

EFFECTIVENESS OF RESTORATIVE JUSTICE PROGRAMS IN THE PREVENTION OF  
JUVENILE CRIME

A Thesis  
Submitted to the Graduate Faculty  
of the  
North Dakota State University  
of Agriculture and Applied Science

By

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In Partial Fulfillment  
for the Degree of  
MASTER OF SCIENCE

Major Department:  
Criminal Justice and Political Science

April 2014

Fargo, North Dakota

North Dakota State University  
Graduate School

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**Title**

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Crime

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North Dakota State University's regulations and meets the accepted standards  
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**MASTER OF SCIENCE**

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## **ABSTRACT**

This study examined how restorative justice programs impact the probability of recidivism among juvenile offenders. It compared juveniles who completed restorative justice programs versus juveniles who were released with warning from the courts. Both groups were compared to determine if restorative justice juveniles outcomes differed based on recidivism. Logistic regression showed that restorative justice programs had statistically significant increased odds of recidivating when compared to juveniles released with a warning. However, when the groups of restorative justice were disaggregated, only the adjudicated juveniles were statistically significant. Survival time analysis showed that restorative justice juveniles have longer survival times of recidivism when compared to juveniles released with a warning. Suggestions for further research and analysis are discussed with respect to the current results.

## **ACKNOWLEDGEMENTS**

I would like to first acknowledge Dr. Kevin Thompson for being my chair. Your commitment and time over the past two years has been phenomenal. Thank you for being so patient with me. You have given me valuable feedback throughout the process and taught me a lot about research and writing.

I would also like to thank my committee members for their dedication and assistance. They helped me create a stronger thesis and develop some new ideas. Thank you, Dr. Amy Stichman, as your expertise in corrections was invaluable. Thank you, Dr. Brandy Randall, for your insight.

I would like to acknowledge Joel Friesz and Aimee DeSherlia at Lutheran Social Services for being open to research and being actively involved in this project. It wouldn't have been possible without your efforts and commitment to this project. I would also like to extend a thank you to the Juvenile Court staff for accommodating me with access to their system and their records. Particularly, I would like to thank Karen Kringlie and Nicole Leitner for being great resources of information.

I would also like to acknowledge the girls in my program, McKenzie, Melinda, and Kelsey, for sharing advice and experiences with me.

## DEDICATION

I would like to dedicate my work to my family. To my mother, Kathie, for her unending love and for being my greatest cheerleader, supporter, and confident when I am stressed or bothered by something. To my father, George, for being encouraging and supportive. His smiley-faced texts have helped through the miles. To my big brother, Darrick, for being my biggest go-to person. His knowledge, advice, and help have gotten me through.

To my grandmother Mary and grandfather Duane for always telling me how proud they are and for encouraging my hopes and dreams. Their prayers and confidence in my ability have surely served me well!

To my boyfriend Dusty for being the first person to show an honest interest in my work and wanting to read my thesis in its entirety. His endless support, inspiration, and rational thinking allowed me to persevere.

I am indebted to all of you. This accomplishment wouldn't have been possible without the great support team that surrounds me. "I love you more."

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## INTRODUCTION

When youth crime was assumed to be dramatically increasing in 2005 and at a more violent rate (Fields, 2003; Ghetti & Redlich, 2001; Kowalski & Caputo, 1999; Williams, Rivera, Neighbours, & Reznik, 2007), the discussion of rehabilitation was soon taken over by the “get tough” movement. More recently, society has returned to the rehabilitation ideals and has increased the use of diversionary programs, particularly those directed towards young offenders. Diversion programs allow violators of criminal law to avoid criminal charges and a criminal record by completing various requirements for the program. The juvenile justice system began leaning more towards a restorative approach outside of the court room, compared to a retributive approach within the criminal justice system (Ghetti & Redlich, 2001; Marshall, 1999; McCold, 2004; Williams et al., 2007).

During the same time period, there was a call for criminal justice interventions to be redeveloped so that they had a set of principles to follow in order to be more effective. The principles included assessing risks and needs, positive reinforcement, and enhancing intrinsic motivation (Harland, 1995). The main components are considered to be risk, need, responsivity, dosage, and treatment principles (Harland, 1995). The criminal justice system moved away from the “one size fits all” interventions and began to match the offenders’ needs and risks according to the type of intervention that would best suit the offender. The criminogenic needs of offenders must be targeted in order to prevent future crime and to understand why crime occurred in the first place (Harland, 1995). For restorative justice, the main criminogenic need is empathy. Offenders need to identify empathy with their victim(s) in order to realize the harm they created and to understand that crime has social consequences. By identifying with their victim(s) and developing empathy for how their crime affected their victim(s), it is hoped that offenders are

prevented from future crime and become more aware of the costs of their actions. As discussed later, restorative justice seeks to target the criminogenic needs of the offender and the needs of the victim(s) involved.

Although restorative justice is not a new philosophy, it has been gaining ground in the criminal justice field. Restorative justice is a process in which the victim(s) and community members have an opportunity to discuss the effects of a crime, how the effects may be repaired, how the recurrence of a crime might be prevented, and how needs of stakeholders can be met (Braithwaite, 2007). Braithwaite (1989) notes that the rise in the popularity of restorative justice is a result of two movements: one that empowers victims to seek justice and one which restores a sense of fairness to the system. Restorative justice creates this empowerment and fairness to victim(s) by involving them as an important part of the justice process.

Braithwaite (1989) notes that restorative justice is different from the criminal justice system in many respects but its foundational aspect is that restorative justice does not look to punish the offender. Restorative justice is a process in which the role of the state is decreased in individual cases and victim(s) are given a voice in the criminal justice system (Zorza, 2011). The victim(s) are given an opportunity to explain their stories, enabling them to address what they need in order to have closure on their case. Other benefits of restorative justice may include: allowing the offender to listen to the context and meaning of the offense to the victim and facilitating an apology from the offender.

Restorative justice encourages both victim(s) and offenders to have a support system during the process, consisting of family or community members. Zorza (2011) points out that the extent to which a “community” is defined varies depending on many aspects. If the victim(s) are young children it is common for a parent or member of the family to participate in the restorative

justice process in their place. Often times restorative justice seeks to expand the crime beyond those who are legally involved (the victim(s) and offender), so that the programs are able to consider societal solutions at the community or neighborhood level. As a result, restorative justice seeks to create solutions that all parties will agree upon. The community can claim that restorative justice holds the offender accountable since the process typically requires the offender to admit to the crime. Many diversionary programs are directed towards community involvement or community service as offender retribution. At the very least, it encourages an apology and some form of amends for the crimes by the offender.

Restorative justice has been around for centuries and is documented in various countries. Restorative justice was first pioneered in the United States in the late 1970s, but it was not until the 1990s that restorative justice became the emerging social movement for criminal justice movement (Braithwaite, 2002). The main components of restorative justice have been developed over more recent decades and were in practice for many years before a theory was associated with restorative justice. However, the principles of restorative justice are often credited to Braithwaite's work in *Crime, Shame, and Reintegration* in which the theory of reintegrative shaming is built on principles of control and deterrence (1989). The principle of control is that of informal social control. Crime is shameful in and of itself and when stakeholders address wrongdoing, especially family and community members, the offender's crime goes beyond a crime of illegality. The crime is recognized as an offense that violates moral codes and values regarding acceptable and unacceptable behavior (Braithwaite, 1989). Thus, informal societal control is used as a main component in reintegration through restorative justice programs.

The principle of deterrence in the theory, according to Braithwaite (1989), stems from avoiding disapproval from family and community members, thus acting in acceptable ways so

that uncomfortable shaming by others will not occur. Braithwaite (1989) suggests that this principle of deterrence from family members and the community holds more weight than shaming done by court authorities. His theory also covers reintegrative and stigmatizing shaming.

Beginning around the 1970s, restorative justice took a new approach geared more toward community involvement. This development was called balanced restorative justice (Bazemore & Umbreit, 1995). The main focus of balanced restorative justice is developing balanced, community-based systems that are created to use restorative justice-themed programs in the juvenile justice system. Community-based systems may include the following: community service, restitution, mediation, and involvement of victim(s). Bazemore and Umbreit (1995) state that the goals of these reforms are “accountability, community protection, and competency development.”

One of the ways that the restorative justice process is utilized is through diversion. Diversion is a juvenile justice system method to fit offending youth with a program to combat further offending. Research suggests that youth who go through the court system have higher recidivism rates than youth who are programmatically diverted (Bergseth & Bouffard, 2007; Latimer, Dowden, & Muise, 2005; Rodriguez, 2007; Thompson, 1999). Further, diversion programs seek to address some of the underlying issues facilitating offending and substance use. Many diversionary programs are matched to the risk and needs levels of offenders, allowing resources to be properly utilized (Roach, 2000). Particularly in restorative justice programs, if victims are identified and willing to attend a conference or meet the offender face-to-face, both the victim and offender are assessed as to whether they are appropriate for participation in conferences.

Some diversion programs available to youth include youth court, victim empathy seminars, and victim-offender accountability. These programs are reserved for juveniles with less serious crimes. The differences between these programs are as follows. First, victim-offender accountability occurs when a victim is identified and wishes to be involved in the diversionary program. The victims meet their offender face-to-face with the proceeding monitored and structured by a mediator in the room (usually a trained adult of the diversion program). The offender and victims are encouraged to have support members attend the conferences with them. Some conferences allow another person to represent the victims if the victim is not comfortable attending the conference in person. Victim empathy seminars are programs that challenge offenders to recognize the harm resulting from their crimes. Victim empathy seminars are usually the cases in which the victims do not want to attend or a victim is not individually identified (for example a vandalized community park). Offenders attend the seminar to hear the impact of their crimes, discuss and seek ways to prevent future crimes, and then write an apology to their victim(s). Youth court gives juvenile offenders a peer-based court ruling. The jury for youth court includes volunteer youth who are similar in age to the offender. The peer-based court listens to the story of the crime, registers a verdict against the perpetrator, and defines reasonable retribution for the perpetrator, if found guilty.

Walgrave (1980) argues that programs of diversion allow a means of avoiding negative labels of the offender as well as other negative associations with the criminal judicial process. In his theory, Braithwaite states that reintegrative shaming clarifies labeling theory by separating stigmatizing from labeling. His argument is that reintegrative shaming labels the act and not the person, whereas labeling theory labels the person him/herself (Braithwaite, 1989). Reintegrative shaming allows for reacceptance and reintegration back into the community by holding offenders

accountable for their actions once the labeling of the act as bad has occurred (Losoncz & Tyson, 2007; Makkai & Braithwaite, 1994).

Ideally, diversion programs are able to minimize labels placed on young offenders through an emphasis on responsibility and an attempt to reintegrate the youth back into the community through retribution (Braithwaite 1989; Walgrave, 1980). In face-to-face meetings, victims are community members in a sense when they participate and help form action plans for offenders' reintegration. The inclusion of victims' and offenders' families and community members makes offenders aware that they have a responsibility to the community and to those whom they are closest to. Consequently, offenders also realize the people present are those who care about them. This support from their family and community members at conferences is important for offenders to participate in the conference, follow through with their agreements in harm reparation, and to not engage in criminal behavior in the future (Paye, 1999).

As noted, Braithwaite argues that restorative justice conferences are more influential for youth than the criminal justice courts because conferences involve shaming of offenders by family members, friends, or other close associates whose acceptance and opinion matter more than the courtroom authorities (1989). Shaming occurs when family members, among others, discuss how the crime has affected the relationship between the offender and the family members, and how the crime has disappointed the family members. Although shaming is a factor of the conferences, offenders are respected because they have an equal voice throughout the process; are encouraged, but not required, to admit guilt and accept responsibility; and are able to have members who support them sit with them at the conferences. Offenders are given an opportunity to explain themselves and their crime in their own words, which in turn allows them to express remorse and regret in an informal, accepting atmosphere. In contrast, in the court

room if an offender were to express remorse or regret, these statements would be used as statements of clarifying a guilty plea for possible conviction of a crime.

Studies focusing on restorative justice for juvenile offenders report that victim(s) are more pleased with the conference, outcome, and process than victim(s) who go through nonconference systems (Calhoun & Pelech 2010; McGarrell, 2001; Rodriguez, 2007). Victim(s) state that meeting the offender in the conference setting face-to-face is an essential part of the healing process (Calhoun & Pelech, 2010). Being able to explain the damage in their own words helps victims identify what harm the crime has caused. Because offenders hear from their victim(s), offenders are more likely to associate a face with the outcome of their crime; thus they often feel greater empathy for their victim(s). Since victim(s) help create a mediation plan, the form of retribution is determined by the desires of the victim(s) and how an offender can “repay” the harm. The mediation plan can include examples such as community service, restitution to the victim, replacement of vandalized or stolen property, and/or a written apology.

Young offenders and parents report being more satisfied with restorative justice conferences as compared to nonconference proceedings (McGarrell, 2001). Parents also identify restorative justice conferences as being more worthwhile and more satisfying for their youth (McGarrell, 2001). Parents find that their youth take away more from the conferences in terms of realizing consequences, taking responsibility for the crime, and identifying with the victim(s). Since parents are allowed to attend the conferences and are a part of the proceedings, they report feeling more involved and recommend the conferences to other parents (McGarrell, 2001). Parents whose youth traversed through non-diversion programs report not being as satisfied and had lower rates of recommending that process to other parents (McGarrell, 2001).

Research on recidivism outcomes as a result of restorative justice conferences for juveniles is limited. Nevertheless this philosophy continues to see support with the popularity of diversionary programs. Seymour and Gregorie (2002) view restorative justice as based upon a shared set of values that determines how conflicts can be resolved and how damaged relationships can be repaired or improved. Seymour and Gregorie (2002) list core elements of restorative justice that a panel of experts, sponsored by the National Institute of Corrections, created in a national restorative justice teleconference in 1996. One of the core values is that crime is an offense against human relationships; not only are victim(s) but also the community central to the justice processes. Other core values are that the offender has a personal responsibility to the victim(s) and the community, and as a result of the restorative justice experience the offender will develop better competency and understanding. The first priority of justice processes, proclaimed by the experts at the national teleconference, is to assist victim(s). The second priority is to restore the community to the best degree possible.

Controversy still exists in the core ideas and definitions of restorative justice (Karp, 2001; Zernova, 2007). There remains a question of how “hands off” restorative justice really is because juveniles are still exposed to some type of government process whether that is private or public. Arguments against restorative justice programs are directed toward whether or not the programs are absolutely voluntary (Zernova, 2007), the degree to which victims and offenders participate (Richards, 2009; Robinson & Shapland, 2008), the degree to which harm is repaired (Karp, 2001), and if restorative justice conferences are actually aimed at offender rehabilitation and not punishment (Zernova, 2007). Another controversy is that offenders who admit guilt and take responsibility right away may be substantially different in terms of motivation and desistance (Hayes & Daly, 2003; Robinson & Shapland, 2008). Outcomes may differ for juveniles and



victims who meet face-to-face compared to juveniles who have victims that decline to participate.

This research study attempts to create a profile of youth who recidivate after going through a restorative justice program. The research seeks to explore recidivism differences among youth who go through restorative justice programs versus youth who do not. It also explores recidivism differences among youth who meet face-to-face with their victim(s) in victim accountability conference versus youth in victim empathy seminars and youth court who do not meet face-to-face with their victim(s).

Youth in diversionary programs of youth court, offender accountability conferences, and victim empathy seminars are examined in terms of age, ethnicity, race, gender, type of offense, and recidivism. Youth who are released from the courts with a warning serve as the comparison group. Secondary data are used for analysis of juvenile records from 2010-2011 in a Midwestern state. The research seeks to accomplish whether or not restorative justice programs are beneficial for juvenile recidivism. The treatment and comparison groups will be compared to see if recidivism rates differ for the juvenile groups.

The findings of this research study will help supplement the existing data on restorative justice. It will expand research in terms of comparison groups, as the majority of studies use a court-ordered comparison group. To the author's knowledge, this study may be the only study using a comparison group of juveniles who were released with a warning from the courts. The use of this comparison group allows the researcher to compare juveniles who are more similar to the treatment group than using a traditional court-ordered comparison group. Youth who are released with a warning are typically first-time offenders with less serious forms of crime, similar to youth in restorative justice programs.

The comparison of the two diversionary-based groups may indicate if restorative justice programs are net widening youth into the programs and causing harm or if they are more beneficial to youth than the system doing nothing (i.e., releasing youth with a warning). Findings of this study will be beneficial for juvenile court, restorative justice programs, youth court, and diversionary programs in general. This study may help improve restorative justice programs and juvenile courts by creating a profile of juveniles who need more attention and focus. It will determine if the risks and needs of juveniles are matched to the restorative justice programs. The profile will show which juveniles are being targeted properly for restorative justice programs and which juveniles do not benefit from the process. It will also indicate which juveniles may need more intervention from the courts, such as being referred to restorative justice programs, instead of only being released with a warning. From these results, restorative justice programs may be able to develop a program that aims to address the needs of juveniles who have shown no benefits from restorative justice. The profile of juveniles may make restorative justice agencies question if youth who do not benefit from the programs should be placed in restorative justice processes.

## **LITERATURE REVIEW**

Restorative programs have their roots in a balanced restorative approach. The philosophy behind a balanced approach to restorative justice focuses on three goals: offender accountability, offender competency development, and community protection (McCold, 2004; White, 2003). Restorative justice focuses on community responses to crime. White (2003) notes that the general contours of a restorative community justice model are based upon four themes. The themes include an emphasis on social inclusion involving the victim, offender, and potential offenders, using responsive practices based upon communal objectives, forming communities of support, and enhancing resources of the community (White, 2003). These themes are delivered through community-themed restitution such as community service or in terms of offender development (e.g., the completion of a life skills class). Both of these activities help the offender reintegrate back into the community through the use of its resources. McCold (2004) argues that restorative justice makes offenders not only obligated to their victim(s) but also to the community. The philosophy of restorative justice can be seen as a benefit due to its cost-effectiveness and engaging active agencies, the victim, and the community (White, 2003).

The current study was developed around the restorative justice program of a Midwestern nonprofit agency. The agency provides diversionary-type programs to unruly youth and accepts referrals from parents, schools, juvenile services, and the court (Lutheran Social Services, 2013). The programs offered are based on the philosophy of restorative justice and include youth court, victim empathy seminars, accountability conferences, community circles, and school programs (Lutheran Social Services, 2013). The agency's mission has an emphasis on restorative justice by seeking to develop close relationships between individuals and the community (Lutheran Social Services, 2013). They focus on internal and external partnerships to help provide resources to

their clients. The partnerships are developed to engage clients with members of their surrounding community for support and reintegration. The agency's mission is to manage conflict by using trained facilitators to focus on repairing harm and creating safer communities (Lutheran Social Services, 2013). Their programs promote accountability and mending human relationships, rather than focusing on legal violations (Lutheran Social Services, 2013).

In order to participate in a restorative justice program, juveniles must admit guilt or take responsibility for the crime. Youth are predominately referred from juvenile court, law enforcement, or the schools (Arrigot & Schehr, 1998; Bazemore & Umbreit, 2001). Juveniles considered for the program are typically between the ages of eight and seventeen. Restorative justice is generally reserved for juveniles with less serious offenses or for those with a less extensive criminal background. Restorative justice facilitators will meet with offenders and victims separately prior to the conference to determine if the youth are appropriate for the programs. Although some juveniles may be sanctioned to a restorative justice program post-conviction, restorative justice is thought of as a diversionary-type practice because it avoids negatively labeling youth by way of the court systems. Youth who complete the restorative justice programs have no formal record of the adjudication. Youth who do not complete the program or restitution agreement are referred back to juvenile court or the prior agency.

After admitting guilt, the youth are screened to determine which program best meets their needs. If the victim wishes to participate in the program, most youth are placed in accountability conferences, circle sentencing, or family group sentencing to discuss their crimes in a face-to-face meeting with their victim. If the victim declines to participate in the program, the juvenile may be referred to the other restorative justice programs that focus on identifying empathy for the victim without his/her attendance.

In this research study, the restorative justice programs that are evaluated are youth court, victim empathy seminars, and accountability conferences. Although restorative justice is most known for the accountability conference, youth court and victim empathy seminars are growing steadily as diversionary tactics for juveniles.

Many studies that look at restorative justice and court comparison groups have found that the restorative justice youth tend to do better in regard to completion of the program, recidivism, following through with their repayment agreements, and in restoring the victim (Latimer et al., 2005; Schneider, 1986). There is a belief that once a youth goes through the court process, the youth is labeled as deviant and this label leads that youth to future delinquency (Forgays & DeMilio, 2005). Unlike the courts, the core principle of restorative justice is to eliminate or avoid labeling and to help the offender reintegrate back into his/her community while reducing future criminal behaviors. Restorative justice, as the diversionary model, seeks to do this by giving youth who complete their programs no formal record of the criminal offense. Those youth who do not complete their sentence or do not accept the sentence plan may be referred back to the referring agency.

Research support has been extended to restorative justice processes due to more positive outcomes than the traditional court systems. Restorative justice processes have shown less recidivism, more satisfaction (self-rated by offenders, victims, and parents), and a higher rate of completion of the sentence than court processing (de Beus & Rodriguez, 2007; Hayes, McGee, & Cerruto, 2011; McGarrell, 2001; Rodriguez, 2007). One of the limitations of these studies however, is identifying a proper comparison group. Traditional comparison groups for restorative justice studies are juveniles who go through the court system. There is an argument that these juveniles have different characteristics and experience a different court process than

restorative justice juveniles. Using other diversionary-type program youth for comparison groups may be inappropriate as well because of the different approaches in these programs. Other diversion programs may involve community stakeholders, community restorative boards, professionals, wider circles of participants, or church-themed programs.

Minor, Hartmann, and Terry (1997) found that the younger the offender, the more likely the youth was diverted from juvenile court, even though a higher proportion of younger offenders were initially referred to the courts. They found no relationship between the type of offense that was being referred and the likelihood of recidivism between youth who were diverted and youth who were petitioned. Younger juveniles were more likely to be diverted in the first two court actions and were found to have higher probabilities of recidivism than older juvenile offenders (Minor et al., 1997). Court actions were shown to be small determinants of whether or not a youth reoffended in a study conducted by Minor et al. (1997). The authors showed that the most common outcome of court decisions for referred youth was diversion, even if youth were referred for the fifth time. Most diversions included releasing the youth with a warning (Minor et al., 1997). Their data showed that youth who were diverted from their first court referral were not significantly more likely to recidivate when compared to those who were petitioned.

Luke and Lind (2002) used data from New South Wales to compare youth who participated in conferences versus youth who attended court. Findings showed that youth who participated in conferences had a reduction of up to 15-20 percent in reoffending. Their study also showed that the reduction was consistent across different offense types, gender, varying criminal histories, age, and Aboriginality of the offender (Luke & Lind, 2002).

Studies that have compared juveniles who go through the court process with restorative justice youth have shown that restorative justice youth are likely to have significantly higher levels of satisfaction (de Beus & Rodriguez, 2007; Hayes et al., 2011; McGarrell, 2001; Rodriguez, 2007); lower recidivism rates (Latimer et al., 2005; Schneider, 1986); and are less likely to experience later police contact and exhibit less serious later behavior (Bergseth & Bouffard, 2007). Offenders, victims, and parents tend to be more satisfied with the restorative justice processes than those who go through the court processes, and would recommend the conference to someone they knew (Arthur, 2004; Latimer et al., 2005; McGarrell, 2001). Although satisfaction has been measured a variety of ways, most results show that satisfaction is consistent across age of offenders, offense type, and gender (Latimer et al., 2005).

Youth in restorative justice programs also tend to have higher completion rates of both their program and their restitution agreements (de Beus & Rodriguez, 2007; Latimer et al., 2005). Hayes and Daly (2003) found that youth who showed remorse at the conferences had odds of reoffending reduced by about a third versus those who did not show remorse. Rodriguez (2007) found that youth in restorative justice programs with zero or one prior offense had lower probabilities of reoffending than similar juveniles in a nonrestorative comparison group.

Offender completion of the restitution agreement may be a result of family involvement and community reintegration (Braithwaite, 2007). Since family and close friends are regulators of behavior, an offender may be more likely to complete the restitution agreement (Braithwaite, 2007). Offenders are more likely to fulfill these agreements since they are able to participate in creating the plan and the people they care about are present and watch them sign the contract (Paye, 1999). If offenders are involved in their sentencing plan, they are more likely to follow through with it if they agree with the conditions (Paye, 1999). Victims may also be more willing

to forgive offenders when they realize that the offenders' family members are willing to support their youth and take responsibility in the conferences (Paye, 1999).

Offenders report that when they meet their victims, they can put a face to their crime and are able to associate the harm they caused with the crime (Hayes et al., 2011; Walgrave & Aertsen, 1996). They may feel remorseful and may be more likely to follow through with the restitution agreement after speaking with their victims (Kim & Gerber, 2012).

Another principal difference between traditional court process and restorative justice is guilt admission. Generally the courts deal with adjudication and sanctioning whereas restorative justice does not question whether or not a crime occurred but only to repair it (Wemmers & Cyr, 2005). In order to participate in restorative justice programs youth must admit guilt or take responsibility for their action. For the courtroom, however, if youth were to admit guilt they would likely be convicted and given a criminal record. Most defense attorneys persuade their offenders not to say anything during trial, especially not to apologize to the victim for the crime because this could possibly result in a guilty conviction (Wemmers & Cyr, 2005). Restorative justice programs urge offenders to issue an apology to their victims and take responsibility for the crime.

Robinson and Shapland (2008) argue that juveniles who admit guilt and accept responsibility in the restorative justice process may be different from youth who do not admit guilt or accept responsibility in the court process. In terms of recidivism, the argument is that those accepting their behavior may already be thinking about desistance from crime (Hayes & Daly, 2003; Robinson & Shapland, 2008). This cognitive process may lower recidivism rates if participants are considering desisting from crime before participation in restorative justice programs.



Another difference between the traditional court process and restorative justice exists in the role of the victim. In the courtroom, victims' voices are often not heard (Dzur & Wertheimer, 2002). Often in juvenile court, victims are not involved and are not given any information regarding the case (Rossner, 2011). During court, Dzur and Wertheimer (2002) argue that offenders are so preoccupied with their own legal situations that they are rarely encouraged to see the real human costs of their criminal behavior. Restorative justice on the other hand views crime as harm against human relationships and the community. Restorative justice makes *victims* the center of the process and involves them at every stage. Without the victim being willing to participate in the process, many restorative justice programs would not be truly restorative. In court, the prosecutor has the goal of proving guilt, while the judge seeks justice for the state and offender, and issues a sentence. Restorative justice seeks to repair the harm through work with both victim and offender (Bazemore & Umbreit, 1995; Bazemore & Umbreit, 2001; Wemmers & Cyr, 2005).

Some victims state that they attend the conferences to help their offender's rehabilitation (Marshall, 1999). They hope that their attendance helps the offender avoid future criminal behavior. Although the general public may see victim attendance as vengeful or as a security to achieve restitution, most victims state that they prefer an apology or an explanation of the crime over material restitution. Victims are relieved to hear the explanation of the crime to realize that their offender did not target them because of some specific characteristic, but rather that their victimization was random (Pemberton, Winkel, & Groenhuijsen, 2008). This explanation allows the victim's fearfulness of the offender and fear of being re-victimized to decrease. Victims who perceive apologies as sincere or genuine are more willing to forgive their offender than if they perceive the apology to be forced or insincere. A sincere apology is also beneficial to offenders

as studies have found that youth who were observed to be remorseful were less likely to reoffend (Hayes & Daly, 2003; Strang & Sherman, 2003).

Victims in restorative justice conferences stated that the conferences helped them put the victimization behind them (Strang, 2002; Wemmers & Cyr, 2005). It is reasoned that shame is removed from victims when offenders accept responsibility for the crime (Braithwaite & Mugford, 1994). Wemmers and Cyr (2005) state that another factor that helps victims put the victimization behind them is if they feel they are treated fairly throughout the conference.

However, there are victims who feel revictimized by the conference. Some concerns have been raised that poorly trained facilitators may allow the offender to be the focus of attention during the conferences and allow shame to be placed on the victim (Hayes, 2006; Karp, 2001). A second concern is that victims do not prepare themselves for the conference beforehand; they are not ready to forgive or make amends with the offender. The biggest concern is when an offender does not accept responsibility for their actions. It shifts the shame and blame onto the victim and creates a sense of revictimization by the offender (Braithwaite, 2002; Strang, 2002; Wemmers & Cyr, 2005).

One final difference between the courts and restorative justice programs is the concept of net widening. Some fear that restorative programs could result in sanctions imposed on people, particularly youth, who would have "simply been left alone if [restorative] sanctions did not exist" (Walgrave, 1994, p. 348). Restorative justice may widen the net of social control by receiving cases that the formal court-system would not have received, or by imposing sanctions not utilized by the formal justice system (Galaway & Hudson, 1996). In short, offenders who are given sanctions may have been best served by the system simply doing nothing about the crime.

By net widening juveniles into programs, the system may not be preventing future crime but in turn involving offenders in programs that are counterproductive.

In the sections to follow, each program that is being evaluated in the current study will be explained in detail. After the descriptions of the programs, research findings and conclusions on the programs will follow. In conclusion of this section, the criticisms and limitations of restorative justice will be explored.

### **Accountability Conferences**

Accountability conferences, often called victim-offender mediations, are the main focus of the restorative justice philosophy. These conferences involve the face-to-face meeting of offenders with their victim(s) in a neutral setting. In order for inclusion in the program, offenders must take responsibility for their actions and their victim(s) must be willing to allow the offender to make amends. Participation is voluntary for both parties and it is standard for a facilitator to interview each party prior to the conference to verify that both parties qualify. The conferences take place in a neutral environment with a trained mediator present who facilitates the meeting, guides discussion, and keeps conversation on track to establish the goals of the conference. In some face-to-face conferences, the offender and victim are encouraged to invite family members or close friends to support them through the conference; however, in other conferences only the offender, victim, and mediator are present.

The conference usually occurs in a three-phase process (Hayes & Daly, 2003; Paye, 1999). The first phase consists of introductions of the people present and a reading of the crime by a trained mediator. The second phase has a central focus on the roles of the victim and offender. In this phase, the offender and victim speak about the crime. The victim is allowed to voice the harm he/she experienced and ask the offender any questions regarding the crime. The

offender is allowed to give explanations or motivations for the action. In this phase, the offender is encouraged to apologize and to take responsibility for his/her actions through his/her explanation of the crime. The mediator manages dialogue and guides the conversation so that all participants stay on track (Bazemore & Umbreit, 2001). The third phase focuses on involving both parties to create a mutual agreement for repair of the harm. Victims seek apologies and will sometimes avoid and divert discussion of restitution until the offenders have taken responsibility for the crime (Strang et al, 2006). If the offenders do not agree with the mediation plan, they have the option not to sign the agreement and potentially be referred back to the prior agency (i.e., court). Typically, offenders sign the mediation plan as a commitment to fulfill the task and the plan is treated like a repayment contract between the victim and offender. During phase three, the facilitator may also discuss future consequences if the offender does not resist from criminal behavior (Daly & Hayes, 2001). If the offender does not agree to the mediation plan or does not complete it, the offender is referred back to the courts for a formal process of his/her case.

**Research findings.** Research has shown that accountability conferences can help offenders by realizing the human harm they have caused and the conferences help victims by coming to terms with the crime, which allows them to put the victimization and fear behind them (Umbreit, 1998; Wemmers & Cyr, 2005). The majority of victims in the Wemmers and Cyr's (2005) study felt that their participation in the program helped them move on from the crime, particularly if they felt they were treated fairly. Two out of 59 participants stated that they felt worse after the conference because their offenders did not take responsibility for the crime (Wemmers & Cyr, 2005).

Studies have largely concluded that accountability conferences have high rates of satisfaction, fairness, and completed mediation plans, along with reduced recidivism (Bradshaw, Roseborough, & Umbreit, 2006; Umbreit, 1998). However, Nugent, Williams, and Umbreit (2004) caution that youth who participate in victim-offender mediations with a prior record may not have a lower likelihood of new contacts with law enforcement. They state that their results suggest a relationship between conference participation and reduced recidivism, and that there was no evidence that participation increased deviant behavior. Deviant behavior was measured as any official contact with a law enforcement agency, any subsequent court contact, or any record of a rearrest (Nugent et al., 2004).

Nugent, Umbreit, Wiinamaki, and Paddock (2001) used four studies to evaluate participation in victim-offender mediation and recidivism. They combined the samples of the four studies and found that youth who participated in victim-offender mediation reoffended at a rate 32% lower than nonparticipants. Their results suggest that youth who participate in victim-offender mediation have significant reductions in delinquent behavior.

In their widely popular research study, Umbreit and Coates (1993) used a cross-site analysis to evaluate victim-offender mediation programs. Their results support the notion that victims are more concerned about helping the offender than they are about receiving restitution. They note, however, that the victims who had their expectations raised by court-ordered restitution and then never received it were subject to experience a second victimization (Umbreit & Coates, 1993). If an offender does not take full responsibility or does not complete his/her restitution, victims have a harder time putting the crime behind them. Some may feel vulnerable or taken advantage of a second time by the offender when the results of the program or restitution are not what they expect (Umbreit & Coates, 1993).

Similar to victims being concerned about offenders, six out of ten offenders indicated that they cared what the victim thought about them and nine out of ten offenders believed that the program would be helpful to create mediation between the victim and themselves (Umbreit & Coates, 1993). For satisfaction rates, nine out of ten victims and offenders were satisfied with the outcomes of the program (Umbreit & Coates, 1993). Eighty-nine percent of offenders said they experienced fairness and 83% of victims agreed compared to 78% of offenders experiencing satisfaction in the nonreferral group (Umbreit & Coates, 1993). Youth who completed the victim-offender mediation programs have committed fewer additional crimes within a 1 year period follow-up (18%) than the court-administered restitution program (27%) (Umbreit & Coates, 1993). The victim-offender mediation youth were also less likely to commit more serious crimes than the youth who were referred to a mediation program. These youth were also more likely to complete their restitution obligations (81%) than the comparison group (58%). With prior research questioning voluntariness of restorative justice programs, Umbreit and Coates (1993) study showed that 81% of youth in the victim-offender mediation programs viewed their participation voluntary and 91% of victims viewed it as a voluntary choice.

**Conclusion on accountability conferences.** Accountability conferences are considered to be most representative of the restorative justice philosophy since the roots of the program are embedded in Braithwaite's reintegrative shaming theory. The central focus and involvement of victims in the conferences is the main principle underlying restorative justice programs.

Repairing the harm caused by the crime is foremost in accountability conferences.

Offender reintegration is only possible if the offender accepts responsibility and is willing to create an agreement for mediation with the victim. When an offender accepts responsibility and apologizes for the crime, it is suggested that the shame of the crime is then lifted from the

victim and the victims will be more likely to put the incident behind them (Umbreit, 1998; Wemmers & Cyr, 2005).

Overall juvenile offenders who complete accountability conferences have been shown to have reduced recidivism and higher rates of mediation completion (Bradshaw et al., 2006; Nugent et al, 2001; Umbreit & Coates, 1993; Umbreit, 1998). Both offenders and victims of accountability conferences have higher satisfaction rates than those who go through the court process (Umbreit & Coates, 1993; Wemmers & Cyr, 2005). However, there are arguments that these programs may be best when reserved for first-time offenders (Nugent et al., 2004). Also, if an offender did not accept responsibility or complete their mediation plan, victims may feel like they are victimized a second time by the offender (Umbreit & Coates, 1993).

Accountability conferences may be the link that juvenile offenders need to realize the human consequences their harm has. The research for this program shows reduced recidivism, higher completion rates of mediation plans, and higher rates of perceived fairness (Bradshaw et al., 2006; Nugent et al, 2001; Umbreit & Coates, 1993; Umbreit, 1998). Accountability conferences also hold some positive aspects for victims such as receiving an apology and in some cases restitution, as well as higher satisfaction rates than victims who go through the court process (Umbreit & Coates, 1993; Umbreit, 1998; Wemmers & Cyr, 2005). Accountability conferences may be a beneficial alternative to court processes for both offenders and victims, if they are willing to participate and cooperate in creating a mediation plan together in order to repair harm.

## **Youth Courts**

Youth can be referred to youth court as a diversionary procedure. Youth court is peer based, as the agents and targets of change are juveniles. Juveniles sit in judgment of their peers

as jurors to decide cases involving a youthful defendant who has been accused of breaking the law or school rules (Acker, Hendrix, Hogan, & Kordzek, 2001). Some youth courts accept offenders who admit guilt and others allow not guilty pleas; both types of youth courts determine guilt and impose sentences (Acker et al., 2001). Youth courts are thought to make juveniles more responsible and law-abiding by being exposed to legal norms and an expectation of conformity from their peers. Acker et al. (2001) argue that youth courts capitalize on peer influence to make an impression on offenders to take responsibility for their actions and to prevent future delinquency. Youth imposing sanctions on their peers may make the juvenile more likely to fulfill the sentence requirements and see laws as more legitimate.

Many sanctions in youth court are directed towards building healthy relationships, creating self-esteem, and allowing offenders the chance to develop life or work skills (Acker et al., 2001; Bala, Carrington, & Roberts, 2009; Stickle, Connell, Wilson, & Gottfredson, 2008). For example, sanctions can include community service, classes focusing on the individual's issues such as anger management or alcohol and drug use education and prevention, training programs, restitution, or even serving as a youth court jury member (Acker et al., 2001).

Stickle et al. (2008) argue that Braithwaite's reintegrative shaming theory is supported in youth court by bringing youth before their peers to receive sanctions instead of isolating and labeling the youth. In hopes to reintegrate the offender into their peer group, some youth courts use jury duty as part of their sentencing. Stickle et al. (2008) argue that if a youth feels labeled by youth court, they are able to disassociate from the label when they return as a jury member. This process is seen as an integrative way of returning the youth to the community because they associate with conventional peer groups when they serve as a jury member.



Youth court uses the principles of a balanced restorative justice approach by diverting youth from the traditional court process for relatively minor cases. Youth are then not subject to net widening or criminal labeling by the traditional courts (Acker al., 2001; Stickle al., 2008). Although some critics argue that youth in youth court may plead guilty, even if they are innocent, rather than risk a criminal record in traditional court if they are found guilty by the courts (Acker al., 2001). Youth court saves traditional courts time and money by referring youth to youth court (Bala et al., 2009).

Many youth courts are victim oriented if victims wish to be involved. Youth courts try to ensure that the victim is involved in the process and restored in both material and emotional restoration (Acker al., 2001). Some sanctions may involve direct restoration to victims such as an apology and restitution.

Youth court has four models that are used throughout the nation. The most widely used is the adult judge model which relies on an adult volunteer to rule on courtroom procedures with youth agents (Acker al., 2001). The second model is the peer jury model which involves the reading of the case to a youth jury and the jury members directly question the youth defendant (Acker al., 2001). The last two models are the youth judge model and the youth tribunal model. The youth judge model has a youth judge preside over the case with youth agents of the court (Acker et al., 2001). The youth tribunal model does not use a jury but instead has a panel of youth judges, usually three, or a single judge deciding the case and sentencing (Acker al., 2001).

The model of youth court that is used in the evaluated program is the youth judge model<sup>1</sup>. The judge, clerk of courts, bailiff, and jury members consist of the youth's peer group. An adult facilitator is in the room to help guide the discussion and direct sanctioning decisions. Parents of

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<sup>1</sup> On October 5<sup>th</sup>, 2013 the researcher observed the youth court that is being evaluated in this research project. The researcher attended three hearings to understand the process of youth court more clearly. No data were collected from this observation.

the juvenile are invited to sit next to their child during the hearing and are often asked questions by the jury members. In most cases there are between three to six peers who participate as part of youth court, some of whom are juveniles who had jury duty as part of their sanctioning. After hearing the youth's side of the story and answering questions from their peers, the jury takes a recess to discuss the sanctioning terms. The youth court members then vote on which sanction they would like to see the youth fulfill and within what type of time frame it needs to be completed. Once they are in agreement of the sanctioning, they call the youth and his/her parent(s) back into the room for a reading of the decision. If the youth agrees to perform the decided sanction, they then sign a contract, along with their parents, to complete the sanction. If there are no further questions, the youth and parent(s) are dismissed. After their sanctioning has been completed, the youth meets with the facilitator one last time for an exit hearing.

Youth court administrators attempt to ensure that the youth who volunteer are eligible and capable of presiding over cases through training and meetings. Most recruitment for voluntary participation is through schools or the community. Youth take confidentiality pledges to protect the privacy of participants; these efforts coincide with the principles of labeling theory which caution against publicly defining youth as criminal (Acker al., 2001).

The number of jurors present for a given case in youth court can vary depending on the number of volunteers that are available. As for deliberation of the jurors, many youth courts allow the jury to deliberate but with an adult volunteer or the youth court administer present to answer questions or provide guidance (Acker al., 2001).

Noncompliance or failure to complete sanction requirements may result in returning the offender to the original referring agency. Some youth courts allow, however, juveniles a second and even a third try under certain circumstances to complete their sentence requirements (Acker

al., 2001). Many authors caution that youth court should not be thought of as an easy substitute for the juvenile justice system because youth are being held accountable for their actions by their peers (Acker al., 2001; Bala et al., 2009).

**Research findings.** Norris, Twill, and Kim (2011) found that youth court participants, when compared to regular diversion participants, showed no significant differences in any types of reoffending. They found, however, that program completers were half as likely to recidivate as noncompleters of the programs. Their data showed that younger offenders were more likely to have a shorter survival time (amount of time until the next offense occurs) than older offenders. They noted that a nearly 21% reduction in reoffending occurs when there is an increase of 1 year of age at intake. Girls were more likely to have a longer survival period when compared to the boys in the sample. Norris et al. (2011) note that for the full sample, if there was an increase in the number of sanctions assigned to juveniles, they were likely to reoffend sooner than youth who were given fewer sanctions. This effect disappeared when the noncompleters were removed from the analysis, which suggests that youth may drop out or reoffend if they have increasing sanctions (Norris et al., 2011). Norris et al. (2011) interpret their results to suggest that youth court should be reserved for older youth who are likely to desist from crime longer.

Rasmussen (2004) used proportional hazards regression in his study of the relative risk of youth courts. Findings revealed that 12% of youth who went through youth courts recidivated after 1 year and 19% after 2 years. Rasmussen (2004) showed a steady increase of recidivism for youth court participants for up to 4 years after sentence completion. The data showed that increased risk is associated with younger age and more community service, slower processing, and referral from the state's attorney's office (Rasmussen, 2004). Recidivism was lower for youth who waited shorter periods of time between referral and their case hearing in youth court.

The findings showed that youth who were assigned 0 to 10 hours of community service had the lowest risk of reoffending. This finding suggests that the jury assigns the minimum sentence to the offenders who are least likely to recidivate (Rasmussen, 2004). Rasmussen's post-hoc findings showed that police referrals, judged as the lowest risk by the peer jury, are rearrested at disproportionate rates compared to those given the minimum referred by municipal and state's attorneys, which may point to net widening (2004). These youth have shown to be judged as low risk through referrals and by the peer jury, but they reoffend at relatively high rates. Rasmussen makes an argument that younger offenders have a "greater window of opportunity" (p. 630) to reoffend. Young offenders who get into trouble at an early age have more years to continue offending, and because they got into trouble at a young age they are under surveillance longer. These factors may hint to serious pathology or an aging into criminal behavior (Rasmussen, 2004).

Forgays and DeMilio (2005) compared youth court offenders with at least one prior offense with first-time Court Diversion offenders to see if youth court is more effective with more experienced offenders. The offenders who went through youth court with prior offenses recidivated at lower rates at 6 months post-court-appearance and their sentence completion rates were higher. Forgays and DeMilio (2005) argue that youth court, drawing from the restorative justice approach, gives offenders the opportunity to enhance their sense of self-worth and serve in a responsible role as a form of reengagement and responsibility rather than punishment. Forgays and DeMilio conclude that youth court offenders worked with peers on common tasks and the offenders found that their opinion is valued (2005). The authors argue offenders are given a chance to fulfill the juror role without stigma since the other jurors don't know about the youth's previous crime.

Forgay (2008) used the outcomes across three years of repeat offenders in youth courts compared to first-time court diversion offenders. Although both groups had comparable completion rates, youth court offenders had lower recidivism rates (25%) compared to the court diversion youth (80%). Forgay notes that when offenders were asked about their experience in youth court, the offenders had positive comments and the majority would recommend the process to others (2008).

A limited study by Hissong (1991) used a matched sample to evaluate the effectiveness of youth courts, finding that youth court is more effective for white males, the largest group of youth court clients. Results showed that the first year after completion, youth court participants were less likely to recidivate than the comparison sample. The effect changed after 1 year in which youth court participants were more likely to recidivate. It should be noted, however, that the follow-up procedure is faulty because the records used to document recidivism were only collected within one city.

Stickle et al. (2008) studied the effectiveness of four youth courts in Maryland. They found that 85% of participants completed the process and their assigned sanctions. The outcome showed that youth court participants had less favorable outcomes than the youth who were processed in the Department of Juvenile Services. Youth court participants self-reported significantly more delinquent behavior following their experience than youth completing the Department of Juvenile Services program (Stickle et al., 2008). Because of the increased delinquent behavior in their study, the authors suggest that research supporting restorative justice, diversion, and labeling can explain as much of why youth court should work as well as why it does not work. They argue that programs may not be effective at targeting minor offenses or that the stigmatization of the programs are not successful at the lower end of offending. One

possibility is that the embarrassment of going before one's peers for judgment may create successful shaming rather than successful reintegration. Stickle et al. (2008) argue that perhaps little or no action by the Department of Juvenile Services is more fitting for minor first-time offenders instead of the review of the offense in front of peers.

**Conclusion on youth courts.** Youth court is traditionally thought of as a group effort for youth to help reintegrate an estranged youth who has engaged in criminal behavior. Youth court allows youth to be judged by their peers, creating a more comfortable setting for youth compared to the adult-dominated juvenile court process. The youth who go through youth court may cope easier with labeling and stigmatization that comes from a peer group with whom they can more readily identify with. Stickle et al. (2008) argue that youth can feel reaccepted and reintegrated into the group by serving a part of their sentencing as a member of the youth court jury. Major results in the research show substantial positive effects in terms of reducing recidivism and completion rates for youth who go through youth court than compared to youth who went through the court process (Forgay, 2008; Hissong, 1991). However, many studies have shown that youth who complete youth court fare similarly or worse than those who go through the regular court process (Norris et al., 2011; Rasmussen, 2004). Since research results are mixed, one cannot conclusively say whether or not youth court is a good diversion tactic for juveniles. More research is needed on youth courts, especially in terms of comparing first-time offenders with second-time offenders, young and older youth offenders, and survival periods (Forgays & DeMilio, 2005; Norris et al., 2011; Rasmussen, 2004; Stickle et al, 2008) to get an appropriate idea of which youth are best suited for this diversion program.

## **Victim Empathy Seminars**

Victim empathy seminars are extensions of restorative justice in that they seek to teach offenders the human consequences of crime. These seminars are targeted for offenders whose victims do not wish to attend a restorative justice conference for whatever reason or when a victim may not be identified (e.g. a vandalized community park). Victim empathy seminars focus on the offender's restorative process of the crime by having youth identify the harm from the victim's perspective. Realizing the social harm that they have caused helps the offenders start the reintegration process to be accepted back into the community. The seminars are laid out as a group class where offenders learn how their actions have impacted their victim(s), their family, and the community. The seminars are designed to teach offenders to realize the harm they have done and to accept responsibility for their actions. The seminars try to show offenders ways in which to respond to their victim, how to develop proactive ways to avoid criminal behavior, and how they can make contributions to their community. During the class, offenders are encouraged to accept responsibility for their actions and the harm they caused to the victim(s). Upon completion of the class, offenders write apology letters to their victims, recognizing the harm they have done. The seminars hope to build linkages between criminal and juvenile justice agencies (Jackson, 2009).

The process of the victim empathy seminar for the evaluated program is as follows. The youth are required to pay a fee to attend the four-hour seminar. The seminar is held and completed in all one night. Parents are required to attend alongside their youth. At the conclusion of the seminar, the youth are required to write an apology letter, which can be addressed to their direct victim or just a general apology with no identified victim.

**Research findings.** Although there is limited research on victim empathy seminars, strong support is given to the training of offenders in developing empathy for their victims as a tool to reduce recidivism. Umbreit, Coates, and Vos (2002) found that offenders who participated in victim panels had significantly lower recidivism rates than offenders who did not participate in victim panels. Rodriguez (2005) also found lower recidivism rates among offenders who participated in restorative justice programs and that for program placement, individual and community characteristics were important predictors.

Jackson (2009) found that offenders who experience a greater level of shame after participating in victim empathy seminars are less likely to develop reparative behavioral strategies. Offenders who experience more guilt after completion of the program are more empathetic (Jackson, 2009). Jackson (2009) argues that the results suggest guilt is important for empathy among offenders. He states that research shows that individuals who are guilt-prone are likely to want to repair the harm of their crime. Jackson (2009) found a strong relationship with gender and program types; characteristics of being female and attending longer programs act as moderators between positive emotional responses among offenders.

**Conclusion on victim empathy seminars.** It is argued that victim empathy seminars are ideal for juveniles because it helps them process their crime and evaluate the real social harm that results from their actions. Victim empathy seminars have shown to increase feelings of guilt and empathy in offenders for their victims (Jackson, 2009), which is a large step for offenders in the process of reintegrating back into the community. These feelings have been shown to be beneficial in lowering recidivism rates in offenders (Jackson, 2009; Umbreit et al., 2002) as well as creating an awareness of the harm. As mentioned above, Jackson (2009) states that youth who



recognize and take responsibility for the harm of their crime are likely more motivated to repair that harm.

Victim empathy seminars, although in need of more research, have shown to be ideal in teaching youth about accepting responsibility and repairing the social harms of crime. The seminars give youth alternative choices of behavior to avoid future criminal behavior. Jackson (2009) suggests that longer programs may be more beneficial in eliciting positive emotional responses from youth, although more research is needed to support this claim.

### **Critiques of Restorative Justice**

Studies have shown that restorative justice programs have either significantly reduced recidivism, restorative justice programs do as well as the comparison groups, or that restorative justice has worse outcomes than the alternative strategies (Rossner, 2011). Although few, some research studies show youth who go through restorative justice programs have worse outcomes than those who go through the court processes (i.e., Rasmussen, 2004; Stickle al., 2008). Other studies have shown that youth in restorative justice programs have similar or consistent outcomes with court-processed youth (i.e., Minor et al., 1997; Norris et al., 2011).

Whatever the argument is for restorative justice, there are several criticisms that remain to be explored by researchers. For example, the true definition of restorative justice is abstractly defined in practice (Daly & Hayes, 2001; Friday, 2003; Karp, 2001). Friday (2003) points out that terms in research used to describe the philosophy of restorative justice are interchangeable, even if they have no common meaning. Most studies give a definition of what restorative justice aspect they are using to evaluate their research, all with varying characteristics.

One of the strongest arguments against restorative justice is the concept of whether or not the processes are fully voluntary. Most of the arguments circulate around the idea of making

youth claim guilt or responsibility in order for them not to receive a criminal conviction. If youth partake in the program, accept responsibility, and follow through with the restitution agreement, youth for the most part can be disassociated with the crime. Critics of restorative justice are concerned that youth who are innocent are entering restorative justice programs and taking responsibility for the crimes to pass by a potential guilty conviction if they had gone to court (Hayes 2006; Zernova, 2007). Zernova's (2007) study showed that in the sample of 13 juvenile offenders, half thought they had to participate in the conference, one fourth thought participation was optional, and others felt participation was accompanied with informal pressure. As a result, restorative justice may net widen youth into these programs (Braithwaite, 2002; Roach, 2000).

Another criticism of restorative justice, related to parental involvement, is a concern that they are too involved. When parents participate in the program as support of either the offender or the victim, the youth may feel that their conference is dominated by adults (Gal & Moyal, 2011). Parental involvement may include parents deciding the outcomes for their children, parents apologizing to the conference participants for their child's actions, or parents feeling like they have to defend their parenting skills (Cook, 2006; Gal & Moyal, 2011; Prichard, 2002). Prichard (2002) makes an argument that Braithwaite fails to mention parental feelings in his theory of conferences, stating that parental involvement in conferences may dominate youth's involvement and reintegration back into the community.

In relation to program domination, Hayes (2006) has pointed out that participants in conferences may feel pressured by the mediator to move things along. In the conference, there is usually a pause after both the offender and the victim explain the crime, which is used as an opportunity for the youth to offer an apology to the victim. Youth may feel pressured or rushed to apologize to the victim; some youth even apologize before the conference even begins its first

steps. Victims may wish to hear the apology at the end after they have heard the explanation of the crime from the offender; otherwise a victim may not judge the apology as genuine or sincere. Having a specific spot for an apology may rush or force an unempathetic apology from the offender (Hayes, 2006).

Victim involvement is part of the core principles of many restorative justice programs. However, arguments exist that restorative justice is not victim centered but instead offender centered because of a focus on rehabilitating the offender (Richards, 2009; Zernova, 2007). Restorative justice programs seek to reduce recidivism and to help reintegrate the offender back into society. Restitution plans and agreements encompass how the offender can be welcomed back into the community while being taught a lesson about their crime. Many restorative justice studies focus on the offender in terms of recidivism; there are few studies on the consequences or outcomes for victims' participation. Braithwaite fails to make an argument as to why restorative justice should be expected to provide benefits to victims (Strang et al., 2006). This focus on the offender distracts the main principles of restorative justice- restoring the harm done to the victim.

A final criticism of restorative justice includes the outcome of mediation plans. Many youth are assigned community service as restitution to the victim. Schiff (1998) criticizes community service as not being related to program objectives. The argument is that community service does not connect to restoring the victim or reintegrating the offender. Community service fails to link harm to repair for the victim (Karp, 2001). Victims are not restored because their offender puts in a determined amount of hours to the local community. Community service may be assigned to youth because of personal preferences of the conference participants or the convenience of community service (Karp, 2001). When community service is directly linked to the victim, then victims are satisfied with the restitution agreement. An example of a victim

linked restitution agreement could be youth helping repair a garage door that they ran into (Umbreit & Coates, 1993).

A main limitation of restorative justice research is the struggle of defining and measuring satisfaction (Schiff, 1998). Many studies use different comparison groups, resulting in different variants of satisfaction from one study to the next (Schiff, 1998). Another issue with comparison groups is that restorative justice programs are voluntary, which creates a selection bias for that group (Rodriguez, 2007; Schiff, 1998). Using youth who go through the court system may not be applicable to compare restorative justice youth with since the courts are not diversionary based.

Not all restorative justice programs or outcomes of the programs are similar. It is difficult to compare programs based on different procedures but also difficult to compare based on victims. These difficulties create problematic interpretations and limitations for many studies. Programs may have different outcomes due to victims being present, wanting to participate, or participating in hopes to help rehabilitate the offender. Certainly face-to-face offender and victim conferences are different from conferences that do not involve the victim. In the cases where the victim does not want to be involved, it could be explained by numerous factors such as the victim being afraid of the offender; the victim does not find the conference worthwhile because the crime is not worth the hassle; the victim wanting to forget about the crime; or the victim wanting to handle the crime and the outcome him/herself. One must also consider which victims are appropriate and will benefit from the conferences and the victims that will make the program counterproductive for them to attend (Strang et al, 2006).

The studies of restorative justice cannot be considered conclusive since all studies look at different outcome measures. Some studies use levels of satisfaction or fairness as a way to gauge the process of the program for offenders, victims, and parents. Other studies use variables that

measure the outcome of the program such as program completion, mediation fulfillment, and recidivism. Because of the different outcome measures and how variables are defined, restorative justice research is hard to compare if studies vary on their operations.

### **The Current Study**

To address some of the previously mentioned concerns of restorative justice, this research improves upon the existing literature by evaluating the impact of one restorative justice agency (which includes youth court, victim empathy seminar, and accountability conferences) on recidivism. The present research uses a comparison group comprised of released with warning youth to determine whether restorative justice programs are more effective than releasing youth from the courts with a warning.

The decision to divert youth to restorative justice programs is based on a judgment made by a single court officer. The same court officer also determines which youth will be released with a warning. This decision is made based upon the police report and consideration of age, criminal history, type of offense, dollar amount if it is a property offense, and cooperation by the juvenile and parents with law enforcement. Statements from parents are also considered. If the court officer feels as though parents enable their child, the youth will be referred to the court system. If the court officer feels as though the parent has adequately addressed the problem at home then the youth may be referred to programs or released with a warning. Some youth are released with a warning because they are already involved in other services such as counseling<sup>2</sup>. Before being referred to restorative justice programs, the youth must be considered appropriate for the programs, (i.e. they have an identifiable victim, and they either have a less serious prior record or no record at all).

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<sup>2</sup> The percent of youth already involved in other services was not available in the data.

Youth who are released with a warning from the courts have no further interaction with the court system once this disposition has been issued. Youth who are released with a warning are not considered completely diverted because they do have contact with the court system through the court officer. All youth in the system meet with a court officer during an informal adjustment hearing. The decision to release the youth with a warning is made during the informal adjustment hearing which includes a discussion of the offense and situation with the juvenile and their parent(s).

The effects of youth who are released from the courts with a warning have not been used as a comparison study in restorative justice research. The following chapters present the data set and the measures used in the current study.

### **Research Focus**

The purpose of the present study is threefold: 1) to create a profile of juveniles who reoffend after completing a restorative justice program, 2) to compare reoffending rates of juvenile offenders who go through a restorative justice *diversion* program with a comparison group of statewide juveniles who are released with a warning from the Juvenile Court during the same time period, and 3) to compare reoffending rates of juveniles who complete accountability conferences and meet face-to-face with their victims with the reoffending rates of juveniles who do not meet face-to-face with their victims.

### **Restorative Justice Program Procedures**

To give the readers a thorough understanding of the procedures involved in the LSS restorative justice programs, the researcher has included the program procedures regarding incomplete participation by offenders, victims, and facilitators. If a youth or victim does not appear for the accountability conference, the facilitator will then ask the parties if they want to

try to schedule for another date after hearing the reason for failure to show. If victims do not appear and the offender does not want to reschedule, the juvenile, if appropriate, will usually go through another restorative justice service such as victim empathy seminars. If an offender does not appear, the victim is asked if he/she wish to reschedule; if he/she do not want to reschedule then the offender is referred back to the courts.

If the facilitator who has been working with the case is not able to appear at the accountability conference, a different facilitator may mediate the conference if both parties agree. If there is an agreement to stay with the facilitator who knows the case, the parties reschedule the conference. If youth do not complete requirements of the mediation plan, the victim is asked if he/she wants to give the offender more time to fulfill the plan. If the victim is not in favor of allowing more time, the offender is referred back to the courts.

If a youth court participant does not appear for his/her hearing, the youth is given another chance. If the youth fails to show for a second hearing, he or she is referred back to the courts. In terms of the victim empathy seminar, if a youth refuses to write an apology letter at the conclusion of the seminar, the courts are asked if they consider the youth to have completed the program. If it is judged as an unsuccessful completion of the program, the youth is referred back to juvenile court.

## **METHODOLOGY**

In the fall of 2012, the researcher and her advisor were approached by the Lutheran Social Services (LSS) restorative justice director about the possibility of evaluating several LSS restorative justice programs. A meeting was subsequently convened involving the director of juvenile court and the LSS restorative justice director in order to establish evaluation goals and to coordinate data collection efforts. Juvenile court staff were asked to be involved in this process since the juvenile records are housed on the computers in the juvenile court office. Upon consent among the parties, the researcher sought and received Institutional Review Board approval from North Dakota State University on May 30, 2012.

The data for this study were collected on participants from three restorative justice programs- youth court, victim empathy seminars, and accountability conferences. In order to collect the quantitative data for the experimental and comparison group, the researcher used the same data base for both groups. The variables used in this study were obtained by looking up juvenile records at a juvenile court. The variables are discussed in detail later.

The data set for the comparison group included juveniles who were released with a warning from the East Central Judicial District between the years 2010 and 2011. The identifiers of the treatment group (juveniles who went through a restorative justice program) were provided to the researcher from LSS. The requirement of the treatment group was that they needed to have participated in one of the three restorative justice programs during the years 2010 and 2011.

### **Sample**

Descriptive statistics are displayed in Table 1. The population was composed of 969 total juveniles for 2010 and 2011. The population is comprised of 286 juveniles in the comparison group, who were released with a warning from the courts (29.5%), leaving the remainder 683 of



juveniles who participated in one of three restorative justice programs. In the three particular groups, there were 362 juveniles in victim empathy seminars (34.7%), 234 juveniles in accountability conferences (24.1%), and 87 juveniles in youth court (9.0%).

Table 1

*Sample Characteristics: Comprised Groups of Juveniles*

Group	Frequency	Percent
Comparison Group- Released with Warning	286	39.5
Accountability Conferences	234	24.1
Victim Empathy Seminars	362	37.4
Youth Court	87	9.0
Total	969	100.0

**Participant Data**

Data were collected using the list of names received from the LSS agency for the 683 youth who participated in and completed a restorative justice program from January 1, 2010 to December 31, 2011. Juvenile court provided a list of 286 youth in the East Central Judicial District who were released with a warning during the same time period. Each juvenile record was examined. Demographic information was collected on each participant, including date of birth, gender, race, and ethnicity.

Data were also collected regarding participant criminal history. It was noted whether or not each participant had a referral prior to the offense in which they were referred to restorative justice programs or released with a warning. Variables included the date of offense, type of offense, disposition of offense, and disposition date. Types of offenses were classified into six groups: (see Table 2), public order, substance abuse, property, violent/personal, unruly, or other.

Dates recorded for the restorative justice youth include their referral date from the courts, the date they started their restorative justice program, and the date they were considered successful in completing the program. A termination from a LSS program means that the youth is referred back to the original referring agency, which in this case is juvenile court. The researcher decided not to include terminated youth for this study because these youth may have different characteristics than youth who are completing the programs<sup>3</sup>. The youth completing the programs are considered more like youth who are released with a warning (the comparison group) than the terminated youth because they don't undergo any other court involvement.

The start dates and completion dates for each program were classified differently. The start date for youth court participants is the day of their case hearing before their peers. The completion date for these youth is the day of their exit hearing with the youth court facilitator after they have fulfilled the assigned requirements from their jury peers. Youth who went through the victim empathy seminars, had the same start date and completion date since the four hour seminar is concluded in one day. A youth is considered to have completed the victim empathy seminar if he/she wrote an apology letter at the conclusion of the seminar. The start date for youth who go through the accountability conferences is the first meeting the youth have with the restorative justice facilitator to see if the youth qualify for the conference. The completion date for this group is when the youth has completed and fulfilled all of the requirements of his/her mediation plan. Unlike the victim empathy seminar youth who start and complete their program in the same day, the youth who are in the accountability conferences and youth court have different completion dates depending on how much time is allotted for them to fulfill their mediation agreements and what requirements those agreements entail. Some mediation plans

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<sup>3</sup> Furthermore, the number of juveniles who were terminated from Lutheran Social Services in the years 2010-2011 was not large enough for the researcher to include in the study.

may get a time extension if the offender has not completed their mediation plan by the agreed upon date. This is dependent on whether or not the victim agrees to allow the offender more time to complete the mediation plan.

Recidivism was the outcome measure that LSS was most interested in for the study. Recidivism for the restorative justice youth was defined as any additional new offense that resulted in a sanction that occurred following the initial referral offense date up to December 31, 2012. For the comparison group, recidivism was any additional new offense that resulted in a sanction that occurred after being released with a warning up to December 31, 2012. Cases in which there was a dismissal or the state's attorney declined prosecution were not included in the study. December 31, 2012 was used as a cutoff date to allow for a minimum of one full year to elapse after the participant's program completion date. The offense date, offense type, disposition, and disposition date associated with each additional offense after the referral offense were recorded.

The recidivism study and profile of juveniles will include: recidivism rates (Class B misdemeanor or higher) by gender; recidivism by age; recidivism by race/ethnicity; disposition type; and prior referral.

For the purpose of this research the researcher only recorded the most severe offense. This allowed for a comparison between the severity of the initial offense and recidivist offense. For example if a youth was charged with three counts in the same case, the highest ranking offense (e.g. felony) was the only offense that was recorded for that case. Also, offenses that were tobacco or traffic related such as speeding were not included in the data. However, status offenses and driving without license/insurance were recorded in the data.

Also for simplification purposes, the researcher created three categories in which the juveniles were processed through the court system for their first offense (Table 3). The disposition types are listed under the categories of diversion, released with a warning, and probation.

Table 2

*Types of Juvenile Offenses*

<b>Classifications of Offenses</b>					
<b>Public Order</b>	<b>Substance Use</b>	<b>Property</b>	<b>Personal/Violent</b>	<b>Unruly</b>	<b>Other</b>
Disorderly Conduct-Hindering	Ingestion of Controlled Substance	Unauthorized Use-Motor Vehicle	Simple Assault Aggravated Assault	Ungovernable Behavior	Game & Fish
Fleeing	Delivery of Controlled Substance	Theft	Gross Sexual Imposition	Truancy	Driving without License
Violate Protection Order	MIP/MIC	Shoplifting	Reckless Endangerment	Curfew	Driving without Insurance
Disturbing Public School	DUI	Burglary	Weapons Violation		Leaving Accident Scene
Resisting Arrest	Possession of Controlled Substance	Embezzlement	Murder		
False Information to Law Enforcement	Drug Paraphernalia	Stolen Property	Terrorizing/Menacing		
Escape-Secure Confinement			Robbery		
Obscene Phone Calls					

Table 3

*Disposition Types*

<b>Diversion</b>	<b>NonDiversion</b>	<b>Probation</b>
Case Monitored by Justice Court Officer	Letter to Parent	Informal Adjustment- Probation
Case Monitored by Division of Juvenile Services	Informal Adjustment- Programs	Informal Adjustment- Unsupervised Probation
Case Monitored by Drug Court	Informal Adjustment- Diverted	Formal Probation
Case Monitored by Social Services		Formal Probation Drug Court
Diverted by Court Officer- No Informal Adjustment		
Diverted to Another Agency		

## RESULTS

### Descriptive Statistics

Descriptive statistics were run in order to gain a thorough understanding of the composition of the entire sample (Table 4). Males comprised the majority of the sample, with a total of 651 males (67.2%). Females comprised 32.8% of the sample, with a total of 318 females. The racial composition of the sample was divided into two categories of white and nonwhite. The nonwhite category consisted of Asian, Black, Hispanic, Native American, and Unknown.

Table 4

#### *Characteristics of Sample*

<b>Demographics</b>	<i>n</i>	%	
<i>Gender</i>			
Male	651	67.2	
Female	318	32.8	
<i>Race</i>			
White	725	74.8	
Nonwhite	244	25.2	
<i>Ethnicity</i>			
Non-Hispanic	718	74.1	
Hispanic	40	4.1	
Unknown	211	21.8	
	Mean	Std. Dev	Median
Age at First Offense	13.92	2.070	12

White participants were most representative of the sample at 74.8%, with a total of 725 white juveniles. Nonwhites represented 244 juveniles or 25.2% of the sample. The major ethnicity of the sample was non-Hispanic (74.1%), with a total of 718 juveniles. Juveniles whose ethnicity was unknown represented 21.8% of the sample or 211 juveniles and juveniles who were Hispanic comprised 4.1%, with a total of 40 juveniles. The average age of juveniles at their

first offense was close to 14 years old (13.92), with the youngest juvenile being 7 years of age and the oldest juvenile being 17 years of age. The median age was 12 years old.

Table 5

*Court Characteristics of Sample*

<b>Characteristics</b>	<i>n</i>	%
<i>Group</i>		
Comparison Group	286	29.5
Accountability Conferences	234	24.1
Victim Empathy Seminars	362	37.4
Youth Court	87	9.0
<i>Prior Referral</i>		
Yes	420	43.3
No	549	56.7
<i>First Offense Type</i>		
Public	216	22.3
Substance Use	49	5.1
Property	439	45.3
Personal/Violent	134	13.8
Unruly	107	11.0
<i>Recidivism after First Offense</i>		
Yes	454	46.9
No	515	53.1
<i>First Disposition Type</i>		
Diversion	194	20.0
Non-diversion	359	37.0
Probation	369	38.1

The majority of juveniles in the sample (56.7%) were not referred prior to their inclusion in this study. Juveniles who had referral records prior to inclusion in this study represent 43.3% of the sample, with a total of 420 of the juveniles in the study.

The majority of the offenders (45.3%) were referred for property offenses. Public offenses were the second most common type of offense consisting of 216 offenses (22.3%).

Personal/violent offenses consisted of 134 offenses (13.8%), unruly offenses consisted of 107 offenses (11.0%), and substance use offenses consisted of 49 offenses (5.1%). The majority of juveniles (53.1%) did not recidivate after their first offense (N=515). The largest category of dispositions was probation 38.1% of juveniles were assigned to probation. A disposition categorized as non-diversion was not far behind at 37.0%. Diversion was the smallest category at 20.0%.

The researcher had hoped to compare the recidivism rates of juveniles who met their victims face-to-face with juveniles who did not face their victims, but was unable to do so because of a small sample size (N=9).

### **Bivariate Analyses of Group Differences**

Bivariate statistics were run in an effort to examine the relationship between the participant characteristics in the treatment (diversion) and comparison group. The treatment group analysis was limited to juveniles who were diverted. These juveniles were only referred to restorative justice, whereas other Lutheran Social Service youths may have been referred to restorative justice in addition to a formal disposition. Cross tabulation analysis was conducted to determine whether or not the variables (i.e., gender, race, prior referral) were statistically independent for the two groups. T-tests were performed on ratio-level variables (i.e. age of participant) to assess group differences.



Table 6

*Bivariate Correlates of Diversion and Released with Warning Juveniles*

<b>Variables</b>	<b>Bivariate Statistics</b>	<b>Diversion (N=149)</b>	<b>Comparison (N=286)</b>
<b>T- Test</b>		<b>Diversion</b>	<b>Comparison</b>
		<b>Mean Age</b>	<b>Mean Age</b>
Age	-1.296	14.02	14.33
		<b>Mean Difference</b> -.31249	
<b>Chi-Square</b>			
Female (n=435)	10.88***	48.3%	32.2%
Nonwhite (n=435)	3.42*	20.8%	29.0%
No Prior Referral	43.57***	84.6%	52.4%

\*p<.10, \*\*p<.05, and \*\*\*p<.01.

As shown in Table 6, the T-test for age was not statistically significant ( $t=-1.296$ ,  $p=.196$ ). The chi square analysis showed that gender ( $\chi^2=10.884$ ,  $p=.001$ ), race ( $\chi^2=3.42$ ,  $p=.064$ ), and prior referral ( $\chi^2=43.57$ ,  $p=.000$ ) were all statistically significant indicating that there were significant differences between the restorative justice diversion juveniles and the comparison group. The diversion group contained a higher proportion of younger offenders, females, whites, and juveniles with no prior referrals than the comparison group. Since there are differences between the groups, these factors will need to be controlled in the multivariate analysis. Clearly, the coefficients will be biased toward favoring the LSS diversion group since this group consists of a higher proportion of females and first-time offenders.

**Profile of all Restorative Justice Juveniles who Recidivate**

The recidivism rate of all juveniles in restorative justice programs is 48.5%. Cross tabulations were used to see which demographic (Table 7) and court (Table 8) variables were

associated with recidivism. Caution needs to be used when interpreting these percentages because some of the variables had severely low counts of juveniles. Chi square is appropriate because no more than the 20% of the expected counts were less than 5 (Moore & Notz, 2009); therefore no additional statistical bivariate analysis is needed. As shown in Table 7, restorative justice males were more likely to reoffend (51.0%) than females (43.3%). The chi square showed that gender and recidivism have a significant relationship at the .10 level ( $\chi^2=3.52$ , p-value=.061). These results are very consistent with the recidivism literature as males are more likely to reoffend than females. In terms of race, whites were more likely to recidivate in terms of count (46.6%, n=243) than nonwhites (54.7%, n=88). Due to the counts of nonwhites (n=88) it is not surprising that more whites in the sample recidivate (n=243). The chi square showed that race and recidivism have a significant relationship at the .10 level ( $\chi^2=3.24$ , p-value=.072). Recidivism was higher for Non-Hispanic juveniles (48.2%, n=261) than for Hispanic juveniles (60.0%, n=18) when looking at the count number. The chi square showed that ethnicity ( $\chi^2=1.74$ , p-value=.420) was not found to have a significant association with recidivism. Juveniles with a prior referral were more likely to recidivate (63.4%, n=180) than those without a prior referral (37.8%, n=151). The chi square results showed that there was a significant relationship between prior referral and recidivism at the .01 level ( $\chi^2=43.32$ , p-value=.000). Consistent with the literature, juveniles with a prior referral were more likely to recidivate. As research would suggest, one of the best predictors of recidivism is prior criminal behavior.

To determine which type of offenses and dispositions are associated with recidivism, cross tabulations were run on these variables (Table 8). The majority of juveniles with an unruly type offense were likely to recidivate (65.0%) closely followed by juveniles with substance abuse related offenses (64.5%). Over half of the juveniles with violent/personal offenses

(54.7%) recidivated. Close to half of the juveniles with a public order (49.0%) offense recidivated. The chi square showed that type of offense ( $\chi^2=12.38$ , p-value=.015) was found to have a significant association with recidivism at the .05 level.

Of the juveniles who received probation as their first disposition, 52.0% recidivated while 48.0% desisted. This result is not surprising since it can be assumed that juveniles who were assigned probation as their disposition are more serious offenders than juveniles who are diverted, thus their recidivism would likely be at a higher rate. Juveniles who were assigned to diversion recidivated at a lower rate (41.2%). Non-diversion juveniles recidivated to a similar level (41.1%) to that of diverted juveniles. The chi square for the disposition variable did not show a significant relationship with recidivism ( $\chi^2=8.86$ , p-value=.115).

Overall, the most common demographic profile of juveniles in restorative justice programs who are likely to recidivate are white, males who have a prior referral. These juveniles are likely to have committed a property offense and were assigned probation as their disposition. The mean age of recidivism for this group was 15.34.

Table 7

*Demographic Variables of All Restorative Justice Juvenile Recidivists*

	<b>Recidivism %</b>	<b>N</b>	<b><math>\chi^2</math></b>	<b>p-value</b>
<i>Gender</i>			3.52	.061
Female	43.4% (98)	226		
Male	51.0% (233)	457		
<i>Race</i>			3.24	.072
Nonwhite	54.7% (88)	161		
White	46.6% (243)	522		
<i>Ethnicity</i>			1.74	.420
Hispanic	60.0% (18)	30		
Non-Hispanic	48.2% (261)	542		

Table 8

*Court Variables of All Restorative Justice Juvenile Recidivists*

	<b>Recidivism %</b>	<b>N</b>	<b><math>\chi^2</math></b>	<b>p-value</b>
<i>Prior Referral</i>				
No Prior Referral	37.8% (151)	399	43.32	.000
Prior Referral	63.4% (180)	284		
<i>Type of Offense</i>				
Public Order Offense	49.0% (74)	151	12.38	.015
Substance Abuse Offense	64.5% (20)	31		
Property Offense	44.8% (176)	393		
Violent/Personal Offense	54.75% (47)	86		
Unruly Offense	65.0% (13)	20		
<i>Disposition Type</i>				
Diversion Disposition	41.2% (80)	194	8.86	.115
Non-diversion Disposition	41.1% (30)	73		
Probation Disposition	52.0% (192)	369		

**Multivariate Analyses of Program Outcomes**

Multivariate regression is commonly used on non-experimental, observational data. Multivariate regression was run to isolate the effects of variables known to have an impact on recidivism (i.e., gender, race, prior referral, type of offense, and age). Logistic regression equations were run on the entire sample, controlling for gender, race, prior referral, type of offense, and age at first offense in an effort to predict the log odds of recidivism (0=no new offense).

Table 9

*Logistic Regression of Recidivism for All LSS Juveniles and Released with Warning Juveniles*

<b>(N=969)</b>			
<b>Variable</b>	<b>b</b>	<b>SE</b>	<b>Odds Ratio</b>
Gender (0=Female)	.153	.146	1.16
Race (0=Nonwhite)	-.188	.156	.828
Prior Referral (0=No)	.875***	.138	2.40
<i>Type of Offense (0=Public Order Offense)</i>			
Substance Abuse Offense	.376	.334	1.45
Property Offense	-.232	.176	.793
Violent/Personal Offense	.020	.228	1.02
Unruly Offense	.697***	.269	2.00
Age at First Offense	.000	.002	
Group (0=Restorative Justice)	-.569***	.177	.56
Constant	-.296	.217	

\* $p < .10$ , \*\* $p < .05$ , and \*\*\* $p < .01$ .

The data in Table 9 indicate that gender ( $\beta = .153$ ,  $p = .294$ ) and race ( $\beta = -.188$ ,  $p = .828$ ) were not associated with recidivism. Prior referral was statistically associated with recidivism ( $\beta = .875$ ,  $p = .000$ ). Juveniles with a prior referral were 140% more likely to recidivate than juveniles without a prior referral. Type of offense was overall statistically significant ( $p = .000$ ). Substance abuse offenses, property offenses and violent/personal did not reach significance. Unruly offenses were statistically associated with recidivism ( $\beta = .697$ ,  $p = .010$ ). Juveniles with an unruly offense were 101% more likely to recidivate than juveniles with public order offenses. Age at first offense was not statistically significant ( $\beta = .000$ ,  $p = .783$ ).

Juveniles who were in the LSS restorative justice group were statistically significant ( $\beta = -.569$ ,  $p = .001$ ). Juveniles in the restorative justice programs had statistically significant increased odds of reoffending by 43.4% compared to juveniles released with a warning when controlling for gender, race, prior referral, type of offense, and age at first offense.

## Multivariate Analysis of Restorative Justice Groups

**Diversion juveniles.** Due to the results of restorative justice juveniles having higher odds of reoffending than juveniles released with warning, diversion juveniles were disaggregated from non-diversion juveniles for further analysis. The assumption that diverted juveniles are less serious offenders than other restorative justice juveniles was tested. Logistic regression was used to predict the log odds of recidivism (Table 10) for juveniles who were solely diverted from the courts into restorative justice programs.

Table 10

*Logistic Regression of Recidivism for Restorative Justice Diversion Juveniles and Released with Warning Juveniles*

<b>(N=435)</b>			
<b>Variable</b>	<b>b</b>	<b>SE</b>	<b>Odds Ratio</b>
Gender (0=Female)	.136	.224	1.14
Race (0=Nonwhite)	-.033	.238	.968
Prior Referral (0=No)	.835***	.235	2.30
<i>Type of Offense (0=Public Order Offense)</i>			
Substance Abuse Offense	.091	.464	1.09
Property Offense	-.814***	.308	.443
Violent/Personal Offense	-.347	.359	.707
Unruly Offense	.593*	.328	1.81
Age at First Offense	-.103**	.047	
Group (0=RJ Diversion)	-.436	.279	.647
Constant	1.168	.755	

\*p<.10, \*\*p<.05, and \*\*\*p<.01.

Gender ( $\beta=.136$ ,  $p=.545$ ) and race ( $\beta=-.033$ ,  $p=.890$ ) were not associated with recidivism. Prior referral was statistically associated with recidivism at the  $p<.01$  level ( $\beta=.835$ ,  $p=.000$ ). Juveniles with a prior referral were 130% more likely to recidivate than juveniles without a prior referral. Type of offense was overall statistically significant ( $p=.002$ ). Substance abuse offenses and violent/personal did not reach significance. Property offenses ( $\beta=-.814$ ,  $p=.008$ ) and unruly

offenses ( $\beta=.593$ ,  $p=.070$ ) were statistically associated with recidivism at  $p<.01$  and at the  $p<.10$  level, respectively. Juveniles with a property offense were 55.7% less likely to recidivate than juveniles with a public order offense. Juveniles with an unruly offense were 81.0% more likely to recidivate than juveniles with a public order offense. Age at first offense ( $\beta=-.103$ ,  $p=.028$ ) was statistically associated with recidivism at  $p<.05$ . While controlling for gender, race, prior referral, type of offense, and age at first offense, the restorative justice diversion group was not statistically associated with recidivism.

**Youth court juveniles.** The youth court group of restorative justice consists of the largest category of diverted youth. Since youth court juveniles are all first-time offenders, an analysis was run to see how youth court juveniles fared in comparison to juveniles who were released with warning (comparison group). Logistic regression was used to predict the log odds of recidivism (Table 11).

Table 11

*Logistic Regression of Recidivism for Youth Court Juveniles and Released with Warning Juveniles*

<b>(N=373)</b>			
<b>Variable</b>	<b>b</b>	<b>SE</b>	<b>Odds Ratio</b>
Gender (0=Female)	.091	.245	1.09
Race (0=Nonwhite)	-.080	.256	.923
Prior Referral (0=No)	.824***	.270	2.27
<i>Type of Offense (0=Public Order Offense)</i>			
Substance Abuse Offense	.059	.489	1.06
Property Offense	-.852**	.366	.427
Violent/Personal Offense	-.300	.394	.741
Unruly Offense	.628*	.342	1.87
Age at First Offense	-.141***	.051	
Group (0=Youth Court)	-.517	.367	.596
Constant	1.848**	.879	

\* $p<.10$ , \*\* $p<.05$ , and \*\*\* $p<.01$ .

Gender ( $\beta=.091$ ,  $p=.710$ ) and race ( $\beta=-.080$ ,  $p=.754$ ) were not associated with recidivism. Prior referral was statistically associated with recidivism ( $\beta=.824$ ,  $p=.002$ ) at  $p<.01$ . Juveniles with a prior referral were 127.9% more likely to recidivate than juveniles who do not have a prior referral. Type of offense was overall statistically significant ( $p=.004$ ). Substance abuse offenses and violent/personal did not reach significance. Property offenses ( $\beta=-.852$ ,  $p=.020$ ) and unruly offenses ( $\beta=.628$ ,  $p=.067$ ) were statistically associated with recidivism at  $p<.05$  and  $p<.10$ , respectively. Juveniles with a property offense were 57.3% less likely to recidivate than juveniles with a public order offense. Juveniles with an unruly offense were 87.3% more likely to recidivate than juveniles with a public order offense. Age at first offense was statistically associated with recidivism ( $\beta=-.141$ ,  $p=.006$ ) at  $p<.01$ . The youth court group was not statistically significant when controlling for gender, race, prior referral, type of offense, and age at first offense.

Youth court juveniles are considered lower risk because they are first-time offenders with less serious crimes, similar to juveniles who are in the diversion group. Due to the results of the youth court juveniles recidivating at higher odds than the comparison group, although not statistically significant, logistic regression of youth court juveniles compared to all diversion juveniles in restorative justice programs was run. The variables in the logistic regression failed to reach or approach statistical significance. The diversion group was not statistically significant when controlling for gender, race, prior referral, type of offense, and age at first offense. Although not statistically significant, the diversion group of juveniles recidivated at higher odds by 4.4% compared to juveniles in youth court due to chance. If this result were statistically significant, it would suggest that youth court juveniles do not recidivate at the rate of other juveniles who are diverted to restorative justice programs.



**Adjudicated juveniles.** Cross tabulation analysis and logistic regression were run for juveniles who were adjudicated since adjudicated juveniles are believed to be at higher risk for recidivism and to be more serious offenders. The cross tabulation analysis showed that adjudicated juveniles were most likely to have property offenses (52.4%, n=99), followed by public order offenses (24.9%, n=47). Half of the sample, 50.8% (n=96) were likely to recidivate. Logistic regression was run comparing the logistic odds of recidivism for adjudicated restorative justice juveniles with the comparison while controlling for gender, race, prior referral, type of offense, and age at first offense (Table 12).

Table 12

*Logistic Regression of Recidivism for Restorative Justice Adjudicated Juveniles and Released with Warning Juveniles*

<b>(N=475)</b>			
<b>Variable</b>	<b>b</b>	<b>SE</b>	<b>Odds Ratio</b>
Gender (0=Female)	.214	.215	1.23
Race (0=Nonwhite)	.155	.226	1.16
Prior Referral (0=No)	-.722***	.204	.486
<i>Type of Offense (0=Public Order Offense)</i>			
Substance Abuse Offense	.602	.450	1.82
Property Offense	-.619**	.275	.539
Violent/Personal Offense	-.034	.313	.967
Unruly Offense	.757**	.314	2.13
Age at First Offense	-.144***	.047	
Group (0=Adjudicated)	-.859***	.237	.424
Constant	2.722***	.765	

\*p<.10, \*\*p<.05, and \*\*\*p<.01.

Gender ( $\beta=.214$ ,  $p=.320$ ) and race ( $\beta=.155$ ,  $p=.492$ ) were not associated with recidivism. Prior referral was statistically associated with recidivism ( $\beta=-.722$ ,  $p=.000$ ) at  $p<.01$ . Juveniles with a prior referral were 51.4% more likely to recidivate than juveniles who do not have a prior referral. Type of offense was overall statistically significant ( $p=.001$ ). Substance abuse offenses

and violent/personal did not reach significance. Property offenses ( $\beta=-.619$ ,  $p=.024$ ) and unruly offenses ( $\beta=.757$ ,  $p=.016$ ) were statistically associated with recidivism at  $p<.05$  and  $p<.10$ , respectively. Juveniles with a property offense were 46.1% less likely to recidivate than juveniles with a public order offense. Juveniles with an unruly offense were 113.2% more likely to recidivate than juveniles with a public order offense. Age at first offense was statistically associated with recidivism ( $\beta=-.144$ ,  $p=.002$ ) at  $p<.01$ . The adjudicated group was statistically significant when controlling for gender, race, prior referral, type of offense, and age at first offense ( $\beta=-.859$ ,  $p=.000$ ). Adjudicated juveniles were 57.6% more likely to recidivate than the comparison group. This result predicts adjudicated juveniles to be more serious offenders than the comparison group. These juveniles may be the group influencing the outcome of all LSS restorative justice groups to recidivate at higher odds than the comparison group.

Due to this assumption, logistic regression was run for adjudicated juveniles and diversion juveniles. The variables in the logistic regression failed to reach or approach statistical significance. The adjudicated group was not statistically significant when controlling for gender, race, prior referral, type of offense, and age at first offense.

### **Survival Time**

Lastly, to see if there is a difference in time to reoffend between the experimental group and comparison group, survival time analysis was run. The means of each group were analyzed by focusing on the time it took for them to recidivate after their first offense to the time of their second offense (Table 13). Independent T-tests were used to show the statistical significance of these tests.

Table 13

*Mean Survival Time for All Restorative Justice, Diversion, and Comparison Juveniles*

<b>Variable</b>	<b>N</b>	<b>Mean</b>	<b>Std. Deviation</b>	<b>Std. Error Mean</b>
All Restorative Justice	330	.7556	.668	.036
Diversion	51	.8962	.808	.113
Comparison	123	.6641	.557	.050

The survival time for all restorative justice juveniles and the comparison group was statistically significant at  $p < .05$  ( $t = 1.352$ ,  $p = .022$ ). The survival time for diversion restorative justice juveniles and the comparison group was also statistically significant but at  $p < .01$  ( $t = 2.176$ ,  $p = .000$ ). This shows that juveniles in all restorative justice programs had a significantly longer survival time than the comparison group by approximately 1 month (.0915). Juveniles in the diversion restorative justice group had a significantly longer survival time than the comparison group by approximately two and a half months (.2321). Together these results suggest that restorative justice juveniles delay recidivism longer than juveniles who are released with a warning.

The last chapter will discuss the present results and how they fit with previous research. Policy implications and limitations of the study will also be mentioned.

## DISCUSSION

The aim of the current study was threefold: 1) to create a profile of juveniles who reoffend after completing a restorative justice program, 2) to compare reoffending rates of juvenile offenders who go through a restorative justice *diversion* program with a comparison group of statewide juveniles who are released with a warning from the Juvenile Court during the same time period, and 3) to compare reoffending rates of juveniles who complete accountability conferences and meet face-to-face with their victims with the reoffending rates of juveniles who do not meet face-to-face with their victims.

The first research goal showed, on average, juveniles who recidivated after the completion of a restorative justice program were white, males who had a prior referral. Restorative justice juveniles were likely to have committed a property offense and were assigned probation as their disposition. The mean age of restorative justice juveniles when they recidivated was 15.34 years old.

The second research goal, showed that juveniles who went through a restorative justice diversion program recidivated at a statistically significant higher rate than juveniles released with a warning. Juveniles in the restorative justice group were 43.4% more likely to recidivate than juveniles who were released with a warning. Although not statistically significant, the restorative justice diversion group showed higher log odds of recidivism than juveniles who are released with warning, youth court juveniles reoffended at higher odds than the comparison group, and the diversion group of juveniles recidivated at higher odds than juveniles in youth court. Due to the statistical nonsignificance of the latter results, it cannot be determined with certainty that these results were not due to chance.

The last research goal was not accomplished due to a small sample size that did not allow any significant tests to be run on the juvenile offenders who failed to meet their victims face-to-face but had completed the accountability conferences.

Results indicate that restorative justice programs may not be as beneficial to juveniles as being released with a warning in terms of preventing future delinquent behavior. From the results, gender and race were not associated with recidivism. Type of offense was statistically significant except for when looking at youth court juveniles. Property offenses were most likely to be statistically associated with recidivism and juveniles with these offenses were shown to have lower odds of recidivism, which is inconsistent with the literature on property offenders. Consistent with this study's results, Rasmussen (2004) and Minor et al. (1997) showed that younger offenders were more likely to recidivate. Similar to Nugent et al. (2004), this study found that juveniles with a prior referral had increased odds of recidivating when compared to juveniles without a prior referral.

Although restorative justice does not appear to be successful in preventing juvenile crime, a positive aspect of the current study showed that juveniles in all restorative justice programs had a significantly longer survival time than the comparison group by approximately one month (.0915) and juveniles in the diversion restorative justice group had a significantly longer survival time than the comparison group by approximately a two and a half months (.2321). Together these results suggest that restorative justice juveniles delay recidivism longer than juveniles who are released with a warning.

Our results also indicated that adjudicated juveniles had higher odds of recidivism than our comparison group. Adjudicated juveniles are often considered more serious offenders than their diversion counterparts. Although not statistically significant when ran in the logistic

regression model compared to diversion juveniles, adjudicated juveniles had statistically significant higher recidivism odds than the comparison group. Since all restorative justice juveniles had significantly higher recidivism odds than the comparison group, the adjudicated juveniles may be the group whose recidivism matters most when restorative justice is aggregately analyzed.

From this conclusion, it can be argued that juvenile courts may need to reconsider adjudicating juveniles. Diversion juveniles may have better outcomes in terms of recidivism than adjudicated juveniles, but juveniles who were released with a warning seem to fair the best. In order to best serve juveniles in the court system, diversion and adjudication should be reserved for juveniles with more serious, severe cases that require intervention. The juvenile court in this instance should consider assigning juveniles to restorative justice programs based on assessments of risk level instead of relying on one court officer's "sound judgment". Assessing a juvenile's risk may better serve their needs and may eliminate net widening of juveniles into restorative justice programs. As shown in the current study, restorative justice programs may be counterproductive in serving juveniles' needs.

Similar to Stickle et al. (2008) who found increased delinquent behavior in their study, the researcher agrees that restorative justice programs may not be the most effective option at targeting minor offenses and the stigmatization of the programs may not be successful at the lower end of offending. Stickle et al. (2008) argue that perhaps little or no action by juvenile courts is more fitting for minor first-time offenders instead of placement in programs.

Policy implications from the results would imply that juveniles who are referred to a restorative justice program may be better served by being released with a warning since the results showed that restorative justice youth have increased odds of recidivating. Although in

most cases, these odds were not statistically significant, which means that it is likely due to chance that restorative justice juveniles have higher odds. This finding suggests that when juvenile courts “do nothing” by releasing youth with a warning, they may actually be helping juveniles by not intervening. Much of the correctional literature suggests that intervening with low risk offenders is counterproductive. Youths in restorative justice programs had statistically significant differences on age, race, gender, and prior referral compared to juveniles released with a warning. It is difficult to conclude that restorative justice juveniles may have had similar results of desisting from crime had they been released with a warning. This supports the net widening discussion of intervening with juveniles who would be best served by the system simply doing nothing about the crime. Restorative justice may widen the net of social control by receiving cases that the formal court-system would not have received if the programs did not exist (Galaway & Hudson, 1996). The results of the study would suggest that by net widening juveniles into programs, the system may not be preventing future crime but are involving youths in programs that are counterproductive.

Juveniles who recidivated after completing a restorative justice program may be better served by additional court processes. Restorative justice programs should consider how they can better serve the youth who meet the characteristics of juveniles who were shown to recidivate in the current study. Since the juveniles who were likely to recidivate had a prior referral and were likely to be assigned probation as their disposition, juvenile court may need to better monitor these youths as well.

## **Limitations**

There were several limitations of this research, which leads to the call for future restorative justice research. The data were limited to variables within the juvenile court records and within the restorative justice agency. Perhaps having more demographic characteristics and other variables, it would have been possible to see a statistically significant difference across the groups based on recidivism. The current study may have had different outcomes if it had been possible to control for more variables that are important factors in juvenile recidivism.

This research was unable to look at the qualitative aspects of each program type, which could potentially reveal where the true differences between the program types lie. Future studies should look qualitatively at whether or not the needs component of the juvenile offenders are met by restorative justice programs. Much of the literature on restorative justice lacks information on the criminogenic needs of the offenders and on the development of empathy in the offenders in each program type. Restorative justice's main focus is empathy, although this focus does not fit well with the principles of the current research study. Furthermore, Lutheran Social Services wanted to focus on the outcome variable of recidivism. The sole focus of this research on recidivism limits the study's results and cannot explain why these juveniles recidivate at higher odds. A further limitation is that the research only measures recidivism for one year and does not factor into account adult criminal records.

Another issue that deserves further analysis is the self-selection bias of restorative justice programs. Juveniles will likely choose diversion programs over court processes since court processes may result in a formal criminal record, whereas diversion programs typically will not. Juveniles who openly admit guilt because they do not want a formal record are an ideal referral for restorative justice programs. Juveniles who admit guilt and take responsibility for the crime



right away may be substantially different in terms of motivation and desistance (Hayes & Daly, 2003; Robinson & Shapland, 2008).

Facilitator credentials are another aspect that future research should focus on. The facilitators for each program could potentially have vast differences in education, experience, and professional qualifications. These differences could exist between programs as well as within the programs. More effective or less effective facilitators could potentially have an impact and account for the reasons that one program type works better for certain offender types.

Generalizability is an issue in this research. While over 600 restorative justice program participants were included in the study, these individuals represent only one agency that offers restorative justice programs. Other restorative justice programs in additional areas are bound to be different in composition as far as demographics and other offender characteristics are concerned. It cannot be concluded that the results from this study can be accurately applied to other restorative justice programs based on program type and participant characteristics. A related limitation is only analyzing two years of restorative justice program data. Future studies should obtain large population sizes to include in their analyses offenders who were terminated or who did not meet their victims face-to-face.

This study was unable to conduct any statistical analyses of the juveniles who did not meet their victims face-to-face. The small sample size (total of 9) hindered any kind of interpretation of these juveniles. Future studies should consider comparing juveniles who meet their victims face-to-face with juvenile who do not. In a larger sample, juveniles who do not meet their victims face-to-face may differ from those who do meet their victims. Those without a face-to-face meeting may have higher recidivism rates as the research suggests (i.e., (Umbreit & Coates, 1993).

One final limitation to mention is the lack of information on the terminated juveniles in the restorative justice programs. Due to the small number of youth who were terminated from the programs, the researcher was unable to include this group in the data set. Future research should include this group as a comparison to the juveniles who complete the restorative justice programs. It would be beneficial to know the characteristics of this group in order for restorative justice programs to better implement the needs of terminated juveniles and to know how they compare to the juveniles who complete the programs. Information on this group would also inform restorative justice programs and the courts on what types of juveniles are likely to be terminated from the programs. These juveniles may be best served by a court process initially rather than being diverted.

Since the population in the current study was overrepresented with juveniles who completed their restorative justice program and met their victims face-to-face, the results cannot be generalizable to other restorative justice programs. Future research should consider comparing different sites of restorative justice programs to see what influences juveniles to complete their programs and meet their victims face-to-face. Perhaps sites with fewer completions and fewer victim meetings would have a different juvenile population composition.

Future research should also focus on juveniles who are released with warning. There is a lack of exiting research on this group of juveniles. Since the current study showed statistical differences between the treatment group and comparison group (juveniles released with warning) more research is needed to understand why characteristics may differ for these juveniles.

Although restorative justice juveniles had a longer recidivism survival time, this result alone cannot help us conclude that restorative justice programs prevent juvenile crime. The overriding theme of this research is that restorative justice juveniles were shown to have higher

odds of recidivating. The need for additional research on the matter is ever present. It's important to find out if "less is more" when it comes to lower severity juvenile offenders to ensure that these offenders are not being net widened into restorative justice programs. In conclusion, juvenile courts should consider releasing juveniles with a warning and essentially "doing nothing" versus net widening juveniles into restorative justice programs. If the goal of restorative justice is to prevent juvenile recidivism, researchers must strive to answer the question of what works for less serious juvenile offenders.

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