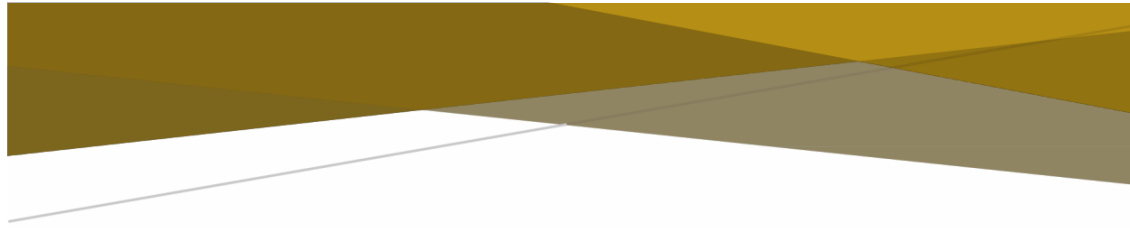


FOREWARD

A research team was procured by Alberta Justice and Solicitor General to produce a report examining the state of restorative justice in Alberta. This report would include a literature review, an examination of models of restorative justice, as well as, a set of recommendations for the Government of Alberta to enhance the practice of restorative justice. The team of consultants was asked to provide a final report in March 2018.

The following report is an independent assessment of the practice of Restorative Justice in Alberta product, from the consultants and does not represent the opinions or objectives of Alberta Justice and Solicitor General. Statements in the following report may or may not be accurate due to the reticence of the consulting team to freely share and communicate with staff members from Justice and Solicitor General during the time the work was being executed. Staff members were not able to have access to primary data or to preview the report prior to its completion; therefore no collaboration between the consulting team and staff was able to occur. Subsequently, the content of the report and recommendations made may not capture pragmatic actions for the government to execute; so much as they may reference theoretical discourse on the subject of restorative justice.

This report does contain content that will help to enhance the knowledge regarding the work and general principles of restorative justice. Using this information, a White Paper will be developed and is expected in the summer of 2018.



**RESTORATIVE
JUSTICE REVIEW: A
FRAME FOR CRIMINAL
JUSTICE
TRANSFORMATION IN
ALBERTA**

Final Report,
March 31,
2018

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EXECUTIVE SUMMARY

The Province of Alberta is undertaking a focused review of its criminal justice system in response to endemic and deeply rooted challenges including delay, access to justice, overrepresentation of marginalized peoples, a lack of public confidence and victim dissatisfaction. In conjunction with this overarching review the Minister of Justice and Solicitor General (JSG) commissioned a focused review into restorative justice practices in Alberta. This final report contains the results of this review based on a comprehensive literature and practice review, primary research on the current system and practices in Alberta and an analysis of challenges and opportunities for the expanded use of restorative justice in Alberta. It contains the review team's findings and recommendations regarding steps that may need to be taken by the Government of Alberta to enhance the current operational framework for restorative justice; improve overall satisfaction of victims; and alleviate pressures on the criminal justice system.

The research on restorative justice points to significant benefits and impacts relevant to addressing some of the most pressing issues within the criminal justice system. Evaluated against typical measures valued by the criminal justice system including reduced recidivism, increased victim satisfaction, decreased costs and court delays and greater public confidence in the justice system, restorative justice fares well. Such measures, however, often fail to fully capture the positive impacts of restorative justice, including its impact on improving the well-being of participants, enhancing community engagement, building social capital and cohesion, and addressing root causes of crime. Research also reveals that many jurisdictions have not fully realized the benefits of restorative justice as a result of limited understanding, partial implementation, hesitancy, or resistance by system stakeholders, lack of stable funding and weak collaboration within and between systems and communities.

As reflected in this final report, the review team concludes that restorative justice holds significant potential for Alberta as a principle-based approach capable of supporting justice system transformation efforts. A restorative approach offers a different way of thinking about justice that can comprehend and respond to the complex nature of the issues facing the criminal justice system.

The review team conducted an analysis of the current use of restorative justice in Alberta through a document review and field research including interviews with key informants. The review revealed significant strengths foundational to the advancement of restorative justice. These include a vast system of grassroots programs, strong Indigenous leadership, broad engagement of criminal justice system stakeholders, long-standing and current commitment to advancing the use of restorative justice within both community and government, and a multi-stakeholder-led association (the Alberta Restorative Justice Association (ARJA)) dedicated to supporting and advancing restorative justice in the Province.

The review also identified some current challenges that, when addressed, present clear opportunities to fully realizing the promise of restorative justice for Alberta. These include lack of clarity across relevant stakeholders in restorative justice regarding its goals and potential; inconsistent practice guidance and standards, current referral patterns narrowly focused on first-time lower-end youth offences; lack of clear policies and procedures for referral, the need for evidence-based program and

practice development through an appropriate and formative evaluation framework; unstable funding schemes; inadequate education and training supports; and, a lack of systemic coordination among system stakeholders.

The review concludes that Alberta is well placed to address these challenges and take up the opportunity to enhance and advance restorative justice in the Province. There is significant untapped potential within the community and the criminal justice system to support an expanded role for restorative justice in the context of criminal justice reform.

This final report analyzes the major issues, challenges and opportunities related to the successful development and growth of restorative justice in Alberta. This analysis is organized under several key themes related to elements of successful restorative justice. They are:

Theme 1	Understandings of Restorative Justice
Theme 2	Measuring Success in Restorative Justice
Theme 3	Collaboration and Partnerships
Theme 4	Access to Justice
Theme 5	Program Structure and Governance

Under each theme several key issues are identified and examined resulting in a set of related recommendations. These recommendations are collected at the end of the report and considered in relation to one another to provide a strategic approach to implementation organized under three overarching recommendations:

- Collaboratively establish a restorative justice strategy for Alberta built upon the foundation of restorative justice values and principles;
- Establish an empowered and sustainable network of local, community-based restorative justice service providers across Alberta; and,
- Collaborate with service provider association (ARJA), and local collectives to develop an education and training plan for the Province.

This final report draws upon existing experiences and program development in Canada and elsewhere as a basis to suggest a plan to advance restorative justice throughout the criminal justice process and in Alberta.

INTRODUCTION

This report and its recommendations are respectfully submitted to Alberta Justice and Solicitor General in fulfillment of contractual agreement pursuant to *Restorative Justice Review RFP Number 17- 138-PS-RJWhitePaper-0*. This final report was preceded by an interim report, submitted in December 2017. The interim report was not prepared for a wider audience and did not contain findings or recommendations. It provided an overview of the national and international restorative justice literature, programs and experience relevant to the focus of this Review. It highlighted key debates and critical issues relevant to the implementation of restorative justice within criminal justice contexts as identified in the literature. The interim report also shared the review teams' initial views of the current state of restorative justice in Alberta and the focus of analysis for this final report. The content of the interim report is, in this respect, superseded by this final report. The research and information from the interim report has been included as appropriate within this final report.

Research Team

This review was conducted by a team of contracted researchers with significant experience in research, policy and practice in the field of restorative justice. The team was led by Professor Jennifer Llewellyn, Schulich School of Law, Dalhousie University and included the Principals from *Just Outcomes Canada, LLP* (<http://justoutcomesconsulting.com/>) Catherine Barga, Matthew Hartman and Aaron Lyons. The team worked collaboratively to ensure breadth and depth of research and analysis in support of the findings and recommendations in this Report. More information about team members experience is available at the end of this report (Appendix A). The team also benefited from student research assistance offered by Nadia Shivji from the Schulich School of Law.

Review Research Methodology

This report offers analysis, findings and recommendations resulting from a comprehensive review process. The review employed a range of research methods and elements including:

- **A literature review of existing research and scholarship in Canada and internationally.** The scope of the literature review included conceptual and empirical scholarship in the field with a focus on areas and issues identified as central to the scope of the review as outlined in the RFP.
- **A review of relevant law, policy and programs on restorative justice in Canada and in select jurisdictions internationally.** This review was targeted to provide helpful examples of existing law, policy and practice relevant to the areas of concern for the review and its recommendations. Attention was paid to existing individual and meta-level data from program evaluations and other empirical research.
- **A review of key documentation in Alberta.** Documents providing information about the current law, policy and practice context for restorative justice in Alberta were reviewed. These included documents provided by Ministry of Justice and Solicitor General representatives and other publicly available materials.
- **Contact with key informants.** As contemplated in the RFP, the review relied on information from key stakeholders connected to restorative justice in Alberta. The purpose of the consultation with these key informants was to gain further information and different

perspectives on the current operation of restorative justice in Alberta and on the issues identified within the RFP around “determining steps that may need to be taken by the Government of Alberta (GoA) to enhance the current operational framework for restorative justice; in order to improve overall satisfaction of victims and alleviate pressures on the criminal justice system”. A broad-based consultation or survey of justice and community stakeholders related to restorative justice was beyond the scope of the review. In the view of the review team, it was also unnecessary given the nature of the review and focus of the recommendations. Given the focus of the review, the researchers looked to key informants to ensure an accurate picture of the current context and operations for restorative justice in Alberta.

Recommendations regarding steps to enhance and improve restorative justice in Alberta are grounded and informed by existing national and international research and experience as relevant to the Alberta context. Information from key informants in Alberta was accessed in two ways:

- A member of the review Team attended the Alberta Restorative Justice Association (ARJA) Conference in Calgary in November 2017. Attending the conference afforded the opportunity to observe the restorative justice community in Alberta. The substance of conference sessions along with the discussions among delegates, and informal conversations with a broad range of those engaged in and connected to restorative justice in Alberta highlighted important issues. Researchers were also able to identify individuals for more in-depth key informant interviews through these interactions.
- Key informant interviews. The review Team conducted twenty-two key informant interviews between November 2017 and February 2018. These interviews were very helpful to enhance understanding of the current context and operation of restorative justice in Alberta. Given the role of these interviews in the review—to provide further information and context regarding current restorative justice work in Alberta—a semi-structured approach was taken to the interviews. This methodology involved exploration of a common set of questions and issues with each interviewee, but also included further questions or issues depending on the responses of the interviewee. This methodology was particularly valuable in this review because it allowed researchers to focus on specific expertise and knowledge of interviewees. The question guide that shaped the content of these interviews can be found in Appendix B.

Interview subjects were identified through various channels. The review team requested a list of those currently involved in restorative justice in conjunction with the Ministry of Justice and Solicitor General. In addition, the review team contacted some of the key stakeholder agencies and organizations based on initial charting of restorative justice in Alberta. Initial contacts were made to determine who might be best placed to provide overarching/representative information and reflections on the existing context. Together with contacts made at the Alberta Restorative Justice Conference, researchers consulted with these sources to compile a list of interviewees. This list was expanded to address gaps in information and knowledge that became apparent as the review proceeded. Interviews were conducted with representatives from the following sectors:

Community-based Programs	Edmonton Police Service
ARJA Board	Calgary Police Service
Youth Justice Committees	Probation
Indigenous Policy	Self-Administered Police Service (Tribal Police)
Family Justice System	Royal Canadian Mounted Police (RCMP)
Indigenous Justice Program	Government Officials (from Justice and Solicitor General)
Victim Services	Restorative Justice Practitioners
Crown Prosecution Service	

Approach to Review & Final Report

The review team took an iterative approach to its research. The process started with a review of existing research and practice in the field through a comprehensive literature review. The literature review was broad in scope, examining research from Canada and internationally, considering conceptual, qualitative and quantitative research, and research on practices and programs covering diverse applications. This review revealed general themes and issues of importance in the field. These themes and issues were articulated in the interim report to share the broad framework that would inform further inquiry into the Alberta experience. These themes and issues were then carefully tested against the experience and context in Alberta and guided further inquiry and analysis.

Next the team considered the current state of restorative justice in Alberta through a document review and key informant interviews. During the interview and document-review processes the team met regularly to identify emerging themes, issues and questions. This information informed the remaining interviews, document review, and further review of research on central issues.

This iterative approach to the review enabled the Team to identify the most important themes and issues to enhance and advance restorative justice in Alberta. The review was not limited in its identification of issues and recommendations by the existing knowledge and perspective of those within Alberta nor bound by the issues relevant in other contexts. The team integrated national and international knowledge and experience with that from Alberta to ground the comprehensive recommendations in this report.

For the purpose of this review, restorative justice is understood as an approach to justice that: a) understands crime as injury to people and their relationships with one another individually and collectively as groups and communities, and b) posits a justice response concerned with restoring or establishing just and equitable social relationships.¹ Implicit in this approach is the premise that harmful and criminal actions create obligations/responsibilities to actively address harm through reparation and to ensure just relations in future.² Thus, a restorative justice approach is one that prioritizes, through various means, the participation of those involved in and affected by an injustice in efforts to address harm, build trusting and equitable relationships, and strengthen communities.³ Mechanisms such as conferencing, peacemaking circles and victim-offender dialogue may meet this definition, but only insofar as they reflect the principles and goals of restorative justice and contribute to the attainment of participant needs. The view of restorative justice informing this review pertains both to the goals and the mechanisms of justice. A more detailed exploration of this understanding of restorative justice as relevant in the Alberta context is offered later in this report (See Theme 1).

This review was focused specifically on what would be required to advance restorative justice and

increase its impact and effect in Alberta. The overarching concern animating the review was the long-term sustainability and success of restorative justice in Alberta. This report and its recommendations consider the fundamental and immediate steps to achieving this long-term goal. In the view of the review team (and as reflected in the recommendations), continued development and expansion of restorative justice should be guided by the central partners and stakeholders across government and community. As a result, the recommendations in this report do not prescribe particular programs or practices. Instead, the recommendations identify elements that are key for successful development, implementation and operation of restorative justice in Alberta. The report also contemplates the approach, structures and processes which are key to success. As a result, the recommendations vary in their nature and scope. Some recommendations are broader in scope with longer-term timelines aimed at more significant systematic change. Others are narrower with immediate or shorter-time horizons. Still others identify issues that require further consideration before action is taken.

The review team has written this report with the understanding that it will inform and support the work of an internal working group of key stakeholders in Alberta. The report has been structured to provide information and recommendations for that working group to support the development of a white paper. To this end, this report begins by offering an overview of the approach to restorative justice and its role in the context of criminal justice reform and transformation in Canada. The current state of restorative justice in Alberta is then considered including the strengths, weaknesses, opportunities and challenges it presents. Several central themes that have emerged from the review as warranting careful attention in Alberta are then identified. Each theme is considered subsequently in terms of how it is manifest in Alberta and the related issues that require attention. Recommendations are provided in each section to address these issues. Some recommendations recur in relation to more than one theme. A final recommendation matrix provides an integrated overview of the recommendations with a view to considering their implementation. The overarching themes addressed in this Report are:

Theme 1	Understandings of Restorative Justice
Theme 2	Measuring Success in Restorative Justice
Theme 3	Collaboration and Partnerships
Theme 4	Access to Justice
Theme 5	Program Structure and Governance

SETTING THE CONTEXT: RESTORATIVE JUSTICE AND CALLS FOR JUSTICE TRANSFORMATION

Pressing Concerns with the Criminal Justice System

This review was shaped by recognition of the current justice context in Canada and within the Province of Alberta. Several shared and compounding crises are part of the impetus for serious consideration of the role and potential of restorative justice innovations and responses. In recent surveys, nearly three-quarters (74%) of Canadians expressed low to medium confidence in the adult criminal justice system, with 80% expressing low to medium confidence in youth criminal justice.⁴ Some of the most pressing concerns for Canadians include the following issues:

Court Delays

The 2016 decision by the Supreme Court of Canada in *R. v Jordan*⁵ has had a dramatic impact on the Canadian criminal justice system. The decision sets out timeframes within which court proceedings must occur so as to not infringe on an accused person's constitutional right to a timely trial as set out in Section 11 (b) of the *Canadian Charter of Rights and Freedoms*.⁶ As a result, over 200 cases since 2016 (many serious and high profile matters) have been dismissed from court after judges stayed proceedings based on the *Jordan* decision.⁷ The decision has centred government and public attention on the depth of the problem of court delays in Canada. A recent report by the Standing Senate Committee on Legal and Constitutional Affairs titled "Delaying Justice is Denying Justice" recognized the urgency of this problem. The report concluded:

Canada's criminal justice system is in urgent need of reform. Delays in criminal proceedings have become a significant problem as it takes too long for many criminal cases to reach a final disposition. Lengthy trials and multiple adjournments are particularly hard on victims and their families, as well as on accused persons, whose stress can be worsened as the time between the laying of charges and the end of the trial stretches out month after month. When these delays become very lengthy, courts may find that the accused's constitutional right to a trial within a reasonable time (as guaranteed by section 11(b) of the Canadian Charter of Rights and Freedoms) has been breached. If this happens, the only judicial remedy available in Canada is an order for a stay of proceedings, which ends the process without a completed trial on the merits of the case.⁸

Provincial Court apparatuses throughout the country, including within Alberta, are urgently seeking to address court backlogs and expedite justice. A recently released report by the MacDonald-Laurier Institute graded Alberta's criminal justice system at "C+" with regard to efficiency. This is middle of the road in terms of the national average but nevertheless points to significant issues.⁹ Leaders in many jurisdictions are actively seeking solutions for greater efficiency in the justice system. These include finding innovative means to divert cases out of the formal justice system while respecting Charter rights and adhering to sentencing principles in the *Criminal Code of Canada*.¹⁰

Overrepresentation of Indigenous and Marginalized Groups

The urgent and growing problem of over-representation of Indigenous peoples at all levels of the Canadian criminal justice system is well documented.¹¹ The incarceration rate of Indigenous adults in Canada is estimated to be 10 times that of the non-Indigenous population, but in some jurisdictions the incarceration rate is up to 33 times higher.¹² These figures are steadily on the incline.¹³ Indigenous youth and adults are over-represented in custody in every Canadian province and territory. In Alberta, where Indigenous people make up 5% of the overall population, Indigenous adults comprise 43% of the prison population.¹⁴ The crisis is not only being felt within the correctional system: Indigenous peoples are also disproportionately likely to be placed in foster care as children¹⁵ and to be stopped by police.¹⁶ In response to overrepresentation of Indigenous peoples in the justice system, *R v Gladue*¹⁷ was handed down by the Supreme Court of Canada in 1999, interpreting a sentencing provision in the *Criminal Code* that requires courts to consider an Indigenous offender's background.¹⁸ This decision followed the creation in 1996 of the Indigenous Justice Program¹⁹ (formerly the Aboriginal Justice Strategy) to help address over-representation of Indigenous peoples within the justice system and to enable greater community involvement and implementation of customary law. Despite these reforms, the need for urgent action on this issue has been acknowledged directly by the Federal Government, as reflected in the Prime Minister's mandate letter to Justice Minister Jody Wilson-Raybould.²⁰ While this is a national issue, recent media reports have also placed a spotlight on Alberta's handling of and reporting on the crisis.²¹

The problem of disproportionate minority representation in the criminal justice system is not only an Indigenous issue but also affects other marginalized groups. For example:

- African Canadians are over-represented in correctional institutions at a rate of 300% as compared with their representation in the population.²²
- 80% of federally sentenced offenders have past or current substance abuse issues.²³
- Canadians suffering from mental illness are disproportionately represented in the criminal justice system. For example, the prevalence of Fetal Alcohol Spectrum Disorder (FASD) in correctional institutions is 10 times higher than in the general population.²⁴

This crisis of disproportionality has led to calls across governments and civil society for more nuanced and tailored approaches to justice.²⁵ The *Truth and Reconciliation Commission of Canada: Calls to Action* specifically call for culturally competent and responsive justice reforms in Canada.²⁶

Access to Justice

According to the 2013 federally commissioned Cromwell Report, "[a]ccess to justice is the most important issue facing the legal system."²⁷ It is well understood that the Canadian justice system privileges those with the financial capital to retain private legal counsel over those who receive legal aid, resulting in thousands of disadvantaged Canadians every year whose access to justice is compromised.²⁸ However, the crisis of access extends well beyond the issue of fair legal representation or mere access to legal proceedings. Access to justice also concerns quality of justice – that is whether "justice" can be accessed through the criminal justice system for all. The recent high-profile acquittals of persons accused in the deaths of Indigenous individuals Tina Fontaine and Colton Boushie have raised questions for many Canadians about racial bias within Canadian courts.²⁹ These cases arise against the backdrop of the 2012 Report of the Missing Women Commission of Inquiry following the arrest of convicted serial murderer Robert Pickton,³⁰ and the ongoing National Inquiry into Missing and Murdered Indigenous Women and Girls,³¹ both point strongly and publicly to failures of the justice

system to provide justice for marginalized and Indigenous victims, survivors and communities.

Problems with victims' and survivors' access to and involvement in justice are not limited to issues of racial discrimination. As noted in the Federal Ombudsman for Victims of Crime 2017 report, *Getting Fair Outcomes for Victims in Canada's Criminal Justice System*,

Victims are attached in a permanent way to a system that is about harm and the person who harmed them—a system that is not about their recovery and what supports they need. The current system is not about finding ways for victims to move forward with their lives.³²

The recent public spectacle of CBC Radio Host Jian Ghomeshi's acquittal after multiple accusations of sexual assault has highlighted longstanding dissatisfactions with the treatment of sexual assault cases within Canadian courts.³³ Sexual assault victims complain they are not well served by the Canadian justice system, pointing to the fact that for every 100 reported sexual assaults in Canada, less than 1% of the accused are convicted³⁴ and evidence that the vast majority of such assaults (potentially 95%) are not reported to police.³⁵ Across crime categories, less than one third of offences come to the attention of police in Canada.³⁶ These figures point in part, to a lack of confidence by victims that a meaningful outcome will result from reporting crimes against them.

For crime victims whose cases are reported and proceed to court, the experience has often been criticized as disempowering, alienating and re-traumatizing. Beyond a role as witness, victim input in criminal and parole proceedings is limited to pre-approved (and often vetted) statements, and victims describe experiencing little autonomy in how their views are expressed.³⁷ Criminal trials and cross examination protocols are highly adversarial, in contrast to victims' well-researched need for validation and emotional support.³⁸ The acclaimed trauma-recovery theorist Judith Lewis Herman has concluded that, "if one set out intentionally to design a system for provoking symptoms of traumatic stress, it might look very much like a court of law."³⁹ Based on such observations, the discourse in Canada surrounding victims' access to, and involvement in, attaining justice is shifting. The Federal Ombudsman for Victims of Crime asserted "the time has come in Canada to shift the conversation from offender management to directly meeting victims' needs."⁴⁰

Costs

Canada's criminal justice system is estimated to cost taxpayers roughly \$11 billion per year.⁴¹ It is notable that 23% of criminal cases are administration of justice offences (such as violations of probation conditions), costing Canadian taxpayers \$807 million annually.⁴² The costs related to criminal justice are not limited to operating costs of the system itself. Crime and criminal justice have other serious social and economic cost implications not directly born by the criminal justice system. They include costs related to the impact of crime on victims, their families and communities and those related to the loss of productive engagement of offenders in society. There are many direct costs borne by social services and the healthcare system related to crime and the criminal justice system. A 2015 comprehensive review conducted by the research division of Public Safety Canada found that these costs point to serious concerns for sustainability of the current criminal justice system.⁴³

Complexity of the System and Issues Related to Criminal Justice

Another significant challenge for the criminal justice system relates to the complex nature of the criminal justice system in Canada. This complexity contributes to many of the issues discussed above

but also complicates the coordination and collaboration required to respond effectively. Such change requires collective action across the multiple stakeholders, agencies and institutions that form parts of the criminal justice system. Furthermore, the complexity of the issues related to criminal offences, harms and the related needs of offenders, victims and communities often requires responses that are not within the jurisdiction or capacity of the criminal justice system. There is increasing recognition that criminal justice matters are deeply rooted in complex social issues including: poverty, mental health, addictions, marginalization and systemic and historical injustices. Effective responses to these issues require collaboration across systems and sectors and between government and civil society. The complexity of government systems makes such coordination and collaboration challenging. As reflected by declining public confidence, the criminal justice system struggles to fulfil its public safety mandate because its individually focused interventions cannot respond to the complexity of the issues at stake. The Federal government has recognized the need for greater integration as part of its current approach to justice transformation.⁴⁴

Together these issues have generated a sense of crisis in the criminal justice system, felt by justice stakeholders and the Canadian public alike. This growing concern has begun to yield significant commitment to, and investments in, reform and transformation raising new questions and requiring new frameworks for the purpose, mechanisms and scope of justice. The problems of justice in Canada have resulted in several important initiatives and proposed legislative changes at the federal level. Similar initiatives regarding justice reform and transformation are underway at provincial and territorial levels across Canada. It is significant that restorative justice is a prominent element or focus in many of these initiatives and efforts.

Criminal Justice Review and Reforms in Canada

Notably, Justice Canada has undertaken a public consultation on the criminal justice system that included a recent roundtable dialogue series across the country and various forms of digital engagement with the Canadian public.⁴⁵ The consultation was a direct outgrowth of the Justice Minister's mandate letter, in which restorative justice is named as a priority for exploration. "Increasing the use and acceptance of restorative justice processes" was named as one of six priority issues in the consultation.

As an aspect of the Federal Government's Criminal Justice Review, the Office of the Federal Ombudsman for Victims of Crime recently conducted its own separate consultation with Canadians on four issues of prominent importance, including: 1) The Canadian Victims Bill of Rights (CBVR), 2) Bail Reform, 3) Administration of Justice Offences and 4) Restorative Justice. The Office's report, *Getting Fair Outcomes for Victims in Canada's Criminal Justice System*, contains several recommendations pertaining to increasing restorative justice opportunities for victims and survivors of crime, including the development, by the Federal Government, of a national victim-centered restorative justice strategy, increased funding to support victim involvement in restorative justice, expanding restorative justice-related legislation and conducting ongoing research in the restorative justice arena.⁴⁶

As a prominent international researcher has observed, "restorative justice is developing, from an interesting track to be explored, towards a clear possibility or even an indispensable part of the mainstream response to crime."⁴⁷ This report highlights ample reasons for this increased interest in restorative justice as a framework for justice transformation federally, provincially and territorially in Canada. Indeed, Canada is not alone in recognizing and realizing the significant potential and benefits of restorative justice in response to the most pressing problems facing criminal justice systems.

A brief survey of some key domestic and international reforms in this arena suggests a promising precedent for restorative justice in many jurisdictions. A selection of these initiatives is surveyed below.

Restorative Justice in Legislation and Policy in Canada

Existing legislation and policy at federal and provincial/territorial levels support or enable restorative justice. Additional work is underway elsewhere, as it is in Alberta, to consider possibilities to extend and develop such opportunities.

Federal Legislation

The Youth Criminal Justice Act (YCJA) came into effect in 2003⁴⁸ and represented a fundamental shift in terms of the principles and orientation of youth justice in Canada. The reforms reflected in the Act were aligned in a principled way with restorative justice, so it is of little surprise that restorative justice programs and initiatives have found favour in terms of achieving the goals and shifts sought by the Act. Examples of these principles include encouraging the involvement of families and communities in the young person's reform,⁴⁹ identifying the importance of victim participation and reparation to victims,⁵⁰ creating space for the use of conferencing to address harm caused by the young person,⁵¹ requiring alternatives to the criminal justice system be considered and providing for extrajudicial measures and restorative sentencing options.⁵² The YCJA has been a catalyst in jurisdictions throughout Canada for the development and implementation of restorative justice for youth. In fact, the recent national survey on restorative justice programs lists 407 operational restorative justice programs in Canada, and only 27 of these do not serve youth.⁵³

The *Criminal Code of Canada* contains sections that allow and enable restorative justice programs and practice. For example, [Section 717](#) of the *Criminal Code* authorizes the use of alternative measures if the offender accepts responsibility for the offence. It reads:

717 (1) Alternative measures may be used to deal with a person alleged to have committed an offence only if it is not inconsistent with the protection of society and the following conditions are met:

- (a) the measures are part of a program of alternative measures authorized by the Attorney General or the Attorney General's delegate or authorized by a person, or a person within a class of persons, designated by the lieutenant governor in council of a province;
- (b) the person who is considering whether to use the measures is satisfied that they would be appropriate, having regard to the needs of the person alleged to have committed the offence and the interests of society and of the victim;
- (c) the person, having been informed of the alternative measures, fully and freely consents to participate therein;
- (d) the person has, before consenting to participate in the alternative measures, been advised of the right to be represented by counsel;
- (e) the person accepts responsibility for the act or omission that forms the basis of the offence that the person is alleged to have committed;

- (f) there is, in the opinion of the Attorney General or the Attorney General's agent, sufficient evidence to proceed with the prosecution of the offence; and,
 - (g) the prosecution of the offence is not in any way barred at law.
- (2) Alternative measures shall not be used to deal with a person alleged to have committed an offence if the person
- (a) denies participation or involvement in the commission of the offence; or
 - (b) expresses the wish to have any charge against the person dealt with by the court.
- (3) No admission, confession or statement accepting responsibility for a given act or omission made by a person alleged to have committed an offence as a condition of the person being dealt with by alternative measures is admissible in evidence against that person in any civil or criminal proceedings.
- (4) The use of alternative measures in respect of a person alleged to have committed an offence is not a bar to proceedings against the person under this Act, but, if a charge is laid against that person in respect of that offence,
- (a) where the court is satisfied on a balance of probabilities that the person has totally complied with the terms and conditions of the alternative measures, the court shall dismiss the charge; and,
 - (b) where the court is satisfied on a balance of probabilities that the person has partially complied with the terms and conditions of the alternative measures, the court may dismiss the charge if, in the opinion of the court, the prosecution of the charge would be unfair, having regard to the circumstances and that person's performance with respect to the alternative measures.

Further, sentencing principles in [Section 718](#) support the use of restorative justice including (e) that sentencing should provide reparations for harm done to victims or to the community; and in

(f) that a sentence should promote a sense of responsibility in offenders, and acknowledgement of the harm done to victims or to the community. Section 718.2 subsection (e) which was the subject of the Supreme Court of Canada's judgement in *R. v. Gladue* has been particularly significant in terms of restorative justice and Indigenous justice. It requires that all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders.

Other relevant legislation includes the *Canadian Victims Bill of Rights Act* (CVBRA)⁵⁴ and the *Corrections and Conditional Release Act* (CCRA).⁵⁵ The right to receive information, upon request, about restorative justice is included in both of these Acts. Section 6(b) of the CVBRA indicates that

“every victim has the right, on request, to information about...the services and programs available to them as a victim, including restorative justice programs.” The CCRA, while not expressly mentioning restorative justice, states in Section 26.1(1) that “The Service shall provide every victim, and every person referred to in subsection 26(3), who has registered themselves with the Service for the purposes of this section with information about its programs and its victim- offender mediation services, and, on the victim’s or other person’s request, may take measures to provide those services.”

Provincial/Territorial Policy and Legislation Developments

Restorative justice work is evident in every Canadian territory and province, with varying degrees of coordination and support at legislative or policy levels. There is significant recent interest in expanding support and coordination for restorative justice efforts within the provinces and territories. A scan of the current policy and legislative landscape provincially and territorially (omitting Alberta, which will be examined in greater detail subsequently in this report) reveals some interesting developments:

- British Columbia’s recently elected government has placed restorative justice as a priority in its platform.⁵⁶ The province has also undertaken two extensive justice-related reviews in the last six years, both of which advance the province’s exploration of and commitments toward restorative approaches to justice.⁵⁷
- Saskatchewan’s Ministry of Justice released a comprehensive Alternative Measures and Extrajudicial Sanctions Policy document (2013),⁵⁸ which named restorative justice as a primary influence on these policies.
- Manitoba enacted (2015) the first restorative justice legislation in the country, *The Restorative Justice Act*, authorizing the development and use of restorative justice in Manitoba pursuant to the legal authority in the YCJA and the Criminal Code.⁵⁹
- Nova Scotia has developed a province-wide Restorative Justice Program authorized by the Justice Minister with formal protocols for referrals throughout the criminal justice system. The program began in 1999 and was extended to adults across the province in 2016. A comprehensive review of the program and protocols to ensure integration of the youth and adult processes within a single framework is currently underway.⁶⁰
- Newfoundland’s Justice and Public Safety Minister announced in November 2017 its commitment to the use of restorative justice within the criminal justice system.⁶¹
- Nunavut expressly identified restorative justice within its Diversion Protocol Agreement.⁶²
- Northwest Territories similarly names restorative justice within its Diversion Protocol Agreement. In addition, through recent collaboration with southern restorative justice advocates both Nunavut and Northwest Territorial governments are undertaking the development of restorative justice training pilot projects and manuals for community use, translated into Indigenous languages where appropriate.⁶³
- The Yukon Government supports a comprehensive Restorative Community Conference Program through its Youth Justice, Health and Social Services Branch. Yukon’s (2015) *Review of Victim Services*⁶⁴ also revealed a heightened interest in incorporating community-based restorative justice processes into alternative justice programs.
- The Federal Provincial Territorial (FPT) Working Group on Restorative Justice is undertaking numerous initiatives to advance the practice of restorative justice. These include advising justice officials across the country on its use and potential use, and documenting restorative

justice activities and initiatives throughout the country.⁶⁵ Federal, provincial and territorial partners are considering opportunities for deeper collaboration and coordination in the development of restorative justice as an important approach to address overrepresentation of marginalized populations in the justice system as reflected by the recent Federal/Provincial collaboration on the MAJOR task group. The FPT Working Group has also spearheaded recent and ongoing stakeholder consultation to articulate shared restorative justice principles.

Federal Restorative Justice Programming

Canada is home to a wide variety of restorative justice programs and innovations, including what is often considered the first modern program of restorative justice globally.⁶⁶ Given that Administration of Justice is a provincial responsibility, the bulk of innovations and programs in restorative justice are at the provincial and territorial level. A comprehensive review of the considerable number and diversity of these programs and models at a provincial and territorial level is beyond the scope of this review. However, it is worth noting that there are also federally administered programs strongly informed by restorative justice principles. These include:

- **Correctional Service Canada's (CSC's) Restorative Opportunities Program** provides opportunities for any victim/survivor of a federally sentenced crime to communicate with the prisoners who have offended against them.⁶⁷ While the program is administered federally by CSC's Restorative Justice Unit, community-based facilitators in each correctional region are contracted to provide all services beyond initial intake. The Restorative Opportunities Program is among the first federal programs of restorative justice addressing serious and violent crime and has become a model for other such initiatives internationally.⁶⁸
- **Circles of Support and Accountability (CoSA):** Based on restorative justice values and principles, CoSA relies on community volunteers to build relationships with and assist post-conviction sex offenders in reintegrating successfully and safely back into communities. It has been replicated internationally and empirically found to be one of the only effective interventions to address serious sexual offenders.⁶⁹ A recent funding announcement⁷⁰ of \$7.5M toward CoSA may be taken as evidence of a surge of interest in a restorative approach to deal with intractable justice system problems, such as the effective release and supervision of sex offenders back into the community.⁷¹

Restorative Justice Internationally

Restorative justice-based reforms are widespread and growing on the international stage. A selection of key initiatives is canvassed below, focused for the sake of comparability on Western democratic nations whose justice systems resemble the Canadian system. This is not to suggest that restorative justice is undeveloped in non-Western legal systems, examples of which also abound in the literature.⁷²

Belgium

Belgium has a rich history of innovative restorative justice programming for adults and youth, developed and researched collaboratively between academics and practitioners.⁷³ Perhaps the most significant reform was the 2006 enactment of the *Youth Justice Act (YJA)*, which prioritizes the use of victim-offender mediation or conferencing as the primary mechanism for responding to youth offences. This act requires prosecutors and youth judges to make restorative justice processes available where there is culpability and an identified victim. If they choose not to offer these services,

they are required to provide a detailed justification. Agreements made through these processes are legally binding unless they would be contrary to public order (though judges and prosecutors may also add measures to such agreements). Through the YJA, Belgium has a legally based system for restorative justice that is available in all 12 judicial districts for all types and degrees of youth crime, and at all phases of the criminal justice process.⁷⁴ Belgium also provides legal mechanisms for penal mediation (restorative justice) in adult criminal justice,⁷⁵ has taken measures for implementation of restorative practices within prisons,⁷⁶ and provides formalized roles to police officers to determine referrals (for both adults and youth) and within mediation sessions to convey the public interest.⁷⁷

Australia

The Australian criminal justice system (particularly law enforcement) was an early adopter of restorative justice, introducing a model of conferencing in selected police jurisdictions in the early 1990s.⁷⁸ In the Australian youth justice context, the “Wagga model” of police-run conferencing (named after the jurisdiction in which it was piloted) was quickly expanded in its use and availability after Canberra’s Re- Integrative Shaming Experiment (RISE) project demonstrated significant causality between the conferencing process and empirical gains in participant satisfaction and reduced re-offending, among other measures.⁷⁹ Conferencing in various forms is now available for mainstream cases of youth offending in all Australian states and territories, with legislative backing for these initiatives in most of those jurisdictions.⁸⁰ Police play a prominent role in restorative justice referrals in Australia, which has been subject to recent government-sponsored research.⁸¹

Restorative justice measures for adult crime in Australia are a more recent development and are operational in at least four jurisdictions, primarily at a pre-sentence level.⁸² New developments include the exploration of restorative justice in serious and violent crimes (at a post-sentence stage), based on Australian evidence suggesting a positive impact on reoffending and trauma recovery measures in such cases.⁸³ Thus, while restorative justice in Australia began with a strong youth justice and policing focus, its application has broadened significantly in recent years.

United Kingdom

Restorative justice initiatives in the United Kingdom’s criminal justice system date back to early 1990s experiments within the Thames Valley Police. The adoption of restorative justice terminology and practices have grown substantially in the UK since the earlier police-based experiments, and indeed the United Kingdom House of Commons now states a goal of “high quality restorative justice to be available to victims at every stage of the criminal justice system irrespective of where they are geographically, the age of the offender or the offence committed against them.”⁸⁴

Restorative justice programs are operational in some form within 33 out of 43 police forces in England and Wales.⁸⁵ There is evidence of continued investment of programmatic funding, legislative change, and research resulting in practices of expanded quality and scope for youth and adults, with a special emphasis on enhancing justice options for crime victims. More recent developments include a (2011-2014) capacity-building project by the National Offender Management Service (now Her Majesty’s Prison and Probation Service)⁸⁶ resulting in new social and program infrastructure to deliver restorative justice services within correctional and probation settings.⁸⁷

Northern Ireland has developed a systematic approach to restorative youth justice, backed by legislation similar to (and influenced by) that of New Zealand, and housed within Northern Ireland’s

Youth Justice Agency.⁸⁸ However, the provision of restorative justice service in that country in relation to adult offences is described as “patchy.”⁸⁹

Despite variability within the UK according to age of offender, region and other factors, the UK is notable for the significant advances in practice, research, interagency and governmental coordination, and quality assurance.⁹⁰

United States

The United States represents an example of restorative justice implementation that is highly variable and de-centralized at state, regional and local levels. A few notable examples of US-based initiatives include those in the city of Oakland, CA, and in the states of Colorado and Oregon.

The City of Oakland provides an example of prosecutor or probation officer-referred youth diversion programming using Restorative Community Conferencing (RCC). Of particular note, and unique to other diversion programs across the US, this model prioritizes serious offenses, resulting in felony referrals in 62% of the conferences. Upon completion of the RCC agreements, all charges are dropped, and the case is closed. Participating youth were 44% less likely to re-offend as compared to a control group.⁹¹

Colorado provides an example of reform through legislation. Between 2007 and 2013, with the support of a key Legislator “champion,” Representative Pete Lee, Colorado saw eight bills focused on restorative justice expansion signed into law. In addition to setting the stage for access and information regarding restorative justice programming for all stakeholders (criminal justice systems, victims/survivors, community, etc.), these bills also developed infrastructure for the restorative justice movement within Colorado. HB07-1129 established the Colorado Council of Restorative Justice Directors, and the Restorative Justice Coordinating Council to support the continued development and professionalization of restorative justice throughout the State.⁹² This legislation is still relatively recent in its implementation, so there is limited information on how it is playing out in practical terms.

Oregon is home to several well-established restorative justice programs and new innovations in some regions. Oregon’s Clackamas County, for example, which is home to 11 community-based reparative panels meant to divert low-risk youth offenders away from the criminal justice system, embarked on a re-visioning process toward expansion and stronger alignment with restorative justice in 2014. Diversion programs use victim-offender dialogue, restorative community conferencing, and circle processes to work with community, victims/survivors and youth offenders to address the harm done. It is a highly flexible model, developed by communities in partnership with the Juvenile Department, through a two-year collaborative stakeholder-engagement process.⁹³ This model of program development may be instructive in considering how to engage community in the ownership and leadership of restorative justice implementation.

Since 2004, Oregon has also provided facilitated dialogue between survivors of serious and violent crimes, and the prisoners responsible for those crimes. The Facilitated Dialogue Program, initiated by the Coalition of Victim-Offender Mediation Programs, is housed and operated by the Department of Corrections.⁹⁴ Dialogues are victim-initiated and have parameters that significantly restrict the number of cases that reach dialogue.

New Zealand

Over the past 30 years New Zealand has taken significant steps with the introduction of legislative and practical reforms consistent with a restorative approach to justice. In 1989, the New Zealand government passed the *Children, Young Person's and their Families Act 1989*. Based on broad consultation with Maori citizens and those of other Pacific Island decent, the Act governs the child protection and youth justice functions of Oranga Tamariki (the Ministry for Vulnerable Children), as well as the corresponding responsibilities of the Family Court and Youth Court. It is worth noting that much of the impetus for youth justice reform in New Zealand has been a call from within government and civil society to address the over-representation of Indigenous and marginalized peoples (youth) within justice—a mandate which resonates strongly with the current Canadian context.⁹⁵

New Zealand's youth justice system was designed on the foundation of a consensus-based decision-making process called Family Group Conferencing (FGC) used within matters of child protection. By law, youth offences (excluding minor infractions dealt with via police warnings or alternative action, and very serious criminality including murder, manslaughter and treason processed through adult court) are addressed through restorative justice conferences by referral from police or at the direction of the Youth Court. The process is facilitated by trained ministry staff and may include victims and their supporters, the accused young person, the young person's family and/or other supporters and caregivers, and relevant professionals. Consensus-based family group conference agreements comprise complete sentencing plans that can serve as a diversionary function or as a basis for sentencing.⁹⁶

Since the mid 1990s, adult offending in New Zealand has increasingly been addressed through restorative justice processes. These processes are initiated only in circumstances where victims choose to participate. After a NZ \$4.8 million pilot in 2001, the *Sentencing Act 2002* became law, which mandated that adult courts take into account the provisions of restorative justice processes or proposals. This legislation was accompanied by the *Parole Act 2002* and the *Victims' Rights Act 2002*, which combine to further promote the use of restorative justice processes in appropriate circumstances.⁹⁷

United Nations

Based on the promise and lessons of such international examples, the United Nations has maintained a guiding document on the basic principles on the use of restorative justice programs in criminal matters since 2002.⁹⁸ These principles are currently under review and renewal by the United Nations Office on Drugs and Crime as an increasing number of nations explore how to implement restorative justice effectively. Canada has taken a leadership role at the United Nations in calling for and supporting renewal and an expanded commitment to restorative justice internationally. As part of their review the UNODC sought submissions from member states about the use of restorative justice and prepared a summary of these submissions.⁹⁹ A report from the recent expert meeting held in November 2017 in Ottawa is expected soon and will be presented at the Crime Congress in Vienna in May 2018. This report advocates for the increased and expanded use of restorative justice in member states.

Restorative justice has become a timely topic, with a unique and legitimate seat at the table in discussions of justice reform worldwide. As this review will now explore, cross-jurisdictional research data regarding the effectiveness of these initiatives paints a promising picture of these reforms, while also highlighting challenges that must inform the way ahead for Alberta.

THE CASE FOR RESTORATIVE JUSTICE

Research assessing the successes of restorative justice is complex owing to significant variations in the practices and contexts under examination. This is particularly true for meta-analyses, which despite their value in reporting data trends, often fail to account for these important differences. Not surprisingly, restorative justice initiatives are far more likely to succeed in attaining their goals when developed in a principled manner consistent with careful planning and grounded in relevant knowledge and evidence. This theme will be explored in greater detail throughout this report, as will the issue of measuring “success” of restorative justice.

It is helpful, however, to begin with an overview of the research assessing the use and impact of restorative justice. What emerges from a review of the available evidence on restorative justice is cause for optimism regarding the potential of restorative justice, particularly regarding the most significant issues facing the criminal justice system in Alberta and Canada. Of course, fulfilling these potentials requires careful attention to the implementation of restorative justice, including the need to be attentive and responsive to contexts and circumstances. It is important to be clear that the positive findings reflected in this overview are not true of all processes purporting to be “restorative,” nor does it suggest that the same processes replicated in different contexts will necessarily produce the same outcomes. What it does suggest is that restorative justice is capable of producing these positive outcomes. The remainder of the report seeks to identify the key elements and issues for Alberta’s successful development of restorative justice to achieve such outcomes.

- **Restorative justice practices enhance participants’ satisfaction with the justice system.** Studies have demonstrated that victims and offenders participating in victim-offender dialogue report a more positive perception of the justice system than those engaged solely with traditional court prosecution.¹⁰⁰
- **Restorative justice relieves pressure on the justice system.** The evidence is clear that where restorative justice presents a viable diversionary option, an increased total number of chargeable offences can be brought to justice. For example, American and Australian studies demonstrated that diversion to restorative justice, in which accused persons may acknowledge responsibility without a legal admission of guilt, yields increases of 100% to 400% in cases brought to justice.¹⁰¹
- **Restorative justice can reduce disproportionate minority representation within the criminal justice system.** Restorative justice encourages opportunities for criminal behaviour and victimization to be addressed within the communities of those involved. This approach enables high degrees of cultural adaptability based on the individuals involved, seeking to empower families and communities (rather than criminal justice system professionals) as central figures in encouraging responsibility and accountability in persons who offend. Restorative justice is recognized by the Federal Government as a key element of reducing disproportionate representation of marginalized communities, as reflected in the Justice Minister’s mandate letter.¹⁰² Restorative justice is effective to this end where it represents a viable diversionary option for marginalized people accused of serious crimes.¹⁰³
- **Restorative justice helps reduce re-offending.** Research points to significant potential for restorative justice in crime reduction and desistance.¹⁰⁴ International study results

documenting the link between restorative justice participation and reduced reoffending are most pronounced in cases of violent crime toward an identifiable victim.¹⁰⁵ In Canada, a recent analysis by the Correctional Service Canada of victim-offender dialogue processes in crimes of severe violence showed that only 2.6% of participating offenders returned to prison within a one-year period, compared with 9.2% of a comparison group matched by levels of risk and need.¹⁰⁶

- **Restorative justice increases offender responsibility and compliance.** Studies show that compliance by offenders/accused with restorative justice agreements outperforms compliance with court orders by significant margins.¹⁰⁷ A Canadian study found that victims seeking financial reparation through restorative justice were four times more likely to receive it than victims who went to court.¹⁰⁸
- **Restorative justice increases satisfaction of crime victims.** Meta-studies indicate victims report satisfaction in 75% to 98% of cases involving conferencing and victim-offender mediation. This is significantly higher than victim satisfaction with traditional judicial procedures.¹⁰⁹ Restorative justice has also proven to be beneficial in the context of trauma recovery. By providing a safe context for trauma survivors to narrate their experiences and needs, and to encounter those who have offended against them, restorative justice provides opportunities for validation, connection, choices, perceptions of safety and other well-researched factors in trauma recovery.¹¹⁰ The effect is a documented reduction in the symptoms of post-traumatic stress for those who participate in restorative processes.¹¹¹
- **Restorative justice increases social bonds and fosters safer communities.** There is evidence that restorative justice increases cohesion and trust between victims and offenders, as well as between these primary parties and their respective support systems.¹¹² Research indicates that stronger social bonds contribute to a reduction in crime rates generally.¹¹³ Further, the increased involvement of community agencies in the delivery and implementation of restorative justice has the effect of addressing gaps in human services on a local level.¹¹⁴

While these research findings provide considerable impetus for continued exploration and innovation of restorative justice, a more nuanced review of the literature highlights the need to be cautious and deliberate about the ways in which restorative justice is understood, implemented, and practiced. There is, in the words of the pioneering restorative justice theorist John Braithwaite, “such a thing as practice masquerading as restorative justice that is outrageously poor—practice that would generate little controversy among criminologists that it was unconscionable, such as the conference where [...] the child agreed to wear a t-shirt announcing ‘I am a thief.’”¹¹⁵ Conversely, there is general consensus among researchers that “Good process leads to good outcomes.”¹¹⁶

As this report elaborates, the elements essential to ensuring “good process” align with restorative justice principles. A principled approach to restorative justice implementation and practice protects against the pitfalls of non-restorative practices “masquerading” as restorative justice. Principles may help us to make sense of the variability in quality and effectiveness observed within the research on restorative justice. A few selected examples help reveal this variability across programs and practice:

- An analysis of the (albeit small) segment of crime victims reporting dissatisfaction with restorative justice suggests that the majority had been involved in conferences for which there had been inadequate monitoring of the conference agreement.¹¹⁷
- Studies have demonstrated that where restorative justice has the greatest impact on re-

offending is in cases in which the offender was treated with dignity during the process and had access to robust support and/or treatment in conjunction with the restorative justice process.¹¹⁸

- While the seminal Canberra Reintegrative Shaming Experiment study demonstrated dramatic reductions in re-offending for Caucasian participants, conferencing was in fact associated with increased post-conference arrest rates for Aboriginal accused persons. This fact has been attributed by some researchers as directly related to the role of police officers (a purportedly untrusted group by many Australian Indigenous people) as facilitators of the conferences under examination.¹¹⁹

Understanding Success – A Systems Perspective

In the examples named above, results were variable based on such interrelated factors as:

- **Service-delivery factors:** the way in which programs and practitioners (for example) prepare participants for conferences; effectively monitor conference agreements; and assist in convening support persons for participants.
- **Network factors:** referral and informal networks/relationships between restorative justice providers and other community resources (so as to facilitate referrals to or support from treatment programs and/or other services).
- **Systemic Factors:** the way in which restorative justice programming is situated within criminal justice and related systems, including “who” is responsible for convening and facilitating encounters, and “for whom” the service is being delivered.

In other words, success in restorative justice requires strategic and systems thinking pertaining not only to individual programs, but the networks and systems in which programs and services are embedded. For example, services providing “encounter” programs (typically marked by face-to-face meetings between parties) cannot be viewed in isolation if they are to produce the results expected of them. A systemic approach to the question of justice acknowledges that neither the causes nor the results of crime can be addressed by an isolated restorative justice provider, nor by even the most enlightened criminal justice intervention alone. Restorative justice programming cannot fully flourish without simultaneous attention paid to the wider criminal justice system—and, as acknowledged by the Canadian Department of Justice, transforming the criminal justice system involves thinking differently about how the criminal justice system works and how it relates to other social support systems in our society such as housing, health care, education, employment, training and child protection.¹²⁰

The current criminal justice system is not well designed to deal with the relational complexity of the issues or parties involved. The potential of restorative justice, beyond its more limited expression in “encounter” mechanisms, is as a principled framework able to articulate a vision for justice and a “compass”¹²¹ to navigate the complex terrain of systemic transformation. The approach offers a different way of thinking about justice that can contend with the complex nature of the issues faced by the criminal justice system. This way of thinking can ground more effective policies, programs and practices.

This report concludes that restorative justice can produce benefits for the existing justice system. Further, a complete overhaul of the existing system is not required for significant benefit to be

realized. It does, however, suggest that the value of restorative justice for the existing system will only be fully appreciated if it is grounded in an understanding of restorative justice as a way of thinking about and approaching justice. This approach is not simply about adopting a set of tools in the tool box, it is a way of understanding the nature of what is being built and how the tools might be best used to design, implement and maintain a justice system.

Based on this approach, this report considers the key elements for successful restorative justice under the banner of five overarching themes. These themes emerge from the review teams' wide-ranging research and were confirmed through the review of the Albertan context. Within these themes are opportunities for broad strokes of change and transformation, but also recommendations for smaller-scale changes and actions that can build upon and contribute to a foundation for long-lasting reform in Alberta. Restorative justice can and should be implemented in a coordinated and phased way to work towards more fundamental change that will bring short-term benefits and build capacity for more lasting results.

RESTORATIVE JUSTICE IN ALBERTA: OPPORTUNITIES AND CHALLENGES

Alberta has been tackling justice-reform issues head-on for some time, including the recent *Injecting a Sense of Urgency Report*¹²² and the resulting responses.¹²³ In particular, significant attention was paid to the *Jordan* decision and the need to reduce court delays and address other justice system challenges at the Alberta Criminal Justice Summit in summer 2017. Following the summit, a working group was established to explore how restorative justice may assist in furthering these justice-reform efforts. The current review was undertaken in support of these efforts. It was informed by careful attention to the existing context and circumstances including previous and current experience with restorative justice in Alberta. The recommendations in this report seek to take account of the current opportunities and challenges within the Albertan context. The following provides a brief overview of the more salient aspects of the context for restorative justice in Alberta.

Overview of Restorative Justice in Alberta

The review revealed a strong commitment across stakeholders in Alberta to the idea of restorative justice and a sincere interest in its potential for innovation. It also revealed a significant lack of clarity or understanding about how to advance and implement restorative justice in systematic and strategic ways across the Province. Indeed, Alberta has been a long and consistent supporter of restorative justice in Canada. Alberta provides annual funding to community-based restorative justice programs throughout the Province. Three basic “streams” of restorative justice exist within the Province: Youth Justice Committees, Indigenous Justice Programs (formerly the Aboriginal Justice Strategy)¹²⁴ and the Alberta Community Restorative Justice (ACRJ) grant program.

- The Alberta Community Restorative Justice (ACRJ) program, operational since 2004 and administered by the Crime Prevention and Restorative Justice Unit of the Ministry of Justice and Solicitor General, currently provides \$360,000 in annual funding to non-profit organizations that practice, promote, or develop restorative justice (RJ) initiatives. Each year approximately 20 programs request funds, with approximately 13 programs successful annually. That said, 24 unique organizations have received funding since the ACRJ grant program’s inception, raising concern for organizations’ ability to sustain their work from year to year. This may be due in part to internal capacity issues and uncertain/unstable funding levels.
- In addition, Alberta Justice and Solicitor General currently funds 81 Youth Justice Committees (YJCs), through their Correctional Services Division.¹²⁵ These committees are mandated through s.18 of the YCJA, inheriting a similar mandate from the *Young Offenders Act* from the early 1990s. Alberta has issued 131 Ministerial Orders for YJCs but over the years some of these groups have ceased to function due to lack of capacity. The overall YJC budget is \$350,000 each year, with the highest funding going to an umbrella group of 25 YJCs funded at \$60,000 per annum. Some very small independent groups receive approximately \$500 annually.
- The Province of Alberta (Justice, Indigenous Initiatives Division) also jointly funds 15 Indigenous Justice Programs (IJP, referenced earlier in this report) with Justice Canada. IJPs

operate differently within each province, while sharing the common mandate of assisting communities to have greater responsibility for justice administration and integrating Indigenous cultural values into justice systems.¹²⁶ Within Alberta, IJP groups focus on prevention and diversion, with most referrals coming via the Crown. Many IJP groups are looking to build stronger referral relationships with their police partners, primarily RCMP. Some IJP groups identify strongly with the philosophy of restorative justice, some focus more on Indigenous law and justice traditions, while others are a hybrid.

Some programs are part of more than one stream and these programs are dispersed throughout all regions of the Province.

A key lever in Alberta's restorative justice landscape that works across all three streams, in ways that is relatively unique within Canada, is the Alberta Restorative Justice Association (ARJA).¹²⁷ ARJA is a community-based agency created in 2005 that helps build a network of RJ practitioners across the province, supports new and existing organizations with education and supporting resources, and, hosts an annual training conference for community groups and other justice stakeholders, among other activities. Attendance at the conference has increased from 75 attendees in 2006 to more than 200 people attending annually since 2013. Similarly, membership has increased from an original 45 to over 300 in a decade.

A closer look at the ACRJ grant program (which has the most readily available statistical information) reveals some interesting insights about restorative justice in the Province. The statistics paint a somewhat curious picture of significant potential struggling to be fulfilled. Groups associated with the ACRJ grant program averaged a total of 571 referrals per year. (Compare this to neighbouring British Columbia, for example, where community restorative justice programs receive approximately 1700 referrals per year, and Nova Scotia—with approximately one quarter of the population—with 1500+ referrals in 2017.) Yet according to program self-reporting, referral sources within the criminal justice system are spread fairly evenly across defense, crown counsel, community agencies, police, probation and judges (comparing again to British Columbia where nearly 80% of referrals are police-based and Nova Scotia where a significant majority of the cases are shared between police/crown referral sources). This vast breadth of referral sources is also true for the YJCs. It is significant that referrals come from so many diverse sources and entry points across the criminal justice system, yet arguably without the coordination required among stakeholders to advance the use of restorative justice, this potential benefit may not be realized across the system.

Based on a survey recently conducted by ARJA of a mix of ACRJ-funded agencies, IJPs and YJCs, most programs reported being underutilized overall. Further, the ebbs and flows in their caseloads seem to rely on the strength of relationships with individuals within referral sources, which are constantly changeable. According to the survey, programs report capacity for 10% to 50% more cases per year.

At present, most cases referred to ACRJ programs are less serious offenses involving property or minor violence. Success with these cases is high, with only 8% of cases ending in non-compliance with agreements. Self-reporting from agencies, also compiled in a survey conducted by ARJA, indicates a 97% rate of victim satisfaction (satisfied or very satisfied) with the restorative justice process. Nearly all groups related to the ACRJ rely heavily on volunteerism; volunteers act as board members, facilitators, trainers and community champions. Most of the ACRJ funding, when available, goes to support a coordinator, whose responsibilities would include volunteer coordination in addition to program management/coordination.

Given this information, it is clear that several factors contribute to the underutilization and overall low referral rates of restorative justice programs in Alberta:

- Unpredictable dynamics related to referrals owing to a dependence on interpersonal connections instead of system policy and coordination.
- While present funding may be adequate to sustain under-capacity levels of service, the uncertainty of the funding from year to year prevents thoughtful and sustainable expansion of programming. Service providers are prevented from setting goals for growth under current funding schemes, which are subsistent in nature and not be dependable over time.
- Referral of lower-level types of offenses with more removed connections to personal victimization (such as shoplifting or public vandalism) may be more likely to be dealt with in ways that become predictable and straightforward (even scripted). These cases may be processed more quickly and even efficiently, but the value of the restorative justice programming to more thoroughly address harm and relationships is left on the table. Hence, referral of cases of a more complex nature may result in better use of the capacity of these community restorative justice programs.

Themes in Alberta Restorative Justice

Further analysis of the context in Alberta, including information gained from the interviews, revealed the following themes and issues. These themes and issues inform the recommendations at the end of this report:

- **Working across sectors:** The desire for greater collaboration between groups and systems to advance restorative justice in Alberta was evident throughout the interviews. There was no consistent or clear consensus about which collaborations would be most beneficial, or how they should be structured or established. Despite belief that restorative justice could significantly assist with system challenges such as access, delay and costs, groups and systems overtly connected to restorative justice seemed to be working in isolation from and with little knowledge of each other (e.g. Calgary Police is advancing important initiatives, Youth Justice Committees are exploring expansion and deepening of restorative justice, Indigenous Justice Program is gaining capacity). Further these groups were not strongly connected with those doing similar work but not traditionally or explicitly associated with restorative justice. For example, while Alberta's "Reforming the Family Justice System" initiative is making great strides in justice transformation, there was little knowledge of this work within the Criminal Justice System sector.
- **Varied understandings and assumptions about restorative justice:** It was clear that most respondents had positive feelings toward restorative justice and its potential for use to deal with Alberta's current CJS challenges. Differences emerge, however, regarding how restorative justice should be defined and operate. The central focus and purpose of restorative justice varied with some focused on rehabilitative programming for youth, others on diversion possibilities, some on victim-offender dialogue, others on problem-solving courts, and other variations. As explored below, building a common understanding of restorative justice can be a foundational leverage point for collaboration and coherence to realizing its benefits.
- **Focus on young people as perpetrators of harm:** Restorative justice in Alberta is significantly focused on assisting young people to be accountable for their actions and access resources

and supports needed to make things right to the greatest extent possible. There is significant passion and commitment for this important work amongst those interviewed. There was not strong consideration or interest evident for the potential of restorative justice beyond this context. Adult eligibility, for example, was not robustly considered or discussed by most key informants (even though some programs do accept adult referrals), and the focus on restorative justice processes oriented around victims/survivors' needs was not strongly considered in discussions of the program and its future. The effect of this narrower youth focus on overrepresentation issues was also not a theme which emerged. Mechanisms for considering how to broaden referral eligibility and how simultaneously to attend to the needs of marginalized groups will strongly advance Alberta's effective use of restorative justice.

- **Indigenous leadership:** Throughout Alberta, Indigenous leadership and commitment to revival of customary and traditional justice practices are clearly present and gaining strength. This was particularly evident at the 2017 ARJA conference.¹²⁸ There is a strong potential for knowledge sharing and mutual support among Indigenous justice and restorative justice practitioners in Alberta.
- **Referral challenges:** Respondents across sectors expressed significant interest in the expansion of restorative justice to address the current challenges of the criminal justice system (especially related to efficiencies such as delay and costs). Practitioners and those working directly in and for restorative justice programs, however, expressed frustrations with the low referral volume from partners within the criminal justice system. Key informants expressed concern about whether this reflected a lack of trust or credibility by system actors toward community-based service delivery. Increased collaboration across stakeholders, including in program design, governance and evaluation, will go a long way to strengthening the referral relationship in Alberta.
- **Community coordination and advocacy:** As noted above, the Alberta Restorative Justice Association (ARJA) is quite unique in Canada. Stakeholders around Alberta and beyond seek to participate and present at the ARJA annual conference. ARJA has successfully advocated for recognition of the impact of restorative justice with respect to challenges for the criminal justice system, particularly cost and delay challenges. This advocacy has helped maintain funding for restorative justice programming at times when it was in jeopardy.¹²⁹ Many key informants noted the importance of this convening function and its potential to support greater collaboration, coordination, knowledge sharing and capacity building toward the advancement of restorative justice.
- **Relational environment for building capacity and partnership:** Several respondents indicated the existence of tensions within and among the community-based restorative justice providers and other stakeholder groups related to restorative justice. There were indications that some of this tension results from the structure or perception of competition for funding or for legitimacy and leadership within the RJ field in Alberta. There also seemed to be miscommunication and misunderstanding of roles and intentions that were heightened by awareness of the potential development and expansion of restorative justice. The existing strength and breadth of Alberta's restorative justice network creates an opportunity to build localized and regional communication mechanisms and develop shared goals.
- **Sustainability issues:** Alberta has many dedicated champions for restorative justice within government, the justice system and the community. These individuals have made significant

contributions and had real impacts in terms of the advancement of restorative justice in Alberta. This is an important and valuable strength for restorative justice in the province, and a real asset in realizing the benefits that restorative justice provides for the criminal justice system. The great extent to which program developments and sustainability rely upon these individuals, however, generates vulnerabilities for the work if these individuals move on to other roles and away from restorative justice. Champions are essential for the advancement of restorative justice. However, there was a recognition that the sustainability of restorative justice cannot be so dependent on individuals alone but requires a framework and process that can ensure continuity and renewal. Intertwined with this matter of sustainability is predictable and stable funding, which emerged as another theme for Alberta. It was clear from the review that the issue of funding was intertwined with building the capacity and relationships necessary for collaboration and partnership.

- **Training and Education:** Respondents from all sectors identified the importance of better understanding and awareness of restorative justice among system stakeholders and the public. The need for a common understanding of the purpose and use of restorative justice was identified as a key to success. Relatedly, the value of consistent training of good quality was also identified by many as essential. The review revealed that this element was at best inconsistent in the province. Some respondents certainly pointed to some familiar and often-utilized sources. However, many seemed unsure of where to obtain rigorous, high-quality training that is affordable and accessible. There was also very little certainty of what sort of training beyond introductory or basic practice training would be needed to enhance and advance restorative justice. The advancement of ongoing, high-quality training and education will be an important factor for Alberta in realizing its restorative justice ambitions.
- **Policies and protocols:** Alberta stakeholders, like others across Canada, have differing understandings of which, if any, policies govern the use of restorative justice. Many respondents could not identify applicable policies. There was also significant confusion regarding the scope and application of restorative justice in the province. For example, some respondents indicated that policy allowed only crimes of a certain type to be referred by crown or police, others had no knowledge of such limits, and others provided outdated and incorrect knowledge of policies. Accordingly, a culture of individual discretion seems to have emerged amidst these differing understandings. Attention to provincial-level governance and oversight related to restorative justice is therefore a central consideration for Alberta.
- **Responsibility for implementation:** Many different sectors in Alberta are involved in the implementation of restorative justice. Interviews with community practitioners and system champions revealed that this diversified but diffuse approach sometimes places responsibility for the survival and success of restorative justice on very few shoulders within each sector. Overall, however, the system does not seem to have any built-in accountability mechanisms oriented to support and sustain the use of restorative justice, relying instead on the efforts of individuals. As a result, practitioners and champions take on the advancement of restorative justice and seem to be engaged in a constant process of seeking out allies to generate referrals or advance programming. The review revealed significant opportunity to develop mechanisms to share responsibility across systems and community to enhance restorative justice in Alberta.

Moving Forward in Alberta

Overall, this review found that Alberta has the potential to take a leadership role in restorative justice.

The timing is ripe in terms of the momentum and commitment of those within the province. It is also an ideal time for Alberta to be engaged in this work to enhance and advance restorative justice along with federal, provincial and territorial partners. It is clear, however, that despite significant promise and potential in Alberta there is also substantial risk that, if unaddressed, some of the challenges identified may limit Alberta's progress or undercut its current pillars of strength in restorative justice. With the right attention and investment, restorative justice innovation in Alberta has real potential to accomplish the following:

- Boost collaboration and productivity among criminal justice system stakeholders;
- Increase efficiency and effectiveness through positive impacts on court delays and other system efficiencies;
- Improve access to justice in terms of the timeliness and quality of the justice offered and experienced, thereby offering better support for victims, and meaningful accountability for youth and adults in conflict with the law;
- Address aspects of overrepresentation of marginalized populations;
- Further enhance Alberta's caring and engaged communities;
- Enhance public confidence in the administration of justice, and;
- Demonstrate a commitment to justice reform, including the federal criminal justice review, Transforming the Criminal Justice System.

MAJOR THEMES AND KEY ELEMENTS FOR SUCCESS

The following sections of the report identify major themes and related issues that are key to realizing the potential of restorative justice in Alberta. Each of these themes is explored based on existing research and practice, and further analyzed within the Alberta context. Specific recommendations follow, related to each theme.

Theme 1: Understandings of Restorative Justice

Describing vs. Understanding Restorative Justice

As mentioned previously in this report, the review team found a shared understanding of restorative justice was lacking among the cross-section of justice stakeholders in Alberta who were interviewed.¹³⁰ Variability in this core understanding is not unique to Alberta and is evident in many jurisdictions. Nevertheless, the way in which restorative justice is understood by proponents in Alberta, including the Government of Alberta, is important because it will have a fundamental effect on the development, scope and outcomes of efforts at restorative justice innovation.

Key informant interviews conducted during this review revealed that the most common approach to restorative justice in Alberta is as a specific tool or mechanism for consideration within the context of extrajudicial measures and sanctions. Indeed, restorative justice practices and programs, both within and beyond Alberta, are most commonly employed as alternatives to or “off-ramps” from the criminal justice system. In this arrangement, referrals from police and crown (at pre-charge or pre-conviction stages) divert cases from the criminal justice system to restorative justice programs, generally run by community organizations.¹³¹ Some jurisdictions also allow referrals post-conviction before, or as part of, sentencing by courts or correctional services.¹³² In some cases, restorative practices are utilized within the mainstream justice system to augment existing processes, for example in the case of sentencing circles within courts.¹³³ As explored previously in this report, each of these uses—referred to generally throughout this report as restorative justice “practices” or “programs”—have produced important and significant positive results for the parties involved and have had some positive effects on the systems of which they are a part. However, there is a propensity in Alberta, as is also evident in the literature on restorative justice, to reduce the idea of restorative justice to these practices, processes or justice “mechanisms.”¹³⁴ By way of example, the Alberta Government has described restorative justice as “an alternative dispute resolution approach that focuses on the needs of those affected by crime,”¹³⁵ or more fully, as

“Restorative justice is not a new set of programs or short-term projects. It is a new way of thinking about crime, community, and working together for the future. Restorative justice requires vision, creativity, and shared leadership on the part of the justice system, victims, offenders and the community.”

SUSAN SHARPE, AUTHOR,
RESTORATIVE JUSTICE:
A VISION FOR
HEALING AND
CHANGE

a process in which the parties with a stake in a particular offence (the victim, the

offender, and community members) are supported and voluntarily participate in a discussion about the causes, circumstances and impact of the offence. These discussions take place with the assistance of a fair and impartial facilitator. The purpose is to understand the causes of the crime and its effects on those who have been harmed and address the needs of the parties for healing and reparation.¹³⁶

This is a reasonable and accurate description of restorative justice practice. However, as will be explored in the following pages, the review Team suggests that the reduction of restorative justice to process descriptors poses important risks and limitations to the potential of restorative justice to effect positive change in Alberta.

Risks of a Mechanistic Approach

Where definitional confusion and debate is evident in the literature on restorative justice,¹³⁷ this can largely be summarized as confusion between (often accurate) *descriptions* of restorative justice practices or methodologies, and the *aims* of restorative justice as an approach to justice. De-linked from a concept of justice, descriptions like that from the Alberta Government above risk co-optation of restorative justice terminology by other competing normative assumptions and value systems within the criminal justice system. Braithwaite's anecdote (cited previously) of the youth whose conference agreement included the requirement to wear a t-shirt stating "I am a thief," is one example of the propensity of retributive justice oriented stigmatization playing out unchallenged, despite the trappings of a restorative justice process. Similarly, court proceedings have been found coercive for crime victims.¹³⁸ In this context, crime victims are often influenced or pressured by the structure of the system to tailor their restorative justice participation to focus on the accused despite claims by restorative justice theory toward voluntariness, responsiveness and empowerment. This is another example of co-optation by competing agendas contrary to a restorative approach.¹³⁹ The integrity of restorative justice depends on a principled approach to practice. Yet, it is clear that foundational principles, values or commitments cannot be adequately derived from a mechanistic definition.

A further limitation of mechanistic definitions of restorative justice is that they fail to offer conceptual guidance on other aspects of criminal justice and the broader social response to harm. This results in missed opportunities to engage the underlying principles of restorative justice in pursuit of justice innovation more broadly. It is beyond the scope of this report to consider the implications of a restorative approach for more fundamental revision of Alberta's criminal justice system. However as will be explored, it is the view of the review team that any restorative justice reforms in Alberta will impact many systems and actors concerned with the administration of justice and crime prevention. The sustainability of specific restorative justice initiatives relies upon an effective network of actors working in collaboration toward common justice goals. Narrow definitions of restorative justice stop short of articulating or supporting the development of such goals.

Opportunities for a Shared Concept of Justice

The most significant impacts, in terms of the justice transformation that is required to address the current crisis in the justice system, have come where restorative justice influences the dominant approach of the justice system and is implemented in an integrated and coherent way throughout the system (e.g. the Belgian and New Zealand reforms described previously). Implemented in this way, restorative justice can serve as an alternative to the criminal justice system, while also informing the approach to processes and practices within the justice system. Innovations aimed at, for example, parallel justice for victims,¹⁴⁰ treatment/rehabilitation, victim services, restitution, counselling, cultural

programming, community policing, conditional sentencing and problem-solving courts, can be (depending on their context and how they are implemented) reflective of a restorative approach. Further, a system infused with a contextual understanding and operationalization of restorative justice within is far more likely to make referrals out of the system to restorative justice. Understanding restorative justice should, then, challenge common assumptions and traditional approaches to justice in ways that are needed to address some of the most pressing challenges faced by the justice system.¹⁴¹ Thus the greatest transformative potential of restorative justice lies in its utility as a way of thinking about justice. It is this approach to justice that can guide the development and implementation of justice policy, practices and processes within and outside the criminal justice system.

As will be discussed, this approach to restorative justice—as a way of thinking about justice—generates (through deliberation) the principles needed to guide implementation, governance, management and operation of restorative justice processes and programs. This understanding is also key to developing shared goals and objectives for the use of restorative justice in the criminal justice system. The process of examining what justice outcomes distinguish a process as “restorative” enables change agents to design processes and programs to meet these requirements and to measure and assess their success.¹⁴²

A systemic understanding and approach to restorative justice can underpin and connect the various specific restorative initiatives (for example in Alberta the youth justice committees, community restorative justice programs, etc.). This is foundational to building a system in which actors, organizations, agencies and institutions can collaborate for successful restorative justice implementation. A shared understanding is essential to building the trust needed among constituent parts of the system to establish partnerships and develop a strong framework and strategy for justice. A core understanding can also support the flexibility and variety of practices and processes required to respond to different circumstances and needs. In short, the prevalent understanding of restorative justice in Alberta will affect all aspects of the nature and scope of implementation.

It is important to highlight that this shared understanding does not imply a specific or fixed set of practices or practice elements. It must run deeper than this to reflect the meaning of, and reasons for, a restorative approach to justice. This appreciation of purpose can serve as the basis to develop principles to guide the application of a restorative approach and to help design and assess what policies, practices, processes and programs best reflect and achieve this purpose.

A Relational Approach to Justice

A review of the literature reflects sentiments by key informants in Alberta: connections and relationships play a central role in restorative justice.¹⁴³ This is true on a number of levels both within restorative processes (between and among the affected parties and their communities), for practitioners whose relational skills are often credited for securing successful outcomes, at the program level where strong collaborations between community and system stakeholders and across human service providers were identified as central to the work. The fact that relationships are so central to restorative justice reflects not only how the processes and practice work, but the very nature of restorative justice as a way of thinking about justice. Experience with restorative justice reveals that relationality is key to justice. This report suggests that restorative justice is best defined as a relational theory of justice. That is, restorative justice is an approach to justice that views justice as fundamentally concerned with “just” relations—between and among people, groups, institutions and

societies. We provide an overview of this understanding of restorative justice as a relational theory drawing heavily on the scholarly work of review team lead Jennifer Llewellyn. It is worth noting that this relational definition of restorative justice explicitly animates several successful programs and initiatives already: the Nova Scotia Restorative Justice Program, the Restorative Public Inquiry for the Home for Colored Children, the Motherisk Commission, and the work of jurisdictional partners in the Restorative International Learning Community in support of the restorative communities and cities movement (including Hull and Leeds, UK; Canberra and Newcastle, Australia; New Zealand; and Vermont, Oakland, and Maine).¹⁴⁴

A restorative approach grounded in relational theory takes as its starting point the insight evident in the success of restorative justice about the centrality of relationships, not as a goal or endpoint, but as an important fact of the world that requires careful and constant attention. A restorative approach is defined by its attention to connections (relationships) at interpersonal, group, system or institutional levels that are affecting, or may be affected by, a situation.¹⁴⁵

A restorative approach to justice then requires as Howard Zehr instructs, a “changing of lenses”¹⁴⁶ from one with a narrow angle focused singularly on the individual subject or breach of the law, to a wide-angle lens capable of taking in all that surrounds this individual subject: others involved, affected or otherwise in the picture. It requires a lens capable of capturing foreground and background so that attention can be paid to context, circumstances and causes. It is a lens capable of capturing dynamic situations and capable of being responsive to changing conditions that require refocusing.¹⁴⁷

Restorative justice requires a shift to a relational way of understanding people and systems. It is from this relational understanding or vision of justice that the core principles of restorative justice can be derived. These principles provide further definition to a restorative approach and its practices and processes without reducing or limiting our understanding to particular models or forms of practice. They can guide the development and implementation of practice without prescribing a particular limited set of practices.

In previous work, review team lead Llewellyn has suggested that “as a useful analogy, one might think of [the principles] not as a recipe for restorative justice practice but rather as an articulation of the principles of cooking, upon which good recipes, and their execution, depend.”¹⁴⁸ The principles are not simply relevant for the procedural elements of a restorative approach but for its substantive goals and achievements. These principles, while not an exhaustive list, may serve as a helpful guide for a restorative approach.

Principles of a Relational Approach

The exact determination and articulation of the central principles of restorative justice in Alberta should ultimately be the subject of discussion and development among restorative justice partners in Alberta, with a view to building the shared understanding, capacity and commitment foundational for success. The principles articulated by Llewellyn¹⁴⁹ may offer a useful starting point for such a process.

Relationship Focused

A relational approach is focused on relationships and does not focus only at the individual level. A relational approach directs the focus to the relationships between and among the parties involved. This focus on relationships draws attention to the nature or character of the various relationships involved in or affected by a situation. Restorative justice then takes as its aim the establishment of “just” relationships – those reflecting the core commitments of equal

respect, care/concern and dignity.

Comprehensive/Holistic

Just as restorative processes are relationship focused in their orientation to parties, a restorative approach is similarly relational in its understanding of issues and harms. A restorative approach is comprehensive and holistic in its understanding and response. It is insufficient then, in a restorative approach to focus narrowly on an incident or issue without attention to causes, contexts and implications.

Contextual/Flexible

A focus on relationships requires processes and practices that are flexible and responsive to context. It defies cookie cutter or “add-water and stir” models of practice because they cannot take account of the nature of the particular relationships at stake and the parties involved. For example, there may be different needs in terms of cultural practices or related to the safety and security concerns or the complexity or breadth of the issues or parties involved. All would need to be considered in crafting a restorative process or practice or policy.

Subsidiarity, Inclusion, and Participation

The European Commission explains the subsidiarity principle “...is intended to ensure that decisions are taken as closely as possible to the citizen...” In its application this principle limits the European Union’s action “...unless it is more effective than action taken at national, regional or local level.” This principle also reflects a commitment to contextuality. Framed relationally, it is important that we involve those with direct knowledge of the contexts and relationships at stake if we are to have the knowledge and capacities needed to address the harms and build a foundation for a different future. The principle of subsidiarity explains the commitment within a restorative approach to inclusion and participation. Subsidiarity demands attention to who should be included within processes so that the process may be well informed and the outcome legitimate for those affected or involved with it. As a relational framework invites a different lens on harms and their effects through the webs of relationships in which people live, it prompts a different way of thinking about how different parties should be connected and involved in a restorative process. Rather than requiring parties and non-parties (for example by-standers or supporters) or outsiders vs. insiders, a relational approach invites more complexity than such binary and adversarial choices.

It is not enough, however, to simply include all those affected or with a stake in a situation. Their inclusion must be meaningful to the process and its outcome. In other words, it must make a difference that they are included – mere presence is insufficient: participation is what is required within a restorative approach. One of the ways in which this is sometimes captured is in the commitment to *transcend* the often binary choice of doing things *for* people or *to* people but instead striving for processes that endeavour to create space in which people can accomplish things *with* each other in genuinely collaborative ways.

Dialogical or Communicative

The meaningful inclusion contemplated above through collaborative process requires communication. This is often expressed within restorative literature as a commitment to dialogical processes. Indeed, dialogue is a common mechanism for communication and a powerful one that assures encounter and participation with one another.

Democratic/Deliberative

The commitment to inclusion and participation through dialogue/communication in a restorative approach is connected to the principles of democracy and deliberation that orient a restorative approach. Restorative processes connect the legitimacy of decision making to inclusive processes through which deliberation can take place.

Forward-focused, Solution-focused/Problem-solving

A restorative approach should be oriented towards the future – to understanding what has happened in order to understand what needs to happen next with a view to creating better conditions for relationships in the future.

Shared Goals and Objectives for Restorative Justice

An articulation of the purpose and principles of restorative justice will support and enable the development of a shared set of goals and objectives that reflect this relational approach. This task has been carried out in various forms in other jurisdictions.¹⁵⁰ Such goals and objectives should reflect and articulate the desired impact of restorative justice on justice in Alberta. The aims of restorative justice innovations should be determined through a deliberative process among an intentionally broad cross-section of stakeholders. As a starting point for their development, these goals and objectives may include the following:

- Respond meaningfully to the needs of individuals and communities affected by crime
- Interrupt cycles of violence and reducing incidence of future harm
 - Reduce victimization of marginalized populations
 - Reduce over-representation of vulnerable people in the criminal justice system
- Support greater public participation in justice and crime prevention
- Increase timely access to justice
- Foster public confidence in the administration of justice and ensuring procedural justice
- Build and support strong, healthy, and resilient communities

In stark contrast to efforts at “standardizing”¹⁵¹ restorative justice through rigid practice models, a principled approach driven by clear goals and objectives encourages the development of diverse practices dependent on their cultural and systemic context. At the same time, the approach provides a framework upon which to base the development of standards for practice and against which to measure success. Developing and implementing a principled approach to restorative justice for Alberta is the focus of the discussion and recommendations in the remainder of the report, and as such it is a primary and foundational recommendation of this review.

Recommendations for Understanding of Restorative Justice (Theme 1)

An overarching recommendation of this report is to begin with the collaborative creation of a restorative justice strategy for Alberta built upon the foundation of restorative justice values and principles. The meaning of collaboration in this context will be explored in Topic 3.

Recommendation 1.1: Ground the common understanding of restorative justice as a principles-based relational approach to justice rather than simply a set of practices and tools. This understanding of restorative justice is key to realizing the potential of restorative justice as an integrative and comprehensive approach capable of addressing some of the most pressing and complex issues within the criminal justice system.

Recommendation 1.2: Based on an understanding of restorative justice as a relational approach to justice, develop and articulate an agreed set of guiding principles for implementation of restorative justice. Such principles should guide governance, policy and practice for internal system operations and external service delivery. The principles will guide program and practice design, implementation, and operations within the criminal justice system. The review team has outlined a provisional set of principles for consideration (see pages 34 - 36).

Recommendation 1.3: Identify and articulate a shared set of goals and objectives for restorative justice and its implementation. The review team has outlined a preliminary list for consideration (see page 36).

Recommendation 1.4: Establish a plan for the rollout of the shared understanding of restorative justice in Alberta. Include strategies for the ongoing renewal and repetition of this information across the province to support ongoing growth and development. Work with educational institutions to support education of future criminal justice system stakeholders that includes the knowledge and skills needed to understand restorative justice values and principles and support strong practice.

Theme 2: Measuring Success in Restorative Justice

The appreciation of the why (goals & objectives) and how (principles) of restorative justice suggested above leads to questions of how will we know if restorative processes are working. Answering this question requires careful attention to what is meant by “working.” It is important to be clear about what we are trying to achieve before considering whether or how it might be measured, what the indicators of success might be and how data might be collected and analyzed.¹⁵²

In Alberta, like many jurisdictions around the world, restorative justice groups and champions within the criminal justice system (CJS) are required to prove the worth of restorative justice to CJS officials to engender support through funding, use, or participation. This promotional stance, however, often requires restorative justice practitioners to “sell” restorative justice in terms that criminal justice system stakeholders want to buy. Indeed, so central is the service relationship to the criminal justice system for most restorative justice programs that this pitch often happens without reflection on the full story restorative justice advocates would tell about the value of their work in their own terms. Instead they default to proving their worth by the goals and objectives of the criminal justice system including reduced recidivism, deterrence, process efficiency and cost savings.¹⁵³ Restorative justice processes not only seek favour from the mainstream system by these measures, they are often required to show their value in this way as a condition of funding based on pre-determined program evaluation measures.¹⁵⁴

Even by these measures, restorative justice processes have proven their value in multiple studies.¹⁵⁵ It is not that such measures fail to capture any of the value of restorative justice. But they can distract from and distort the focus of restorative justice on other valued impacts and outcomes. Such measures do not allow the full value or achievements of restorative justice to be recognized or supported.

The situation clearly caused frustration for key stakeholders in Alberta. Many felt that even when restorative justice measures up to the standards of the criminal justice system it does not get the attention and support needed or sought. Further, there was concern expressed by some about the inability to fully reflect the value of restorative justice in a way that is sufficiently convincing or compelling for stakeholders to invest. The review team also noted little or no consistency among restorative justice advocates or system stakeholders regarding the objectives of restorative justice, its value, how to assess its success and how to communicate its value. This theme is certainly not unique to Alberta.¹⁵⁶

While restorative justice champions and programs may do many things well, some even better than the mainstream system, it is difficult to demonstrate or prove this success only on the terms of the current CJS.¹⁵⁷ Existing research has consistently shown that restorative justice “works” in terms of the standards and benefits sought by the criminal justice system.¹⁵⁸ Much of the existing empirical evidence has been drawn from program evaluations focused on such measures including decreasing delays, saving money, increasing satisfaction of stakeholders, reducing recidivism and compliance with agreements. There have been fewer, although important, studies focused on the other significant outcomes of restorative justice increasing wellbeing of participants, decreasing fear, improving health outcomes, etc.¹⁵⁹ These are notably measures by which the traditional adversarial justice system generally fails. However, even this broader set of measures is premised on an approach to restorative justice focused at the level of practice rather than as a principle-based relational approach to justice. Jurisdictions that choose to continue to measure success by the same objectives valued by the CJS will keep bumping up the same vexing systemic problems that are intertwined with the structure of the

system itself. Within Alberta, a promising example of re-examining the “business as usual” structure of the system is the initiative, “Reforming the Family Justice System”.¹⁶⁰ The results are receiving national and international attention for the impact on reforming and reimagining destructive systemic outcomes. Taking a restorative approach within the criminal justice system in Alberta presents a similar opportunity and could learn from the success of this initiative.

If the potential and value of restorative justice is to be fully recognized and supported, it is essential to be more explicit about its approach, goals and objectives before designing appropriate measures and methods for assessing success. It is not merely a matter of gaining favour with current justice system stakeholders. Attention to how success is understood and measured matters for the development of restorative justice itself. What we measure often influences what we value. If we are not able to measure accurately and fully what restorative justice offers it will be hard to maintain its values. Attention to measuring success is also essential for the development and health of restorative justice in terms of providing evidence to guide and inform future work.

How, then, could the full value and impact of restorative justice be captured? Framing restorative justice, as discussed in the previous section, offers an important foundation from which to approach measuring success. En route to determining whether restorative justice “works,” one must ask “for what,” and “how” restorative justice is meant to “work.”¹⁶¹

Arguably the best success we have seen in Canada for the comprehensive adoption of restorative justice throughout the criminal justice system and across the province is in Nova Scotia. Many factors led to Nova Scotia’s early success with its restorative justice program for youth, and among those was the process whereby Nova Scotia developed goals, objectives and principles to guide the development of policy and practice of restorative justice. In turn, these goals, objectives and principles continually informed the following questions: How will we measure success, and how will we communicate that success? Providing these anchors then ensures that restorative justice’s success is not simply dependent on replicating the goals and objectives of the criminal justice system.

It is also instructive that as Nova Scotia expanded its restorative justice program to include access for adults throughout the province it has undertaken an “authentic renewal” process to review and revise these goals and objectives based on its past successes and failures. This renewal process has brought the central stakeholders in the restorative justice program into the process. This process first focused on the explicit articulation of the understanding of restorative justice and its principles that has implicitly guided the program in the past. From this starting point, partners in the process reconsidered and expanded the goals and objectives of the program grounded in existing evidence. Importantly, specific attention was paid to the significance of these goals and objectives for the process of measuring success in future.

Therefore, a more expansive view of restorative justice that is grounded relationally¹⁶² also expands and transforms measures of success. These transformed measures may include, for example:

- How well are we addressing root causes? (This transforms *whose* work justice is.)¹⁶³
- Are people being empowered to have justice needs met?¹⁶⁴
- How are we being responsive to relationships?¹⁶⁵
- How is system change being considered and improved?¹⁶⁶

- Are justice processes equitable and culturally appropriate?¹⁶⁷
- How is wellbeing and health being improved?¹⁶⁸
- Are we creating space to develop more collaborative strategies for communities?¹⁶⁹
- Are we reducing the use of the criminal justice system?
- How are we understanding trauma-informed practice and how is that influencing sound practice?¹⁷⁰

Such a new way of understanding and measuring success will have implications for the processes needed to do this work.¹⁷¹ Clearly, it will require a more inclusive approach to who decides what will be measured and by whom and how such measurement is interpreted. This requirement is closely related and taken up in the next theme of the report on Collaboration and Working Across Sectors.

Measuring success is also central to informing decisions on policy and practice (see Theme 5). Accordingly, it is important to recognize that moving to measure more relational outcomes will require consideration of the mode and means of such an approach. In particular, as Llewellyn, Archibald, Clairmont and Crocker argue it will require the development of measures, indicators and evaluations methods up to this relational task.¹⁷²

A relational approach to evaluation reveals that measuring the success of restorative justice will require more than the identification and articulation of new goals, outcomes and appropriate indicators. Addressing the weaknesses and gaps in past and current attempts to evaluate the success of restorative justice will require then the development of a relational approach to measurement and assessment. The principles of a restorative approach provide some insight into what is required—an approach that moves beyond variables and data derived at the level of individual units in order to focus on the connections and relationships involved, and capable of reflecting on outcomes in more holistic and interconnected ways.¹⁷³

Some groups at the cutting edge of justice transformation (e.g. TalkJustice.ca) are using software such as Sensemaker¹⁷⁴ to navigate through these innovative frontiers of measuring success. This is just one example of how Alberta may also wish to redefine the tools with which it measures success.

Implications for Standards and Quality Assurance
Related to the theme of measuring success, the issues of credibility and quality arose during interviews with key stakeholders. Concern was expressed that the use of restorative justice was not being taken seriously and that this was seen, at least partially, related to a lack of trust or understanding of restorative justice by the mainstream system. Some expressed the view that the use of standards or even some degree of “standardization” might assist in building trust with the CJS, as standards may be seen as a mark of credibility and assurance of quality of practice.

For the wellbeing of victims, offenders and the community it is better not to practice victim offender conferencing than offer a poor and unsafe process. The restorative community must promote quality practice and not be afraid to challenge that which is poor.¹⁷⁵
Ellie Acton

The desire to build credibility and provide quality practice is laudable and important.¹⁷⁶ The best means

to demonstrate quality and success, however, have not been obvious. Linked to the discussion on evaluation (above) is the question of how policymakers, practitioners and programs will determine if they are providing quality justice. A related issue is how to ensure accountability for “quality” practice.

Practice standards are often looked to in order to solve this problem. It is assumed that if programs have standards against which to measure they can be “proven” trustworthy and credible. However, the use and development of standards within restorative justice has been laden with controversy, primarily driven by legitimate fears that standards will revert to or rely on fixed practice models or prescriptions.¹⁷⁷ Reliance on fixed models or prescriptions would create rigidity in services that require flexibility and produce cookie-cutter programming in communities that require cultural responsiveness and creativity. In this light, the process of implementing standards feels complex, overwhelming and even, perhaps, ill- advised. Renowned restorative justice theorist John Braithwaite discusses this in his influential work *Restorative Justice and Responsive Regulation*, arguing that restorative justice does not need regulatory formalism, but a more flexible approach.¹⁷⁸

It is not, however, the desire for standards that is problematic. Instead, the problem arises with the articulation of standards in fixed or prescriptive ways rather than principle-based ways. A principle-based approach to standards allows for responsive and adaptable practices but also provides a stable and solid enough base to guide practice and evaluate success.¹⁷⁹ The focus on principles, then, frames restorative justice by clarifying *why* are we doing what we are doing, in order to consider *how* this ought to inform what we do, and *who/how* we need to communicate this intention and work. Developing standards in this way requires an ongoing reflective process that allows time to evaluate “how are we doing?” and, “in what way are the standards that we have chosen better than others? Should we re-evaluate the standards we are using?” and, “are these standards in line with our determined measures of success?” Ensuring that mechanisms are in place for ongoing accountability to meet standards is, then, a crucial aspect of measuring success. As restorative justice pioneering theorist Howard Zehr points out:

We need evaluation, and we need to pay attention to the results. Those of us who are restorative justice advocates and practitioners naturally believe we are doing a beautiful thing: How could anyone question it? We tell the good stories and ignore the bad; we engage in butterfly collecting, as some critics have charged. As a result of this mentality, we tend not to want evaluation. When we are evaluated, we do not want to listen to the results.¹⁸⁰

This approach to evaluation requires accountability to the standards of practice for the purpose of ongoing learning and course correction, foundational to a formative (rather than a summative) approach to evaluation. A formative approach to evaluation continually asks: how are we doing and what needs to change? It is not content with the summative question: Did it work?¹⁸¹ Standards for practice as ridged and fixed requirements, reflecting the regulatory formalism Braithwaite warns against, focus more on whether an intervention has worked, rather than how it can be improved.

Building credibility then is more likely if guided by restorative justice principles that are determined together by relevant stakeholders.¹⁸² This principled frame can support the development of flexible “standards” and means and measures of evaluation for restorative justice. Such an approach also protects against the unilateral imposition of standards by external regulators without regard for community uniqueness and participant responsiveness.¹⁸³

The community-based project in British Columbia to explore responsive and principle-based standards may be of interest to Alberta as a model moving forward.¹⁸⁴ This pioneering project, spearheaded by community practitioners and funded by the Province of British Columbia, has intricately linked a set of principles with a list of measurable (yet flexible) practice standards. The process of reaching these standards involved ten months of consultation and community engagement including with Indigenous and victim groups. The draft standards and formative accountability structure are currently being piloted by willing communities within British Columbia for the purposes of ongoing learning and refinement.

As will be discussed later in this report, adequate education and training is essential to the success of restorative justice. It is clearly important for ensuring an informed and consistent approach to measuring success. Any approach to developing standards must then consider standards related to education and training so as to ensure they are reflective of the shared understanding of restorative justice and support capacity building to carry out principled-based practice.

Recommendations for Measuring Success in Restorative Justice (Theme 2)

In summary, Alberta should consider taking concrete steps toward defining its measures of success for restorative justice and on mechanisms to evaluate that success, based on collaboratively determined principles. The following recommendations are therefore put forth for consideration:

Recommendation 2.1: Develop measures of success and evaluation based on the agreed-upon goals and objectives of the provincial restorative justice strategy. Develop a formative approach to evaluation through ongoing and regular reviews and strategy revisioning based on learning.

Recommendation 2.2: Establish (through policy, funding and other supports) the expansion of a learning and practice community of service providers committed to the development of, and accountability to, principled and flexible standards of practice for Alberta to form the basis of an evaluation framework. ARJA may be well placed to take up this role.

Recommendation 2.3: Ensure clear mechanisms for the use of emergent province-wide evaluative data to strengthen program design and practice. Practice (local/regional) and strategy (provincial) must inform each other through iterative and intentional communication and feedback channels.

Recommendation 2.4: Within the framework of established standards, encourage the creation of initial and ongoing education and training standards for practitioners. In addition to the typical training strategies, use coaching, mentoring, Indigenous practices and apprenticeship to ensure sustained learning.

Theme 3: Collaboration and Partnerships

The success of restorative justice depends greatly on collaboration and partnership among stakeholders within and beyond the criminal justice system. Relationships are not only central within restorative processes, the success of restorative justice at program and system levels relies heavily on interpersonal, institutional and systemic relationships. We have recommended above that Alberta adopt a view of restorative justice that values a restorative approach at all levels of the criminal justice system, as opposed to only focusing on off-ramping, diversion, and alternative processes while keeping the existing criminal justice apparatus otherwise unchanged. Experience in other jurisdictions suggests that restorative justice initiatives are unlikely to gain significant traction in Alberta if law enforcement, legal, judicial and correctional systems operate on separate frameworks and with separate goals.¹⁸⁵ The evidence suggests that justice transformation congruent with a restorative approach is best served when there is support outside the formal criminal justice system, at the community level and from other human service systems.¹⁸⁶ The sustainability of individual restorative justice initiatives, as well as the potential of a restorative approach to address the challenges of the criminal justice system broadly, requires strong collaboration and partnerships both within and beyond the criminal justice system. Collaboration is defined as “a group of autonomous stakeholders of a problem domain engaging in an interactive process, using shared rules, norms and structures, to act or decide on issues related to that domain.”¹⁸⁷

The review highlighted definite strengths in the arena of partnerships and collaboration in Alberta. Alberta Justice and Solicitor General maintains an active and productive working relationship with the Alberta Restorative Justice Association (ARJA), as evidenced by that agency’s participation on the working group (along with other key justice and law enforcement stakeholders) overseeing this review and responsible for the resulting white paper, as well as their annual restorative justice conference. The sustained existence of ARJA is itself noteworthy, as a unique and important forum for inter-agency and intercultural dialogue within Canada.¹⁸⁸

In spite of the strengths of existing collaborations, the issue of multi-lateral, multi-sectoral collaboration remains a significant one for Alberta, where restorative justice investment and service delivery is housed within three distinct mandates including Youth Justice Committees, Alberta Community Restorative Justice Programs and Indigenous Justice programs. As explored previously in this report, the restorative justice landscape in Alberta remains subject to limitations in terms of current capacity and institutional practice related to collaboration and partnerships. The review revealed the need and opportunity for growth in collaboration and partnership to further restorative justice in Alberta along at least five axes:

- Community/criminal justice system
- Community/government
- Intra-governmental
- Intra-community; between RJ agencies, and between RJ agencies and other service agencies
- Indigenous/non-Indigenous justice

Each will be explored below with an eye to opportunities, challenges and future directions in Alberta.

Community/Criminal Justice Partnerships

The review revealed specific cause for optimism, as well as ample opportunity for growth, in the level and quality of collaboration and partnership between community-based restorative justice proponents and criminal justice stakeholders, professionals and agencies. For the purposes of this report, the volume and types of referrals are understood as one important indicator of the nature and strength of this partnership. Notably within the Canadian context, Alberta shows breadth in referrals coming from various entry points and sources within the criminal justice system including the defense bar, Crown counsel, community agencies, police, probation, judges and (more recently) corrections. (Alberta may be contrasted in this respect to British Columbia where the majority of referrals are police-based).¹⁸⁹ This breadth represents a significant foundation for future growth.

Despite this breadth of engagement in terms of the referral sources, referral numbers across all facets of the criminal justice system remain low as compared with current capacity and other jurisdictions. As cited previously in this report, annual referrals in Alberta are at a rate of less than one third that of neighbouring British Columbia. Most programs report being underutilized overall, with Alberta-based surveys indicating programs (on average) report capacity for up to 50% more cases per year.¹⁹⁰

Importantly, existing referral levels in Alberta rely heavily on the strength of individual relationships between service providers and referral agents. Given the frequency of turnover and (often mandated) transfers within law enforcement and criminal justice professions, these relationships are in a constant state of flux requiring regular re-establishment. Even in jurisdictions where restorative justice providers have built strong referral relationships, they are frequently vulnerable to changes in personnel.¹⁹¹ There are several important factors shaping referral rates to restorative justice. A recently released report by RCMP “E” Division (British Columbia) concludes that in relation to RCMP referral rates, major factors include the following:

- **Awareness:** including RCMP members’ awareness of restorative justice referral mechanisms and the benefits of restorative justice;
- **Relationship:** including regular communication, collaboration toward shared goals, and clearly defined expectations, member invitation and involvement in restorative justice processes, and RCMP representation on groups’ boards of directors;
- **Trust/Buy-in:** including the selection of liaison members, involvement and exposure of detachment leadership to restorative justice, communicating “success,” maintaining high-caliber facilitators and the organizational stability of restorative justice providers;
- **Culture:** including a restorative “culture” of communication and conflict resolution in police detachments; positioning restorative justice as a “default” response to crime, rewarding restorative policing, encouraging outside pressure/demand for restorative justice, and extending collaboration in restorative justice beyond the police/service provider relationship to include wider criminal justice partners.¹⁹²

To summarize, RCMP referral rates to restorative justice services are dependent on the effective partnership of these services with both frontline and leadership levels of the RCMP, as well as with wider criminal justice actors. On this latter point, the RCMP report cited above concludes:

A culture of restorative policing that leads to increased referrals to the local [restorative justice service] can be greatly influenced by external justice agencies. The interviews conducted indicated that, in some communities, Crown counsels, judges, corrections

and other social services partners were influencing a restorative culture around justice in those communities. The involvement of other partners can not only build further buy-in from police by normalizing the expectation to use restorative justice, it can also improve the effectiveness of processes, as it opens up greater options to connect restorative justice participants to the services that can help them.¹⁹³

Key informant interviews within Alberta suggested that the level of Crown and police leadership in the development and innovation of restorative justice in the province is inconsistent.¹⁹⁴ While frontline (e.g. individual member or prosecutor) understanding, trust and cooperation are of central importance to improving restorative justice referral rates, the hierarchical nature of law enforcement and criminal justice agencies requires that leadership of these organizations be engaged in meaningful collaborative partnerships to realize successful restorative justice implementation in Alberta.

Specific attention should be given to collaborative partnerships between restorative justice providers and police-based victim-services in Alberta. Experience in other jurisdictions shows that these partnerships can contribute both to the responsiveness of restorative justice services to victims' needs and relatedly to increased victim-initiated referrals.¹⁹⁵ Examples of restorative justice/victim service collaboration might include the following, as is the case in British Columbia:¹⁹⁶

- The establishment of recurring forums for dialogue between victim-service and restorative justice groups (and sometimes other community agencies).
- Victim service agency staff participating in restorative justice dialogues as appropriate.
- Joint training and education including overlapping volunteers active in both programs.
- Co-locating restorative justice providers and victim services.

Most victim-serving agencies surveyed in Alberta had not handled a restorative justice request or referral within the past year. It is noteworthy that concerns about a "lack of resources and funding" within restorative justice programs were cited as a contributor to the current lack of partnership with and referrals to restorative justice services.¹⁹⁷ The issues of program funding for restorative justice is a recurring issue of central import to the strength and capacity of collaboration.

The National Institute of Corrections posits five "Stages of Relationship in Partnerships" between "community" and the justice system, which are instructive when considering such relationships in the context of restorative justice in Alberta.

Stages of Relationship in Partnerships: National Institute of Corrections¹⁹⁸

Justice system operates separately and independently of the community.

- Community viewed as a nuisance
- Justice system has all the answers
- Community gets in the way of real work
- Professional system defines and solves the problem



Justice system provides more information to the community about its relationships.

- Community viewed as a client
- Community has a right to know some of the activities of the professional system
- Professional system defines and solves the problem, but keeps community more informed about its actions



Justice system provides information to the community about its activities and asks for intelligence information from the community.

- Community viewed as expert source of information
- Community seen as client and as a good source of information for the expert work
- Professional system defines the problem and solves the problem with useful information from the community



Justice system asks for some guidance in doing its work, recognizes a need for community to help and places more activities in the community.

- Community viewed as cooperative agent
- Justice system still assumes leadership
- Community is asked to help define the problems, but the system is still chief problem solver



Justice system follows community leadership.

- Community viewed as problem solver
- Justice system operates in support of, and provides facilitation for, community achieving community goals, while protecting the rights of individuals and ensuring fairness
- Community defines and solves problems with help from the justice system

The development and maintenance of effective partnerships between community-based restorative justice agents and criminal justice entities across the Alberta based on relational qualities of trust, awareness and collaboration are an important step in the successful implementation of restorative justice. Still, this facet of partnership in isolation is less than sufficient for the systemic integration of restorative justice. As the following pages explore, more broad community partnerships with government are also essential.

Community/Government Partnerships

As highlighted previously, the establishment and maintenance of the Alberta Restorative Justice Association (AJRA) as a collaborative effort by government and community stakeholders stands out positively as a key element for the successful development of restorative justice in Alberta. Similarly, the emergent working group on restorative justice from the Alberta Criminal Justice Summit demonstrates a level of commitment by the government to engage community perspectives (in addition to inter-sectoral perspectives) in forming strategic and policy directions for restorative justice in Alberta. These examples were noted by key informants as promising foundations for growth.¹⁹⁹ Despite these positive indicators though, the review also revealed that individual restorative justice initiatives operate mainly in isolation from any coordinated provincial strategy and without the level of governmental partnership required to ensure sustainability and success. As this report elaborates, in the review teams' view there are significant opportunities in Alberta to implement concrete mechanisms to share authority and responsibility across systems and with community to support restorative justice growth and innovation.

It is important to be clear that genuine collaboration and partnership is not the responsibility of government alone. While it is the case that securing such relationships requires sharing of power and authority by government it also requires significant commitment at the community level. For example, community-based restorative justice services in Alberta appear to have minimal practical accountability to the Alberta government, and the government for its part is not, in terms of resources, deeply invested in restorative justice. Government investment in restorative justice in Alberta (as one indicator of the nature and strength of community/government partnership) is comparatively low by international standards. According to information accessible to the review team Alberta provides approximately \$360K total yearly funding to community restorative justice groups and similar funding levels to youth justice programs.²⁰⁰ This funding level was perceived by some stakeholders as contributing to stunted program capacity and growth.²⁰¹ While this perception is likely accurate, funding equations are symptomatic of more fundamental issues in terms of both government and community-based actors understanding of their respective roles and relationship related to the administration of justice.

Skepticism of government runs deep within restorative justice discourse. There are assertions within the literature that restorative justice should be understood and approached strictly as a community-based (and community-controlled) form of justice. On this account, restorative justice entails a rejection of state control of justice processes and a reassertion of community authority to resolve conflicts.²⁰² Indeed, the history of restorative justice reveals it as a community innovation often aimed at addressing the shortcomings or failures of the formal systems of control within the criminal justice system.²⁰³ In their place, community turned to informal (restorative) mechanisms of control capable of supporting efforts to secure just relations.²⁰⁴

Community involvement is inarguably at the core of a restorative approach.²⁰⁵ Yet a view of

community self-determination that comes at the expense of state involvement, support and oversight creates, in the view of the review team, a false dichotomy between the state and community. In Canada (and most western democracies), the state plays a central role in supporting collective action and community life. Given the important role of the state in providing access and oversight, particularly with respect to human services, it is not surprising that the evidence points to the importance of government support to the sustainability of restorative justice.²⁰⁶ Indeed, a review of the development of restorative justice shows a pattern of successful pilot programs that did not continue because of a lack of government support.²⁰⁷

The development of restorative justice must contend with critical questions about the respective roles of state and community stakeholders in terms of leadership and administration.²⁰⁸ The relationship between community stakeholders and the Government of Alberta is a source of both tension and opportunity for restorative justice. Evidence suggests that a robust and carefully developed government/community partnership is necessary to recast adversarial narratives about the state/community relationship and ensure the viability and sustainability of restorative justice. This priority has implications for ongoing mechanisms of strategic communication across a spectrum of agencies, and for the flow of funds and accountability. To appreciate the significance of these partnerships to the work of restorative justice, it is instructive to review selected examples of international and domestic evidence related to this theme.

Government-led Restorative Justice – A New Zealand Example

New Zealand is among the world's most established examples of state involvement in the administration of restorative justice, particularly for youth offending. Since the introduction of the *Children, Young Person's and their Families Act 1989*, New Zealand has introduced significant legislative and practical reforms consistent with a restorative approach to justice.²⁰⁹

New Zealand's youth justice system was designed on the foundation of a consensus-based decision-making process called Family Group Conferencing (FGC) used within matters of child protection. By law, youth offences (excluding minor infractions dealt with through police warnings or alternative action, and very serious criminality including murder, manslaughter and treason processed through adult court) are addressed through restorative justice conferences at the referral of police or at the direction of the Youth Court.²¹⁰

These New Zealand reforms represent a relatively well-researched and in many respects promising example of the employment of restorative justice across the youth law-enforcement and judicial system.²¹¹ That said, many important debates remain relevant to the New Zealand youth justice example, including the central role of the state in what some would conceive as the "progressive co-optation" of restorative justice by the state.²¹² This is of particular concern for the effects this government leadership and control may have on the cultural relevance and adaptability of restorative justice, and the "offender focus" implicit in the institutional location of these services.

Post-colonial governmental systems, including those of New Zealand, Canada and Alberta, are historically and culturally foreign to Indigenous communities, a problem that is manifest strongly in the criminal justice arena where European-style court procedures have largely supplanted traditional justice practices. The *Children, Young Persons and Their Families Act 1989* emerged from extensive consultation with Maori and Pacific Island citizens of New Zealand, resulting in the Report of the Ministerial Advisory Committee on a Maori Perspective for the Department of Social Welfare, entitled

“Puao-Te-Ata-Tu” (Day Break). The report concluded that “institutional racism is the basic weapon that has driven the Maori into the role of outsiders and strangers in their own land.”²¹³ Central to its many recommendations was the clear and urgent need for greater extended family involvement in child welfare and youth justice affairs. This consultation process and its resulting legislative changes represent a boldly collaborative attempt by the government of the time to transform the youth justice and child protection system for all New Zealanders, guided by a closer alignment with Indigenous values and practices.

The still-unfolding story of New Zealand youth justice is instructive for Alberta, as it points to the complexity and perhaps risks for Indigenous peoples of institutionalizing restorative justice. Within the context of colonization and forced assimilation it is perhaps not surprising that government-led justice processes, whether within a conventional criminal justice process or a more collaborative process like Family Group Conferencing, are liable to be experienced as culturally disempowering by a significant portion of Indigenous participants.²¹⁴ Research conducted in New Zealand points to similar trends of disempowerment among Maori restorative justice practitioners working within the Ministry for Children.²¹⁵ It is noteworthy that in neighbouring Australia, where the Re-Integrative Shaming Experiments (which involved police-led conferencing processes) showed promising results for offender recidivism among white participants, the results among Indigenous offenders were poor.²¹⁶

Youth Justice Family Group Conferences in New Zealand are generally convened by Youth Justice Coordinators from within the Ministry for Children. Perhaps in parallel to Alberta’s Ministry of Children’s Services,²¹⁷ this Ministry is also tasked with the care and protection of young people. The Ministry’s mandate is, “dedicated to supporting any child in New Zealand whose wellbeing is at significant risk of harm now, or in the future... [and to] work with young people who may have offended, or are likely to offend.”²¹⁸ The location of restorative justice services within this mandate ensures that youth justice is pursued outside of a more traditionally punitive adult justice system. However, this arrangement maintains youth justice as primarily concerned with offenders’ accountability, reintegration, desistance and well-being. While crime victims are often encouraged and supported to attend Family Group Conferences in New Zealand, victims are still viewed as externalities of the system. As a result and as revealed in the literature, it risks victim participation being understood by practitioners as an instrument toward offender behaviour management, rehabilitation and reintegration.²¹⁹ The implicit offender-orientation of restorative justice process housed within government services for children risks coercion, insensitivity and a lack of responsiveness for victims.

Despite the lessons and concerns discussed above, strong governmental commitment as a partner in restorative justice initiatives is essential to success on multiple axes, including:

- **Scalability:** In jurisdictions with more institutional investment and connection to restorative youth justice—such as New Zealand and Northern Ireland²²⁰—referrals flow freely to collaborative decision-making processes in all regions and at various points throughout the system.
- **Sustainability:** The state plays a role in resourcing justice services, not only for the salaries of professional staff but also to resource and secure access to supports related to process outcomes (such as treatment, counselling and skills training).
- **Oversight:** protecting and upholding individual human rights in restorative justice processes and programs (even when convened at a community level) is an important governmental mandate.

Risks of Government Disengagement in Restorative Justice

As a case-study in proximity to Alberta, British Columbia is home to around 45 individual community-based restorative justice programs under the Community Accountability Program (CAP) funding scheme.²²¹ The volume of programs (and the longevity of some) has contributed to its reputation as a strong example of a robust network of de-centralized restorative justice providers rooted within unique community contexts.²²²

However, on closer examination it is apparent that restorative justice innovation has stalled in many parts of British Columbia. With notable exceptions, “both in practice and evaluation, restorative justice remains a marginal practice on the fringes of the justice system in British Columbia.”²²³ Each CAP is eligible to receive a maximum of \$2,500 per year in provincial funding. Service delivery, especially in jurisdictions where municipal funding is unavailable, is carried out largely by community volunteers with minimal training or mentorship opportunities. Crown referrals to CAPs across the province are, with a very few exceptions, not contemplated for youth or adults. Police referrals in many rural and urban areas are sparse, and highly variable depending on the individual relationships established by the restorative justice program coordinator. There are also indications that in programs with higher referral numbers, the majority of referrals are for lower-end cases (i.e. shoplifting or property crimes), raising the concern about net-widening. Low or narrowly conceived referrals contribute to atrophying facilitator competence and program capacity, and undermine the credibility of restorative justice programs in the view of victims, community-members and referrals agents.

The potential that exists in British Columbia’s mostly de-centralized and grassroots approach to restorative justice has not been fully realized in over more than 35 years of restorative justice history in the province. This is a problem which stems ultimately from a failure of partnership between community-based restorative justice providers and various facets of the provincial government.²²⁴ British Columbia’s experience demonstrates how an undeveloped community-government partnership results in a lack of coordination, funding, accountability and training for and among restorative justice providers. This in turn results in the inability of programs to meet the demands of complex criminal cases, thereby restricting most restorative justice application to minor property offences. Restorative justice has thus been limited in terms of its promise and potential to meet individual needs in the context of systemic issues. As program capacity and reputation is reduced, referrals from criminal justice agencies follow suit, further eroding the capacity of restorative justice providers.

Based on the limitations of both government and community as sole proprietors of restorative justice, models of restorative justice innovation based on community/governmental partnerships are essential for success. Where such partnerships are robust, they have the potential to ensure restorative justice initiatives are embedded systemically in sustainable and credible ways, while drawing on valuable community knowledge and expertise, and maintaining cultural relevance and adaptability needed to ensure responsiveness to the needs of all parties. The following are a selection of Canadian examples of government/community partnership in restorative justice that may be instructive to Alberta:

- **The Nova Scotia Restorative Justice Program** was governed and managed by Restorative Justice Steering and Management Committees including community and system-based justice providers and stakeholders. This committee has recently been renewed in conjunction with the integration of the youth and adult streams of the program. Nova Scotia implemented a comprehensive restorative justice program for youth throughout the criminal justice system and across the province in 1999.²²⁵ Since then the use of restorative justice processes has become widespread across its provincial criminal justice system. The program

was conceived among politicians, justice system personnel and community agencies working in connection with the criminal justice system in the late 1990s, explicitly as a system-level initiative animated through community to provide justice responses to crime regardless of offence type, region and offender age.²²⁶ The program has rolled out in phases, with the final phase for adult restorative justice implemented province-wide in November 2016.

- **British Columbia's Victim-Offender Reconciliation Program (VORP)**, no longer in operation, remains a promising example of community-driven restorative justice backed by robust governmental support, involvement and referral mechanisms.²²⁷ VORP was established in 1983 as a diversionary initiative for youth and adults in BC's Fraser Region. The program was operated by a non-profit agency (Fraser Region Community Justice Initiatives)²²⁸ with the financial support and collaboration of the province. Referrals came primarily from Crown counsel and included crimes of interpersonal violence and serious property offences, among others.²²⁹ Program evaluations demonstrated very strong results in reparation agreement compliance (including restitution repayment) and victim satisfaction. The program was defunded in 2004, as VORP's funding was reallocated to support Ministry of Children and Family Development's Family Group Conferencing Program²³⁰ with the inception of the *Youth Criminal Justice Act*.
- **The Federal Restorative Opportunities Program** evidences government/ community partnership to positive effect in the field of restorative justice in serious violent crime. Correctional Service Canada administers the Restorative Opportunities program but trains and contracts community-based facilitators for all direct casework.²³¹ Facilitators' non-employee status with CSC may be an important factor in their credibility with both victims and offenders, and may be a significant factor in the program's documented success.²³² An early evaluation of the Pacific Region pilot (the Victim Offender Mediation Program, or VOMP), which gave rise to Restorative Opportunities found unanimous support for the program from all victim and offender respondents interviewed in this study. "Support" means that respondents found considerable specific and overall value in the program, felt it was ethically and professionally run, and would not hesitate to recommend it to others. This level of support is remarkable, considering that VOMP involves parties who are initially polarized, and who could be expected to hold divergent views about the value of the program.²³³

Interestingly, "program independence" is listed as a significant contributing factor to its outcomes. As the discussion above reflects, successfully animating and implementing restorative justice actually requires a strong and healthy relationship with government. It is a key element of success that community partners be able to exercise independence in the sense that they are a full and equal partner with government. This independence is perhaps best described as interdependence reflecting a relationship of collaboration and partnership between community and government.

Promising Government/Community Partnerships Internationally

A cross-section of prominent international examples also lends themselves to brief examination in considering the relationship between government and community actors in restorative justice. For example, since the mid-1990s adult offending in New Zealand has increasingly been addressed through restorative justice. Adult cases referred to conferencing are facilitated by non-governmental agencies, with the Ministry of Justice providing core funding while maintaining standards for best practices,²³⁴ training and accreditation.²³⁵ Services are delivered by individual non-profit organizations under the

auspices of Restorative Practices Aotearoa, a professional association of restorative justice providers that oversees quality practice through accreditation and other processes.²³⁶ New Zealand's approach to adult restorative justice has yielded positive results, both in terms of victim-satisfaction measures²³⁷ and reductions in re-offending.²³⁸

Northern Ireland's national youth justice system is largely modelled after that of New Zealand. It is also home to innovations in government/community partnership and collaboration. One noteworthy example is that of Northern Ireland Alternatives (NIA), a seasoned Belfast-based organization now embedded regionally in restorative justice service delivery through a written diversion protocol with the Public Prosecution Service of Northern Ireland, Police Service of Northern Ireland, and the Youth Justice Agency.²³⁹

Belgium's systemic approach to restorative justice practice was summarized previously in this report. It relies on well-established non-profit organizations and their professional staff to facilitate restorative justice encounters at all levels of the criminal justice system.²⁴⁰ A similar arrangement guides the successful service in the US city of Oakland, CA.²⁴¹

These examples illustrate the potential to re-imagine community/government relationships in Alberta, toward collaborative partnership based on recognition of respective strengths. As recommended below, the work of establishing and maintaining these partnerships requires a sustained forum for dialogue and collaborative decision-making, in the form of a committee with authority to govern and manage restorative justice in Alberta. A distinction should be made, however, in this context of this recommendation between "collaboration" and "consultation." While the latter maintains exclusive government authority, the former challenges these traditional power structures and enables shared authority and responsibility. The shift toward government/community partnership requires establishing and formalizing community roles and responsibilities in justice-related decision-making. This step depends not only on the Government's commitment to partnership, but also on the capacity of community-based service providers to organize. This issue is explored further in the next section.

Intra-Governmental Partnerships

This review revealed significant separation or isolation between and among justice system actors and partners in the current administration of justice in Alberta. Professionals interviewed within various jurisdictions and branches of the justice system expressed little knowledge/understanding of, nor substantive working relationship with, other divisions and departments within or connected to the justice system.²⁴² The administrative structure of provincially mandated restorative justice, divided as it is into YJC and ACRJ Programs, reflects this type of operational compartmentalization.

Realizing the potential and promise of restorative justice in terms of its capacity to respond to complex justice system and social issues requires a relational approach within the institutions of government. As discussed previously in this report, restorative justice has implications for both individual accountability and the broader questions of collective and social accountability to prevent future crime and violence. Crime is inextricably rooted in social issues including substance use, addiction, housing, education, employment, child protection, psychological and generational trauma, inequality and mental health.²⁴³ Restorative justice is oriented to responding to crime with a view to prevention. The relational approach of restorative justice enables a broader view of the issues and the parties affected or involved. In this way it can reveal and attend to root causes. Doing so effectively, however, requires relationships with services designed to deal with such root causes. The criminal justice system alone

cannot be tasked with responding to root causes and preventing crime. A restorative approach invites and requires partnership in ways that maintains the important role of the criminal justice system but only within a coordinated or integrated response of multiple human service agencies concerned broadly with the causes and impacts of crime.

This report recommends (as per 3.4, below) that the spectrum of governmental human service systems be formally represented in Alberta's ongoing strategic deliberations in restorative justice. This will increase whole-of-government understanding and interagency recognition of gaps and overlaps in service and build individual working relationships within a common framework of restorative justice.

Intra-Community Partnerships

The knowledge, skills, and perspectives of community groups in restorative justice is integral to effective service delivery and to strategic efforts at implementation. One challenge facing restorative justice in Alberta is how to support and ensure coordinated, collaborative relationships among community organizations and actors to move beyond divisions or isolation.²⁴⁴ The effectiveness of Alberta community stakeholders as partners in justice reform depends in part on their commitment and access to the means to facilitate intra-community collaboration toward a common purpose.

This report previously notes the potential of ARJA as a provincial forum for collaboration, relationship-building and a "collective voice" among community-based restorative justice proponents.²⁴⁵ This association is one of the few, and certainly one of the most active, such organizations in Canada. To the knowledge of this review team, the impact of ARJA on the level of partnership and coordination between community-based service providers has not been assessed. Nevertheless, the existence of this forum is a promising and important platform for future collaboration among community stakeholders involved in restorative justice service delivery, research and advocacy.

Despite its relational orientation, the community-based restorative justice movement is home to significant tensions related to differences (and perceived differences) in program philosophy, models of practice and the positioning and personalities of restorative justice "champions." Experience and research within North America points to issues of territoriality, competition, suspicion and (in some jurisdictions) racial tensions within the field.²⁴⁶ Not surprisingly then, there is evidence of many such tensions within the Alberta context, as indicated by several interview respondents. These tensions seem to be fueled, in part, by the reality or perception of competition for scarce funding and for recognition/leadership within Alberta. The review also revealed some lack of trust in the relationships among restorative justice providers at a community level.²⁴⁷

An integrative and collaborative approach to restorative justice implementation is necessary to build a foundation for future success.. Ensuring defined roles within the development and growth of restorative justice in relationship to committed government stakeholders is likely to incentivize community groups to collaborate through further self-organization, and to ease tendencies to compete for legitimacy and leadership.

Indigenous/Non-Indigenous Justice Partnerships

Developing respectful and equitable relationships between Indigenous and non-Indigenous justice providers in Alberta is of both practical and ethical importance. Practically speaking, many Indigenous justice groups hold traditional knowledge and teachings related to relational and healing justice that can be instructive for non-traditional providers. Restorative justice is a relatively new phenomenon

within most of non-Indigenous Canada, and its adherents have much to learn. While restorative justice and Indigenous justice are not the same, many of the values espoused by restorative justice theorists and practitioners emerged out of early dialogue with Indigenous knowledge-holders, a context which continues to significantly influence the field within Canada.²⁴⁸ Understanding these core values and teachings in a non-Indigenous context is aided by continued, direct dialogue with Indigenous elders, justice workers and community members. This dialogue and information sharing can enhance restorative justice work generally in Alberta. More specifically, these activities build the capacity of non-Indigenous restorative justice providers to serve Indigenous participants if and as appropriate in culturally appropriate ways and to make appropriate referrals to Indigenous community and cultural services. This topic will be explored in further under Theme 4.

From an ethical standpoint, Canadian origins of restorative justice as (in part) emergent from Indigenous law and justice knowledge and ways grounds a specific obligation by non-Indigenous proponents to carefully consider their practices in light of Canada's history of colonization and forced assimilation.²⁴⁹ This obligation rests within the larger responsibility to work toward reconciliation in the relationship between Indigenous and non-Indigenous peoples in Canada as reflected in the Truth and Reconciliation Commissions calls to action. Literature also points to risks of appropriation of Indigenous ceremonial rituals by Indigenous-inspired restorative justice practices.²⁵⁰ This risk of cultural appropriation, within the context of historical appropriation of Indigenous land, is significant given restorative justice is fundamentally concerned with just and equitable social relationships. The risk of reproducing these historical harms is mitigated by partnership and ongoing dialogue between non-Indigenous and Indigenous justice advocates. Partnerships with Indigenous communities provide a means for restorative justice to be appropriately differentiated from Indigenous justice while integrating Indigenous knowledge where this is freely offered within the context of relationships of mutual trust, respect and honour.

The review found a strong and robust Indigenous justice community in Alberta. While there is evidence of some dialogue between representatives of these groups and non-Indigenous restorative justice providers, it seems that the efforts of these respective groups toward service delivery, reflexive practice and justice innovation are largely uncoordinated at present. Alberta's innovations in restorative justice will be enhanced by efforts to foster and support opportunities for Indigenous/non-Indigenous justice partnerships, starting with specific consultation with key Indigenous leadership as outlined in Recommendation 3.3 below.

Recommendations for Collaborations and Partnerships (Theme 3)

Note: Recommendations 3.1 – 3.4 speak to the need to develop a provincial restorative justice strategy as recommended in Theme 1 within the context of an inclusive and collaborative process.

Recommendation 3.1: Establish the plan before or in concert with expanding services. Recognize, through intentional planning, that the timing of the strategy is important to their success. Avoid accelerated program or practice implementation at the cost of limited collaboration, deliberation and clearly articulated goals and objectives. Ensuring that the process and substance of the strategy reflects identified restorative principles is an important long-term investment to secure community and system stakeholder buy-in; more efficient, effective and adaptive strategy; and, fewer unforeseen barriers and unanticipated outcomes.

Recommendation 3.2: Carefully consider who needs to be involved in developing a shared understanding in strategy development and in execution of the strategic plan. Involve stakeholders identified at the earliest stages possible and in meaningful ways. Representation should cut across the system, between government and community, and across the community.

Recommendation 3.3: Consult with Indigenous leaders to explore and develop the relationship between restorative justice and Indigenous justice. Collectively identify the synergies that could form the basis of a mutually supportive relationship while laying the groundwork to assure that restorative justice does not subsume Indigenous justice.

Recommendation 3.4: Foster authentic collaboration and partnership along with a strong commitment to shared authority. This strategy should be developed and executed at a provincial level by a governance and operations committee. The current composition of the working group begins to ensure a more inclusive approach. The review team recommends building upon this first step to establish a permanent committee. In doing so it is important to consider the following:

- Ensure that the composition of the committee membership reflects a cross-section of system stakeholders, community service providers and community members (individuals directly impacted by the criminal justice system).
- Articulate and require commitment from members regarding their role and responsibilities, including, but not limited to, being representative of the group(s)/organization(s) and institutions they are appointed to represent through explicit and monitored iterative feedback mechanisms.
- Provide funding to mitigate barriers for meaningful participation of non- governmental committee members.
- Ensure the committee has the required authority for the design, implementation, and ongoing oversight of the strategy. This committee should not be “advisory” in nature. Its authority is derived both from official authorizations but also from the commitment of system and community stakeholders to work in collaboration on the strategy through the committee.
- Include ongoing evaluation, accountability, education and training among the responsibilities given to this committee.
- Develop internal policies and procedures for the committee to successfully govern the implementation of the strategy including application of agreed upon restorative justice referral protocols.

Recommendation 3.5: Establish, clarify or expand legal authority to implement the strategy as envisioned by the governance and operations committee. Ensure provincial authorization within the authority of existing federal legislation clearly instructs and allows the application of restorative justice as contemplated in the strategy.

Recommendation 3.6: Develop broad parameters for the creation of local advisory committees for community-based restorative justice service providers.

Members of local advisory committees should include, but not be limited to, criminal justice system stakeholders, criminal justice system-impacted individuals and groups, community-based victim services, Indigenous groups, restorative justice practitioners and providers.

Recommendation 3.7: Establish strong and authentic partnerships between the governance and operations committee and communities to foster and support the development and success of service-providing partners to animate the restorative justice strategy and program. Such partnerships require clearly articulated roles, authority, and responsibilities. Ensure communities have sufficient authority to play an authentic role as partners in the local development and animation of restorative justice.

Recommendation 3.8: Ensuring funding arrangements are sufficient in structure and amount to support community-based service providers as full partners in the reduction of crime within their communities. Ensure funding is sufficiently stable and reliable to serve as a foundation to enable service providers to think and act strategically in their communities rather than only work reactively. Stable funding is also important to enable authentic partnerships.

Recommendation 3.9: Ensure secure funding to establish and maintain an association of service providers.

Theme 4: Access to Justice

There is evidence that restorative justice shows significant promise in improving access to the criminal justice system and to just outcomes. Restorative justice has shown important potential with respect to addressing court delay, victim/survivor satisfaction and disproportionate minority representation. Such results require that restorative justice programs be more fully utilized than is currently the case in Alberta. Access to restorative justice programming is a central barrier for a number of jurisdictions.²⁵¹ Key informants interviewed offer a range of explanations for the lack of referrals including the existence of complex and inefficient referral mechanisms, inconsistency in buy-in/commitment from system stakeholders, a lack of common understanding and agreement of the scope of restorative justice referrals, and offender-centric practice which affects victim services buy-in and victim/survivor participation. Alberta reflects many of the same difficulties faced across the globe.²⁵²

Given the potential for restorative justice as an effective method for addressing over-representation, delay, incorporating trauma-informed practices and increasing satisfaction of justice participants, the question of access to restorative justice needs to move from one focused on who/when is appropriate (limiting approach) for restorative justice to one of who/when is not appropriate (expansive approach). System actors need to shift their thinking about restorative justice from an alternative track of off-ramp for a particular type of case or offender, to a primary justice path. The transformation potential of restorative justice is most likely that of a default approach for cases unless there is a strong rationale to use the traditional criminal justice system processes.

This is not to suggest that specific restorative justice processes should be favoured for all cases. When restorative justice is seen and defined, as is recommended in this report, as a framework from which to approach justice. It is able to inform thinking and practice in every aspect of the criminal justice system and for every person serving or served by it.²⁵³ Current definitions provided in legislation and policy are too often focused on restorative justice solely as a practice or set of practices,²⁵⁴ which limits the relevance and application of restorative justice from the perspective of systems transformation. Expanding the common understanding and articulation of restorative justice from a fixed-practice model to a principle-based approach is necessary for restorative justice to reach its potential with respect to impacting the justice experience for Albertans.

In discourse and policy on restorative justice has also sometimes focused narrowly on who “deserves” or is “suitable” for restorative justice. Determinations of appropriateness have primarily been focused on the nature of offenders and their offences. This focus does not challenge the predominantly adversarial and offender-centric foundation of the current criminal justice system and is directly contradictory to a relational and needs-based approach. It is this framing that also contributes to unbalanced, unequitable, and restrictive access to restorative justice access.

Within the context of partnership, increased education and the strategic development advocated in this report, Alberta could reconsider its approach to restorative justice eligibility. The current focus on types of offenders and offences relies on current assumptions and thinking within the criminal justice system. Instead, Alberta could consider an approach to eligibility focused on increasing access to restorative justice as a means to address access to justice issues broadly and to realizing the benefits of restorative justice for more citizens and communities. This frame would expand current thinking about restorative justice from simply an off-ramp to a more integrated element of justice as a whole. Key considerations for this transition, discussed in this section, include:

- 1) legislation reform and policy development to support greater integration, and intra/inter

system collaboration that moves from a deficit-focused to needs-based inquiry and response consistent with a restorative approach;

- 2) reimagining and expanding victims' and survivors' roles in the justice system from subject or witness to the incident, to a central affected party entitled to voice and response based on needs;
- 3) shift/expansion of eligibility criteria in terms of who/what is appropriate for restorative justice; and,
- 4) prioritizing/supporting meaningful access for Indigenous persons through cultural responsiveness in service provision (at a minimum) and active support, engagement and development of Indigenous Justice initiatives already in place or in development.

Strategic Policy and Protocol Development

Policy plays a significant role in facilitating access to restorative justice programs and practices, addressing matters such as resourcing, referrals, and quality. The development of protocols for restorative justice programs and the various referral and service-providing partners is also very important. It is key for such protocols to consider access broadly as the concern or purpose of referrals. This orientation means stakeholders and partners cannot see restorative justice as being a privilege extended to deserving offenders or victims. Instead, access should be considered from the perspective that it is the responsibility of the system to meet the needs of victims, communities, offenders and the public through a just response and to take the approach best able to do this. This starting place for effective policy then expands the frame in terms of *who* controls victim/survivors, offenders and community's access, or point of entry, to restorative justice and *why*.

Protocols for Presumptive Referrals to Restorative Justice

Legislation or policy that defines access solely within the framework of professional discretion has had a significantly limiting effect on who/what can and cannot be referred to restorative justice processes.²⁵⁵ Policies that rely on sole (single entry point) discretion are likely to result in:

- inequitable access to restorative justice due to implicit or explicit bias;
- inconsistent access as determined by knowledge and buy-in by individual system actors holding discretion;²⁵⁶
- access "granted" as a matter of the good will or grace of a system decision maker rather than collaborative and transparent deliberations that admit multiple perspectives—including those individuals and communities directly impacted or involved.

These concerns may contribute to the dissatisfaction with the criminal justice system.²⁵⁷ This is not to say that discretion in principle always leads to abuses of power. Rather that discretion must be properly informed by policy to support innovation within the system (responsiveness), while also protecting rights of individuals and community.

The most effective legislative and policy efforts aimed at mitigating the weaknesses of sole discretion have framed access to restorative processes presumptively, while providing discretion to stakeholders *and* directly impacted individuals to opt-out when other methods of attending to needs are required, or when restorative justice processes fail to provide access to safe and meaningful processes. In practice, such policies approach restorative justice as a default and require justification for the use of

the criminal justice system in lieu of a referral to restorative justice programming. Where referring authorities exercise their discretion to proceed by way of the formal criminal justice system they would be required to provide a rationale why the case was not proceeding restoratively. Presumptive referral policies would, on this approach, exist at every stage of the system. This would ensure information is provided to the next stage of the criminal justice system to inform their decision making with respect to proceeding restoratively or not. Thus, police would provide an explanation available to the Crown. The Crown in turn could consider whether the reasons that are relevant for their exercise of discretion with respect to the public interest.

Such a process would support the exercise of discretion at all entry points with respect to restorative justice. For example, it would allow police to explain if and when they are proceeding through the criminal justice system because they think a situation would benefit from the perspective of Crown on public interest in order to determine whether a referral to restorative justice should be made. Absent such explanations for decision-making, later-stage system actors might make assumptions about the reasons a referral was not made and forego further consideration. Several potential benefits may emerge from a presumptive consideration of restorative process at every level of the justice response.

Setting the Stage for Addressing Disproportionality and Cultural Harm

A presumptive approach to referral can set the stage then for collaborative governance, whereby the system and directly impacted individuals consider together the appropriateness and form of restorative justice. It also lays the groundwork to address overrepresentation of members from marginalized groups in the criminal justice system and inequality/systemic discrimination in access to justice. The flexible and responsive nature of restorative justice processes enables community and directly impacted individuals to have a voice in shaping justice responses. This creates the conditions for cultural responsive and equitable justice.

Timing

Generally one of the most significant issues in terms of access to justice and restorative justice specifically is timing. The timing of the current system does not often correspond with the needs of directly impacted individuals. Legislation and policy can play a role in mitigating this issue by ensuring access to restorative justice throughout the criminal justice process (such that parties can access it when and as they are ready). It is also important to ensure adequate timing to engage in appropriate and meaningful ways once a referral to restorative justice has been made. The timelines of the criminal justice system (for example in terms of when a charge related to a summary conviction must be laid or the more recent overall timelines for trial set down by the Supreme Court in *Jordan*) can create unreasonable pressures from restorative justice depending on when and how referrals are received. The issues related to timing will be mitigated by established mechanisms of communication and collaboration through which to explore participants' readiness and the appropriateness of restorative justice at every stage of the process and to ensure timely referrals. Presumptive referral policies also help on this front by reducing additional administrative burdens to refer. Addressing timing issues may also require federal collaboration with respect to changes in criminal procedure related to timelines, in addition to the administration of justice adjustments possible in Alberta. Recently proposed amendments to the Criminal Code aimed at addressing court delays and modernizing the criminal justice system including with respect to administration of justice offences is potentially helpful on this front.

Policy's Role in Resource Provision

Policy can also set the stage for a strategic reallocation of resources. Justice system transformation toward a relational and needs-based framework does not necessarily entail additional cost to the overall system, but it will likely require a reconsideration of current resource allocation.²⁵⁸ A restorative justice approach will generate savings that could be redirected/reinvested in support of restorative justice education and training; establishment of system- community collaboratives and partnerships; and development of system or community-based roles²⁵⁹ to coordinate new structures and processes that emerge out of the systems created for strategic expansion of access. It is important to emphasize that realizing such savings will not happen immediately. Initial investment in innovation and building stability and sustainability is essential to long-term success and savings. The common year-to-year funding arrangements or pilot funding models have made it difficult to realize the possible returns on investments because they do not endure long enough to shift system focus, costs and investments.

Broad Systemic Access to Restorative Justice Frameworks within the System

Access to restorative justice can be broken into two important categories. The first category addressed above is access to restorative justice programs or processes via diversion from the formal criminal justice system. The second, often-overlooked category is the provision of broad systemic access to restorative justice by ensuring the approach is integrated within the formal criminal justice system. The potential of a restorative approach to contribute significantly to reforming formal processes within the current criminal justice system should not be overlooked when considering access to restorative justice. For example, a restorative approach might be taken to developing resources and services to address the needs of victims/survivors every stage of the justice system that do not depend upon the diversion of an offender to a restorative justice program. A restorative approach could inform a policy shift in terms of the focus of probation and parole from monitoring and compliance to ensuring support and services including meaningful community connection for reintegration (an approach consistent with the core correctional practices employed within many Canadian correctional services). Administrative breaches could be dealt with within the context of the larger goal of repair and transformation, rather than solely through the lens of compliance. These changes could dramatically shift the relationship of the offender from one of accountability to the system to one of responsibility in the context of relationship to other individuals and community. Broad systemic alignment of the criminal justice system with restorative justice is a long-term vision for the potential of restorative justice in Alberta. It is important to consider the potential implications of thinking restoratively about justice within the system, in addition to referring cases outside the current system.

Access to (Restorative) Justice for Victims and Survivors

Even where restorative justice is accessible through referrals from the criminal justice system, victims and survivors traditionally have low participation rates.²⁶⁰ It is a storied issue within the restorative justice field, and one that unless addressed, will impede restorative justice from reaching its potential to expand access to justice for victims and survivors. There are three important issues to consider in terms of addressing this low participation. First is the issue of how, when, and by whom referrals are made. This is discussed at length above. The second relates to the quality of the service provided to victims and survivors should they choose to participate in restorative justice processes. Third, is the issue of how restorative justice is situated for victims in relation to the criminal justice system.

1. **The Method of the Referral:** A review of the literature and national and international experience reveals that the gateway for victims and survivors to access restorative justice

processes requires continued and careful attention.²⁶¹ In addition to the presumptive referrals suggested above, significant work needs to be done both in terms of how victims and survivors are invited into these processes when referrals occur, and in the provision access to restorative justice for victims on their own terms and to meet their needs irrespective of offenders.

Careful thought is required in terms of how individual victims are invited to participate in a restorative justice process including the mode of delivery, information provided, timing and language used. These factors significantly influence and impact the response and experience of the victim/survivor. For example, the more personal the invitation (face-to-face as compared to receiving a letter only), the more likely victims and survivors are to participate.²⁶² The skill of making this invitation while assuring voluntariness and informed consent is quite nuanced, requiring careful attention in restorative justice practice. It is important to ensure adequate knowledge and skills for restorative practitioners to support such work with victims.

2. **Quality of Service:** Attention also needs to be given to the quality of the restorative justice services provided.²⁶³ Capacity needs to be developed to ensure trauma-informed, victim-focused process design and implementation.²⁶⁴ This is discussed further under Theme 5.
3. **Moving Beyond the Referral:** The issue of victim participation in restorative justice and the ways to address it often trade on several popular beliefs about restorative justice that are based on evidence and need revision. Current criminal justice system processes are not designed with a central concern for victims.²⁶⁵ There is a popular sentiment that if the gateway for victims into restorative justice were widened or improved, more victims and survivors would choose to participate since it is a more palatable option than criminal justice processes. It is a belief that restorative justice encounters can address the needs of victims and survivors that leads to this notion that the only thing limiting victim/survivor participation is the form of the gateway. This idea reinforces the common misunderstanding addressed in Theme 1: that the only thing restorative justice has to offer victims and survivors is a face-to-face encounter with their offender. As recommended in Theme 1, if restorative justice is reframed relationally with relevance as a justice response at every level within the criminal justice system, the issue of victims' access to restorative justice looks different. For example, the issue is often thought to be one related to a lack of information and awareness of the availability of restorative justice services. The solution then is to create more awareness. The Canadian Victims Bill of Rights, states that "Every victim has the right, on request, to information about:
 - a. the criminal justice system and the role of victims in it;
 - b. the services and programs available to them as a victim, including restorative justice programs . . .".²⁶⁶ Education of key stakeholders and information provision to victims and survivors is of course important. This approach will not, in and of itself address the underlying participation problem. Belgium, for example, established two laws to ensure victims are informed of the availability of restorative justice.²⁶⁷ Even couched within the context of victims' rights, these attempts to raise awareness do not always happen, and when they do the approach varies greatly.²⁶⁸ Awareness alone is not the solution can be seen in the VSU survey results compiled by the Ministry of Justice and Solicitor General Alberta. It found that most Victim Service Unit (VSU) staff in Alberta have some knowledge of restorative justice, with 63% being aware of the Association of Restorative Justice in Alberta (ARJA), yet only about 10% of the same respondents either had received a request for restorative justice information or services, made a referral to restorative justice services, or had a process to track restorative justice

referrals or requests.

This focus on awareness assumes that the solution lies with reaching the victims to convince them of the value of participating in restorative justice. The key-informant interviews in Alberta made clear that the issue of victim participation was not of central concern among stakeholders. There was very little mention or information provided, nor issues articulated, or concerns expressed regarding victims and survivors' role in the restorative justice movement during the interviews. The review team does not draw from this that the key informants do not care about victim participation. Rather, that the current structure and focus of restorative justice in relation to the criminal justice process does not focus attention on victims as a distinct issue, nor does it present obvious avenues to improve their participation rate. This is a common theme within the restorative justice movement globally. Too often restorative justice for victims is reduced to the question of victims' participation in restorative justice processes.

All of this is symptomatic of how restorative justice programming typically evolves to depend on the criminal justice system for its referrals and how this structures access and engagement with victims and offenders. It is not surprising then that consideration of restorative justice for victims is framed through the lens of the criminal justice system—offenders, their charges and their rehabilitation.²⁶⁹

Reframing the Problem of Victim/Survivor Use of Restorative Justice Process

A broader relational conception of restorative justice helps guide the development of victim-centred restorative justice processes. Such a development is likely to have a significant impact on the overall experience for victims within the criminal justice system and within restorative justice.

Such an approach requires rethinking the response to victims and survivors when they have been harmed by a criminal act. It can be argued that the current system, although slowly changing through victim rights laws, still views victims and survivors primarily as tools of the system to reach system goals, rather than as key parties whose needs should be a central concern in response to criminal harm. In the 1970s, victim advocacy was established to take up a new adversary role within the system to fight on behalf of victims and survivors.²⁷⁰ This role however most often resided within Crown offices or justice department and thus remains closely connected to the outcome goals of the state in terms of prosecution and punitive justice.

If the issues of victim/survivor access and participation in restorative justice are to be addressed, the system needs to take into account the justice needs of victims. These needs are not all related to the offender and cannot therefore be met through processes focused on the offender as the source of just outcomes. For some victims this is important. For others the impacts of crime are felt in their relationship with community or are connected to systemic vulnerabilities and inequalities. In such cases, the relationships that are central to a just response are not simply or even primarily the interpersonal one with an individual offender but involve systems and communities. The criminal justice system needs to partner with and/or become equipped with victim-oriented services like those proposed in parallel justice models, so that restorative justice could be envisioned, designed and provided to meet the needs of victims with or without offenders.²⁷¹

Sexual and Intimate Partner Violence

This reframing of the potential of restorative justice for victims particularly in cases related to underlying social inequalities and systemic injustices creates an opportunity to rethink the sorts of

situations appropriate for restorative justice. If the system continues to think rigidly about restorative justice— interpersonal harm, severe violence (in some jurisdictions) and sexual/intimate partner violence are likely to be viewed as inappropriate or too “high-risk” in terms of safety or the public reputation of the system to be handled restoratively. If instead, restorative justice is approached as a relational and needs-based framework, it opens the possibilities of restorative justice’s role to inform our responses to these historically problematic crimes.²⁷²

Perhaps the clearest example of such an issue is sexual and intimate-partner violence. The failure of the criminal justice system to address these harms has perhaps never been so clear or so clearly known as it is now. The failures of the system in this case mirror many of the central critiques restorative justice makes of the system and those which it was developed to address. The vast majority of DV and IPV crimes occur within the context of existing relationships.²⁷³ Yet the criminal justice system responds through an individualistic approach of punishment (and sometimes treatment) ignoring the relational nature and context of the crimes at interpersonal and societal levels. This approach has resulted in extremely low reporting by victims and survivors.²⁷⁴ This is significantly problematic for the criminal justice system, and something that restorative justice, as a relational and needs-based justice response, may be better positioned to address.²⁷⁵ The promise of restorative justice on this front though does not lie in its practice models or processes but in its capacity to comprehend the complex relational nature of the issues, the harms and the required responses. The development of restorative responses to such issues should be approached carefully and in close collaboration with experts and community organizations working on these issues. There are a number of research and program initiatives underway that would provide important insight and guidance for this work. Before undertaking such development, it is important that there be significant capacity within the restorative justice community to handle complex cases. It is also imperative that mechanisms for collaboration and accountability between and among stakeholders and partners (in government and community) be fully functional as a key foundation to support expansion of restorative justice into these issues.

The development of multi-systemic and community responses to crime through restorative justice also supports an expanded sense of appropriate cases for restorative justice. This is not only relevant in considering DV and IPV cases but also with respect to access for those from marginalized communities who are often underserved (and incidentally also over represented) in the criminal justice system. Community-based services and their partnerships with the criminal justice system are centrally important. These partnerships need to go beyond community-based services offered only after the normal criminal justice process is carried out, but as a primary resource (diversion from the criminal system) where the need can be better met through community-based services than through the traditional criminal justice system. Examples of community-based services providing critical services to traditionally underrepresented clients and underreported crimes include the Trauma Recovery Center model by the Alliance for Safety and Justice,²⁷⁶ School-based restorative justice programs,²⁷⁷ and the Senior Safety Program (HASA) in Nova Scotia.²⁷⁸

The reframing of restorative justice as an approach to justice ultimately opens the door to all kinds of opportunities to reimagine the criminal justice system. Indeed, this is already happening in some specialty courts—in particular, mental health courts and wellness courts, domestic violence courts, drug courts, etc. These courts, when informed by a restorative approach, and developed through multi-system and community partnership and collaboration, offer responses to individual cases that take account and address deeper underlying social problems.²⁷⁹

Relationship with Indigenous Justice

Access to justice issues come sharply into focus for Indigenous communities around the world, but particularly in Canada.²⁸⁰ Indigenous people have been stigmatized and marginalized through systemic racism within the justice system. It is not surprising that a major part of the recent Truth and Reconciliation recommendations concerned reform of the justice system with access to justice a serious concern.²⁸¹

There is no quick fix or solution for the deeply rooted systemic racism against Indigenous Peoples that is reflected in the criminal justice system. There are policies and practices that may contribute to transformation and reconciliation. Increased education on Indigenous culture and worldview can play a central role, and the Alberta government can be commended for taking some clear and serious steps in this direction.²⁸² Restorative justice, when understood within the relational frame recommended in this report could make an important contribution to supporting Indigenous justice and addressing overrepresentation and increasing access to justice for Indigenous people.

As noted earlier, restorative justice and Indigenous justice are not synonymous.²⁸³ While their underlying values of relationship and interconnection are aligned,²⁸⁴ policy-makers, restorative justice advocates and government leaders alike must ensure that Indigenous justice is not subsumed or folded into the restorative justice. Indeed, pre-eminent scholar and thinker Val Napoleon and her colleagues contend the following:

While the tenets and rhetoric of restorative justice may at times overlap with, or add to, the ways in which local laws are functioning, we argue that local laws themselves are more interesting and promising in terms of strengthening self-governance.²⁸⁵

What is the role of restorative justice in increasing access to justice within Indigenous communities? Restorative justice might be an important ally and support to ensure access to Indigenous justice if it is developed and implemented alongside Indigenous communities as partners and knowledge keepers (as discussed in Theme 3). Alberta has access to a wealth of Indigenous knowledge and expertise in this respect. For example, there are 15 groups associated with the Indigenous Justice Program (referenced above) and a portion of these programs are involved with community-based justice responses through the Youth Justice Committees and other local initiatives. The details of how each of these programs operates vary according to the community, and some communities have experienced more support and growth than others. Overall, experience seems to suggest that the reclaiming by Indigenous groups of their justice ways²⁸⁶ is contributing to healthier communities. The successes of Indigenous communities in Alberta could be celebrated and looked to for the lessons they offer for improving the justice outcomes and access to justice for their communities.

In terms of what this means for access to justice through restorative justice, service providers of restorative justice must be vigilant about assuring cultural responsiveness and appropriateness in service provision. First and foremost, this requires ensuring proper referral protocols to Indigenous justice programs, within the framework of ongoing collaboration and partnership with Indigenous justice groups in their region. In addition, restorative justice programs and service providers are encouraged to undertake appropriate an Indigenous learning initiative, in keeping with the commitments of the Alberta government mentioned above, to provide cultural safety for Indigenous clients that they may serve.

Recommendations for Access to Justice (Theme 4)

- Recommendation 4.1:** Develop shared protocols to govern restorative justice program referrals in Alberta. A phased approach to the implementation of such protocols may be required in order to build capacity and infrastructure to successfully respond to expanded referrals.
- Ensure that referral protocols are developed for all system entry points (Police, Crown, Courts, Victim Services, Corrections). If a phased approach is necessary, begin with Police and Crown for greatest impact.
 - Construct self-referral mechanisms for victims and survivors. Build protocols and infrastructure necessary for this access to be meaningful and oriented to meeting the needs of victims (i.e. victims' right to be informed of restorative justice services, restorative justice service provision regardless of offender-readiness or participation).
 - Develop restorative justice options and protocols to meet the needs of victims/survivors, offenders and relevant communities regardless of their involvement in direct encounter processes. Ensure service provision of restorative justice regardless of participation of other parties (e.g. ensure program development such that offenders can engage without requiring participation of the direct/individual victims/survivors. Likewise, develop restorative justice processes for victims/survivors that do not require the participation of an individual offender.)
 - Explore how cultural safety can be enhanced and assured for Indigenous clients and participants.
 - Protect the voluntary nature of participation for referred participants. Set protocols to ensure informed and continuing consent to participate in restorative justice processes.
 - Determine eligible offences/matters for referral to restorative justice. Do not to limit referrals to low-level charges or "net widen" by including matters that would not otherwise be pursued. Give particular consideration to the provision of restorative justice for administrative breaches. Expansion of eligible matters will most dramatically impact issues of delay and overrepresentation. Judiciously consider the development of restorative options to respond to sexual or intimate partner violence referrals. This will require expanded expertise and partnerships and a phased-in approach with careful attention to principle-based design of appropriate processes.
 - Determine eligible individuals for referral to restorative justice. Strongly consider expanding past first-time offenders or one-time referral parameters. Develop pilot adult programs and referral protocols.
 - Develop protocols to guide referral sources and support the development of internal operations policies and procedures

within referral sources consistent with the protocols.

- Consider a presumptive approach to referrals requiring *consideration* of restorative justice in all eligible cases.

Recommendation 4.2:

Develop a plan for the development of knowledge, skills and attitudes within system stakeholders to inform practice within the criminal justice system based on a shared understanding of restorative justice values and principles.

Theme 5: Program Structure and Governance

Careful attention to program development, structure and governance is an essential aspect of the successful expansion of restorative justice in Alberta. Programs must maintain and expand their role as partners to the criminal justice system in responding to crime through a restorative approach. This responsibility requires significant program capacity for case assessment, development and facilitation of restorative justice processes. Thus, attention must be given to mechanisms for program development (or redevelopment), governance, administration and evaluation.

Historically, and currently in Alberta, restorative justice programs have been focused on specific restorative justice models or processes (i.e. victim-offender dialogue/mediation, conferencing, youth justice councils, restorative community service, family-group conferencing, etc.). The model favoured in any given community is generally related to the person(s) (stakeholder) that championed the use of restorative justice in that community. The program championed is the program these individual leaders have learned about, been trained in and had access to. Often, the restorative justice model in a community is not rooted in the context, culture or needs of the community in which it is based. Instead, programs are typically developed to reflect other existing models or programs. In Alberta, Youth Justice Committees expanded as a programmatic response to the *Youth Criminal Justice Act* in 2004, as models based on established practice showing “success” elsewhere.²⁸⁷ Access to restorative justice in different communities is dependent on the particular program that is offered in that community. This results in certain inconsistencies in terms of access and outcomes from communities to community or region to region. Typically, this sort of approach to restorative justice program development requires champions or program administrators to “sell” their program to the criminal justice system actors, community stakeholders, and in worst case scenarios, to potential restorative justice participants themselves in order to get referrals, funding, buy-in, etc.²⁸⁸ This “selling” often contributes to program cooptation as restorative justice practices are altered to better fit the current criminal justice system structures, paradigm, and measurements of success in order to solicit referrals (often a prerequisite to sustained funding).

This issue is a live one in Alberta. Even in the case of the Youth Justice Committees (YJC), programs initiated by the Province, key informants describe minimal referrals and/or buy-in from certain stakeholders (some identified the RCMP as one example), requiring significant energy and resource be spent on cultivating referrals. In the case of the YJCs, most referrals are initiated by the Crown through Extrajudicial Sanctions (although commonly still referred to as “Alt Measures” across Alberta, an echo of the previous legislation the *Young Offenders Act*). In the case of Alberta, the resistance or barrier in referrals is reversed from what is common elsewhere. Though still in need of attention, it may be a strength that the Crown is already a primary referral source, when other jurisdictions have faced Crown resistance.²⁸⁹ Even if holding some promise as a strength of restorative referrals in Alberta, the discrepancy in referrals between the RCMP and Crown still seems a symptom of a fragmented criminal justice system which must be addressed as part of program development and sustainability.

If we are to re-imagine restorative justice programming to reflect more accurately the principle-based approach recommended in this report, programs must be an extension of, and integrated in a broader systemic/structural re-envisioning and transformation of the criminal justice system. The following issues require attention as core to successful program development and operation:

- how, when and by whom programs are designed, implemented, governed and administered;
- sustainable funding strategies to support integral practice and proactive program

development and adaptation;

- the role of community within and in partnership with restorative justice programs;
- effective education and training strategies; and,
- the role of monitoring and evaluation in the sustainability and growth potential of programs.

Program Development, Governance and Administration

The approach to restorative justice program development, governance and administration must reflect the principles that guide a restorative approach to justice as considered at the outset of this report. Traditionally in the restorative justice movement, the champion is the individual(s) that cultivates new development, most often in an altruistic effort to foster programmatic resources to attend to the needs of those marginalized by the justice system. Few restorative justice programs have manifested without a champion. It is difficult, if not impossible to fault these influential and sometimes transformative efforts. The programs that have emerged over the last five decades are instrumental in providing a vision for what needs-based and relational justice can look like in practice and have been driven by such champions.²⁹⁰ There are inherent weaknesses in this reliance on champions for innovation and development that have become barriers to sustainability. Most notably, programs dependent on individual charisma and commitment are vulnerable if such individuals depart.

Often related, centralized power and authority has also been central to restorative justice development, implementation and governance in ways that are cause for some concern. For example, program administrators are often at the mercy of the criminal justice systems' bidding to maintain referrals and/or funding. This lack of shared authority and power has sometimes resulted in programs designed to attend to the needs of the criminal justice system, rather than fully reflecting or pursuing goals and objectives of restorative justice. Theme 3 addressed the importance of authentic partnerships between the criminal justice system and community in restorative justice implementation. This is of specific importance in relation to program development, implementation and governance.

A key indicator of authentic partnership can be seen in who and how restorative justice programs are developed and/or governed. For sustainable and successful practice, leadership and ownership need to extend beyond individuals to collectives.²⁹¹ Research indicates that there is a key role for a convener to ensure and support such a shift.²⁹² Those best placed as conveners are often local individuals and agencies motivated to bring justice system, community and multi-system stakeholders together in shared leadership to create a unified vision for justice responses in their own community. Conveners mobilize stakeholders from community and government to come together to make collaborative efforts.

A convener role is particularly helpful in establishing and maintaining localized committees composed of individuals that represent the diversity of stakeholders connected to restorative justice. Such committees are levers in animating restorative justice within the scope of existing legislation and policy, and can be important sources for innovation, growth and development reflective of the context and cultural reality of their communities.²⁹³ These committees, supported by an overarching convener and facilitated according to the principles of a restorative approach (generally by a non-stakeholders) can also act as advisory committees to maintain accountability for the program according to the provincial strategy and its guiding principles, goals and objectives.

Government could play an important role in the convening of such committees through funding, participation and other resource provision as needed. This is consistent with the primary role of government, as indicated in the previous section, in terms of ensuring rights protection, adequate and fair resourcing, and creating the structure and other conditions essential for successful collaboration. For example, government can ensure the creation of program infrastructure for sustained and healthy programs. Restorative justice agencies often do not have the expertise or resources to create critical program infrastructure, and program services and sustainability have often suffered as a result. Government can provide support by ensuring mechanisms are in place for transfer of knowledge and institutional commitment during times of personnel or program renewal or transition.

To foster the depth and nature of partnerships within and outside of government required for the success of restorative justice, it is important that government engagement and support is structured, transparent and accountable, in keeping with a commitment to shared authority. The structures recommended in this report aim to provide a framework within such relationships and can be developed and maintained across government and community partners. It is also important for restorative justice programs to be locally and culturally responsive and relevant, for government and the criminal justice system actors to be deliberative in their leadership to empower and support shared leadership among key stakeholder representatives in the system and community. They must do this while maintaining an oversight role focused on protecting the rights of those served through such process.

Clackamas County Juvenile Department in Oregon provides an example of the role of local government in supporting collaborative program development and operation.²⁹⁴ Its local youth justice agency acted as convener to bring together key local stakeholders for the development of a locally administered restorative justice diversion programming. The government agency provided approximately .75 FTE staffing to coordinate, facilitate and develop a program manual (infrastructure development) in the development of the diversion program in two communities within the agency's jurisdiction. Local stakeholder representative committees were convened for the program development, and then to serve in an advisory capacity throughout implementation and ongoing service provision. This approach ultimately led to local non-profit administration of the program; significant buy-in from local law enforcement, municipal government, and local community groups; and, program infrastructure for the expansion of services were provided over time through a phased approach.

The Alberta government could play a similar role in expanding restorative justice. It will have the most leverage by supporting local development as demonstrated in the Oregon example, while assuring the critical governance role at a provincial level to ensure quality and rights, support local and regional mobilization and co-ownership by establishing a unified strategy (as recommended in Theme 1) and adequate funding.

Funding Sustainability

Funding structures and requirements have a direct impact on the quality and integrity of restorative justice programs.²⁹⁵ Traditional approaches to funding, such as case-by-case or hourly structures, funding based on minimum requirements for number of referrals and short-term renewal requirements, have created numerous problems with the integrity, ingenuity and sustainability of community-based programs. Government funding that puts pressure on agencies to increase referrals or face-to-face encounters to either ensure continued funding or meet minimum funding requirements can result in cooptation by incentivizing efforts to design or amend services to serve criminal justice

system priorities and outcomes.²⁹⁶ Case-by-case funding can also limit a community agency's incentive to invest in preventative initiatives like restorative justice in schools, non-criminal restorative justice services, etc. If successful, these initiatives prevent cases from ever reaching the criminal justice system and thus reduce the flow of referrals that come through the system. It is also often the case that such preventative activities are not viewed or funded as services to the criminal justice system because they reside outside the system and in relation to matters within the jurisdictions of other government departments.

Short-term funding limits the capacity of agencies to plan strategically because year-to-year funding levels can change dramatically.²⁹⁷ For these reasons, it is important that funding be structured to provide basic levels of support for program administration and infrastructure. Funding built around the needs of community-based programs, reflecting shared goals and objectives for service delivery, are critical to the successful expansion of restorative justice in Alberta.²⁹⁸

The Role of Communities

In addition to being key stakeholders in the development and administration of restorative justice programming, community also plays an important role in service delivery of restorative justice. Assuring alignment of community roles with the relational and principle-based approach to restorative justice recommended by the review Team requires careful and deliberative governance to ensure respect for equality, human rights and procedural justice within the diverse and varied communities these programs serve.

There are complexities that result from the central role of community as restorative justice agents, including the fact it places community-members in positions of authority over other community members, often youth that have committed harmful acts and their families referred via the youth justice system. This is a particularly salient issue for restorative justice processes and programs operating in small towns or close-knit rural areas or communities. Alberta's key informants noted that the YJCs have historically been framed more as "community panels" than restorative justice processes.²⁹⁹ The role of community panels is perhaps a more familiar and formal means of managing this issue of authority. In the process, however, it also risks replicating aspects of the formal judicial model by placing community members in the stead of judges. There are efforts underway to consider redeveloping the YJCs toward a holistic practice, more explicitly aligned with restorative justice principles. Some Indigenous communities in Alberta are starting to incorporate the local and cultural traditions into the practice of YJCs, providing a promising model for community involvement in the redevelopment of programs meant to serve them (for example, Saddle Lake and Blood Tribe).

While some of the complexities require attention and oversight to protect against power imbalances or abuses, the role of community members representing the larger collective "community" has potential as an innovative spark to cultivate stronger and more resilient communities through programmatic responses to crime. Restorative justice is fundamentally grounded on the notion that it is not just the victim and offender that play a role in the justice response, but that community has a central role as parties that are both impacted and responsible. They are also, as just discussed, important "keepers" of the process.³⁰⁰ Finding meaningful roles for community members to play as supporters of directly impacted parties *and* stakeholders in community safety, responsibility and resiliency can have a corresponding positive effect on both the ownership of the local justice ethic, the capacity to expand services to more complex cases, as well as on the strength and resiliency of the community as a whole.³⁰¹

If mechanisms are developed to provide meaningful access for community as active parties and stakeholders within these processes, and the rights and needs of directly impacted individuals are protected, this places program and process as strategic transformative opportunities with the potential to support community development and affirm strength and resiliency.³⁰²

Service Delivery, Education and Training

A critical element of program effectiveness, integrity and sustainability is the education and training provided for program administrators and practitioners, as well as for those that act as the bridge (referral sources) from the criminal justice system to program services. In terms of education and training efforts currently available or provided in Alberta, there was strong concern expressed by key informants that there were minimal and inadequate (in terms of availability, breadth and depth) education and training opportunities at a provincial level.

Once a shared understanding of restorative justice is developed in accordance with the recommendations in Theme 1, broad and ongoing education strategies need to be designed and implemented to communicate, operationalize and maintain this shared understanding. Too often, with the implementation of new initiatives in restorative justice, there is an initial communication and education push, without follow-up, monitoring, mentoring, organizational prioritization or support necessary to ensure consistent and integral practice aligned with restorative principles, goals and objectives. Education strategies are also necessary to mobilize community for leadership, involvement and support.³⁰³

A robust and ongoing educational strategy is also essential to equip practitioners and governors with the knowledge required to support responsibility within restorative programs so that they need not rely on fixed and formulaic practices but can design and adapt practice to meet the context, circumstances and needs of the parties and the issues. Responsive and reflective practice requires significant education and training. Restorative justice practitioners should, at minimum, be receiving initial and ongoing education and training in:

- relational understanding of justice as an approach to justice;
- principles of restorative justice;
- Indigenous roots of restorative justice and relationship to traditional law and justice ways;
- trauma-informed practices;
- root causes of crime and violence and their effects/impacts;
- fairness and equality in practice: human rights, procedural justice;
- case development and needs-based process assessment/development; and,
- responsive facilitation.

As noted in the earlier discussion on the importance and formation of standards for practice and service, the development of education and training standards is also important.³⁰⁴ Education and training standards can help to assure consistent practice across the province that aligns with the shared understanding of the approach, principles, goals and objectives of the restorative justice strategy.³⁰⁵ Standards should not focus on narrow and limited traditional trainer/trainee formats but instead should encourage and support reflective practice as needed to implement a principle-based

approach to practice. Successful education and training utilizes coaching, mentoring, apprenticeship and the development of communities of practice (learning communities) in addition to the initial training to support continuous, renewable and relevant knowledge development, translation and mobilization for practice.

Ultimately, the quality of service provision will determine the long-term viability of restorative justice. The quality of service and resulting experience of all participants is directly correlated to practitioners' abilities to respond to individual needs and issues effectively, without neglecting the relevant social context and circumstances that are central to a just response.

Building capacity to respond effectively to the needs of victims and survivors should also be a central focus within education and training. This focus has traditionally been underrepresented in the restorative justice training curricula and has in some cases resulted in offender-centric service provision.³⁰⁶ As noted in the earlier discussion of victims and access to restorative justice it is important to learn from victims about their perspectives and needs related to restorative justice. Education and training related to victims then should be developed and offered, at least in part, by victim services and restorative justice professionals collaboratively.³⁰⁷

If access to restorative justice is to expand and include more complex cases relating to potentially complex traumatic experiences, facilitators and administrators must be equipped to work in trauma-informed ways. They must also have a clear and deep understanding of the principles of restorative justice so that they can develop or adapt practices to reflect these principles. It will be important to ensure education and training does not simply expose practitioners to a range of process tools (Victim-Offender Dialogue, Circle Process, Conferencing, etc.), but that it does so in ways that help practitioners discern why and when certain tools might be helpful in the context of designing and implementing a restorative approach to meet the emergent needs of participants.

Education and training then must be oriented and planned for the purpose of building the knowledge, skills and attitudes necessary to ensure capacity for quality restorative justice process design, case management and facilitation. Knowledge and circumstances are constantly evolving so it is important to build mechanisms for reflective practice to recognize and implement new knowledge. Through the establishment of collaborative governance, provision of funding, infrastructure and frameworks for standards, a restorative justice strategy should support the development of regional learning collaboratives for restorative justice practitioners and administrators. Structured and explicit mechanisms to convene and reflect on practice and outcomes can be instrumental in the development and innovation for continued excellence in restorative justice service provision.

Monitoring and Evaluation

Monitoring and evaluation is critical to ensure practice and program are built and maintained in alignment with the principles of restorative justice.³⁰⁸ This key element of program growth and development is often overlooked or poorly implemented in restorative justice.³⁰⁹ The key measure that has historically been missing in restorative justice practice is whether or not the experience of the participants aligns with the aspirational goals and objectives of the program.³¹⁰ As discussed earlier (Theme 2), it is important that evaluative mechanisms consider from multiple perspectives including participants, partners, stakeholders and practitioners whether programs and practice are measuring up to the process goals, objectives and standards. Here it is important to emphasize that this data can and should be used by the regional learning collaboratives to inform their practices and processes in a

formative way, consistently informing the development, growth and improvement of restorative justice practice in Alberta.

Recommendations for Program Structure and Governance (Theme 5)

Recommendation 5.1: Create funding models that reflect public health funding strategies. Create foundational funding streams that allow for service providers to be operational and strategic. Funding should not be vulnerable to the impact of variable case load year to year or as a result of shifting focus toward proactive crime prevention approaches. Avoid funding strategies based solely on service provision (i.e. cases, hours, etc.).

Recommendation 5.2: Ensure that the public shares an understanding of restorative justice through broad-based education strategies. This is important for general confidence in the justice system but also to prepare community members for participation in restorative justice processes.

Recommendation 5.3: Within the framework of established standards, encourage the creation of initial and ongoing education and training standards for practitioners. In addition to the typical training strategies, use coaching, mentoring, Indigenous practices and apprenticeship to ensure sustained learning.

Recommendation 5.4: Integrate training strategies for phased roll-out of service provision expansion (see Recommendation 4.1). Ensure practitioners have the skills and knowledge to respond effectively to more complex case management and facilitation.

Recommendation 5.5: Establish (through policy, funding and other supports) regional learning collaboratives to actualize the learning from evaluation into practice. Practice (regional) and strategy (provincial) must inform each other through iterative and intentional communication and feedback channels.

SUMMARY OF RECOMMENDATIONS

This report has considered the issues that need to be addressed to enhance and advance restorative justice in Alberta in a successful and sustainable way. These issues are organized in relation to one another through central themes that have emerged from the literature and the team’s review of the current situation in Alberta. The discussion of the issues related to a theme was followed by a set of recommendations; each of the themes intersect and interconnect in a range of important ways. It is an overarching recommendation that an implementation plan in relation to these recommendations be developed that carefully considers sequencing, flow and interconnection.

This section provides an overview of the recommendations with attention to their connections and sequencing. For ease of navigation and application, they are organized under the three key elements of successes and the related steps. The three key elements are:

- Collaboratively establish a restorative justice strategy for Alberta built upon the foundation of restorative justice values and principles;
- Establish an empowered and sustainable network of local, community-based restorative justice service providers across Alberta; and,
- Collaborate with service provider association (ARJA), and local collectives to develop an education and training plan for the province.

Each of the recommendations in the following chart are elaborated more fully within the thematic sections of the report. The detailed consideration and discussion in those sections are important in order to fully appreciate and understand the following recommendations. Each recommendation contains a reference to its location within the body of the report. The chart, starting on page 75, is intended to provide guidance in term of next steps, future directions and key components for success of the implementation of restorative justice in Alberta.

Collaboratively establish a restorative justice strategy for Alberta built upon the foundation of restorative justice values and principles.

<p>Develop a provincial restorative justice strategy within the context of an inclusive and collaborative process.</p>	<p>Establish the plan before or in concert with expanding services. Recognize, through intentional planning, that the timing of the strategy is important to their success. Avoid accelerated program or practice implementation at the cost of limited collaboration, deliberation and clearly articulated goals and objectives.</p>
	<p>Ensure that the process and substance of the strategy reflects identified restorative principles as this is an important long-term investment to secure community and system stakeholder buy-in; more efficient, effective and adaptive strategy; and, fewer unforeseen barriers and unanticipated outcomes. [3.1]</p>
	<p>Carefully consider who needs to be involved in developing a shared understanding, in strategy development and in execution of the strategic plan. Involve stakeholders identified at the earliest stages possible and in meaningful ways. Representation should cut across the system, between government and community, and across the community. [3.2]</p>
	<p>Consult with Indigenous leaders to explore and develop the relationship between restorative justice and Indigenous justice. Collectively identify the complementary synergies that form the basis of a mutually supportive relationship while laying the groundwork to assure that restorative justice does not subsume Indigenous justice. [3.3]</p>
	<p>Foster authentic collaboration and partnership along with a strong commitment to shared authority. This strategy should be developed and executed at a provincial level by a governance and operations committee. The current composition of the working group begins to ensure a more inclusive approach that can be built upon to establish a permanent committee. In doing so it is important to consider the following:</p> <ul style="list-style-type: none"> • Assure that the composition of the committee membership reflects a cross-section of system stakeholders, community service providers and community members (individuals directly impacted by the criminal justice system). • Articulate and require commitment from members regarding their role and responsibilities, including, but not limited to, being representative of the group(s)/organizations and institutions they are appointed to represent through explicit and monitored iterative feedback mechanisms. • Provide funding to mitigate barriers for meaningful participation of non- governmental committee members. • Ensure the committee has the required authority for the design, implementation, and ongoing oversight of the strategy. This committee should not be “advisory” in nature. Its authority is derived both from official authorizations but also from the commitment of system and community stakeholders to work in

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<p><i>Develop a provincial restorative justice strategy within the context of an inclusive and collaborative process. (cont.)</i></p>	<p>collaboration on the strategy through the committee.</p> <ul style="list-style-type: none"> • Include ongoing evaluation, accountability, education and training among the responsibilities given to this committee. • Develop internal policies and procedures for the committee to successfully govern the implementation of the strategy including application of agreed upon restorative justice referral protocols. [3.4] 	<p>Theme 3 Pgs. 43-56</p>
<p>Embed the strategy in a shared understanding of restorative justice.</p>	<p>Ground the common understanding of restorative justice as a principle-based relational approach to justice rather than simply a set of practices and tools. This understanding of restorative justice is key to realizing the potential of restorative justice as an integrative and comprehensive approach capable of addressing some of the most pressing and complex issues with the criminal justice system. [1.1]</p>	<p>Theme 1 Pgs. 31-37</p>
	<p>Based on an understanding of restorative justice as a relational approach to justice, develop and articulate an agreed set of guiding principles for the implementation of restorative justice. Such principles should guide governance, policy, and practice for internal system operations and external service delivery. The principles will guide program and practice design, implementation, and operations within the criminal justice system. The review team has outlined a provisional set of principles for consideration (see pages 34 - 36). [1.2]</p>	
	<p>Identify and articulate a shared set of goals and objectives for restorative justice and its implementation. The review team has outlined a preliminary list for consideration (see page 36). [1.3]</p>	
<p>Identify and secure key elements for the successful implementations of the strategy.</p>	<p>Develop measures of success and evaluation based on the agreed-upon goals and objectives of the provincial restorative justice strategy. Develop a formative approach to evaluation through ongoing and regular reviews and strategy re-visioning based on learning. [2.1]</p>	<p>Theme 2 Pgs. 38-42</p>
	<p>Develop shared protocols to govern restorative justice program referrals in Alberta. A phased approach to the implementation of such protocols may be required in order to build capacity and infrastructure to successfully respond to expanded referrals.</p> <ul style="list-style-type: none"> • Ensure that referral protocols are developed for all system entry points (Police, Crown, Courts, Victim Services, Corrections). If a phased approach is necessary, begin with Police and Crown for greatest impact. • Construct self-referral mechanisms for victims and survivors. Build protocols and infrastructure necessary for this access to be meaningful and oriented to meeting the needs of victims (i.e. victims' right to be informed of restorative justice services, restorative justice service provision regardless of offender- 	<p>Theme 4 Pgs. 57-65</p>

Identify and secure key elements for the successful implementations of the strategy. (cont.)

- Develop restorative justice options and protocols to meet the needs of victims/survivors, offenders and relevant communities regardless of their involvement in direct encounter processes. Ensure service provision of restorative justice regardless of participation of other parties (e.g. ensure program development such that offenders can engage without requiring participation of the direct/individual victims/survivors. Likewise, develop restorative justice processes for victims/survivors that do not require the participation of an individual offender.)
- Explore how cultural safety can be enhanced and assured for Indigenous clients and participants.
- Protect the voluntary nature of participation for referred participants. Set protocols to ensure informed and continuing consent to participate in restorative justice processes.
- Determine eligible offences/matters for referral to restorative justice. Do not to limit referrals to low-level charges or “net widen” by including matters that would not otherwise be pursued. Give particular consideration to the provision of restorative justice for administrative breaches. Expansion of eligible matters will most dramatically impact issues of delay and overrepresentation. Judiciously consider the development of restorative options to respond to sexual or intimate partner violence referrals. This will require expanded expertise and partnerships and a phased-in approach with careful attention to principle-based design of appropriate processes.
- Determine eligible individuals for referral to restorative justice.

Establish, clarify or expand legal authority to implement the strategy as envisioned by the governance and operations committee. Ensure provincial authorization within the authority of existing federal legislation clearly instructs and allows the application of restorative justice as contemplated in the strategy. [3.5]

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Establish an empowered and sustainable network of local, community-based restorative justice service providers across Alberta.

Build collaborative partnerships between government agencies, criminal justice system actors and local

Develop broad parameters for the creation of local advisory committees for community-based restorative justice service providers. Members of local advisory committees should include, but not be limited to, criminal justice system stakeholders, criminal justice system impacted individuals and groups, community-based victim services, Indigenous groups, restorative justice practitioners and providers. [3.6]

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restorative justice service- providers based on mutual responsibility and authority.	<p>Establish strong and authentic partnerships between the governance and operations committee and communities to foster and support the development and success of service-providing partners to animate the restorative justice strategy and program. Such partnerships require clearly articulated roles, authority and responsibilities. Ensure communities have sufficient authority to play an authentic role as partners in the development and animation of restorative justice locally. [3.7]</p>	Theme 5 <i>Pgs. 66-72</i>
	<p>Establish (through policy, funding and other supports) regional learning collaboratives to actualize the learning from evaluation into practice. Practice (regional) and strategy (provincial) must inform each other through iterative and intentional communication and feedback channels. [5.5]</p>	
Fund service delivery for stability and sustainability.	<p>Ensuring funding arrangements are sufficient in structure and amount to support community-based service providers as full partners in the reduction of crime within their communities. Ensure funding is sufficiently stable and reliable to serve as a foundation to enable service providers to think and act strategically in their communities rather than only work reactively. Stable funding is also important to enable authentic partnership. [3.8]</p>	Theme 3 <i>Pgs. 43-56</i>
	<p>Create funding models that reflect public health funding strategies. Create foundational funding streams that allow for service providers to be operational and strategic. Funding should not be vulnerable to the impact of variable case load year to year or as a result of shifting focus toward proactive crime prevention approaches. Avoid funding strategies based solely on service provision (i.e. cases, hours, etc.). [5.1]</p>	
Encourage and provide structural support and incentive for service providers to engage and collaborate with one another to ensure principled and consistent practice.	<p>Establish (through policy, funding and other supports) the expansion of a learning and practice community of service providers committed to the development of, and accountability to, principled and flexible standards of practice for Alberta. ARJA may be well placed to take up this role. [2.2]</p>	Theme 2 <i>Pgs. 38-42</i>
	<p>Ensure clear mechanisms for the use of emergent province-wide evaluative data to strengthen program design and practice. Practice (local/regional) and strategy (provincial) must inform each other through iterative and intentional communication and feedback channels. [2.3]</p>	
<i>... structural support and incentive for service providers ... (cont.)</i>	<p>Ensure secure funding to maintain an association of service providers. [3.9]</p>	Theme 3 <i>Pgs. 43-56</i>

Collaborate with service provider association, and local collectives to develop an education and training plan for the province.		
<p>Create an education strategy that is based on and advances the shared understanding of restorative justice values and principles.</p>	<p>Establish a plan for the rollout of the shared understanding of restorative justice in Alberta. Include strategies for the ongoing renewal and repetition of this information across the province to support ongoing growth and development. Work with educational institutions to support education of future criminal justice system stakeholders that includes the knowledge and skills needed to understand restorative justice values and principles and support strong practice. [1.4]</p>	<p>Theme 1 Pgs. 31-37</p>
	<p>Ensure that the public shares an understanding of restorative justice through broad-based education strategies. This is important for general confidence in the justice system but also to prepare community members for participation in restorative justice processes. [5.2]</p>	<p>Theme 5 Pgs. 66-72</p>
<p>Create mechanisms, funding and structure necessary to ensure criminal justice system stakeholders and service providers have the knowledge, skills and attitudes necessary for the active and integral use of restorative justice values and principles.</p>	<p>Develop a plan for the development of knowledge, skills and attitudes in system stakeholders to inform practice within the criminal justice system based on a shared understanding of restorative justice values and principles. [4.2]</p>	<p>Theme 4 Pgs. 57-65</p>
	<p>Integrate training strategies for phased roll-out of service provision expansion (see Recommendation 4.1). Ensure practitioners have the skills and knowledge to respond effectively to more complex case management and facilitation. [5.4]</p>	<p>Theme 5 Pgs. 66-72</p>
	<p>Within the framework of established standards, encourage the creation of initial and ongoing education and training standards for practitioners. In addition to the typical training strategies, use coaching, mentoring, Indigenous practices and apprenticeship to ensure sustained learning. [2.4 & 5.3]</p>	<p>Themes 2 & 5 Pgs. 38-42 & 66-72</p>

APPENDIX A: REVIEW TEAM

Jennifer Llewellyn

Jennifer obtained her law degree from the University of Toronto and completed graduate education in philosophy (Queen's) and Law (Harvard) before taking up a position as an Assistant Professor at the Schulich School of Law Dalhousie University in 2001. Now a full Professor of Law at the Schulich School she was previously the Viscount Bennett Professor of Law (a limited term appointed Chair 2012-2017). She has also been a visiting professor at the Australian National University, Victoria University, Wellington New Zealand and at Vanderbilt Law School.

Her teaching and research is focused in the areas of relational theory, restorative justice, truth commissions, peacebuilding, international and domestic human rights law and Canadian constitutional law. She has written and published extensively on the theory and practice of a restorative approach across human services in both transitional contexts and established democracies including producing two leading collections: *Being Relational: Reflections on Relational Theory and Health Law & Policy* (UBC Press) and *Restorative Justice, Reconciliation and Peacebuilding* (Oxford University Press).

Professor Llewellyn was the Director of the Nova Scotia Restorative Justice Community University Research Alliance (NSRJ-CURA) a collaborative research partnership between university and community partners focused on the institutionalization of restorative justice. She is currently Director of the International Learning Community on a Restorative Approach a collaboration of international jurisdictions committed to advancing restorative communities.

Professor Llewellyn advises and supports projects and programs using a restorative approach in Canada and internationally. For example, she is an academic/policy advisor to the Nova Scotia Restorative Justice Program and currently co-chairing the Nova Scotia Restorative Justice Program Governance and Management Committee overseeing a program review and renewal process to ensure integration of the youth and adult program implementation across the province. She has also worked with the South African Truth and Reconciliation Commission, the Canadian Truth and Reconciliation Commission, the governments of Jamaica and New Zealand and United Nations Development Program and the United Nations Peacebuilding Commission. She recently facilitated the design process for Canada's first restorative public inquiry into the Home for Colored Children and is an appointed Commissioner on the Council of Parties serving as the process advisor. She is currently the Scholar in Residence with the Nova Scotia Human Rights Commission.

She was invited to present her work at the World Summit of Nobel Peace Laureates in Warsaw Poland in 2014 and has served as an international expert appointed to the United Nations Development Program expert mechanism on reconciliation (Johannesburg 2014) and the Expert Mechanism to Review the United Nations Basic Principles on Restorative Justice (Ottawa 2017). She was awarded the Ron Wiebe National Award for Restorative Justice from Correction Services Canada in 2015.

Catherine Bargaen

Catherine has been working within communities toward developing community-responsive justice programs since 1999. She is experienced across Canada and internationally as a consultant, trainer and practitioner in restorative justice and conflict transformation strategies. Since 2002, she has

provided training and consultation to over two thousand youth and adults in various settings including schools, faith groups, Aboriginal communities, government and non-government organizations. From 2001-2008, Catherine was on staff with Langley's Fraser Region Community Justice Initiatives Association (CJI) as their senior trainer, facilitator, and mediator. She also worked with CJI in partnership with the Langley School District to implement restorative practices into policy and practice across the District. In this capacity, she co-authored the internationally sought-after resources Conversation Peace and Talking Peace. Furthermore, in 2010 she authored Educating for Peacebuilding which describes the successes and lessons of implementing restorative principles into the school setting.

Prior to her work with CJI, Catherine served as the Victim Offender Dialogue Coordinator in Edmonton, Alberta and as a Restorative Justice Educator for Mennonite Central Committee (MCC). She received her Master's degree in Conflict Transformation in 2008. Catherine was Provincial Restorative Justice Coordinator within Victim Services and Crime Prevention Branch of the government of British Columbia from 2008-2017, in addition to being a Program Manager for Victim Services with over 50 Victim Services and Anti-Violence groups. This role also afforded her the privilege of working with First Nations communities, partnering to develop culturally responsive crime prevention and community development programs.

As a volunteer, Catherine has been involved as a facilitator and board member with the organization Peace it Together, which uses dialogue, filmmaking and community engagement to empower youth as media makers and change agents for just relationships among peoples. Catherine also enjoys facilitating Talking Circles where she lives, in a Housing Cooperative (along with her husband and daughter) in Vancouver, BC, Canada. Catherine is a cyclist, yogi and dance enthusiast. She acknowledges that she lives and works on unceded and ancestral Coast Salish Territories.

Matthew Hartman

Matthew has extensive experience with the non-profit, public and for-profit sectors in developing processes, systems, programs and capacity with the goal of aligning service delivery and practice with the stated vision, mission and values of the organizations with which he works. Working across the US and internationally, Matthew accesses a rich background in facilitation, training, restorative justice, conflict transformation, organizational development, consultation, and mediation.

Matthew spent from 2010 to 2017 as the Restorative Justice Coordinator for the Clackamas County Juvenile Department. In this capacity, he coordinated the department's commitment to further align the department's practices and programs with restorative justice values and principles. In this capacity, he co-developed a Victim Impact Program which serves victims of juvenile offense through early direct contact, service delivery, and redeveloped the existing Victim-Offender Dialogue Program. In addition to strategic planning, program development, and general support, Matthew also helped to expand and strengthen the capacity of the community to play an active role in responding to juvenile offense through a community-engagement process to re-envision existing diversion programs toward deeper alignment with restorative justice values and principles.

Matthew has an undergraduate degree in Sociology and received a Master's degree in Conflict Transformation in 2008. He also has extensive training and education in trauma healing; qualitative evaluation; conflict analysis and theory; human security; and strategic peacebuilding. In addition, he has served as an organizational consultant/evaluator and has substantial corporate management and

marketing experience.

Matthew brings to his work a strong sense of presence and listening combined with skills to move individuals and groups toward their goals. The resulting safety allows individuals to express their feelings, thoughts, and needs which channels collaborative, creative and effective dialogue, planning and problem- solving.

Aaron Lyons

Aaron is a facilitator, trainer and mediator specializing in issues of justice and accountability. He facilitates victim-offender dialogue in serious and violent crimes, and provides training and consultation for communities and organizations across North America and internationally. Aaron holds a Master's Degree in Conflict Transformation.

Since 2009 Aaron has facilitated with Fraser Region Community Justice Initiatives' pioneering Victim Offender Mediation Program. As Training and Education Coordinator, he has trained groups across governmental and non-governmental sectors internationally. With the Crisis and Trauma Resource Institute, Aaron provides training and consultation on a variety of topics related to workplace conflict, violence and justice in Canada and the United States.

Aaron completed graduate studies in Peacebuilding and Restorative Justice with Dr. Howard Zehr of the Centre for Justice and Peacebuilding. In the United States he facilitated collaborative justice processes through programs at the Prince William County Circuit Court and the District of Columbia Superior Court. In 2008 Aaron convened Youth Justice Family Group Conferences in New Zealand, widely considered the world's first national program of restorative youth justice.

Born and raised on British Columbia's west coast, Aaron developed an early passion for human dynamics as a wilderness leadership instructor. After a year in Jerusalem during his undergraduate studies, Aaron became involved in designing and facilitating arts-based dialogue programs for Palestinian and Israeli youth with Vancouver-based Peace it Together. From 2003-2006 Aaron worked with adjudicated young men struggling with violence and substance abuse through PLEA Community Services in the Vancouver area.

Aaron currently lives in Fort Langley, British Columbia, with his wife and two children. Blending keen intuition and leadership, Aaron brings creativity and new possibility to all of his work.

APPENDIX B: INTERVIEW GUIDE

This guide was used to shape interviews with key stakeholders in Alberta. Questions were chosen and expanded upon based on the direction and context of the conversation.

1. How do you define restorative justice?
2. What is your involvement with restorative justice (RJ) in Alberta?
3. Who are your key partners in implementing RJ in Alberta?
4. Are there other “voices” or partners that you think could be beneficial to have more involved in implementing RJ in Alberta?
5. What is working really well in RJ in Alberta (what should we keep doing)?
6. What do you think could/should we do more of in terms of RJ in Alberta?
7. Are there things that need to be addressed –that is: stop doing, do less of or do differently in RJ in Alberta?
8. What has assisted the development and work of RJ in Alberta. For example, what people, policies, legislation, events, have helped “boost” RJ in Alberta and made it strong?
9. What are the barriers or challenges to RJ working better in Alberta?
10. What are the circumstances of when and why RJ may not be used? What are the limitations— perceived or real--to using RJ, in your opinion?
11. What do you notice about how RJ is used in Alberta, vis-à-vis other provinces and territories in Canada?
12. Have you seen any examples of RJ working well that you wish Alberta would use?
13. Any other comments?

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