹⁴ Personal Communication with Scott Harris, Director – RJDR Branch, CSC (November 2005).

¹⁵ Note: The gathering of data for CSC's program evaluation, which included interviews with RJ Unit participants and GCI staff, had been completed by the time the program had been shutdown in November 2005 – the report will be released in the 2006-2007 fiscal year.

¹⁶ Personal Communication with Scott Harris, Director – RJDR Branch, CSC (February 2006).

the GCI staff, this decision also flies completely in the face of CSC's third core value that states that "our strength and our major resource in achieving our objectives is our staff and that human relationships are the cornerstone of our endeavour" (Miller-Ashton & Harris, 1998:14). If human relationships represent the fundamental building blocks of the organization, one must ask how a program that demonstrated growth such as the RJ Unit could be shutdown in such a hasty fashion.

Structured Justice (Just Us)

In the field of 'corrections' or any other business, stated intentions are important. First, they serve a descriptive function, where statements are used to illustrate to believers and non-believers alike the official aims of an organization and their initiatives which in turn provide legitimacy to their activities. Second, they serve a prescriptive function, providing a blueprint to those working within the institution; a set of aims to strive for which guide their day-to-day efforts. This is why I feel it is important that an analysis of the RJ Unit needs to include an examination of the political framework (mission statement, objectives, guiding principles and evaluation criteria) of the program as Cressey (1961) argues that if changes are not made to the various structures of the institution, changes in the way it operates are unlikely. Having completed this exercise, it is my contention that while the project was in operation CSC officials were involved in a shell game, using restorative skin to describe punitive content.

Mission Statement

Our Restorative Justice Unit shall; using a holistic approach, work towards healing and restoration for all those affected by conflict and crime.

- Petrellis, 2005:1.

When analysing the *Mission Statement* of the RJ Unit described above, the words used by CSC to describe the overarching objective of the project such as healing and restoration are recurring themes within the philosophy of restorative justice. The idea of using a holistic approach to meet these ends is also important as such discourse suggests that a number of stakeholders will be involved and multiple approaches will be utilized in order to achieve these goals. At the same time, there is little in my analysis that suggests that this program utilized a holistic approach to address the needs of those affected by ‘crime’; unless one is to believe ‘offenders’ who took part in the initiative were mandated to strictly adhere to all of the various imperatives of their other ‘correctional’ programming activities (see Admission Criteria – p.114). Also, it is difficult to understand how such goals could be achieved given Grande Cache Institution’s proximity to communities in Alberta. For instance, the closest large urban centre to GCI is the City of Edmonton, which is located approximately 445 kilometres south of Grande Cache. Thus, one must wonder how many prisoners participating in this program could engage in a process of healing with their communities and victims. In this case, only the language employed by CSC adheres to the premises and objectives of restorative justice, a point that becomes ever more obvious when reading of the *Guiding Principles* of the program which reveals what is entailed in undertaking a holistic approach.

Guiding Principles

We will strive to...

- 1) Restore the dignity and integrity of persons and relationships through the promotion of honest self-examination and effort, requiring full accountability.
- 2) Assist each other in understanding the impact of crime.
- 3) Focus on healing, repair, reintegration, safety and sense of community by involving victims and community members in the process.
- 4) Provide opportunities to make amends and be re-accepted.

- 5) Assist each other to address the contributing factors of offending and to learn new skills.
- 6) Assist one another in developing support networks in the community.
- 7) Encourage physical, spiritual, and emotional growth in all participants.

- Petrellis, 2005:2.

For CSC, ‘offenders’ who resided on the RJ Unit were to engage in a variety of activities aimed at helping them internalize the operational viewpoint of ‘crime’. Abiding by the first governing principle required that you restore yourself by accepting that you are solely responsible for having committed an unwanted act. It also required that you own up to your ‘degenerate’ ways by picking yourself apart to find out why you had become a ‘criminal’. Although the restorative justice approach does encourage ‘offenders’ to be accountable by acknowledging that they are responsible for the wrongs they have committed and need to work towards ‘making things right’, it must be reiterated that it also requires that victims and the community take responsibility to address their needs and to re-establish their relationship to society as well. In this light, it is clear that CSC only adopted discursive elements of the restorative approach which ‘fit’ within their existing operational viewpoint that allows them to place the locus of responsibility for ‘crime’ on ‘offenders’.

To adhere to the second principle of this so-called ‘restorative’ journey, the RJ Unit called for program participants to “assist each other in understanding the impact of crime” (Petrellis, 2005:2), a process otherwise known as developing empathy. Empathy is seen as a necessary component in restorative justice processes which allows those involved to develop the understanding needed to move towards healing. But given CSC’s ‘offender’-focussed orientation, it is evident that this particular exercise was simply a regurgitation of existing victim empathy programs, where the ‘sick’ help each

other to understand that where ‘crime’ is concerned, it is they who are at fault – it is ‘just us’. What is left out is the sense of collective empathy, whereby ‘offenders’, victims and interested members of the community engage in process aimed at developing an understanding of each others situations in an effort to heal their shared wounds.

CSC claims that the aforementioned goals of the RJ Unit could be met by having victims and community members involved in the program – the third guiding principle of the project. According to proponents of restorative justice, in order for an initiative to be considered restorative it must place key decisions regarding justice proceeding and outcomes in the hands of those most affected by ‘crime’. Given the fact that ‘offenders’ have been subjected to the punitive justice process and are locked-up in prison, the degree in which participants in the RJ Unit are empowered to set the procedural agenda and decide outcomes is indeed limited, which indeed represented a massive barrier to CSC in meeting its own objectives vis-à-vis this particular program. It must also be reiterated that Grande Cache’s proximity to urban centres such as Edmonton where many of the prisoners are from was not conducive to community and victim participation¹⁷.

Similar concerns can be raised vis-à-vis the fourth principle of the RJ Unit which called for the provision of “opportunities to make amends and be re-accepted”. This element of the approach is central to the restorative approach as the act of ‘making things right’ through apology and some form of restitution that is deemed acceptable by the victims and members of the community, provides the basis through which ‘offenders’ can restore their place in the community. But again, the fact that prisoners who participated in the program were in most cases not in contact with the stakeholders in their justice circle and were restricted to spending their time within GCI unless given special

¹⁷ Note: See *Here There Is Justice (Just Us)* for further discussion on this point.

permission to be absent from the institution, it then again becomes apparent that the prison itself represents a physical barrier to meeting these goals.

The later three principles of the project incorporated 'correctional' goals of past eras into the agenda of the RJ Unit. For instance, the fifth principle called for program participants to acquire new skills. Such discourse is indicative of CSC discourse where 'offenders' are depicted as being different from law-abiding citizens and need to take steps to transform themselves into capable individuals. In other words, the RJ Unit sought to provide a milieu where 'offenders' could assist each other in their rehabilitation efforts. This principle is consistent with the restorative approach in so far as the program participants, including victims and community members would also be involved and decide that such work is necessary. But due to the isolated location of GCI, they were not included in this manner which demonstrates that the RJ Unit was nothing more than an 'offender' focussed rehabilitation program cloaked under the guise of restorative justice.

The sixth principle placed an emphasis on facilitating the reintegration of prisoners into the community through the creation of support networks. My analysis demonstrates that the only viable link to the outside that seemed to have been created through this project was the creation of an RJ Coalition at another Federal institution (Grierson Centre), which shows the degree in which the RJ Unit was able to establish viable links between 'offenders' housed in an isolated prison and their communities.

By establishing the RJ Unit, we also witnessed a localized revival of personal reformation as a goal within Canadian federal 'corrections' with the final guiding principle of the initiative calling for the encouragement of participants to achieve

“physical, spiritual, and emotional growth” (Petrellis, 2005:2). In these instances, the program is mindful of RJ philosophy on paper, but in practice, there is little to suggest that this was achieved by incarcerating individuals.

Objective 1

To provide a supportive and respectful environment that fosters and promotes accountability, healing and restoration for all those affected by crime and conflict.

- Petrellis, 2005:1.

Objective 2

To detail operational practices required to implement, maintain and monitor the Restorative Justice Project.

- Petrellis, 2005:1.

Objective 1 states that the RJ Unit aimed to create a positive environment capable of facilitating restorative outcomes. Given the lessons of the ‘rehabilitative era’, it makes it difficult to believe how the RJ Unit can achieve any form of healing within the prison environment that is notorious for its negative climate. Thus, the only way this project could have met this objective is if this campaign included making structural changes to the organization and GCI which it simply did not do.

If one were to create a program, it would not be unreasonable to track its progress by identifying its strengths and weaknesses in order to ensure the success and viability of the project – elements which CSC had incorporated in *Objective 2*. At the same time, it is important to juxtapose this aim with the value of particularity which is central to the restorative approach. Zehr (2002) notes that a strength of this model relies on its ability

to have flexible processes that respect the differences between individuals and situations. This clearly runs contradictory to CSC's attempt to 'detail' the operations of the RJ Unit project in the hope that in time such activities will lead to the creation of a stagnate *one-size-fits-all* program, which by design, would be incapable of adapting to the particular needs of participants.

On paper, this program employed many of the concepts used to describe restorative justice processes but did so in a manner that largely ignored many of the key tenants of the approach. By my assessment, the structure of the RJ Unit is framed by CSC's assumptions about 'offenders' accompanied by rehabilitation, reintegration and personal reformation as their stated objectives that place the burden of program success on their backs.

**Evaluation Framework
RJ Unit**

- Assess the extent to which physical environment fosters, promotes and cultivates a positive living environment of mutual respect among both staff and offender, and to determine the extent to which operational practices are in place to implement, maintain and monitor the Grande Cache Initiative
- Determine the extent to which offenders develop the necessary skills, attitudes and behaviours as a result of their participation in the restorative justice[sic: Restorative Justice] Unit and the level to which these skills are transferable when released into the community
- Determine the extent to which voluntary networks are established in the community to provide:
 - (i) Increased understanding and empathy for both offenders and communities
 - (ii) Support to the offender in taking responsibility and accountability for their actions

(iii) Opportunities for the offender to understand the impact of his crime and helping to decide on how to make things right

- Identify the overall impact of the restorative justice [sic: Restorative Justice] Unit on the institutional environment and to assess the extent to which restorative justice principles contribute to a healthier, safer, more respectful environment.

- Lecky, 2003:26.

At this point, I have outlined and analyzed the mission statement, program objectives and guiding principles of the RJ Unit, but in order to gain a more accurate appreciation of the rationale that shaped the activities of this particular project it is necessary to examine the measures by which the initiative was evaluated. Here, it must be reiterated that this program was a pilot project created to determine whether the model was capable of being deployed in CSC penitentiaries across Canada. Thus, a thorough evaluation process needed to be undertaken which CSC divided into the following two stages:

- The on-going monitoring of operational practices, assessing implementation of the unit, defining what works well, detailing lessons learned, and determining whether or not this model can be utilized at other sites; and
- A final evaluation in approximately 2-3 years, which will focus on the achievement of the Unit's mission, stated objectives and guiding principles.

- CSC, 2002:5.

The Evaluation Framework for the RJ Unit outlined above identifies four major areas of research. The first component evaluated was whether a 'restoratively-oriented' prison environment could become a milieu characterized by pro-social interactions amongst prisoners and staff. In other words, CSC sought to determine whether the RJ Unit could neutralize the institutional charges exhibited by both groups within the walls of the prison which have been known to undermine and impede past 'offender'

programming efforts. My analysis shows that the RJ Unit failed in this regard, as the reports of the Project Coordinator were littered with tales of staff resistance to the project and many instances in which punitive responses were utilized to address institutional rule-breaking.

Within this rubric CSC was also concerned with evaluating whether the resources and procedures needed for the operations and on-going assessment of the project were in place. Though necessary, this assessment measure makes it clear that should the program fail, it will largely be because more man power and other forms of capital would have been needed to ensure the viability of the program, a chorus that has been sung time and time again in the field of ‘corrections’ in Canada (see Archambault, 1938; Fauteux, 1956; Ouimet, 1969; MacGuigan, 1977).

The second component of the program evaluation focused on the ability of RJ Unit program participants to “develop the necessary skills, attitudes and behaviours” (Lecky, 2003:26). Through this criterion it becomes clear that it was not the participants in the program who determined the goals of this so-called ‘restorative’ initiative, but rather, that many of the objectives of the program were already set in place by CSC. Such a framework and objective prioritization completely undermines the principles of empowerment and the inclusion of those most affected by ‘crime’ in decision-making, which are distinguishing characteristics of restorative justice.

Upon careful examination, it also seems that the RJ Unit was more concerned with meeting rehabilitative ends which is driven by CSC assumptions that ‘criminals’ are different from the rest of society’s ‘law-abiding’ members with little consideration given to social factors that contribute to ‘crime’ such as poverty. This

operationalization of restorative justice by CSC demonstrates that the organization is at times engaged in a process Mathiesen (1990) describes as *absorption*, whereby only the discursive elements of restorative justice that fit into pre-existing CSC discourse and programming are included within the framework of the RJ Unit project. For instance, utilizing the language of the restorative approach, CSC can place the onus of responsibility on the ‘offender’ to acquire the skills through participation in the RJ Unit. Should they fail to do so, CSC is then absolved of responsibility and can deflect criticism by stating that the ‘offender’ was not ready to change. It also demonstrates the dominance of the structure of the organization, which once again has proven itself to be unable to adapt the way it does business while attempting to inject new ideas into its’ operational framework.

If restorative justice is said to be taking place within the ‘correctional’ environment, voluntary networks are needed to compensate for the fact that prisoners are in many ways cut-off from the community. To what extent this objective was met by CSC was the central focus of the third component of the RJ Unit’s Evaluation Framework. CSC sought to include community volunteers for a number of reasons. First, they wanted to determine the effectiveness of including community members in increasing “understanding and empathy for both offenders and communities” (Lecky, 2003:26). Second, they felt that by including volunteers in the process ‘offenders’ would receive additional support in their efforts to become accountable and take responsibility for their ‘crime’ and day-to-day activities. These elements of the program evaluation demonstrate that CSC sought community and victim involvement in the program largely to address concerns related to the rehabilitation of the ‘offender’. By incorporating only

snippets of restorative justice discourse into the operations of GCI, it can be argued that CSC did not introduce anything new to the prison other than to attach the restorative label to activities such as empathy and reintegration programming which were already components of the 'correctional' landscape.

This portion of the evaluation also sought to assess the RJ Unit's ability to include volunteers in the process of helping 'offenders' "decide on how to make things right" (Lecky, 2003:26). CSC believed that this could be accomplished by encouraging community members to offer "offenders opportunities to make things right... to help them to take ownership of their offence and enhance their ability to avoid re-offending" (CSC, 2002:6-7). This statement is somewhat contradictory with the philosophy of restorative justice which seeks to place the decision on how to 'make things right' in the hands of those affected by 'crime'. By offering specific opportunities to 'give back', to what extent have the wrongs been put right as those directly affected by 'crime' such as 'offenders' and victims have not been included in this particular decision making process or in the actualisation of the program itself? To what extent will the community accept these gestures and accept 'offenders' as members of their community if they were not included in such developments? My analysis revealed that for most part, participants who 'gave back' to the community of Grande Cache were not contributing to their reintegration, as their victims and communities were not recipients of their charitable acts. As such, none of the needs of the stakeholders in justice were met and their relationships were left to continue to decay over time.

The final component of the Evaluation Framework can be summarized by answering the following question: can the RJ Unit contribute to a transformation of the

prison environment? In other words, CSC attempted to ascertain whether by establishing this project the prison characterized by negativity and dangerousness could be reformed – we have been here before. CSC was only committed to incorporating elements of the restorative approach that already fit within the existing structure of the organization benevolently expecting that ‘correctional’ change would simply just happen. What was left was certainly nothing new, just another program aimed at responsabilizing ‘offenders’ for both their ‘crimes’ and their subsequent transformation.

Chapter IX: Discussion

Curious we sit, as we observe a living myth
In disbelief, yet not surprised
To see more of the same, hidden behind a veil of lies

Hoping to see change, as continuing failure is accepted
In any other business, you would be fired
But within these walls, you are protected

Pull the strings, watch them dance
You manipulate
With little to advance

Much goes unnoticed as time stands still
Locking the 'other' up
Continues to be the prescribed pill

If the goal is control then perhaps you have succeeded
Hidden behind a veil of lies
History shall be repeated

- Written April 26, 2005

Research Object Revisited: Summary of Findings

Did the Restorative Justice Unit operating within Grande Cache Institution and administrated by Correctional Service Canada between April 2001 and November 2005 adhere to the objectives, values and principles outlined in the philosophy of restorative justice?

In this study, I explored the gaps and/or links between 'criminal justice' rhetoric and praxis, between the realm of words and the realm of deeds in the newest business of social control which many fondly label restorative justice. In my analysis, I have found that CSC uses restorative descriptors to describe the fundamental tenants and the activities of their 'restorative' initiatives including the RJ Unit. However, once I examined what was beneath the surface, it became clear that most of the substance of

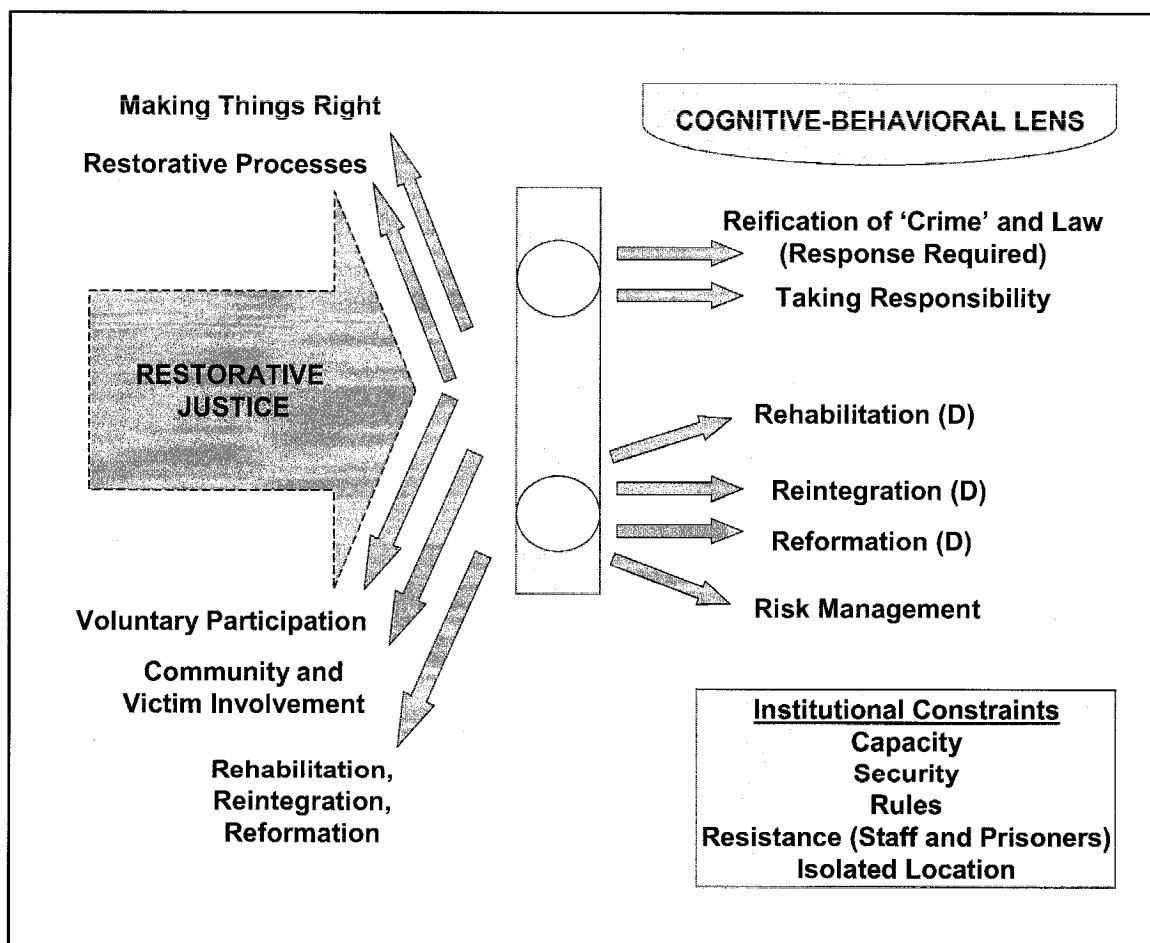
what was said to be taking place in the RJ Unit had little to do with meeting the essentials of restorative justice, but rather, were setup to meet the pre-existing operational requirements of CSC. Such organizational needs include providing CSC with the discursive tools needed to deflect criticism emanating from outside pressure and also to meet the dominant imperatives of punishment and control under the guise of the *cognitive panacea*. Of the restorative content that was left, such as establishing viable links with the community, the structure of the prison impeded the development of any such connections emanating from the deployment of the RJ Unit program.

In the following chapter, I will outline the main findings of my study which illustrate the fact that CSC's RJ Unit located at Grande Cache Institution did not adhere to the objectives, values and principles outlined in the philosophy of restorative justice. This will be accomplished by unpacking the tenants of the CSC / RJ Unit 'Restorative Justice Model' (see Appendix D) and contrasting them with those of my 'Ideal Type' Restorative Justice Model (see Appendix A). From there, I will draw from the works of past theorists who have theorized on the failure of past attempts to establish 'alternatives' in the field of 'criminal justice' such as Mathiesen (1974 and 1990), Rothman (1980) and Cohen (1985) in an effort to further substantiate my findings.

Contours of a Cognitive-'Restorative' Marriage

The RJ Unit can be described in the following single succinct statement: it is a program created by CSC that essentially amounted to a merger between the rhetoric of the cognitive-behavioural approach of penology and transformed descriptors of the restorative approach. The figure below illustrates how the discourses [D] of self-initiated reformation, rehabilitation, and reintegration and their subsequent deflection in practice

remain very much part of the 'correctional' enterprise through the creation and actualisation of the RJ Unit program. We also see how certain discourses of the restorative approach (ex: 'crime' as the responsibility of the 'offender', justice as imprisonment and symbolic restitution to society, etcetera) were integrated into the fabric of the program in a manner that they did not pose a challenge to the prison. Emerging from this marriage was a bastardized version of 'restorative justice' containing rhetoric that justified increased measures of punishment and control in the name of meeting the need for 'offenders' to transform themselves into law-abiding, peaceable and productive citizens.



'Crime'

Within the framework of restorative justice, 'crime' is defined as a violation of people and relationships, causing harm resulting in injuries to all involved. At the same time, such an event also represents an opportunity for all those affected to come together to collectively take responsibility for what has transpired and to find a solution that will repair the wounds and re-establish the relationships that were broken. While claiming to be using a 'holistic' approach to deal with 'crime', CSC was not able to distance itself from the rhetoric of the 'criminal justice' system as they define (within their very structure) 'crime' as primarily a matter of individuals breaking the law which exists, therefore is 'just'. It is from this starting point, that CSC's construction of RJ becomes *restorative just us*, as the organization deploys the principle of *taking responsibility* to reinforce its operational viewpoint that only the individual 'offender' is required to take full responsibility for his / her actions.

Justice

If 'crime' is a matter of law-breaking, what is justice? As CSC is the bureaucratic institution responsible for warehousing 'offenders' serving prison sentences of two years plus a day in Canada, it goes without saying that the organization views justice as punishment via incarceration. By creating the RJ Unit at Grande Cache Institution, CSC also adopted the language of 'making things right', requiring program participants who were seen by the organization and were also expected to see themselves as being solely accountable for their actions requiring that they 'give back' to the local community. It is important to reiterate that most of the prisoners housed in the Unit at GCI were not from Grande Cache. As such, their actions did little to address their need to establish viable

relationships with their home communities. This was also compounded by the fact that their victims and communities were not included in the process of determining how they were to 'make things right', thus structurally inhibiting the potential for consensual agreements to be reached aimed at reparative and reconciliatory outcomes.

Stakeholders in 'Just Us'

During the short life of the RJ Unit, the only long-term connection established to the outside community was the creation of a RJ Coalition at Grierson Institution (a facility located in Edmonton where many former GCI prisoners are sent to before being released from CSC custody). As such, I argue that the stakeholders in the restorative justice journey involved with the RJ Unit project were mostly limited to the few GCI staff who were committed to the program and most who were not, and the prisoners 'living' on the Unit, some of whom chose to be there and others who did not. Such a configuration clearly served to stifle any potential this program had of transforming a small section of GCI into a positive environment. Under a cloud of negativity fuelled by the fact that many prison officials refused to resolve their conflicts with program participants in a positive manner and also due to prisoners 'living' on the Unit for reasons of institutional convenience, it seems that the very structure of the prison required that willing participants look inward and to other like-minded individuals for help in their quest for personal transformation. The very location of GCI (approximately 445 kilometres north of Edmonton) also contributed to the isolation of RJ Unit participants. What made this arrangement different from those of past and current rehabilitative, reformatory and reintegrative programs of CSC? I see *more of the same* – 'offenders' who were solely responsible for their 'crimes' and for their rehabilitation.

Processes and Outcomes

In the field of restorative justice, there are generally three approaches that are recognized as contributing to restorative outcomes: victim-offender mediation / victim-offender reconciliation, (healing, sentencing, peacemaking), circles, and (family or community) group conferences). These practices aim to bring together those affected by 'crime' ('offenders', victims and interested members of the community) in an effort to meet the resulting needs and to mend their broken relationships. One of the positive aspects of the RJ Unit was that it utilized a circle process to resolve disputes within the group. At the same time, it must be restated that many of these conflicts such as disputes over early morning showers and television programming are not indicative of disagreements which would cause major frustration to those same individuals if they were living on the outside. More importantly, it is my contention that these processes served as an additional instrument of control within the institution, as not only were participants to be watched by GCI staff, but also by those 'living' on their Unit. Moreover, this "intense supervision environment" (Petrellis, 2005:2) required that prisoners scrutinize themselves by filling out monthly reports on their own progress related to the acquisition of new attitudes, behaviours and skills. When it was deemed by any of the stakeholders in 'just us' that a participant was not meeting their 'obligations' under this program, they often received one of a combination of possible punishments including extra duties, removal from the Unit and in some 'serious' cases such as drug violations, administrative segregation. Essentially, the parameters of the RJ Unit, whether intended or not, served as additional mechanisms through which the institutional rules of the prison could be enforced in effort to manage the 'risk' posed by

program participants. These outcomes are clearly punitive and cannot be construed as meeting the imperatives of the restorative justice model.

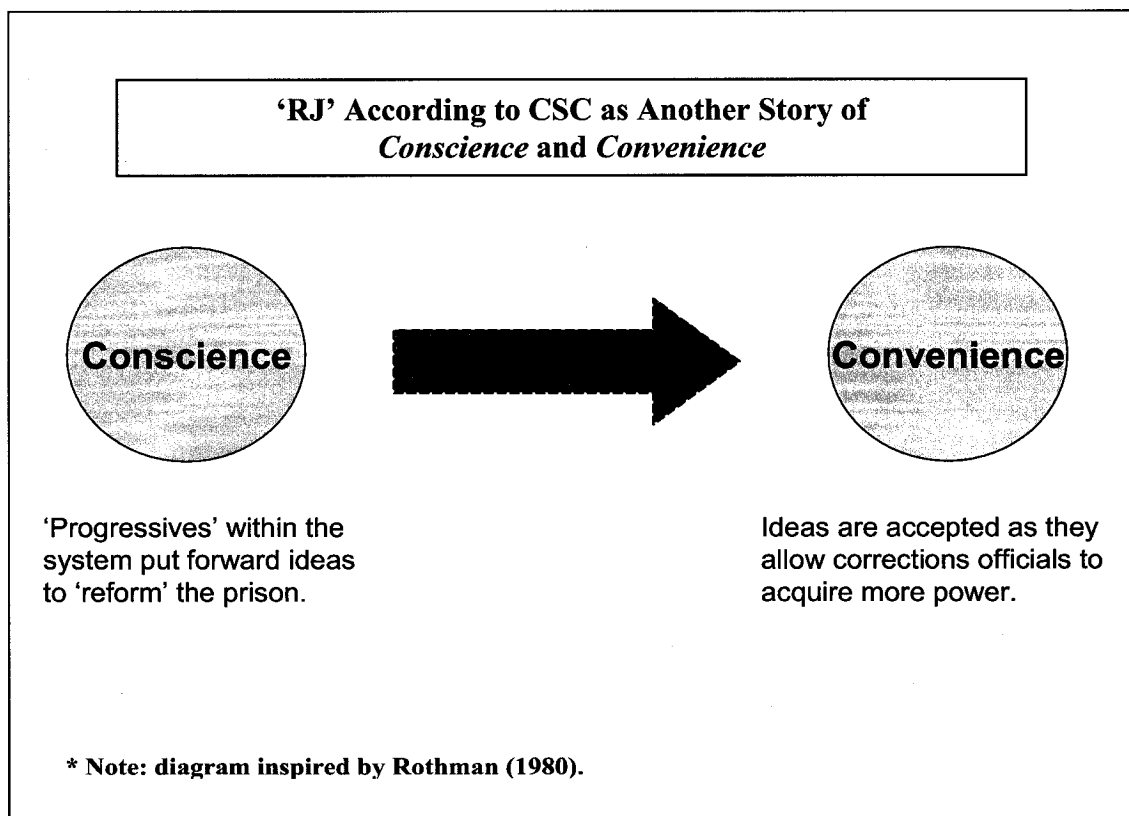
Values and Principles

Throughout my analysis, it becomes abundantly clear that the values and principles of restorative justice have been transformed (ex: taking responsibility and accountability) by CSC in an effort to reinforce their operational viewpoint that the ‘offender’ is blameworthy. In other cases, pillars of the restorative approach such as interconnectedness, particularity and respect were nullified by the very structure of the prison, illustrated by the fact that ‘offenders’ housed in the RJ Unit were isolated from the rest of us, were all treated the same as a result of their common status as ‘social junk’, and were certainly not treated with respect as demonstrated by the cat calls from the other prisoners at GCI and staff resistance to the program. The project also failed to adhere to participatory elements of restorative justice such as inclusiveness in key decisions related to the program and the lives of the ‘offenders’ themselves. This fact is indicative of the hierarchical structure of the organization and of the ‘criminal justice’ system itself which represents one of the fundamental reasons why many proponents of restorative justice wish to take their place at the centre of the justice process.

Deflecting Conscience for Reasons of Convenience

At this point, I must return to the role that ideology plays in maintaining the idea that the prison is an integral and necessary component within our society. Within the Canadian context we have witnessed numerous attempts to reinvent the role of the prison. Following the Brown Commission (1849), the prison was said to be a milieu for personal

transformation, an ideal that continues to be maintained today. Recognizing the inadequacy of the prison to meet its rehabilitative function, the Ouimet Report (1969) recommended that rehabilitation should take place in the community and that reintegration should be the *raison d'être* of 'correctional' institutions. Once again citing failure, the MacGuigan Report (1977) put forward the idea that the role of the prison was to provide opportunities to prisoners under the guise of personal reformation, whereby 'offenders' would themselves be responsible for transforming themselves into law-abiding and productive citizens. In 1996, CSC introduced the idea that the prison could be a milieu where restorative justice can take place. The question is why?



To answer this question, it is useful to reintroduce one of the ideas discussed in *Chapter III*, that 'correctional' institutions actively engage in a process of systematic

neutralization of proposed ‘reforms’ to ensure their survival. Perhaps the simplest interpretation offered is Rothman’s theory of *Conscience and Convenience* (see figure above). He argues that efforts to introduce ‘progressive reforms’ are put forward by well-intentioned ‘Progressives’ within the organization, the *conscience* of the institution, to decision makers who then evaluate the benefits of implementing the proposed idea. Management then accepts to move forward with the initiative, not because of the stated benefits of the proposed ‘reform’, but rather for reasons of *convenience*. Motives would include the acquisition of more resources and new discretionary powers.

Let us now take the theory for a test drive to see if it can be applied to CSC’s framework for restorative justice. In the summer of 2003, I was an undergraduate student studying criminology at the University of Ottawa. As part of my schooling, I was required to complete a field placement in the sphere of ‘criminal justice’. Knowing that I was interested in ‘alternative’ justice practices, the Placement Coordinator suggested that I meet with the Director of CSC’s Restorative Justice and Dispute Resolution Branch to see if I would be interested in working for an organization said to be in the business of restorative justice. Reflecting upon this opportunity, I immediately questioned how it was possible that CSC, an organization responsible for incarcerating and punishing ‘offenders’, could be involved in restorative practices. Curious, I decided to meet with the Director of the RJDR Branch.

During my initial meeting with the Director, I was immediately struck by his enthusiasm and sincere belief that his team was contributing to change in the sphere of ‘corrections’. Even when I pointed out the contradictions between the punitive and restorative frameworks, the Director challenged me to join the RJDR Branch to see how

restorative justice fit into CSC's activities and how their initiatives were contributing in a small way to changing 'corrections' in Canada from the inside. Sceptical, yet intrigued, I decided to take him up on his offer.

Months later, I joined the RJDR Branch as a placement student in January 2004. During the next four months at CSC's national headquarters, I became familiar with the politics and structure governing this bureaucratic institution and the day-to-day operations of the Branch. I was also able to interact with the members of the team on a frequent basis. My task was to retool the *Training the Trainers Program*, an initiative aimed at training facilitators on restorative practices and philosophy so that they could then deliver the same module to other CSC employees, prisoners and members of various communities. As I was constructing the presentation kits I even came to believe that I was contributing to systemic 'reform' from the inside. I considered that the RJDR Branch's work in the three key areas that they had identified in their framework policy for restorative justice in 1996 ('criminal justice reform', restorative, and creating restorative correctional environments) were indeed having an impact on the 'criminal justice' system and more importantly 'offenders', victims and affected members of the community. However, once removed from this particular work environment and having decided to conduct my master's thesis on what was taking place within the bureaucracy of CSC and within the walls of its institutions in the name of restorative justice, cracks in my benevolence began to emerge and the image that appeared was quite different from the one I had constructed during my time working in the RJDR Branch.

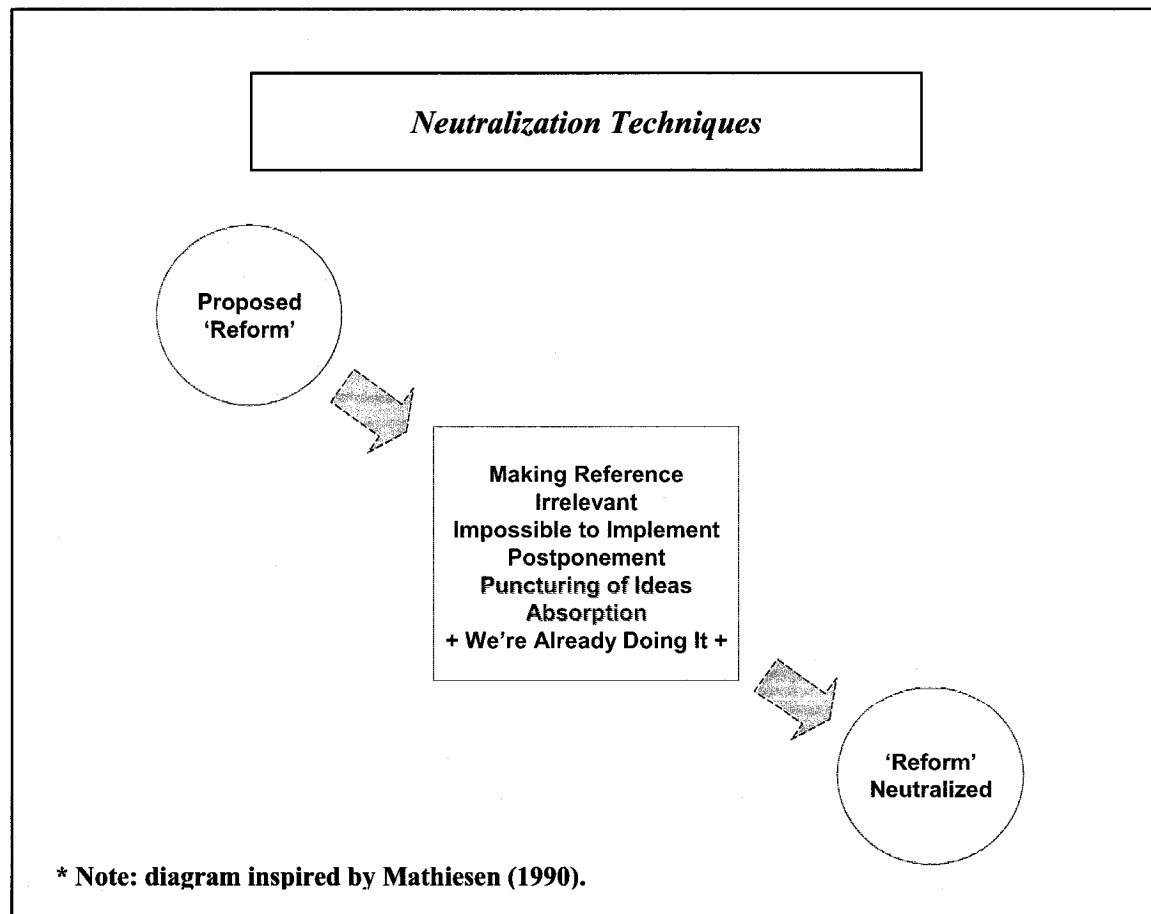
After months of sifting through restorative justice literature and CSC documents, I was struck by the degree in which Rothman's analysis of 'reform' in the sphere of

‘corrections’ applied to the experience of those working in the RJDR Branch. During my time at CSC, there was a committed group of individuals in this particular office working towards ‘criminal justice reform’, offering victim-offender mediation services to victims and ‘offenders’, and trying to address conflict within the institutions by implementing various alternative dispute resolution (ADR) projects. The ‘Progressives’ (or what I judge to be the *conscience*) within the organization were and continue to try and inject new ideas and programs into the organization with the belief that it will contribute to positive changes in Canadian federal prisons. However, the findings presented in this study reveal that much of the impetus for CSC’s stated involvement in the field of restorative justice is related to issues of *convenience*.

By claiming to be involved in the field of restorative justice, CSC is able to deflect criticism from certain victim’s groups who argue that the retributive ‘criminal justice’ system is not equipped to meet their needs by offering victim-offender mediation encounters in conjunction with the Department of Justice. The RJDR Branch was also responsible for managing CSC’s portion of the government-wide Dispute Resolution Fund (1999-2004), funding 14 pilot projects, most of which have been evaluated as successful despite the clear absence of structural change within CSC as a result of their implementation. This point has been completely overlooked, which illustrates the fact that management within CSC have been able to deploy the restorative menarche to deflect pressure to transform the way the organization handles in-house disputes. Also, by spearheading promotional campaigns such as RJ Week, CSC is in a sense able to purchase the silence of potential dissenting voices within the restorative justice

movement in Canada by supporting and promoting the events organized by volunteers across the country.

It is with these examples and others, that despite the efforts of those working at RJDR Branch over the years, I contend that the upper management of CSC is only allowing the RJDR Branch to operate for reasons of 'convenience', a fact that is illustrated by their meagre financial 'commitment' to their 'restorative justice' initiatives. I have also found that CSC is using a combination of what Mathiesen (1990) calls *neutralization techniques* to deflect the challenge posed by the philosophy of restorative justice in order to maintain the punitive and control-oriented character of the organization and its prisons.



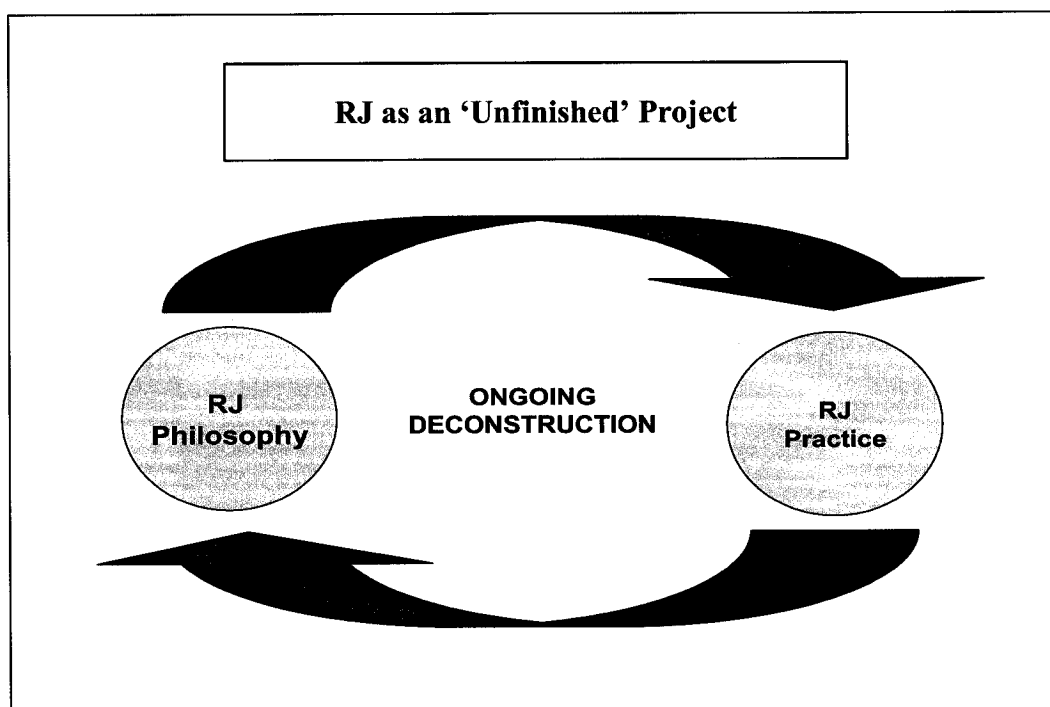
Of all the schemes deployed by ‘corrections’ organizations in the past (see figure above), I argue that the main *neutralization technique* employed by CSC is *absorption*, whereby ‘correctional’ institutions implement new ideas “in a way which subtly and imperceptibly changes the new element in it, so that it in practice fits into the prevailing structure” (Mathiesen, 1990: 39), giving the illusion that something ‘new’ is taking place in prison. This is illustrated by several examples outlined in my study where I identified the fact that only certain elements of the restorative approach that met the needs of CSC were incorporated into their operational framework while other components that threaten their interests were systematically rejected. The policies and the activities of the RJ Unit are ideal examples of this process taking place. In this light, it is my contention that CSC’s ‘restorative justice’ activities were by design – whether intended or not – to serve as a convenient smokescreen for the organization, illustrated by the fact that the core elements of its political and organizational structure remain in tact still today.

Restorative Justice and the ‘Unfinished’

Thomas Mathiesen (1974) coined the term the ‘unfinished’ to describe how one must go about to present an alternative that is capable of replacing the existing ‘criminal justice’ system. Using the concepts of the ‘unfinished’, one can identify the numerous pitfalls that are undermining the efforts of proponents of restorative justice that wish to develop initiatives that serve as legitimate alternatives to those offered by the prevailing punitive approaches to ‘crime’ and justice.

The author explains that the ‘unfinished’ is essentially a sketch where the destination or consequences of implementation are not known but instead are ‘suggested’.

Thus, when presented with the alternative, the system cannot reject the project as it has yet to be ‘fully formed’ where “the consequences of the actual carrying out of the message are clarified, or approximately clarified” (Mathiesen, 1990:14). In this sense, it can be argued that restorative justice is an ‘unfinished’ project, as many of its proponents argue that the restorative approach is in its infancy and finds itself in a period of constant evolution. It is an ongoing dialectical process (see figure below), whereby the restorative lens (philosophy) is continually informing and being informed by practices on the ground.



Another component of an ‘unfinished’ project would be one that would distance itself from the practices and rhetoric of the ‘criminal justice’ system by articulating a ‘foreign’ message that is not understood and contains contradictory values, thus cannot integrated into the existing structures and modes of thinking. This is one area in which the restorative justice model is particularly vulnerable to cooptation. By employing

similar language (ex: 'crime', 'offender', 'reintegration') and assumptions (ex: 'offenders' are responsible for the 'crimes' they have committed and must be held to account for their actions), the restorative approach in turn shares matching premises vis-à-vis 'crime' and 'criminals' with the retributive model. The net effect – the existing system is now in a position to integrate the language and practices of restorative justice within a punitive framework, absorb certain elements of the approach to adapt it to fit existing organizational needs. The now transformed product can then be evaluated to see it can be 'finished' in the form of a 'best practice' and be applied across the board. Conversely, the 'alternative' can also be rhetorically 'finished', in the sense that its language can be absorbed and transformed by the existing system in a systematic effort to present the 'old' as 'new'.

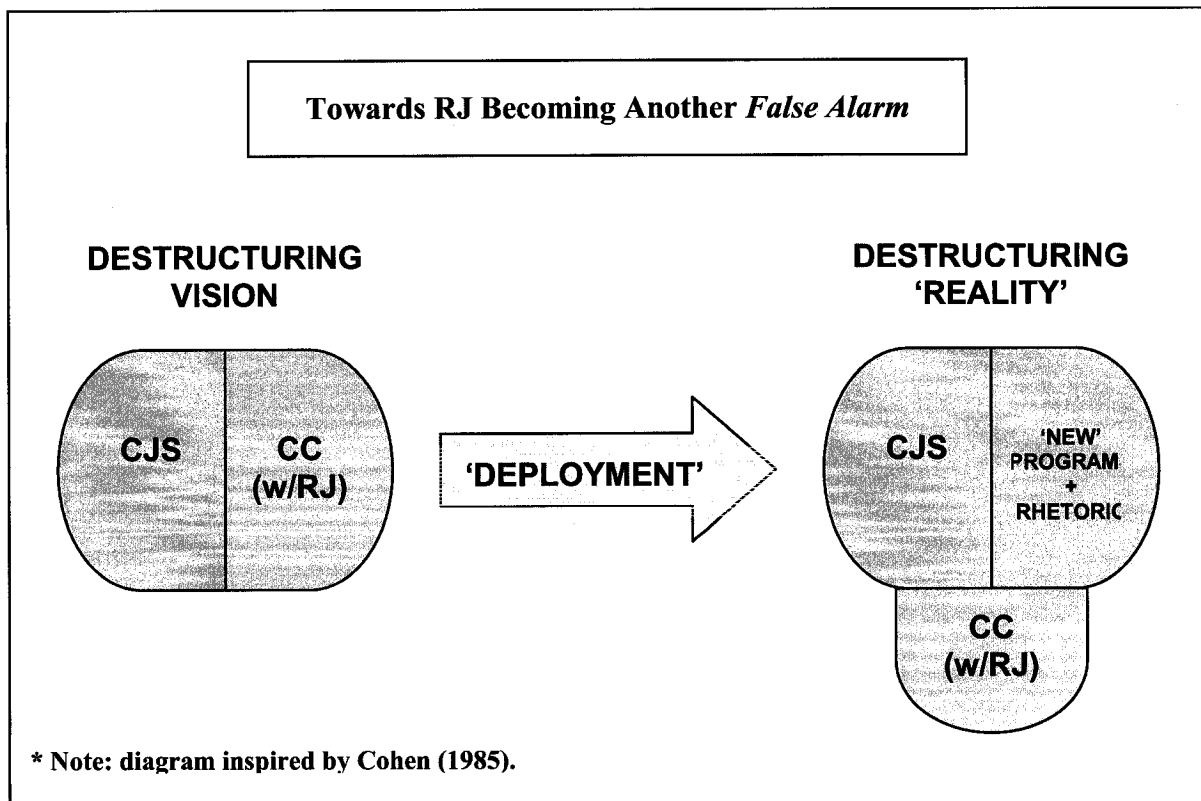
When assessing the Evaluation Framework that was drafted to appraise the potential of establishing the RJ Unit pilot as a model, it becomes evident that at one time it was CSC's intention to create a 'finished' sketch with defined boundaries that could be deployed in federal prisons across Canada. It is also apparent, that in the construction of this particular pilot project, CSC officials were also using the language of restorative justice to repackage 'old' rhetoric (rehabilitation, reintegration and personal reformation) in the newest disguise for social control in capitalist societies.

Restorative Justice: A Master Movement or False Alarm?

To conduct research in restorative justice is in a sense to revisit the promises put forward during a time described by Cohen (1985) as the *destructuring movement*. Some approaches within the movement called for justice that would be moved 'away from the state' and 'away from the institution' into the community. Others sought processes that

would give those affected by ‘crime’ the opportunity to resolve their own matters, essentially calling for justice ‘away from the expert’. Some initiatives also sought to shift the focus of justice ‘away from the mind’ with a renewed emphasis on ‘criminal’ acts themselves.

The philosophy of restorative justice encompasses all of these approaches. It too seeks to provide ‘alternative’ processes and outcomes that are not constrained by the barriers of the laws of the State and the institutional policies and practices of the ‘criminal justice’ system. The restorative approach also seeks to empower ‘offenders’, victims and interested community members to engage in the justice process without the heavy-handed involvement of professionals. It also defines ‘crime’ as a violation of people and relationships, therefore placing the emphasis on repairing the resulting harm on the act in question.



A central assumption that unites both the destructuring and restorative justice movements is that by increasing the number of community-based justice initiatives there would be a subsequent reduction in the number of individuals processed through the formal channels of the 'criminal justice' system. It was thought that if implemented, deconstruction and restorative justice initiatives would more often than not divert 'offenders' away from the system, would be able to meet the needs of those affected by 'crime', would be more effective than prevailing institutional approaches and would also be less costly. Unfortunately this shared vision has not coalesced as planned.

The diagram above illustrates the fact that in both instances, we see evidence that during the deployment of 'alternative' images, organizations within the 'criminal justice' system such as CSC have managed to absorb discursive elements, and even in some

cases, practices of these approaches (ex: CSC – Victim-Offender Mediation Program, RCMP – Community Justice Forums). Instead of a reduction in the clout of the ‘criminal justice’ system, we are instead witnessing the maintenance of the status quo, whereby existing institutions in the ‘criminal justice’ system are creating ‘new’ programs that are made to fit into their operational framework. As a result, practices under the guise of restorative justice are contributing to the continued preservation of punitively-oriented organizations. It is with this in mind, that I contend that proponents of the restorative approach must engage in research aimed at separating the programs that adhere to the values and principles of this philosophy from those that do not. The signatures from the *destructuring movement* are slowly re-emerging once again, and if efforts are not made now, *more of the same* will undoubtedly too become the legacy of the restorative justice movement.

Chapter X: Stories of Reactionary Justice

We put on make-up to make beauty out of trolls

- Written February 15, 2005.

Although some would argue that the restorative philosophy is a way of life, it is chiefly used as an 'alternative' approach to dealing with criminalized unwanted acts. Proponents of this model claim that it is different than the approach used by its retributive counterpart, the 'criminal justice' system, as they construct 'crime' as primarily a violation of people and relationships rather than simply a matter of lawbreaking, requiring justice that puts right the wrongs rather than engaging in a perpetual cycle of violence. For as long as I have been aware of the existence of restorative justice I have assumed that I was truly looking at something different, but once again I must reiterate that experience has led me away from this particular set of first thoughts.

Let me approach myself for what I know about 'criminal justice'. There exists a set of laws that ordain a certain number of acts 'criminal' in nature depending on circumstance and severity. These laws also codify available responses to deal with its transgressors. In theory, these rules are understood by most as being in place to protect the best interest of all in society and are thus rendered fair. If one breaks the law, a 'crime' against society has indeed occurred prompting a gamut of responses focusing on the apprehension of the suspected. If caught, the suspect is subjected to a battery of accusations to confirm or deny. Should at any point culpability be established, either through admission or by decision of a judge or jury of ones 'peers', this person then becomes an 'offender'. With their new found status as 'social junk', the new 'abnormal' is seen as a 'nuisance' to society whose behaviours, habits and lifestyle need to change.

The ‘criminal’, it has been said, can morph himself to become a law-abiding productive citizen if he chooses to do so through a variety of programs that can be made available, including those available under the guise of restorative justice.

It is with this in mind that I began to question the ‘alternative’ status of restorative justice. Proponents of this approach claim that they are truly on the path of developing something that is different where the conceptualisation of ‘crime’ and response is concerned, but among its supporters, many have failed to remove the fundamental building blocks from their discourses. ‘Crime’ exists, prompting reactionary justice aimed at transforming ‘criminals’ who are ‘different’.

At this point I decided to close my eyes and I will ask you to do the same. Imagine a steady stream of water running from your kitchen faucet. Picture a glass underneath a running tap collecting the water. Over time the glass fills. As the tap continues to run, the glass can no longer contain the water within its banks and eventually the pressure causes it to crack. It is clear that something needs to be done, that ‘alternative’ solutions are needed to contain the water. Some propose that we merely expand the existing glass, while others suggest that we fix it with *band-aid solutions*. As both options are implemented, the water continues to spill over the banks of the glass, filters down the drain only to be recycled back through the tap over and over again. In the face of on-going failure, concerned onlookers propose that we change glasses, try something ‘new’, but as more attempts are made, the water from the tap continues to flow uncontrollably as the days and nights pass without hindrance.

Open your eyes. Your imagination is not required for this exercise. Turn on your television and you will be led to believe that we live in a society that is seemingly

rampant with 'crime'. In response, we place our faith in a legal system as old as the notion of 'crime' itself to contain this social 'evil' and the 'abnormal' that break with 'consensus'. Its institutions, much like the glass designed to contain water, have failed time and time again to meet their intended function. Over time, repeated attempts have been made to 'reform' the system and expand its structure, but *bigger glasses* and *band-aid solutions* have failed much like the structure they intended to repair. The water ('crime') which gives purpose to the glass (the 'criminal justice' system) continues to flow uncontrollably and the resulting spill-over effect has created a much bigger mess in the form of blood, tears, and scars that capitalist societies cannot repair and choose to simply forget.

Zehr (1990; 2002) proposes that we 'change lenses', that we move towards a 'new' glass to deal with 'crime', that of restorative justice. Although we can acknowledge that restorative justice initiatives that rightly carry the label may have greater success at dealing with 'crime' in terms of participant satisfaction, the inequalities that are at the source of most of these transgressions are largely left unaddressed by this approach (Morris, 2003). 'Crime' remains as all people affected continue to suffer needlessly as reactionary 'justice' continues to be the prescribed pill to a 'disease' we have constructed both in the descriptive and in the literal sense.

In order to truly address 'crime', we must first attend to those who suffer from inequality in our society, to create a level playing field where all can benefit from the riches of this planet that are only enjoyed by the privileged few. Only when this takes place, will we truly be in the business of 'changing lenses' and be able to escape the zero-sum cycle in which we find ourselves concerning 'criminal justice'. Only when we

attack the inequalities that plague our society, instead of engaging in practices of *othering* will we be safe. As long as we live in a world where profiteers of misery yield rewards from their tales of society's 'monsters', we will never find peace and the resolve needed to heal our broken and fragmented society which sings the praises of individual worth rather than the promise of human potential that can only be achieved through collaborative efforts.

For over two hundred years in Canada, prison and government officials have used different languages to sell the same story. Today we prefer risk analysis and the occasional mention of restorative justice. In other eras, rehabilitation was the dissertation of choice. One thing that we can be sure of is that over time these discourses have all been used as an instrument by 'corrections' and government officials to justify the use of imprisonment as a response to 'crime' and to mask its repressive control oriented function within our capitalist society.

As we dance around the bon fire chanting the hymn of greed and attempt to mend the wounds of our burnt friends, perhaps it is time that we stop this nonsensical ballet in which we tip-toe around the issues and stop to take the time to examine the fire that for far too long has kept us moving away from any semblance of humanity. If we truly want to deal with 'crime' and conflict in our societies in a serious fashion, we must put out the supra-capitalist fire fuelled by individualism and the fascist doctrines of politicians and industrialists that convince the impressionable that we are living in an era of progress. As the undertow of what Friedenburg (1975) calls resentment – whereby individuals experience "the bitterness that accumulates from one's own subordination and existential guilt at allowing oneself to be used by other people for their own purposes, while one's

life rusts away unnoticed” – grows stronger, abolition of capitalism and its repressive instruments absent of consciousness remains our only solution. Morris (1995) argues that “Restorative justice is not enough if it doesn’t address, fundamentally the issue of racist and classist injustice which lies at the root of every one of our systems” (:17). Therefore, it can be argued that to develop ‘alternative’ responses to dealing with ‘crime’ is to jump off the dock and completely miss the boat. What is needed now is not another dance but an effort to put out the fire and find an alternative beacon mindful of social, economic and political equality to guide the relationships in our society. Otherwise, we will continue to live in a world powered by a fire that keeps only a select few warm, while convincing the rest of us that we are not cold.

It is time to think outside of the capitalist mindset that has convinced us that problems are to be dealt with after the fact. If we want to solve social problems we must actually engage in a process where such an outcome can be achieved. If we do not take this drastic step, I predict with certainty that efforts to deal with ‘crime’ will continue to be ‘unsuccessful’ – that is of course if meeting stated objectives is indeed a measure of success.

No one is disposable.

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APPENDIX A:
‘Ideal Type’ Restorative Justice Model

Concepts	
‘Crime’	• A violation of people and relationships • Causes harm resulting in injuries to all involved • An opportunity
Justice	• Involves ‘making things right’: meeting needs through consensual agreements
Stakeholders in Justice	• Victims: primary (direct victim(s)) and secondary (family and friends of both the victim(s) and offender(s)) • ‘Offender(s)’ • Community (those interested in participating) • Facilitative State (at most – a provider of funds and resources)
Processes	• VOMPs (victim-offender mediation) / VORPs (victim-offender reconciliation) • Circles: healing, sentencing and peacemaking • Group Conferences: family and community
Outcomes	<u>Philosophy</u> • Outcomes are decided and agreed upon as acceptable by the stakeholders in the justice process. <u>Possible Outcomes</u> • Reparation: restitution or compensation • Reconciliation: apology and forgiveness • Denunciation of the act and reintegration • Safety: reduced recidivism
Values & Principles	• Interconnectedness, particularity and respect • Accountability and taking responsibility • Participation: inclusiveness, voluntary participation, dialogue, empowerment and consensus

APPENDIX B: Inventory of Canadian 'Restorative Justice' Initiatives

The following is an inventory of Canadian initiatives that either claimed to be in the business of restorative justice or had been identified as such by a third party. The goal of this inventory is to provide a snapshot of what is taking place in the name of restorative justice in Canada. This list was assembled utilizing information available in CSC's *Inventory of Canadian Restorative Justice Initiatives* (1998) and the websites of provincial governments, non-governmental organizations, and the Conflict Resolution Network (www.crnnetwork.ca). Please note that conferences, courses and events related to restorative justice are excluded from this inventory.

Nationwide (277 initiatives identified)	
Province of Newfoundland / Labrador	37
Province of Prince Edward Island	4
Province of Nova Scotia	13
Province of New Brunswick	3
Province of Québec	41
Province of Ontario	23
Province of Manitoba	11
Province of Saskatchewan	36
Province of Alberta	25
Province of British Columbia	72
Territory of Nunavut	1
Northwest Territories	4
Yukon Territory	7

NEWFOUNDLAND AND LABRADOR

* 37 initiatives identified.

Sources:

- (1) Conflict Resolution Network – www.crnetwork.ca
- (2) Inventory of Canadian Restorative Justice Initiatives (CSC, 1998)
- (3) Directory of Community Justice Activities in Atlantic Canada –
<http://www.isn.net/acph/2.htm>

Program and/or Organization	Municipality / Jurisdiction
Coalitions of Youth Justice Committees (An alliance of <u>29</u> YJCs in the Province) (3)	Province-wide
Conflict Resolution Services of Labrador (2)	Goose Bay
The Integration of Aboriginal Ceremonial Traditions in the Court Process - Provincial Court of NFLD (2)	Grand Falls Windsor
Circle Sentencing – Provincial Court of NFLD (3)	Grand Falls Windsor
Conflict Resolution Services of Labrador (2)	Happy Valley
Circle Sentencing – Provincial Court of NFLD (3)	Happy Valley-Goose Bay
Community Mediations – Community Mediation Services Inc. (1)	St. John's
Circles of Support and Accountability (1)	St. John's
Peaceful Resolutions (1)	St. John's

PRINCE EDWARD ISLAND

* 4 initiatives identified.

Sources:

- (1) Conflict Resolution Network – www.cnetwork.ca
- (2) Inventory of Canadian Restorative Justice Initiatives (CSC, 1998)

Program and/or Organization	Municipality / Jurisdiction
Community Justice Forums – Justice and Corrections, PEI	Province-wide
Circles of Support and Accountability and Community Justice Forums – Atlantic Community Justice Project (2)	Charlottetown
Alternative Measures / Community Justice Forums – RCMP and Justice & Corrections, Department of Community Affairs & Attorney General	Charlottetown
Youth Justice Committees – Restorative Justice Network	Stratford

NOVA SCOTIA

* 14 initiatives identified.

Sources:

- (1) Conflict Resolution Network – www.crnetwork.ca
- (2) Inventory of Canadian Restorative Justice Initiatives (CSC, 1998)
- (3) Community Justice Agencies as identified by the Department of Justice, Nova Scotia

Program and/or Organization	Municipality / Jurisdiction
Nova Scotia Restorative Justice Program – Department of Justice, Nova Scotia (1)	Province-wide
Cumberland Community Alternatives Society (3)	Amherst
South Shore Community Justice Society (3)	Bridgewater
The Confederacy of Mainland Mi'Kmaq (3)	Dartmouth
Mi'kmaq Customary Law Project (3)	Eskasconi
Community Justice Society (3)	Halifax
Valley Restorative Justice (3)	Kentville
St. Luke's Renewal Centre (2)	Moncton
Island Community Justice Society (3)	Port Hawkesbury
Island Community Justice Society (3)	Sydney
John Howard Society (3)	Truro
The Confederacy of Mainland Mi'Kmaq (3)	Truro
John Howard Society Restorative Justice Pictou-Antigonish-Guysborough (3)	Westville
Southwest Community Justice Society (3)	Yarmouth

NEW BRUNSWICK

* 3 initiatives identified.

Sources:

- (1) Conflict Resolution Network – www.crnetwork.ca
- (2) Inventory of Canadian Restorative Justice Initiatives (CSC, 1998)

Program and/or Organization	Municipality / Jurisdiction
Building on Community Circles of Support and New Brunswick Alternative Measures Committee Restorative Justice Program – St. Thomas University (1)	Fredericton
Alternative Measures and Sentencing Circles – Department of Public Safety (1)	Fredericton
Community Justice Forums and Alternative Measures – John Howard Society of Greater Moncton Inc. (1)	Moncton

QUÉBEC

* 41 initiatives identified.

Sources:

- (1) Conflict Resolution Network – www.crnetwork.ca
- (2) Inventory of Canadian Restorative Justice Initiatives (CSC, 1998)
- (3) Member of the Regroupement des organismes de justice alternative du Québec – www.rojaq.qc.ca

Program and/or Organization	Municipality / Jurisdiction
Contact Jeunesse Lac St-Jean inc. (3)	Alma
CoNVERjaNCE Manicouagan (3)	Baie-Comeau
O.J.A. des Îles (3)	Cap-aux-Meules
Justice alternative jeunesse Saguenay inc. (3)	Chicoutimi
Justice alternative et Médiation (3)	Cowansville
Benado (3)	Delson
Commun Accord (3)	Drummondville
Organisme de Justice Alternative Jeunesse Gaspésie-Nord Inc. (3)	Gaspé
L'Alternative Outaouais (3)	Gatineau
REPARS (3)	Joliette
L'Alter Égaux (3)	La Tuque
Médiation Conciliation de Quartier des Laurentides (1)	Laurentides
Mesures alternatives jeunesse de Laval (3)	Laval
Ressources alternatives Rive-Sud (3)	Longueuil
Ressources alternatives Maskinongé (3)	Louiseville
Mesures alternative jeunesse Gaspésie-Sud (3)	Maria

Trajet Jeunesse inc. (3)	Montreal
Départ Jeunesse (3)	Nicolet
L'Autre avenue- région de Québec inc. (3)	Québec
Centre communautaire YMCA West-Island (3)	Pointe-Claire
L'Avenue, justice alternative (3)	Repentigny
Fonds Jeunesse BBR inc. (3)	Rimouski
Justice alternative du KRTB (3)	Rivière-du-Loup
Action jeunesse Côte-Sud (3)	Saint-Damien
Alternative Jeunesse Richelieu-Yamaska (3)	Saint-Hyacinthe
Justice alternative du Haut-Richelieu (3)	Saint-Jean-sur-Richelieu
Mesures alternatives des Vallées du Nord (3)	St-Jérôme
Aide aux jeunes contrevenants de Beauce (3)	Saint-Joseph de Beauce
L'Interface (3)	Saint-Romuald
Diversion program for adult offenders – Ministère de Justice (2)	Sainte-Foy
Mesures alternatives des Basses-Laurentides (3)	Ste-Thérèse
Justice Alternative Côte-Nord Inc. (3)	Sept-Îles
Volteface (3)	Shawinigan
Victim-Offender Mediation - “Le Parrain” Foundation (2)	Sherbrooke
Le Pont (3)	Sherbrooke
Mesures alternatives jeunesse du Bas-Richelieu inc. (3)	Sorel-Tracy
Mesures alternatives jeunesse Frontenac (3)	Thetford Mines
Aux trois Pivots (3)	Trois-Rivières

Liaison-Justice Organisme de justice alternative (3)	Val d'Or
Justice Alternative du Suroît (3)	Valleyfield
Pacte Bois-Francs (3)	Victoriaville

ONTARIO

* 23 initiatives identified.

Sources:

- (1) Conflict Resolution Network – www.crnetwork.ca
- (2) Inventory of Canadian Restorative Justice Initiatives (CSC, 1998)
- (3) St.-Leonard's Society - <http://www.stleonards.ca>

Program and/or Organization	Municipality / Jurisdiction
Community Justice – OPP	Province-wide
Restorative Justice Program – Bancroft OPP (1)	Bancroft
Alternative Measures – Elizabeth Fry Society of Peel Halton (1)	Brampton
Community Justice Circles – St. Leonard's Society (3)	Brantford
Community Justice Circles – Family, Youth and Child Services of Muskoka (1)	Huntsville
Pre-Trial Victim Offender Mediation Project – The Dispute Resolution Centre of Frontenac County (1)	Kingston
Youth Diversion Program (1)	Kingston
Alternative Measures and Community Justice Circles, – St. Leonard's Society Community Programs (3)	London
Circle Sentencing – United Chiefs and Councils of Manitoulin Justice Project (1)	M'Chigeeng
Forums of Accountability in a Circle Experience (FACE) Program – Huronia Restorative Justice Project (1)	Midland
Aboriginal Justice and Corrections Pilot Projects (2)	North Bay
Collaborative Justice Project (1)	Ottawa
Lanark County Community Justice Project (1)	Perth
Private Information Court (1)	Scarborough

Community Justice Conferencing (1)	Sudbury
Restorative Justice Programs for Native and Non-native Offenders (2)	Sudbury
Community Council Program – Aboriginal Legal Services of Toronto (1)	Toronto
Victim Offender Mediation Program, Victim Young Offender Mediation Program and Community Conferencing – Conflict Mediation Services of Downsview (1)	Toronto
Private Information Mediation Court – St. Stephen’s Community House (1)	Toronto
Circles of Support and Accountability – Mennonite Central Committee Ontario (2)	Toronto
The Old City Hall Diversion Program – Operation Springboard (2)	Toronto
Waterloo Region School based Family Group Conferencing Project (2)	Waterloo
Restorative Justice Initiatives of Windsor and Essex County – St. Leonard’s Society (3)	Windsor

MANITOBA

* 11 initiatives identified.

Sources:

- (1) Conflict Resolution Network – www.crnetwork.ca
- (2) Inventory of Canadian Restorative Justice Initiatives (CSC, 1998)

Program and/or Organization	Municipality / Jurisdiction
Westman Mediation Services – John Howard Society of Brandon (1)	Brandon
Flin Flon Community Justice Forum & Creighton Community Justice Forums – Flin Flon Indian and Metis Friendship Centre (1)	Flin Flon
Community Holistic Circle Healing – Hollow Water First Nation General Delivery (1)	Wanipigow
Circles of Support and Accountability – Mennonite Central Committee (1)	Winnipeg
Community Justice Forums - Manitoba Justice, Corrections Division, Community & Youth Corrections (2)	Winnipeg
Youth Diversion Program – Mediation Services (2)	Winnipeg
Aboriginal Ganootamaage Justice Services of Winnipeg (2)	Winnipeg
The CP.1879 Youth Diversion Project (1)	Winnipeg
Restorative Resolutions – John Howard Society of Winnipeg (1)	Winnipeg
Mediation Services, Victim Offender Program – A Community Resource for Conflict Resolution (1)	Winnipeg
Youth Justice Committee – Manitoba Justice, Community & Youth Corrections (1)	Winnipeg

SASKATCHEWAN

* 36 initiatives identified.

Sources:

- (1) Conflict Resolution Network – www.crnetwork.ca
- (2) Inventory of Canadian Restorative Justice Initiatives (CSC, 1998)
- (3) Programs Supported by Saskatchewan Justice Community Services Branch – http://www.saskjustice.gov.sk.ca/Comm_Services/restor-justice.shtml

Program and/or Organization	Municipality / Jurisdiction
Métis Family and Community Justice Initiative (3)	Province-wide
Touchwood Agency Tribal Council Community Justice Initiative (3)	Province-wide
Ahtahkakoop First Nation Community Justice Program (3)	Ahtahkakoop
Battlefords/Lloydminster Adult Alternative Measures Program (3)	Battleford-Lloydminster
Battlefords Tribal Council Community Justice Program (3)	Battleford
Big River Community Justice Diversion Program (3)	Big River
Buffalo Narrows Community Justice Diversion Program (3)	Buffalo Narrows
Creighton Alternative Measures Program (3)	Creighton
Beardy's & Okemasis First Nation Justice Program (3)	Duck Lake
Estevan Adult Alternative Measures Program (3)	Estevan
File Hills Qu'Appelle Tribal Council Community Justice Initiative (3)	Fort Qu'Appelle
Kindersley Community Justice Committee (3)	Kindersley
La Loche Alternative Measures Program – La Loche Community Development Corporation (3)	La Loche
Alternative Measures Program – Lloydminster Native Friendship Centre (1)	Lloydminster

Meadow Lake District Community Justice Diversion Forum (3)	Meadow Lake
Meadow Lake Tribal Council Administration of Cree and Dene Justice Initiative (3)	Meadow Lake
Melfort Community Justice Diversion Program (3)	Melfort
Mistawasis Justice Program (3)	Mistawasis
Moose Jaw Diversion Program (3)	Moose Jaw
Nipawin Alternative Measures Program (3)	Nipawin
Onion Lake First Nation Tribal Justice Program (3)	Onion Lake
Pasquia Hills Community Justice Diversion Program (3)	Pasquia Hills-Carrot River-Arborfield-Zenon Park
Prince Albert Alternative Measures Program (3)	Prince Albert
Prince Albert Grand Council Community Justice Program (3)	Prince Albert
Aboriginal Alternatives to Segregation Pilot Project at Saskatchewan Penitentiary (2)	Prince Albert
Regina Alternative Measures Program (3)	Regina
Saskatchewan Aboriginal Courtworker Program (2)	Regina
Thunderchild First Nation Community Justice Program (3)	Regina
Saskatoon Community Mediation Services Diversion Program (3)	Saskatoon
Saskatoon Tribal Council, Inc. Community Justice Program (3)	Saskatoon
Swift Current Community Justice Forum Adult Mediation-Diversion Program (3)	Swift Current
Tisdale Community Justice Program (3)	Tisdale
Valley West Community Justice Committee Inc. (3)	Valley West – Martensville

Weyburn Alternative Measures Program (3)	Weyburn
Southeast Treaty Four Tribal Council Justice Program (3)	Whitewood
Yorkton Tribal Council Community Justice Program and Alternative Measures Program (3)	Yorkton

ALBERTA

* 25 initiatives identified.

Sources:

- (1) Conflict Resolution Network – www.crnetwork.ca
- (2) Inventory of Canadian Restorative Justice Initiatives (CSC, 1998)
- (3) Alberta Solicitor General and Ministry of Public Security –
<http://www.gov.ab.ca/acn/200508/18534C059EE29-E490-46AE-BF3AD797280B51CE.html>
- (4) Scott Harris, CSC, via Personal Communication in 2005.

Program and/or Organization	Municipality / Jurisdiction
Circles of Support and Accountability – Mennonite Central Committee (1)	Province-wide
Piikani Nation Restorative Justice – Piikani Child and Family Services (3)	Brocket
REAL JUSTICE Family Group Conferencing – The Alberta Seventh Step Society (1)	Calgary
Calgary Community Conferencing (1)	Calgary
Victim Offender Reconciliation Program – Calgary John Howard Society (3)	Calgary
Victim Initiated Community Conferencing – Mennonite Central Committee Alberta (3)	Calgary
Coaldale Youth Justice Committee – Coaldale Group Conferencing Committee (3)	Coaldale
Sentencing Circles – Edmonton Adult Aboriginal Justice Committee (3)	Edmonton
Community Justice Conferencing, Family Group Conference and Youth Justice Committees – Native Counseling Services of Alberta (1)	Edmonton
The Society for Safe and Caring Schools and Communities (3)	Edmonton
Community Group Conferencing – Metis Settlement General Council (3)	Edmonton

Mediation and Restorative Justice Centre (3)	Edmonton
Alberta Conflict Transformation Society (3)	Edmonton
Edmonton Drug Treatment Court Program – Prostitution Awareness and Action Foundation of Edmonton (3)	Edmonton
Youth Justice Committees – Corrections Services, Alberta Justice (2)	Edmonton
Youth Options Project and Community Conferencing – Edmonton Police Service (2)	Edmonton
Restorative Justice Coalition – Grierson Centre (4)	Edmonton
Healing Meth's Hurts – Edson and District Drug Action Coalition (3)	Edson
Restorative Justice Coalition – Grande Cache Institution (4)	Grande Cache
Restorative Justice Unit – Grande Cache Institution, CSC (4)	Grande Cache
Victim Offender Mediation – Restorative Justice (1)	Innisfail
Jasper Community Team Society (3)	Jasper
Youth Justice Committee – Lacombe Police Service (1)	Lacombe
Victim Offender Reconciliation Program – The John Howard Society of Red Deer (3)	Red Deer
Strathcona County Community Mediation Society (1)	Sherbrook Park

BRITISH COLUMBIA

* 72 initiatives identified.

Sources:

- (1) Conflict Resolution Network – www.crnetwork.ca
- (2) Inventory of Canadian Restorative Justice Initiatives (CSC, 1998)
- (3) Restorative Justice Programs - Provincial Directory (B.C. Ministry of Public Safety and Solicitor General, 2002)

Program and/or Organization	Municipality / Jurisdiction
100 Mile House Community Accountability Program (3)	100 Mile House
Chehalis Indian Band (3)	Agassiz
Justice Alternatives - Lakes District (3)	Burns Lake
Castlegar and District Community Justice Forum (3)	Castlegar
West Shuswap Alternative Measures (3)	Chase
Tsilqhotin Community Justice Punky Lake Wilderness Camp Society (3)	Chilcotin
Chilliwack Restorative Justice and Youth Diversion Association (3)	Chilliwack
Qwi:qwelstom - Sto:lo Nation Justice Programs (3)	Chilliwack
Clearwater Restorative Justice Program (3)	Clearwater
Community Youth Justice Program – Fraser-Burrard Community Justice Society (3)	Coquitlam
Cranbrook Community Restorative Justice (3)	Cranbrook
Cranbrook Youth Assistance Program – Cranbrook RCMP (1)	Cranbrook
Creston Valley Community Justice Program (3)	Creston
Dawson Creek Community Justice Program (3)	Dawson Creek
Family Group/Community Conferencing – Spallumcheen Indian Band (1)	Enderby

Fernie Youth Assistance and Accountability (3)	Fernie
Community Justice Program (1)	Fort St.-John
Fraser Region Community Justice Initiatives Association (3)	Fraser Valley
Golden Youth and Adult Diversion Program (3)	Golden
Granisle and Area Community Accountability Program (3)	Granisle
Harrison-Kent Youth Diversion and Community Accountability Association (3)	Harrison
Hope Community Justice Program (3)	Hope
Secwepemc Community Justice Program (3)	Kamloops
Kaslo Restorative Justice Committee (3)	Kaslo
Central Okanagan Restorative Justice (3)	Kelowna
Kitimat Restorative Justice Program (3)	Kitimat
Ladysmith and District Community Accountability Program (3)	Ladysmith
Cowichan Lake Restorative Justice Program (3)	Lake Cowichan
Langley Youth and Family Services (3)	Langley
Restorative Action Schools Project – Mennonite Central Committee (1)	Langley School District #35
Lumby Community Accountability Program (3)	Lumby
Justice Alternatives for Mackenzie (3)	Mackenzie
Ridge-Meadows Youth and Justice Advocacy Association (3)	Maple Ridge
Community Peacemaking Circles (3)	Mission
Victim Offender Mediation Yardsticks – Mission Institution Restorative Justice Group (1)	Mission

Restorative Justice Program – Nanaimo Region John Howard Society (3)	Nanaimo
Access to Justice Program – Nisga’a Tribal Council (2)	New Aiyansh
Victim Offender Reconciliation Program – The Elizabeth Fry Society of Greater Vancouver (2)	New Westminster
North Vancouver Community Conference Program – North Vancouver Restorative Justice Society (1)	North Vancouver
North Cowichan / Duncan Restorative Justice Project (3)	North Cowichan – Duncan
Arrowsmith Community Justice Program (3)	Parksville
Peachland Restorative Justice (3)	Peachland
Community Accountability Program – Penticton RCMP Crime Prevention Unit (3)	Penticton
Port Hardy Restorative Justice Society (3)	Port Hardy
Port McNeill RCMP Community Justice Program (3)	Port McNeill
Whu Neeh Nee’ - Guiders of Our People, Carrier Sekani Family Services Alternative Dispute Resolution Program (3)	Prince George
Prince Rupert Restorative Justice Program (3)	Prince Rupert
Qualicum Restorative Justice Program (3)	Qualicum School District #69
Quesnel Community Accountability Program (3)	Quesnel
Community Connections (3)	Revelstoke
Richmond Restorative Justice (3)	Richmond
Community Justice Forum – Castlegar & District Community Accountability (1)	Robson
Community Justice of Salt Spring Island (3)	Salt Spring Island
Eagle Valley Youth Community Measures Programs (3)	Sicamous

Peninsula CrossRoads Community Justice Program (3)	Sidney
Smithers Community Accountability Program (1)	Smithers
Surrey Youth Intervention Program - Surrey RCMP Community Justice Program (3)	Surrey
Family Group Conferencing – Fleetwood Community Policing Station (2)	Surrey
Terrance Community Justice Forum – Terrace RCMP ‘E’ Division (1)	Terrace
Urban Native Program – Terrace Courthouse (2)	Terrace
Trail Youth Justice Program (3)	Trail
Victim Offender Mediation Program (3)	Vancouver
Vancouver Aboriginal Transformative Justice Services (3)	Vancouver
Vancouver Association of Transformative Justice: Just Solutions (3)	Vancouver
North Saanich / Sidney Restorative Justice – RCMP (3)	Victoria - North Saanich
Restorative Justice Oak Bay (3)	Victoria - Oak Bay
Restorative Justice Saanich (3)	Victoria – Saanich
Saanich Community Justice Program – John Howard Society (3)	Victoria – Saanich
Restorative Justice Coalition – William Head Institution (3)	Victoria
Spirit of Justice (3)	Victoria
West Shore Community Justice Program (3)	Victoria - West Shore
Williams Lake Community Council for Restorative Justice (3)	Williams Lake

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* 1 initiative identified.

Source: Conflict Resolution Network – www.crnetwork.ca

Program and/or Organization	Municipality / Jurisdiction
Inuvik Justice Committee	Inuvik

NORTHWEST TERRITORIES

* 4 initiatives identified.

Sources:

- (1) Conflict Resolution Network – www.crnetwork.ca
- (2) Inventory of Canadian Restorative Justice Initiatives (CSC, 1998)

Program and/or Organization	Municipality / Jurisdiction
Youth Justice Committees – Department of Justice, Community Justice Division, Government of Northwest Territories (1)	Fort Smith
Hay River Adult Justice Committee – Department of Justice, Community Justice Division, Government of Northwest Territories (1)	Hay River
Adult Justice Committees – Department of Justice, Community Justice Division, Government of Northwest Territories (1)	South Slave Region
Youth Justice Committees – Department of Justice, Community Justice Division, Government of Northwest Territories (1)	South Slave Region

YUKON TERRITORY

* 7 initiatives identified.

Sources:

- (1) Conflict Resolution Network – www.crnetwork.ca
- (2) Inventory of Canadian Restorative Justice Initiatives (CSC, 1998)
- (3) Community Justice Committees and Information, Department of Justice, Yukon – <http://www.justice.gov.yk.ca/prog/cjps/cj/comjuscom.html>

Program and/or Organization	Municipality / Jurisdiction
Southern Lake Justice Committee (1)	Carcross
Community Group Conferencing Society (1)	Dawson
Circle Sentencing, Family Group/Community/School Conferencing, Diversion Program and Healing Circles – Haines Junction Community Justice, Champagne & Aishihik First Nations (1)	Haines Junction
Old Crow Justice Committee – Vuntut Gwitchin First Nation (1)	Old Crow
Dena Kénah (Our Peoples' Way) – Liard First Nation (2)	Watson Lake
Pre-charge Diversion Program – RCMP and Yukon Justice (2)	Whitehorse
Kwanlin Dun Community Social Justice Project (3)	Whitehorse

APPENDIX C: Content Analysis Template

Document Information

Title of the document:	Template
Author:	Name Title Unit of Work Organization
Publication date:	Year
Other Information:	How the document was obtained Number of pages

Content Analysis – 1st Level: determining usability

Pertinence to the Research Object:

Document Type:

Content Analysis – 2nd Level: identification of themes¹⁸ / sub-themes

Definition of Crime:

-

Conceptualization of Justice:

-

Stakeholders in Justice:

-

Program Objectives:

-

Processes:

-

¹⁸ Note: Themes extrapolated from Zehr (1990).

Outcomes:

-

Guiding Principles and Values:

-

Content Analysis – 3rd Level: linking themes / sub-themes to research object

‘Fits’	
Quotes and / or Information	Type of Fit <u>and</u> Comments
‘Contradictions’	
Quotes and / or Information	Type of Contradiction <u>and</u> Comments
Claims / Additional Information	
Other Relevant Quotes and / or Information (that need to be kept together to be analysed in a logical sequence)	Type of Fit or Contradiction <u>and</u> Comments

Content Analysis – 4th Level: identifying next steps

Mentioned Documents to Locate and Examine:

-

Mentioned ‘RJ’ Initiatives to Examine:

-
-

APPENDIX D: CSC / RJ Unit 'Restorative Justice' Model

Concepts	
'Crime'	• Primarily a matter of breaking the law • The responsibility of the 'offender'
Justice	• Requires punishment via incarceration • Requires that the 'offender' be solely accountable for his actions • Involves 'making things right' with the community of Grande Cache
Stakeholders in 'Just Us'	• 'Offenders' • CSC staff
Processes	• Acquiring new attitudes, behaviours and skills (the rhetoric of rehabilitation) • Ordering of the self • Supervision under the guise of group dispute resolution
Outcomes	<u>Philosophy</u> • Outcomes are decided and agreed upon as acceptable by the CSC's stakeholders in the justice process and receive final approval from GCI officials. <u>Usual Outcomes</u> • Punishment • Reparation: symbolic restitution to the community of Grande Cache
Values & Principles	• Isolation • Transformed 'accountability' and 'taking responsibility' • 'Voluntary' participation • Hierarchical decision-making