

Spring 2013

Restorative Justice: Using Written Contracts to Explore Reparation and Offender Growth

Monica Glicken

University of Colorado Boulder

Follow this and additional works at: https://scholar.colorado.edu/honr_theses

Recommended Citation

Glicken, Monica, "Restorative Justice: Using Written Contracts to Explore Reparation and Offender Growth" (2013). *Undergraduate Honors Theses*. 360.

https://scholar.colorado.edu/honr_theses/360

This Thesis is brought to you for free and open access by Honors Program at CU Scholar. It has been accepted for inclusion in Undergraduate Honors Theses by an authorized administrator of CU Scholar. For more information, please contact cuscholaradmin@colorado.edu.

RESTORATIVE JUSTICE:

USING WRITTEN CONTRACTS TO EXPLORE REPARATION AND OFFENDER GROWTH

Monica Glicken

April 2013

Department of Sociology
University of Colorado Boulder

Primary Thesis Advisor

Sara Steen, Department of Sociology

Committee Members

Liam Downey, Department of Sociology

Cathy Comstock, Social Innovation and Sustainability RAP

Michele Simpson, Department of Women and Gender Studies

ABSTRACT

Restorative justice is gaining popularity across the United States and the globe. In contrast to the retributive justice system, restorative justice creates an environment where the offender and the victim are engaged in a dialogue about the offense and its implications and create a contract of requirements that the offender must complete to repair the harm. This study sheds light on the written contract as a vital part of the restorative justice process by describing who participated in the Boulder County Sheriff's restorative justice program, the types of crime represented, the requirements of the written contracts and how the contracts varied across gender and age. A majority of the offenders were male between the ages of 15 and 17 years old and a majority of the crimes offenses against property. The study documents how the foundational principles of restorative justice are incorporated into the various requirements of the written contracts. All of the requirements of the contracts illustrated at least one of Howard Zehr's principles of restorative justice. Another component of the study examines the contracts through the lens of Forget's framework for evaluating restorative justice programs through measures of offender growth. This research may help inform thinking around selection of requirements that allow for direct observation and measurement of offender growth. By identifying the requirements that work to promote the foundational principles of restorative justice and associating them with measures of offender progress, the study potentially provides new information to help build more effective contracts.

TABLE OF CONTENTS

INTRODUCTION.....	1
LITERATURE REVIEW.....	4
METHODS.....	22
FINDINGS.....	27
DISCUSSION.....	42
REFERENCES.....	48

INTRODUCTION

Twelve-year-old Paul was riding his bike through his neighborhood one day, when something shiny in an alleyway caught his eye. He jumped off his bike and ran to the side of the house. It was a bike, but not like his; this one was *nice*. The wheels, the frame, the handles, everything was unscathed. He looked back at his bike, slightly rusted and worn. The next thing he knew he was soaring down the street on the new bike, leaving his old bike in the dust where the other had been. Paul is just one of many young offenders who act impulsively without thinking of the consequences it holds for him and others. Luckily for Paul, he was referred to the restorative justice (RJ) program at the Boulder County Sheriff's Office where he would enter a program that would allow him to work to repair the harm he created. As part of this program, Paul received guidance from the restorative justice coordinator about steps he needed to take to repair the damage he caused, and met the victim in a conference with family and local community members. From this conference, a contract was created with provisions that Paul had to complete in a designated amount of time. The contract required a number of hand-written apology letters to the victim, the victim's parents, the deputy, Paul's own parents, and the RJ team. In addition, Paul was required to complete 10 hours of community service, spend 4 hours shadowing a courtroom, and go on a tour of a juvenile detention center. Fortunately for Paul, he passed with flying colors and the crime was removed from his public record.

Due to the increasing popularity of restorative justice programs, particularly for nonviolent and juvenile offenders, there has been a great deal of recent literature analyzing the success of these programs in comparison to programs run by the traditional criminal justice system. Additional literature identifies variables that most accurately

measure the outcomes of restorative justice programs. Rather than focus on the outcomes, this study adds to the knowledge base on restorative justice by analyzing the written contracts that emerge from the victim-offender-community member conferences. The purpose of this study is to describe the content of the contracts based on their various requirements and to analyze how the founding principles of restorative justice are incorporated into, and reflected in, the steps an offender must take to complete the RJ program. As part of the analysis of restorative justice, it is important to review the history of criminal justice within the United States and the increase in the use of RJ programs.

The United States imprisons more of its citizens than any other country in the world, with growing rates of “753 per 100,000 people in 2008” (Schmitt, Warner and Gupta 2010:1). In 2010, the national average cost of incarceration was approximately \$30,000 per inmate per year; it is estimated that U.S. taxpayers pay about \$63.4 billion on incarceration every year (Teichner 2012:1). The U.S. culture currently maintains an out of sight, out of mind mentality, with the belief that we should do whatever it takes to get criminals off the streets; that is where our involvement ends. However, this approach is not proving to be as effective as society would have hoped. As policy makers began to recognize the high costs and low returns (high recidivism) of incarceration, they have started looking at other alternatives (Steen and Bandy 2007:22). The high cost, low return dilemma begs the question: how did we get to this point, why are we still here, and what other programs are developing as an approach to the crime problem in the United States? This exploratory study focuses on one of the alternatives to the current system, restorative justice, an increasingly popular approach to crime in the U.S. The study begins by looking at the history of the U.S. criminal justice system and existing literature of the

expanding restorative justice approach. The methods section details how the sample data was selected, collected and analyzed. Using a random sample from the Boulder County Sheriff's Restorative Justice Program, I analyze the nature of the written contracts between the victim and the offender, as well as whether and how the foundational principles of restorative justice are incorporated into the contracts. The primary objective of this study is to explore how the underlying principles of restorative justice and Forget's analysis are incorporated into the Boulder County Sheriffs' RJ program. For the purpose of this study, I will focus on the "three pillars of restorative justice" outlined by Howard Zehr and Henry Mika:

- 1) Restorative justice focuses on harm,
- 2) Wrongs or harms result in obligations, and
- 3) Restorative justice promotes engagement or participation.

Looking at restorative justice through the lens of the traditional system, however, fails to recognize the differences in their fundamental goals and outcomes. In addressing this issue, Forget developed a new means of evaluating RJ programs, which I use to provide an alternative perspective for examining the contracts and what they accomplish.

LITERATURE REVIEW

Introduction

Restorative justice is an evolving approach to justice that allows the victim of a crime to be directly involved in the criminal justice process and participate in deciding what the offender needs to do to fix the harm caused by the offense. It focuses on both the victim and the offender to make sure that their needs are met through an all-encompassing, cooperative program, involving all those who wish to participate (Zehr 2002:14). Zehr outlines three foundational concepts of the approach. The first is “focusing on the harm,” giving the victim a voice to talk about the impact of the crime and what needs to be done to remedy it (2003:23). The second is “wrongs or harm result in obligations;” these obligations require the offender to take “responsibility” and to be held “[accountable]” for their actions (Zehr 2002:23). The final concept is the “[promotion] of engagement or participation,” which allows the community to become an active member in the process and in the “resolution” of the crime (Zehr 2002: 23). The purpose of this study is to analyze the written contracts from a sample of restorative justice offender participants in the Boulder County Sheriff’s Restorative Justice Program to see how the foundational concepts of restorative justice are incorporated into the requirements of those contracts. In order to understand the role of these concepts and the development of restorative justice, it is necessary to place them in the context of the larger criminal justice system that exists today.

Criminal Justice in the United States

The criminal justice system in the United States is largely based on a model that has dominated western justice for centuries. It is based on ideas of rational choice and

individualism. The outcomes of criminal justice in the U.S. follow many principles of retributive justice. This includes the ancient principle of “an eye for an eye” (Zehr 2002: 59). Within this model, when an offender commits a crime, the crime is against the state, in violation of laws put in place by government. After the crime and violation have been verified, charges are brought against the offender through the court system. The judicial system then decides the punishment they will receive (Zehr 2002:59). Many times this punishment is a sentence they must serve in jail or prison, a fine or some sort of probation. The state oversees the type of punishment the offender will receive in response to the crime he/she committed. Throughout this process the main concern is the punishment of the offender and the main decision makers are those in the courts that have full control over the fate of the crime and the criminal.

Differences between restorative justice and retributive justice. The theoretical framework for this study is based on the foundational differences between restorative and retributive justice. These two types of justice represent different philosophies about crime and justice and suggest very different processes to achieve justice. Retributive justice considers a crime by the offender as a violation towards the state. Restorative justice considers a crime as a violation towards the community; the process involves an interchange between the offender and the victim, which involves other active members from the community that were impacted by the crime, such as family members and neighbors. In contrast, retributive justice primarily involves legal professionals, judges and defense prosecutors. Each approach has its own benefits and costs, shaped by their individual goals that influence the outcomes. The goal of retributive justice is a set, structured punishment that should deter any future criminal actions, giving the offender

exactly what he deserves (Zehr 1990). In contrast, the goal of restorative justice is to repair the harm that the offender caused the victim and the community. This approach responds to the crime from multiple levels, incorporating “moral, social, economic and political” aspects into the process, giving the victims what they need to heal and allowing the offender to take “responsibility for repairing the harm” through a means that will be effective for them (Zehr 1990).

A similarity between both of these approaches is that they deal with a crime after it is committed (as opposed to approaches focused on prevention). Both have the underlying hope that the punishment or the restoration will make the offender understand the crime was wrong and will prevent reoffending in the future. Restorative justice directly involves community members so that others within the population can see the consequences of the offender’s actions, leading to general deterrence against crime. Harsh penalties under retributive justice, work to serve this deterrence purpose as well. Both approaches hope to achieve a general deterrence from crime. Restorative works to do this through the direct involvement of community members in the process and retributive through the communication about punishments imposed (e.g. through the media).

The following table is based on Howard Zehr’s ideas of the main differences between retributive and restorative justice (1990).

Table 1. Differences between Retributive and Restorative Justice

	Retributive Justice	Restorative Justice
Definition of Crime	Crime defined as violation against the state	Crime defined as violation against one person or a community
Focus of the Process	Focus on establishing blame and guilt, backwards looking (did he/she do it?)	Focus on problem solving and obligations, forwards looking (what should be done?)
Goal of the Process	Imposition of pain to punish and deter/prevent	Restitution as a means of restoring both parties; goal is reconciliation/restoration
Participants of the Process	Action directed from state to offender -victim ignored -offender passive	Victim and offender's roles recognized in problem/solution -victim rights/needs recognized -offender encouraged to play active role, take responsibility
Offender Accountability	Offender accountability defined as taking punishment	Offender accountability defined as understanding impact of action and working to make things right
Stigma of Crime	Stigma of crime is permanent	Stigma of crime removable through restorative action
Involvement of Additional Parties	Dependence upon proxy professionals	Direct involvement by participants

Evolution of the U.S. justice system. Today's current system has not always been in place. Early colonies maintained a system of "capital and corporal punishment" when it came to crime, with little judicial involvement (Nagel 1990: 892). The idea of a jail or prison was still in development, "used primarily to [house] those awaiting trial" (Nagel 1990:892). After the Revolutionary War, the United States shifted from retributive principles, reminiscent of those in England, to a rehabilitative system, one that worked to treat and "fix" those imprisoned for crimes, rather than to impose suffering (Nagel 1990:893).

With the increased emphasis on rehabilitation, indeterminate sentencing evolved. Indeterminate sentencing allowed for the prisoner to be imprisoned until he or she showed a significant improvement (with behavioral, social, emotional elements). At the federal level, “congress set the maximum penalty, the judge imposed a sentence from the appropriate range and the parole officials determined the actual length of imprisonment” (Nagel 1990: 894). Until the 1960s, the use of indeterminate sentencing and the principles of rehabilitative justice characterized criminal justice across the country. The end of indeterminate sentencing came abruptly in the 1970s due in part to sentencing research that showed “striking differences and wide disparity in sentence type and length,” suggesting that judicial discretion was too biased and in many cases, too lenient (Nagel 1990: 895). These differences were based on the characteristics of the offender including: “race, sex, religion, income, education, occupation,” rather than the characteristics of the crime itself (Nagel 1990:896).

In the 1970s there was a spike in research on criminal justice, which led to two findings. The first was that the rehabilitative principles and goals encompassing the system were not effective in reducing recidivism (and therefore crime) (Nagel 1990:896). The second was that the discrimination in judicial decision-making was “at intolerable levels” (Nagel 1990:896). Politicians “turned sharply away from the rehabilitative ideal and embraced punishment and retribution as the new goals of penal policy” that allowed for the enormous “expansion of the prison system and greater use of the death penalty” (Gottschalk 2006:33). Both conservative and liberal scholars supported the shift towards retribution. Liberal scholars supported the shift due to their concern with discrimination in sentencing and called for a “just deserts” model, rationalizing that those who commit a

crime deserve to be punished “in accordance with their individual level of blameworthiness” rather than in response to their individual characteristics (Nagel 1990: 898). Conservative critiques targeted “rising crime rates [that resulted from] lenient judges and soft punishments” (Tonry 2004:39). They also encouraged a justice model that punished offenders for the crime committed (retribution), but argued that punishments needed to be larger and more painful than they had been under the rehabilitative regime. The Wars on Crime and Drugs were declared in the early 1980s, and politicians began to enact policies in line with the “tough on crime” mentality.

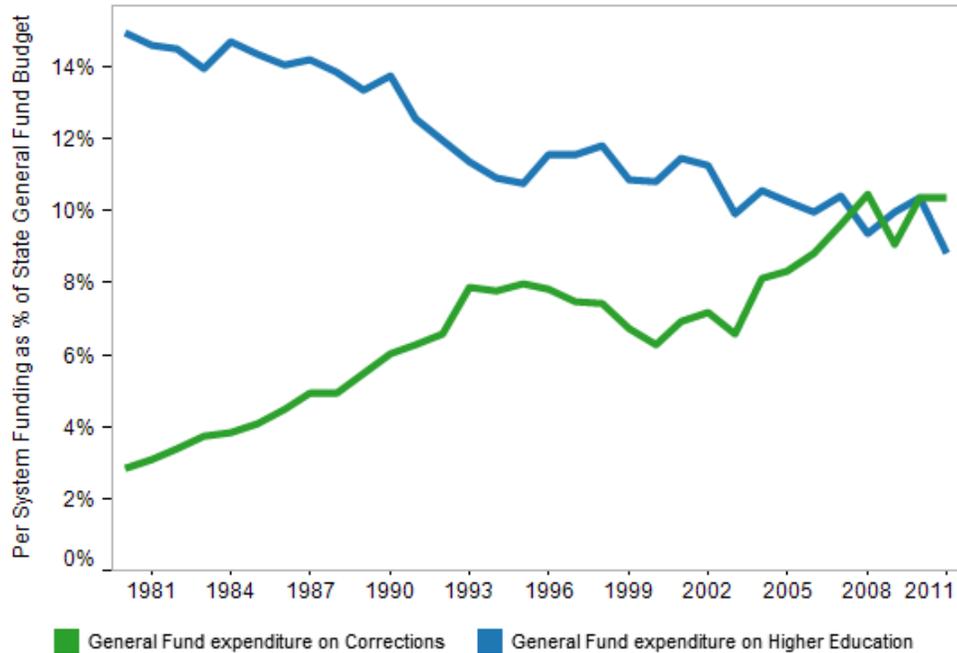
Problems with the current system. In addition to the problems described above, a number of issues arose as our current system developed. One problem is the tremendous increase in spending and the growing size of the U.S. prison population. Another problem is racial and ethnic inequalities in arrests and imprisonment.

The retributive system seemed an appropriate approach for U.S. society and its citizens throughout the late 90s because it began cleaning up the streets and putting criminals away. However, as Steen and Bandy point out, no one paid much “attention to cost or effectiveness” (2007:22). Although the goal of the system was to increase public safety and deter crime, the change led to many unanticipated consequences and an unexpected effect on U.S. society.

A majority of the spending on incarceration is coming from the state level, from the same funds that are used to pay for “a range of public needs, including health care, housing, public assistance and education” (Hawkins 2010: 1). Graph 1 shows the percent of California’s general fund expenditures that goes to higher education and corrections from 1981-2011. In recent years, more of California’s General Fund Budget has gone to

corrections rather than higher education (Anand 2012:1). This graph illustrates the overall growing emphasis on criminal justice in the United States and the effects it has on other aspects of society.

Graph 1: Corrections and Higher Education’s Percentage of the General Fund Budget in California, 1981-2011



The graph starts in the 1980s with the declaration of both the War on Drugs and Crime. The War on Drugs has, more than any other policy development, contributed to recent increases in spending, rates of incarceration, and racial/ethnic disparities. From 1987 to 1995, for example, governmental spending on prisons in the U.S. went up 30%, the Drug Enforcement Administration’s budget increased, and police were given more power in order to support the War on Drugs (Parenti 1999:47). The budget and power increases over the course of the “War” led to an immense 1100% increase in the number of arrests for drug crimes from 1980 to 2003 (King 2008:1). There were an increasingly

disproportionate number of low-income minorities incarcerated; drug arrests for African Americans rose at three times the rates for whites from 1980 to 2003” (King 2008: 2).

Two policies have come to represent the Wars on Crime and Drugs: mandatory minimums and Three Strikes/ habitual offender laws. Mandatory minimum laws require a sentence of a certain number of years for specific crimes, for example “a mandatory five year prison term for possessing as little as five grams of crack cocaine” (Mauer and King 2007:8). Mandatory minimum sentencing laws for drug offenses at the federal level “almost tripled the length of sentences for offenders, typically for racially divided crimes” (Mauer and King 2007:7). Many states passed Three Strikes laws in an effort to get habitual offenders off the streets for good. Under these laws, a third conviction (usually for a serious violent felony, although laws vary from state to state) led to life imprisonment without parole. Mauer and King describe the current state of our criminal justice system as one of “instability and...mistrust,” resulting from the increases in disparities and the sense that we have an outrageously expensive system that doesn’t accomplish its intended goals (2007:1). These sentiments combined with state and federal budget cuts have generated sufficient concern to place criminal justice reform on policy agendas. Today, there is an opening in the conversation that has been closed for decades to anyone other than the “tough on crime” advocates.

Steen and Bandy discuss how the “war mentality” when applied to any goal, logically leads to “spending at virtually any cost” (2007:22). The declaration of these shifts to tough on crime policies as a “war” is similar to politician’s use of the term “crisis.” This type of rhetoric is used by politicians attempting to alter peoples beliefs and introduce the idea that the government should do whatever is necessary to solve the

problem (Alston lecture). By declaring war, politicians hope to instill fear about drugs and crime, and to convince citizens that these reforms were for their own protection as a necessary precaution against dangerous “others”. War language can also justify extreme policies that might not ordinarily be acceptable. This mentality is also described in moral panic literature. Stanley Cohen, a British criminologist writing about moral panics in the 1970s, defines a moral panic as when “a condition... emerges to become defined as a threat to societal values and interests” (quoted in Muzzatti 2002:1076). Politicians then use the existence of a moral panic condition to “ ‘[out-tough]’ one another on issues such as crime,” creating extreme “reactionary strategies to deal with the new threat” (Muzzatti 2002:1077). What was acceptable during the “war” periods, however, is no longer justifiable today, with people challenging the “outrageously expensive” and “no longer sustainable policies” (Steen and Bandy 2007:5). Both the historical transition to rehabilitative justice and the more recent War on Drugs mark changes in beliefs about what role criminal justice institutions should play in U.S. society.

The Restorative Justice Process

As people have grown increasingly disappointed in and concerned about the current retributive justice system, there has been an increase in public interest in other approaches to punishment. As policymakers look for alternatives that are more effective at crime control, and less expensive, even ideas like restorative justice, which is based on fundamentally different ideas about crime and justice, are under consideration.

Restorative justice is an alternative means of conceiving both the primary goals of the justice system and the means adopted to achieve the desired goals. Restorative justice puts an emphasis on relationships, focusing on how the offender’s crime impacted the

victim on both physical and emotional levels (Zehr 2002: 21). The victim plays a central and *active* role in the justice process. An offender only enters a restorative justice program if both he/she and the victim are willing to participate and to maintain an active role throughout the process. One of the purposes of restorative justice, and specifically the conference, is to give the victim a larger part in the resolution of the crime in the hopes that he/she will feel like justice was served (Zehr 2002:21). By involving the offender in decisions about appropriate restitution, RJ advocates believe that he/she will be more likely to follow through with the commitments made through the contract process.

The RJ process begins when the arresting party (usually police, but also people like campus security) refers an offender to the program (Boulder County Colorado). Whether or not an individual is referred depends on their behavior at the arrest, previous arrests, or whether a program is available within the department. Initially, a facilitator meets with the offender and the victim separately to get a comprehensive picture of the crime (e.g., what damage occurred, what the motive was, and other relevant details) and also to prepare both parties for the conference by explaining how things work and addressing questions and concerns (Zehr 2002: 26). Then a conference is held that typically includes the offender, the victim, a facilitator, law officials (who initially responded to the crime), and community members (which may include family members of either the victim or the offender). The conference is a discussion where the offender describes the crime and why he/she committed it, and the victim has the opportunity to ask the offender questions and talk about how the crime affected them (Boulder County Colorado). Community members can provide testimony to the event, participate as an

active member of the conference, and provide support for the victim and offender (Boulder County Colorado).

The outcome of the conference is a contract that the offender must comply with. The contract typically consists of a number of actions or items that must be completed in a certain period of time. These contracts typically include some of the following requirements: letters of apology, community service, financial restitution, counseling, and report writing. Each contract is dependent on the crime committed and the requests of the victim. In a case where the contract is not completed, the offender will be referred back to the traditional system, where criminal charges will be filed, starting the retributive justice process. If the offender completes the contract within the specified amount of time, the offense will never appear as a criminal violation on their official record.

Critiques of restorative justice. Some scholars argue that the model of restorative justice is too “ambitious,” offering a “more positive and constructive approach” to crime, and they recommend caution when “embracing this option” (Gaudreault 2005:3). Some criticize the model for being “overly offender-orientated,” and encourage programs “to empower the victim... by [focusing on] the interests of the victim and the [victim’s healing] as the primary goal” (Ray 2008:4). Others argue that it fails to “safeguard...offender’s rights” by ignoring the principle of “innocent until proven guilty” (Morris 2002:601). Another argument is that in some cases restorative justice may not provide the “victim with the answers [or restitution] they are seeking” (Ray 2008:5). Along with this argument is one that suggests restorative justice does not fully “restore” (Morris 2002:604).

However, as Morris shows, critics ignore the “guidelines and regulations” that apply to restorative justice as well; “practitioners have to follow certain practice manuals” (2002:601). Morris argues that restorative justice protects offender’s rights in a different way (not allowing the “lawyers [to be] the main protagonists” (2002:602). Despite this criticism, victims in the restorative justice process have reported “high levels of satisfaction, reduced level of fear, and an improved understanding of why the offence occurred and its likelihood of reoccurrence” (Morris 2002:604). Many of the criticisms surrounding restorative justice arise because critics are evaluating the process through the eyes of a retributive system. It is important to keep in mind that a deep understanding of restorative justice values and principles is necessary in order to evaluate the programs, and that restorative justice programs vary across the world.

History of restorative justice. Restorative justice is based on a variety of values and processes. Maxwell outlines 3 major components that are almost always part of the restorative justice approach (2010:1). The first is the “encounter.” The “encounter” consists of an actual meeting between the offender and victim. Maxwell describes this encounter as one that must allow the people to connect and “engage” with one another in an “inclusive” environment where all members can “participate” (2010:1). The second component of the process is to “repair the harm.” This “repair” is based on “fairness” for all parties, and on the offender taking responsibility for his/her actions, “feeling remorse,” and “making amends.” When this is completed the victim should be able to show some “forgiveness” of the offender. The final component is the “transformation,” which “enables people to become human again.” The “transformation” involves the

offender becoming accepted back into the community. These are the foundational components of restorative justice that shape the programs that are in effect today.

Restorative practices are not a new concept in the realm of justice. Ancient societies, Native American tribes, and many indigenous societies across the globe incorporate restorative justice principles and values in their responses to norm violations (Umbreit 1998:5). In some ancient societies there is evidence that mediation practices were used to resolve conflict between two opposing groups. For example, in one ancient society in Philippines, historian Roy Barton claims “the kin of each party were anxious for a peace settlement...claims and counterclaims were relayed by the monkalun [the mediator] until a settlement was achieved” (Gavrielides 2011:5). Restorative processes are also found in a number of religious and communal contexts. In many biblical texts there is an emphasis on crime “as a...violation against people and families rather than ‘state’” (Umbreit 1998:5). In the 1970s, restorative justice gained popularity as a movement when the “Mennonites and other practitioners (in Canada)” began to introduce programs with victim-offender conferences (Zehr 2002:11). The 1970s was a time of drastic change in many aspects of U.S. society and it also “appears to be a decade when criminologists...started to think less favorably about...the criminal justice system” and with this change in thought came numerous publications about “new justice paradigms,” including restorative justice (Gavrielides 2011:5). These initial procedures paved the way for the expansion of restorative justice across the United States and the world.

Reported Outcomes and Evaluation. When it comes to typical evaluations of restorative justice programs, and almost all criminal justice evaluation research, the primary way to define the success of a program is through recidivism statistics. Most of

the restorative justice research is focused on whether individual restorative justice programs are more or less successful in comparison to traditional justice programs using recidivism as the key outcome.

Most evaluation studies that measure recidivism compare a group of offenders within a restorative justice program to a group of offenders within the criminal justice system to see which program is more successful in preventing future crime. Latimer, Dowden and Muise's meta-analysis found that "on average [restorative justice programs] yielded reductions in recidivism compared to nonrestorative approaches to criminal behavior" (2005:137). Rodriguez, the Smith Institute and Umbreit all reported a similar result (2007:371; 2007:4; 1998:1). Some researchers found that, although a decrease in recidivism was found, the effect is quite small (Bonta 2002:2). Some of these studies analyzed other variables such as age, race, gender, and socioeconomic status to see who is referred to restorative justice programs and whether or not these variables influence recidivism. Rodriguez found that female offenders "exhibit the most success" in the programs (2007:360).

There is an emerging body of literature that argues that recidivism statistics are not the best outcome to measure the success of restorative justice programs and explores other ways to measure success. Latimer, Dowden and Muise discuss a number of measures used to evaluate restorative justice programs in the 2005 paper "The Effectiveness of Restorative Justice Practices: A Meta-Analysis." The authors identify "victim and offender satisfaction, restitution compliance, and recidivism" as appropriate measurements of the success of restorative justice programs (2005:140). In their summary, they found that restorative justice programs were in fact a "more effective

method of improving victim and/or offender satisfaction, increasing offender compliance with restitution, and decreasing recidivism of the offenders when compared to more traditional criminal justice responses” (2005:140).

Bergseth and Bouffard studied the effectiveness, through recidivism, of restorative justice across different demographic groups of juveniles based on their “age, gender, racial group, offending history and current offense” (2012:1). Their results showed that “RJ programming may be effective for a variety of youth” and observed “positive results...across various groups of youth” (2012:18). They suggest that “RJ may be appropriate for a broader population of youth than...has been used” (2012:18). The study talks about expanding RJ programs beyond “least serious offenders” to “older youth, those with prior offenses, and those with property and even violent crimes” because they found for all demographics in the study who participated in RJ, they remained “offense free significantly longer” (2012:15).

Presser, Gaarder and Hesselton (2007) are also interested in moving beyond recidivism as a way to evaluate RJ outcomes. They argue that one of the problems with recidivism is that it puts a great deal of emphasis on offender behavior; in doing so, it ignores victim satisfaction, which is one of the main goals of restorative justice. The exclusion of the victim suggests that recidivism is not a very effective measure of restorative justice success. However, by ignoring recidivism as a measure of RJ programming it makes it difficult to directly compare outcomes across systems (2007:164).

Forget (2005) proposes an alternative framework for the evaluation of restorative justice programs. He suggests that instead of “simply measuring indicators such as

victim satisfaction or...recidivism... the individual's personal growth should be measured, and the results should be central to the evaluation" (2003:4). He suggests assessing an offender's personal growth through his/her "change in perception and understanding of crime...deepening awareness of the consequences and human costs of one's transgressions...increase in empowerment and sense of control over one's life...[and] better ability to address everyday conflicts productively and peacefully." The tools of evaluation would be a "journal...pre and post-process interviews...and group simulations and role plays" to track offenders' growth at each stage, helping to possibly create an index of patterns and common themes (2003:4). Forget's framework could lead to the creation of a viable tool for qualitatively evaluating the offender's experience. This framework would potentially contribute to our understanding of restorative justice programming and outcomes through the collection and reporting of new data points focused on the offender's personal growth throughout the process.

The literature illustrates that the popularity of restorative justice programs is increasing across the country. Restorative justice programs are usually designed to act as a supplementary approach to our existing justice system. In most jurisdictions, RJ programs are restricted to nonviolent and/or juvenile offenders (Bergseth and Bouffard 2012:18). This use of RJ for juveniles comes from an expectation that youth are more likely than adults to learn from their experience and to use this learning to change their future behavior. With nonviolent crimes, it may be more socially acceptable to involve the victim in the justice process. By giving the victim a more active role in determining the consequences of the crime, RJ works to incorporate the restoration of relationships into the judicial system. Many of the evaluation studies report lower recidivism rates for

offenders that participate in restorative justice programs in comparison to offenders in nonrestorative justice programs, but this difference is often small. Another portion of studies on restorative justice suggest that the focus on recidivism as an outcome ignores many important elements of restorative justice and does not allow for a complete evaluation.

In reviewing the literature I found that I was most intrigued by what happens during the restorative justice process. I became interested in understanding the process and in identifying elements that achieve the typical goals of RJ programs such as victim/offender satisfaction and recidivism. In addition, Forget introduces a completely new framework to evaluate restorative justice outcomes by focusing on individual growth. This led me to my central research question, which examines how the principles of restorative justice are actively incorporated into the contract process.

The foundational healing principles of restorative justice are what set it apart from the traditional retributive justice system used today. There is a large amount of information available about these principles, what they are based on, and why they are effective. Each RJ program is founded on these principles of healing, reparation and restoration. However, there is little research that looks at whether and how these foundational principles are incorporated into the content of the contracts of restorative justice programs or on whether the content of the contracts vary by age, sex, or crime type. My research will enhance our understanding of how RJ principles are translated into the instrument of the written contracts. By creating a categorization of content, this study suggests that the contracts can be used not only to promote offender growth, but also to

provide data to measure the offender's progress along various dimensions in Forget's model of assessing change in personal growth.

METHODS

Overview

The main focus of the study is to analyze the content of the Boulder County Restorative Justice Program's written contracts, and to examine how they reflect the principles and foundational ideals of RJ. This study should provide insight into the relationship between RJ principles and RJ practices. The primary source of data for this study is the written contracts that result from the conferences between the victims and the offenders. Because the contracts are the most concrete representation of the agreement, they are an ideal source of data for exploring the relationship between principles and practices.

The study began when I offered data entry and analysis services to the Boulder County Sheriff's RJ program in exchange for permission to use the data for my honors thesis. In operation since 2002, the program kept a number of hand-written lists of all the case numbers and names of offenders who went through their RJ program. The first part of my project involved collating these lists and creating a database of all the case numbers, offender names, and crime types since the inception of the program (N=429). These data served as the "population;" I then chose a random sample of 100 cases for my study. After choosing my sample, I compiled a coding sheet to record the content of the contracts, focusing on the requirements the offender had to complete in order to successfully complete the program.

Data Collection

The study population consists of those who were referred and accepted into the Boulder County Sheriff's restorative justice program. In all, 429 people were part of the

RJ Program between 2002 and October 2012. In my sample there are female and male offenders in the program, and they range in age from 9 to 56 years old. In order to complete this study, IRB approval was needed. Although the study focuses on analyzing data that had already been collected and involves no personal contact, the data deals with two vulnerable populations. The first population is not prisoners per se, but people that were involved in the criminal justice system. The second vulnerable population is minors; a majority of those who are referred to restorative justice are under the age of 18. Since all of the cases analyzed were closed cases and no identifying information was recorded, the study received exempt status.

To draw a manageable sample from this population, I first compiled a list of all participants in the program from 2002 through the present using hand-written notes recorded throughout the existence of the program. The list included the case number, offender name, and crime type. I then organized the cases by case number, starting with the oldest cases from 2002 to the most recent cases of 2012. There was a total sample of 429 participants that went through the Boulder County program. I selected every fourth cases on the list until I reached 100. The study analyzed 100 contracts that should be representative of the population, and that include a range of ages and crimes committed.

Once the cases were selected, I analyzed the hard-copy file from the office's archive. Within the files is all of the case documentation with regard to the crime, victim, and offender. There is also a written contract that was created during the conference with all participating members. From these files, I created an electronic spreadsheet that contained a new unidentifiable case number for each case that included the year the case occurred and a numerical identifier. A range of information was recorded from these

documents including: the identification number, the age and gender of the offender, the initials of the facilitator, the type of crime that was committed, and any additional information about the crime that was useful for the analysis. Additional information included some specific details of the crime. I then did a thematic content analysis; I segmented the data, pulling out common themes that appeared within the contracts. I identified categories that represented specific requirements. Some categories were derived from previous literature discussing components of restorative justice. Others were suggested by the content of the contracts themselves. Finally, I created a codebook for all of the requirements recorded in the list.

The number of requirements varied from case to case, ranging from 1 to 8 requirements. The requirements were broken down into the following coding categories:

- 1) Whether or not the offender was required to write letters of apology, if yes, how many and to whom;
- 2) Whether or not community service was required; if yes, how many hours and at what location;
- 3) Whether some type of financial restitution was required; if yes, how much and to whom;
- 4) Whether the offender was required to attend any further counseling or meetings; if yes, where and how many;
- 5) Whether or not the offender was required to write a report; if yes, the subject of the report; and
- 6) Any other requirements that were recorded.

Data Analysis

When the database of the contracts was completed, the first round of analysis began. The first round consisted of calculating the basic descriptive characteristics of the study sample. The study looks at age and gender, as well as crime type, to describe the sample and to draw broad comparisons to population characteristics of offenders processed through other restorative justice programs and the criminal justice system. Social class and race/ethnicity were not included in the study as such data were not readily available. Following the descriptive analysis, the study examined the specific requirements of the contracts, such as financial restitution, court observation, community service, and letters of apology to see how many of the cases required each type of service as a part of the contract. Additional details about each requirement were also recorded to facilitate a more nuanced analysis, and specifically to add depth to conclusions connecting contract requirements and broad principles of restorative justice.

The second round of analysis consisted of comparing the descriptive characteristics against the specific requirements of the contracts to look for patterns in requirements by respondent gender and age. While not directly derived from my central research question, I was curious about whether the principles of RJ might play out differently for younger and older offenders. My sample size (100) is too small to push this type of analysis very far; therefore, my findings in this area should be viewed as exploratory. Ideally, future researchers with greater access to research resources will be able to continue this line of questioning.

The final part of the analysis consisted of comparing each of the written requirements to the founding principles of RJ and seeing which requirements incorporated the main

ideas of each principle. The requirements were also analyzed through the lens of Marc Forget's methodology for evaluation of restorative justice programs by looking at an individual's progress and growth, to determine if and how each of the requirements fit into Forget's analysis of what was needed to better evaluate the offender's personal growth.

FINDINGS

Sample Descriptives

Three variables, age, gender, and crime type were recorded for all 100 cases. This chapter begins by describing the distribution of these three variables in the study sample. Throughout this section, numbers and percentages are interchangeable because, with a sample size of 100, the number of cases with a particular outcome will be the same as the percentage of the sample with that outcome (e.g., 15 cases= 15% of the sample).

The first variable describes the age of the study sample. The ages of the offenders ranged from 9 years old to 56 years old. Offenders were grouped by age for ease of analysis. I chose to distribute age into 4 cohorts of youth/preteen, teen, young adult and adult. The least common age grouping of offenders was over 23 years of age. The most common offender age was between 15 and 17 years old. The vast majority of cases (79%) involve offenders who would be processed through the juvenile, rather than the criminal justice system (offenders up to, but not including age 18 are handled by the juvenile courts in Colorado). The age composition of the sample is as follows:

Table 2. Distribution of Offender Age

Age of Offender	Number of cases (N=100)	Percentage of Total
14 years of age and under	28	28%
15-17 years of age	51	51%
18-22 years of age	14	14%
Over 23 years of age	7	7%

In all of the 100 cases, the offender identified either as male or female. A large majority of the offenders in the study (79%) were male. While a small group compared to the males in the sample, females are overrepresented in this sample compared to their representation in a typical sample of criminal offenders. In the overall prison population of the United States, females make up only 7% of the population (Steen lecture). The gender composition of the sample is as follows:

Table 3. Distribution of Offender Sex

Gender	Number	Percentage
Female	21	21%
Male	79	79%

In all of the 100 cases, there were 28 different types of offenses committed. There were 8 cases where the offender was charged with two offenses and one case where the offender was charged with 3 offenses. With assistance from the RJ coordinator from the Sheriff’s office, the offenses were grouped into 6 separate categories taken from the Colorado Peace Officers Handbook under the criminal code- C.R.S (Colorado Revised Statutes) Title 18. All of these offenses fall under Colorado state statutes: offenses against persons; offenses against property; offenses involving fraud; offenses against public peace, order and decency; offenses that violate the Uniform Controlled Substances Act of 1992 (drug offenses); and other, which includes offenses that don’t fit into another category. All of the crimes of my sample fell into one of the 6 categories, see table 4 below.

Table 4. Distribution of Crime by Category from Boulder County Sample

Crime Category	Crimes	Number	Percentage
Offenses Against Persons	<ul style="list-style-type: none"> • Assault • Unlawful Sexual Contact 	8	8%
Offenses Against Property	<ul style="list-style-type: none"> • Arson • Burglary • Theft • Criminal Mischief • Criminal Tampering • Trespassing 	52	52%
Offenses Against Public Peace	<ul style="list-style-type: none"> • Disorderly Conduct • Harassment 	17	17%
Offenses Involving Fraud	<ul style="list-style-type: none"> • Forgery • Criminal Impersonation • Identity Theft • False Reporting 	9	9%
Charges under the Uniform Controlled Substance Act of 1992	<ul style="list-style-type: none"> • Drug Possession • Drug Distribution 	6	6%
Other Offenses	<ul style="list-style-type: none"> • Municipal Violations • Dog at Large • Unspecified Charges 	8	8%

Over half of the crimes in this sample were property crimes. Offenses against public peace, order and decency were the next most frequent, and drug offenses, fraud offenses, offenses against a person, and other each had fewer than 10 cases.

The total number of misdemeanor cases in the sample was 35. The total number of felony cases in the sample was 11. There were 54 cases where the crime was not classified as either a misdemeanor or a felony. The types of crime that were identified as

misdemeanors were assault, trespassing, criminal mischief and theft. The types of crime that were reported felonies were criminal mischief, trespassing, and theft.

For all age groups, except those over the age of 23, a majority of the offenses committed were property crimes. For those over the age of 23 the most common crime type was classified as “other.” For age groups 14 years and under and 15 to 17 years the next most common crime type was offenses against the public peace. For the age group 18 to 22 years old and 23 years and older, the second most common crime type was fraud. The age group with the most drug, public peace, and person offenses was 15-17 years old. For those under the age of 14 years old there were no drug offenses and no fraud offenses. For those over the age of 23 years old there were no property offenses or offenses against a person.

The distribution of crimes committed by females is fairly evenly distributed. The two most common offenses (6 cases each) were property and public peace offenses. All person, fraud and other offenses each had 3 cases. There were no women that participated in the program with a drug offense. A vast majority of the crimes committed by males were property crimes (46 cases). The second most common offense was against public peace, order and decency (11 cases). Offenses involving fraud (6 cases), against persons (5 cases), and drug (6 cases) and other offenses (5 cases) had fewer than 7 cases.

Elements of Written Contracts

This next section describes a number of variables that portray the different terms of the written contracts, and connects them to the founding principles they illustrate. The founding principles are drawn from Howard Zehr’s three “pillars of restorative justice:”

“restorative justice focuses on harm, wrongs or harms result in obligations, and restorative justice promotes engagement or participation” (2003: 22).

The harm principle: restorative justice focuses on harm. The first principle is centered on the idea that the main focus of the restorative justice process is on the harm that was caused by the crime. This priority “implies an inherent concern for victim’s needs and roles” (Zehr 2002: 23). The focus on harm, however, is not exclusive to victim harm. RJ also considers the harm that impacts the offender and the community, promoting an overall “healing” experience for all members involved (Zehr 2002: 23).

A number of written contract requirements address the importance of repairing the harm in the justice process. Financial restitution and apology letters along with a variety of other actions address harm to the victim and are the most prevalent forms of addressing harm. Some contracts also include reparation to “secondary victims,” including the victim’s family and the offender’s family. While there were not standardized reparations in these cases, a number of contracts required the offender to engage in some activity to repair the secondary harms caused by the offending behavior. Finally, some offenders were required to think about how their behavior harmed themselves and do work to repair that harm. These components of the contracts work to address and move the focus of the criminal justice process to the harm.

The first type of reparation is a required amount of financial restitution. Financial restitution is a literal payment addressing any material harm that occurred. In many cases, offenders were required to make some sort of monetary payment to a party directly involved in the crime, typically someone framed as the victim. Of the 100 cases, 24% included some sort of financial restitution. These values ranged from \$6.50 to \$2,340 and

varied based on the severity of the crime. The value was typically determined by the amount of damage to the property. For example, in a case where a watermelon was thrown from a bridge at a car, the offender was required to pay the victim \$211.00 “for repair and replacement of the damaged windshield” (RJ Contract 3). Of the 24 cases that involved financial restitution, in 19 of those the restitution went directly to the victim. In the remaining five cases, money went to specific charities or other affected parties.

A second requirement that emphasizes the harm that occurred is the obligation of the offender to write a letter of apology to the victim expressing their sincere regret for what they did. This was one of the most common requirements mentioned in restorative justice literature. Approximately half (49%) of the contracts in my sample required at least one letter of apology written by the offender. Of these 49, 26 cases required more than one letter of apology. Of all the apology letter requirements, including the cases that had multiple letters, 36% went directly to the victim, 9% to the sheriff’s office, 9% to the offender’s family and 20% were written to other recipients (including Home Owners Associations, police dispatch, a neighbor, a school official, witnesses, and a work supervisor). Most of these letters include directions for the offender to discuss “what happened in the incident, [his/her] apology...the impact of the event...and how [he/she] was affected by the RJ process” and “[to take] responsibility for [his/her] actions” (RJ Contracts 15,23).

A third requirement focuses on the harm by requiring the offender to provide some other sort of non-financial restitution directly to the victim (21 cases). One example of doing a service for the victim is yard work or other labor. Another example is spending time with the victim such as “go with victim to open gym twice” and “good faith

agreements” to “support and stand up for the victim if/when she is ‘targeted’ at school” (RJ Contracts 37, 49).

Some requirements shift to focus on the harm the offender caused to secondary victims. Secondary victims are those that were not the direct target of the crime, but that were still affected by it. These victims include offender’s own families and themselves. The first requirement is classified as a family requirement. Many times this may be an offender’s first transgression that violates their parents’ trust and expectations. This requires them to repair the harm and/or the breach of trust among family members. Of all of the cases, 8% had some sort of family requirement that involved the offender’s family. Requirements included spending a designated amount of time with a family member, doing chores around the house, having a family meeting to discuss the incident, or engaging in specific activities with the family. One contract included a requirement for an offender to “plan an activity with parents at least once a week for 2 hours for 6 weeks” (RJ Contract 71). Another required the offender to on six different occasions “spend time with her mother to increase communication and trust” (RJ Contract 19).

Approximately a quarter of all cases (23%) required the offenders to focus on how the crime and their behavior affected him or her personally. For example, this harm could be related to underlying mental health issues. One requirement that helps the offender to do this is to participate in an additional form of counseling outside the conference. Of these cases, 22% involved attending a substance or alcohol abuse meeting, 13% required an anger management course, 26% involved a meeting with a school counselor, and 39% involved another sort of counseling (mental health, meeting with specific mentor or unspecified). Some contracts required the offender to personally

“seek out and take a course... for personal development and growth” (RJ Contract 37). It is interesting that only a quarter of cases referred the offender to additional counseling, this could be because conference participants were reluctant to recommend it because they are not mental health professionals.

Finally, upon analysis more than half of all of the cases (53%) revealed an unexpected finding. This finding was a requirement that the offender to do some sort of writing assignment to be turned into the restorative justice coordinator and others as specified. The most common assignment was to write a report or a paper. Many of the paper topics required the offender to discuss how the incident “impacted the victim, the community,” and the offender him or herself (RJ Contract 1). Some other topics included “how to deal with similar situations” in the future and “how to make this a positive experience” (RJ Contract 56). Offenders were often required to discuss “what [they] learned from the experience,” including the community service and other requirements, and to “demonstrate understanding and compassion” for the victim (RJ Contracts 4,20). Some papers consisted of research on the impact of the crime. For example, in cases with illegal possession of drugs, offenders were often asked to write a report describing impacts of those drugs (RJ Contract 43). Other writing assignments required the offender to write a letter sharing his or her experiences with various audiences including the victim, the restorative justice conference participants, family, witnesses, and young children in the offender’s life. Seven percent of all the cases required the offender to have something published in their local or school newspaper, whether this was the report they wrote or a public service announcement. The point of publishing in the local newspaper

is for the offender to make a public commitment and for the community to be aware of the incident and learn from the experience.

The obligation principle: wrongs or harms result in obligation. The obligation principle of restorative justice is illustrated in the structure of the Boulder County Sheriff’s RJ program. After the conference between the offender and victim a contract is produced. The entire contract is a symbol of the obligations for the offender as a result of the harm they caused. The contract is made up of multiple mandatory obligations and only upon completion of all the requirements is the case closed. The number of requirements varied from case to case with as little as 2 requirements and as many as 8. The most frequent number of requirements in the sample was 4. The following chart outlines the range, mean and mode number of requirements based on gender and age.

Table 5. Distribution of Requirements based on Gender and Age

Group	Range	Mean	Mode
Male	2-8	4.48	4
Female	2-6	4.14	4,5
Ages 14 and under	2-6	4.64	5
Ages 15-17	2-8	4.23	4
Ages 18-22	2-6	3.99	3
Ages 23 and above	2-5	3.14	3

The engagement principle: restorative justice promotes engagement and participation. The final principle of restorative overlaps with the previous two. Many requirements within the contract work to both promote engagement by the offender and repair harm caused to participating parties. Direct involvement in the criminal justice system is classified by four requirements (ride-along with a sheriff, touring a jail facility, court observation, participating as a community member in an RJ conference) that work to give the offender insight into the justice process and the consequences, helping gain

better knowledge of restorative justice and what would have happened if they had entered the traditional justice system and were “not allowed to go through the RJ program” (RJ Contract 85). Thirty-two cases in the study fell under the category of direct involvement in the criminal justice system. Requirements include a ride-along with a sheriff from the Boulder County office (10% of all cases), a tour of a jail facility (3% of all cases), a criminal court observation for a day (5% of all cases), and participation as a community member for a future RJ conference (14% of all cases).

The obligation for the offender to participate in community service also involves participation and engagement in the community. Forty percent of the cases in this study required some sort of community service for an organization in the offender’s community. In 9 of these cases, community service was tied to an organization connected to the crime committed. For example, in a case involving the a woman who falsely reported a domestic dispute with her partner, the offender was required to volunteer at a shelter for abused women in order to increase her awareness of the severity of these situations (RJ Contract 60). Another offender that caused damage to neighborhood mailboxes was required to organize and complete a “community clean up project in his neighborhood” (RJ Contract 92). Many other contracts required the offender to identify and volunteer at “an activity to benefit the community” so that they could “be an agent of change in the community” (RJ Contracts 9,38).

One of the requirements I found most interesting focused on the age and development of the offender. School-related requirements were often specific, targeted toward the offender’s specific needs. Twenty percent of all the cases included this kind of requirement. Some of the offenders were required to enter the school’s mentoring

program, while others had to meet with a member of the faculty to plan a presentation about the consequences of their actions. Many times these presentations were for new students or peers in their classes to “share [their] experiences and to help educate others” and prevent them from making similar mistakes (RJ Contract 19). These included presentations on “promoting kindness in school,” “educating others about the consequences and the effect their actions had on them and their families,” “impressions of the self and others and peer pressure,” “identifying the harm they causes and its impact,” and “bullying” (RJ Contracts 3,43,12,91,74). Other school-related requirement designated a graduation date the offender must meet, or prohibited any unexcused absences or tardies to class or negative reports from school officials in order to keep them on track with their education. One contract required the offender to keep in touch with the RJ group “on how things are going at school” (RJ Contract 16).

The following table outlines the 3 Restorative Justice Principles and the requirements of the contracts that address these principles.

Table 6. Distribution of Requirements by RJ Principles

Principles of Restorative Justice	Contract Requirements	Number	Percentage
The Harm Principle	Financial Restitution	24	24%
	Letter of Apology	49	49%
	Non-Financial Restitution	21	21%
	Family Requirement	8	8%
	Counseling	23	23%
	Writing Assignment	53	53%
The Obligation Principle	Written Contract	100	100%
The Engagement Principle	Direct Involvement in Criminal Justice System	32	32%
	Community Service	40	40%
	School-Related Requirement	20	20%

Other Related Data

The findings yielded additional data based on gender and age of the offender. With the financial restitution requirement, 17% of these offenders were female and 83% were male, and a majority of the cases involved offenders ages 15 to 17 years old. With regard to the writing assignments only 8% of cases involved female offenders and almost all offenders were between the ages of 15 and 17 years old. Of all the cases that had ride-along requirement all of the offenders were male, 60% of whom were between the ages of 16 and 18 years old. Of those that toured a jail facility and those that observed a criminal court, all offenders were male with a majority under the age of 14. Of the 14 cases required to participate in another RJ conference as a community member, only 3 offenders were female and most of the offenders were between the ages of 15 and 17 years old. Of those cases with a family requirement (8 cases), offenders in 6 of them were between the ages of 15 and 17 years old and 3 of them were female offenders. Only 3 female offenders were required to pursue additional counseling. A majority of offenders that required additional counseling were between the ages of 15 and 17. Only 5 female offenders were required to provide other reparation to the victim, as well as participate in community service. In both of these requirements the majority age range was between 15 and 17.

Finally, there were three requirements that were not included in this analysis. These requirements were only mentioned in one contract and did not fit into a broader category. These requirements include a cadet training program, religious involvement, and working with a dog trainer.

Forget's Framework

In 2003 Marc Forget introduced a new “framework for evaluating restorative justice programs” (1). In developing this framework he focused on the basic definitions of justice and peace, and incorporated those values into his analysis, to emphasize their importance. He stressed the importance of measuring “the individual’s personal growth” as a result of going through the RJ process (2003: 4). The assessment of the offender is based on his/her “change in perception and understanding of crime...deepening awareness of the consequences and human costs of one’s transgressions...increase in empowerment and sense of control over one’s life... and a better ability to address everyday conflicts productively and peacefully” (2003: 4). Forget’s incorporation of values into his evaluation of restorative justice programs parallels the focus of this study. His framework incorporates more detail on how the broad principles of restorative justice, outlined by Howard Zehr, can be used in the evaluation of the offender’s progress. There are a number of aspects from the Boulder County Sheriff’s Restorative justice program’s written contracts that illustrate Forget’s measurements of personal growth.

Forget’s first personal growth factor measures the progress of an offender through their “change in perception and understanding of the crime” and their “deepening awareness of consequences” of their actions (2003: 4). This is shown in a majority of the writing assignments. Within the writing assignment requirement there are specifics about what the assignments need to cover. Many of the requirements ask the offender to outline the crime and the details of what happened, to describe the impact it had, and to explain why it was wrong, and to talk about what they learned from the RJ experience. This

assignment allows the RJ coordinator to go back and look at how an offender's "understanding and perception" of the crime changed over a period of time. Part of the "understanding" of the crime included the offender having to share their experiences with others, and to tell them how it could have been prevented. In a case of harassment with a female victim the offender was required to "design a survey of open ended questions [to give women in their community] to understand the impact of profanity directed at females" (RJ Contract 49). Counseling also helps the offender to further understand the crime and the consequences.

Another personal growth factor focuses on the "human costs" of the entire process, starting with the crime and extending through the offender's completion of the contract requirements (Forget 2003:4). Many of the writing assignments and the apology letters address this issue by having the offender discuss the impact their crime had on others, including the victim, the involved officers, the Sheriff's department, parents and other involved parties. The family requirement recognizes the "cost" to the family from the offender's actions and helps the offender to repair those relationships.

Forget also focuses on the need for the offender to "increase empowerment and sense of control over one's life" (2003:4). A number of requirements in the written contracts address this. The requirement for an offender to become an active member in school by working to get their grades up or graduating on time, should help the offender regain control by creating incentives for them to work towards educational goals and provide them with more opportunities in the future. Some contracts required the offender to outline their goals for the next 5, 10 and 15 years. This could help the offender to keep their life on track and to identify what they need to do to achieve those goals. Another

requirement has the offender looking for new passions as well as further exploring old ones, in order to help empower them and put them on the right track. This could help offenders channel their energy constructively and prioritize their goals in a healthy way. For example, one case required the offender to “write a plan to train for the Boulder Boulder, run the race, then write a letter to self of what he accomplished, and what he hopes to accomplish in the next year” (RJ Contract 58). This same contract required the offender to self reflect by writing an “evaluation of his strengths.” The final requirement that connects with this personal growth factor is that the offender must interview their role models learn from these individuals and their examples. In a case of harassment, the offender was required to “write 12 essays...after speaking with various, special individuals in [his] life asking: how to be successful in life, how do women like to be treated, how to identify people’s boundaries and how does crossing boundaries affect those people” (RJ Contract 16). This should motivate the offender and could help them begin to identify the steps they need to take to end up like their role models.

The final personal growth factor of Forget’s analysis is to provide the offender with a “better ability to address everyday conflict”(2003: 4). The counseling requirement helps the offender achieve this by providing help and support to identify and begin to address the roots of the crime as well as introducing ways to cope with anger, stress or addiction. This study explored the written contracts through the lens of the RJ principles and Forget’s framework.

DISCUSSION

Many programs across the country in police departments, sheriff's offices and universities, are incorporating aspects of restorative justice. With the growing popularity of these programs, the completion of this research provides a more in depth analysis of RJ programming, giving new insights into potential measures of offender growth and progress. Restorative justice takes a different approach by creating an environment in which the offender and the victim have a dialogue about the offense and its implications, and create a contract of requirements for the offender to repair the harm. A majority of the existing literature on restorative justice focuses on comparing a program's recidivism outcomes with those of a traditional criminal justice program. However, this research is limited because it ignores many important components that differentiate restorative justice. The goal of retributive justice is to punish and deter future criminal activity, whereas the goal of restorative justice is to repair the harm caused by the offense. Looking at the process outcomes expressed through the eyes of the offender and others through various requirements of the contract. My research shifts the focus to the harm and the process that are part of the goals of RJ.

Rather than compare RJ to retributive justice outcomes, this study focuses exclusively on restorative justice, exploring how the principles of RJ are incorporated in the contract requirements. The study sample was collected from the Boulder County Sheriff's RJ program and consists of a range of ages and crime types of both male and female offenders. It provides a more inclusive analysis of restorative justice, considering a new way of categorizing attributes of offender growth. Due to the short time frame of the study and restricted access to data, there were a number of limitations to the study.

Limitations of the Study

First, there are a number of limitations related to the study sample. As a volunteer for the Boulder County Sheriff's Office restorative justice program, I only had access to offenders who were in their system and participated in restorative justice. It was not within my ability to compare my sample of RJ participants with one from the traditional system. Another limitation of the study is that the sample comes from Boulder County, which has a primarily white, male offender population. If the sample was collected from another geographic area, that the offender population would likely have been more racially and ethnically diverse and the types of crime may be more varied based on different precipitating factors, such as financially motivated crimes. With a different population it may be easier to track patterns and biases in the requirements of the written contracts. The sample size limits the generalizability of the findings to other populations of offenders but also limited conclusions that could be drawn about the relationships between variables, for example age and types of crime.

Second, there are a number of limitations related to using the type of data that was collected. The data only takes into account one aspect of the restorative justice conferences, the written contracts, and therefore is limited to this one element of the experience. I only had access to closed cases and was not able, due to the short amount of time, to interview those that had gone through the program. If it had been possible, I would have liked to interview all those involved to see what requirements and principles of the program they found most helpful and important and what they thought of the restorative justice process and the principles. One type of investigator bias in the study is based on my own interpretation of the elements of the contracts and what each

requirement accomplishes. Forget's model of evaluating offender progress is subject to bias because it leaves open the possibility the offender could be lying about their experience, it may be difficult for the offender to interpret their own experiences and similarly challenging for the researcher to interpret that reflection. It is also limited because without follow-up interviews with the offender and victim, it is difficult to determine whether the goal of repairing harm was achieved.

Summary of Findings

The study found that all nine requirements of the written contracts from the Boulder County Sheriff's restorative justice program illustrated at least one of the founding principles of restorative justice. The three principles I focused on were the harm principle, the obligation principle and the engagement principle. Those requirements that focus on the harm and repairing the harm (obligation) included financial restitution, letters of apology, other reparation to victim, family requirements, and additional counseling. Each of these requirements involves the offender giving directly to the victim and others harmed either through monetary restitution, an apology or a direct form of restitution for the victim, such as chores. Family requirements work to repair the harm done to relationships between the offender and their family members as a result of the offense. The one requirement that differs from the others is the additional counseling. As opposed to repairing the harm the offender caused others, it focuses on repairing the harm for the offender by helping them reflect internally and receive help or assistance.

The written contract itself illustrates the second principle of obligations to repair wrongs. The contract is a physical list of all of the obligations an offender must complete after they committed the crime. The offender is obligated to complete each of the

requirements in order to successfully complete the program. Direct involvement in the criminal justice system, community service, and active participation in school requirements exemplify the idea that restorative justice programs promote engagement or participation. All of these provisions require the offender to focus externally on their role as part of a community and become an active member, whether through service, observation, or active participation. This is important because it can allow the offender to see the impact his or her actions had on the community and give back to society.

Although the sample was too small to identify trends in the data, a larger sample may uncover relationships between variables. It was interesting to note that types of crimes may be related to the age of the offender; for example, the offenders in the majority of the property crimes were under the age of 17. Another observation from this study was that the data supported the fact that the number of requirements and their content were based on the unique characteristics of each crime and offender, rather than specific requirements by age, gender or crime type.

Forget's framework for analysis provides another lens to examine the content of the contracts and the offender's personal growth. This study has demonstrated that the writing assignments, letters of apology, school requirements and counseling in the contracts can be further analyzed to explore changes of the offender's perception of the crime, human costs and personal empowerment outlined by Forget. These personal growth factors expressed through various requirements, may help to further track an offender's progress and the effectiveness of the RJ program.

Contributions and Implications for Future Research

This study provides a detailed description of who participated in the Boulder County Sheriff's restorative justice program, what crime types were represented, what requirements made up the contracts, and how they varied across gender and age. The findings of this study contribute to the existing literature on RJ by describing various elements of restorative justice contracts. It sheds light on the contract as a vital part of the restorative justice process. It demonstrates how the foundational principles of restorative justice are incorporated into the various requirements of the written contracts. The study validates the use of written contracts as part of the Boulder County RJ program in that the content of the contracts is consistent with the foundational principles of restorative justice.

Another component of the study examines the contracts through the lens of Forget's framework for evaluating restorative justice programs through measures of offender growth. The study revealed that the contracts include a number of requirements that may yield information on these personal growth factors. Although the scope of this study was limited, it provides a window into the formative evaluation process and adds clarity to the contractual part of process that has not been previously explored. The study may help inform thinking around selection of requirements that allow for direct observation and measurement of offender growth. With future analysis, these new insights can be used to intentionally select specific requirements that yield better outcomes based on a set of circumstances. These process outcomes could then be analyzed in relationship to current indicators such as recidivism and victim satisfaction, to see if there are any correlations between the outcomes.

A larger sample and a multi-method approach through the incorporation of various methods including interviews, journals, feedback and surveys would further uncover different perspectives of the problem, contributing to a broader understanding of the total assessment of restorative justice outcomes. This study is important because it provides insight into another means of evaluating restorative justice outcomes as opposed to using traditional retributive justice evaluation indicators. By identifying the requirements that work to promote the foundational principles of restorative justice and associating them with Forget's personal growth factors, the study potentially provides new information to help build more effective contracts. New information on the efficacy of restorative justice has the potential to influence criminal justice policy and society's treatment of offenders, resulting in cost effective programs with better outcomes.

REFERENCES

- Alston, Lee. 2012. Lecture. University of Colorado, November 2012, Boulder, CO.
- Anand, Prerna. 2012. "Winners and Losers: Corrections and Higher education in California." *California Common Sense*. September 5. Retrieved on September 1, 2012 (<http://www.cacs.org/ca/article/44>).
- Bergseth, Kathleen J. and Jeffery A. Bouffard. 2012. "Examining the Effectiveness of a Restorative Justice Program for Various Types of Juvenile Offenders." *International Journal of Offender therapy and Comparative Criminology* 20(10): 1-22. (Retrieved from Sage Publications on October 8, 2012).
- Bonta, James. 2002. "Restorative Justice and Recidivism" *Contemporary Justice Review* 8(1): 1-2.
- Forget, Marc. 2003. "Developing a New Framework for Evaluation Restorative Justice Programs." Presented at the 6th International Conference on Restorative Justice, June 1-4, Vancouver, BC.
- Gaudreault, Arlene. 2005. "The Limits of Restorative Justice." Presented at Proceedings of the Symposium of the École nationale de la magistrature, 2005, Paris.
- Gavrielides, Theo. 2011. "Restorative Practices: From the Early Societies to the 1970s." *Internet Journal of Criminology*. November 2011: 1-20.
- Gottschalk, Marie. 2006. "Law, Order, and Alternative Explanations." Pp.18-40 in *The Prison and the Gallows*. New York, NY: Cambridge University Press.
- Hawkins, Steven. 2010. "Education vs. Incarceration." *The American Prospect*. December 6. Retrieved September 1, 2012 (<http://prospect.org/article/education-vs-incarceration>).
- King, Ryan S. 2008. "Disparity by Geography: The War on Drugs in America's Cities." *The Sentencing Project*. Retrieved February 1, 2012 ([ww.sentencingproject.org](http://www.sentencingproject.org)).
- Latimer, Jeff, Craig Dowden and Danielle Muise. 2005. "The Effectiveness of Restorative Justice Practices: A Meta-Analysis." *The Prison Journal* 85(2): 127-144. (Retrieved from Sage Publications on October 16, 2012).
- Mauer, Marc and Ryan S. King. 2007. "A 25-Year quagmire: The War on Drugs and Its Impact on American Society." *The Sentencing Project*. Retrieved February 1, 2012 ([ww.sentencingproject.org](http://www.sentencingproject.org)).

Maxwell, Gabrielle. 2010. "What Values and Concepts Underpin Restorative Justice?" Presented at Prison Fellowship of New Zealand National Conference, May 14, New Zealand.

Morris, Allison. 2002. "Critiquing the Critics." *British Journal of Criminology* 42: 596-615.

Muzzatti, Stephen L. 2002. "Moral Panic." *Encyclopedia of Crime and Punishment* 3(1): 1076-1079.

Nagel, Ilene H. 1990. "Structuring Sentencing Discretion: The New Federal Sentencing Guidelines." *The Journal of Criminal Law and Criminology* 80(4): 883-943.

Parenti, Christian. 1999. "A War for all Seasons: The Return of Law and Order." Pp. 45-66 in *Lock Down America: Police and Prisons in the Age of Crisis*. New York, NY: Verso.

Presser, Lois, Emily Gaarder and Denise Hesselton. 2007. "Imaging Restorative Justice beyond Recidivism." *Journal of Offender Rehabilitation* 46(1-2): 163-176. Retrieved on October 16, 2012.

Ray, Ross. 2008. "Issues in Restorative Justice." *Law Council of Australia*. April 19. Retrieved February 1, 2013 (www.lawcouncil.asn.au).

"Restorative Justice" *Boulder County Colorado*. WEBSITE accessed December 1, 2012. <http://www.bouldercounty.org/safety/victim/pages/resjust.aspx>

Rodriguez, Nancy. 2007. "Restorative Justice at Work: Examining the Impact of Restorative Justice Resolutions on Juvenile Recidivism." *Crime and Delinquency* 53(3): 355-379. (Retrieved by Sage Publications on October 8, 2012).

Schmitt, John, Kris Warner and Sarika Gupta. 2010. "The High Budgetary Cost of Incarceration." *Center for Economic and Policy Research*: 1-15.

Sherman, Lawrence W. and Heather Strang. 2007. "Restorative Justice: The Evidence." *The Smith Institute*: 1-95.

Steen, Sara and Rachel Bandy. 2007. "When the Policy Becomes the Problem." *Punishment and Society* 9(1): 5-26. (Retrieved from Sage Publications on February 1, 2012.)

Teichner, Martha. 2012. "The Cost of a Nation of Incarceration." *CBSNews.com*. Retrieved January 1, 2013 (www.cbsnews.com).

Tonry, Michael. 2004. "Why So Many Americans Are in Prison." Pp. 21-61 in *Thinking about Crime: Sense and Sensibility in American Penal Culture*. New York, NY: Oxford University Press.

Umbreit, Mark S. 1998. "Restorative Justice Through Victim-Offender Mediation: A Multi-Site Assessment." *Western Criminology Review* 1(1). [Online]. Available: <http://wcr.sonoma.edu/v1n1/umbreit.html>

Zehr, Howard. 2002. *The Little Book of Restorative Justice*. Intercourse, PA: Good Books.

Zehr, Howard. 1990. *Changing Lenses: A new Focus for Crime and Justice*. Scottsdale, PA: Herald Press.