***Restorative Justice: Where are we heading in Canada?***

Paper by Murray Long, April 2020

*In response to a request by the Board of Lanark County Community Justice, the following paper looks at broad themes in Restorative Justice (RJ) in Canada, with particular emphasis on the application of RJ to rural community environments such as Lanark County. The paper examines the growth of RJ initiatives, including federal and provincial government support, the social and economic return on investment through use of RJ, the types and ranges of cases being diverted to RJ programs, and government and public perceptions of the value of RJ as a tool within the justice system. Sources of funding and the application of RJ beyond the traditional justice system are also examined. It is the author's hope that this paper will provide some new insights and stimulate further thinking about the role of RJ as a component of the justice system and the potential of RJ principles, values and program initiatives in other venues.*

*This paper ended up being much longer, more detailed and in a different form than originally intended. Rather than bullet-points highlighting key facts, I felt readers deserved to know where I obtained the statistical data and other factual information that guided the analysis. I also felt readers, without much background understanding in how community-based restorative justice programs and initiatives reflect and mesh with both government attitudes and the legal framework, would benefit from some insights into the evolving relationship between justice ministries and community-based RJ service providers.*

*Finally, for those readers who want a very quick scan, each section ends with a "takeaway" in which I attempt to synthesize key points into a very few summarizing sentences.*

**Canadian attitudes towards Restorative Justice**

In 2017, Ekos Research Associates Inc. conducted a major research project[[1]](#footnote-1) for the federal Department of Justice to explore the views and perceptions of Canadians about a number of issues concerning the justice system, including among other topics, sentencing, mandatory minimum penalties, the use of diversion/alternative measures, and specifically Restorative Justice (RJ) and problem-solving approaches to justice. The study also examined Canadians' confidence in the Canadian Justice System as a whole.

Interestingly, among the more than 4,000 Canadians surveyed, over 50 percent of all respondents had been involved in the criminal justice system in some manner in the past, predominantly from knowing someone who was either a victim or an accused, or having testified as a witness. According to the Canadian Centre for Justice Statistics, there were more than two million police-reported *Criminal Code* incidents (excluding traffic offenses) in 2018, at about 5,488 incidents per 100,000 population. Over a number of years, an extrapolation that 50 percent of the public has been involved in the criminal justice system at some point in time seems a realistic projection.

As 2019 was a tumultuous year within the federal Justice ministry, with the SNC Lavalin affair galvanizing public attention, as such, before examining the Ekos survey results, it might be useful to review the new mandate letter issued to Justice Minister Lametti to see what focus RJ might have within the federal Justice Department in the coming years.

The Prime Minister's mandate letter includes numerous top priorities such as hiring more Crown prosecutors and judges to reduce delays across the court system, establishing drug treatment courts for first-time non-violent offenders, addressing elder abuse, implementing the *UN Declaration on the Rights of Indigenous Peoples* by the end of 2020, and specifically:

* Work with the provinces and territories to establish a Community Justice Centres program to put courts alongside other critical social services.

While the term "Community Justice Centres program" is a somewhat ambiguous term, the Ontario Ministry of the Attorney General has already begun implementing such a program, and describes it as follows:

"Justice centres move justice out of the traditional courtroom into a community setting. The centres bring together justice, health, and social services to address the root causes of crime, break the cycle of offending, and improve community safety.

"Justice centres hold individuals accountable for their offences while connecting them to services (such as health, mental health, addictions, housing, and employment supports) that reduce the risk of re-offending. Central to the justice centre model is a commitment to better support victims and communities harmed by crime."

*More about Ontario's plans later in this paper.*

Returning to the Ekos study, on the question of diversion, Canadians widely believe that increased use of diversion would improve the criminal justice system. Eight in ten (79 per cent) believe sparing offenders formal prosecution and focusing on alternative measures for holding them to account would make the criminal justice system more efficient, and only one in ten (11 per cent) disagree with this assessment.

When asked to provide their reasoning, most Canadians who support diversion typically said that it speeds up the court process (nearly half), while one in five said that it helps to rehabilitate offenders (i.e., is a tool that has a positive impact on behaviour). The primary reasonings among those not supporting diversion is the perceived potential for abusing the system, that diversion is generally not an effective deterrent, and is not likely to have a significant enough impact. Over one in five said that it does not hold offenders sufficiently accountable and/or requires stiffer consequences.

Survey results, however, found little appetite for extending diversion options to those accused of violent crimes. The largest proportion (42 per cent) support the use of diversion for anyone accused of a nonviolent crime, unless specifics of the case do not warrant this option. Another three in ten would support diversion for those accused of non-violent crimes, but only for the first offence. Only 13 per cent would support diversion for all accused (including violent and non-violent crime).

Specifically on the use of restorative justice, Canadians reported limited familiarity with the concept. In fact, only one in six of Canadians (14 per cent) feel they are familiar with this type of process.

When asked about whether victims should be able to meet with offenders to relate to them the impact of the crime, almost nine in ten (87 per cent) said this made sense to them. In addition, half of Canadians felt it is likely to have a positive benefit for victims and families to heal and gain closure. Another third (35 per cent) feel that it is moderately likely to have a positive impact. However, 11 per cent felt this is unlikely.

Almost two in three (62 per cent) also felt that restorative justice would result in a more satisfying and meaningful process for victims than the mainstream justice process. Twelve per cent believe that the traditional process would be more satisfying and 17 per cent believe that it would make no difference.

Canadians have a somewhat similar view about the positive impact of this process on offenders' opportunity to demonstrate accountability for their actions, with 45 per cent seeing a positive impact. Another one in three (35 per cent) said this would be moderately likely, and 15 per cent do not believe that restorative justice would result in better accountability for offenders. Two in three (64 per cent) Canadians believe that restorative justice could be applied in all types of cases, provided it is voluntary on all sides. In contrast, 27 per cent do not believe this should be the case and a further nine per cent are unsure.

In more in-depth focus group and interview results, most participants (when RJ was explained to them) could envision potential benefits of the RJ process to victims, offenders, and the community. Typical comments included:

* "It opens dialogue that wouldn’t have been there if this program didn’t exist."
* "A prison sentence doesn’t do much to repair the damage. Yes, you punish the action, but there is no real reparation. Restorative justice will help both sides understand the problem."
* "The victim has the most to gain, closure, which is something that is so rare."
* "I think it’s a humane approach and we need more of that rather than locking someone up and throwing away the key. If you invest in people and allow them to confront their harm, the perpetrator has to face what they’ve done and the victim becomes humanized for them, they have to take responsibility for what they’ve done. I think there are a lot of positives."
* "I think that it would certainly cut down on the amount of repeat offenders if they actually learn what it (their crime) does to their victims."

Participants speculated that the process can help victims to gain information, understanding, and closure, as well as fulfill the need to "feel heard." These participants saw victim involvement as much more beneficial than a victim impact statement in court. This engagement could help them feel less disenfranchised or harmed than if they are only part of the traditional court process.

Many participants perceived that restorative justice may be effective in reducing the likelihood of re-offending. Some participants believe the offender may be able to learn from the process, be afforded the opportunity to address some root causes of their offence (such as alcohol or anger issues) that would not be gained by a "punishment" approach of only serving jail time. However, a few participants were concerned that offenders would manipulate the process to try to gain a lighter sentence or that the process may not be as effective for repeat offenders.

The voluntary aspect, according to many participants, also means that individuals are willing participants and more open to the process and therefore more likely to benefit. Flexibility was also noted as a necessary element of restorative justice. A flexible process allows for implementing appropriate conditions, depending on the circumstance. Although most participants said they feel that the process would be most beneficial if it occurs before sentencing, the ability to start (or even discontinue) the restorative justice process at any point in time was considered an important attribute by most.

Many focus group participants were not surprised that restorative justice could be used for violent crime. In fact, some said that violent crime may be the best use of restorative justice because it can help repair the emotional damage from "harsher" crime. However, some participants noted that restorative justice may be difficult in instances of pre-existing relationships (spouses, family) as there is greater interpersonal history and emotional connection, which could lead to potential collusion between parties. Likewise, some crimes such as child abuse or sexual assault were viewed by some as having victims for whom participation in a restorative justice process would be too emotional.

**Takeaway:** The Ekos research findings on public perceptions of restorative justice strongly suggest that most Canadians are unfamiliar or uneducated about the concepts, but supportive of the value of RJ processes as being beneficial to both the victim and the offender. Ongoing public education about RJ is seemingly both necessary and beneficial in promoting more awareness and support.

**The Legal Framework for Restorative Justice Programs for Young Offenders**

The *Youth Criminal Justice Act* came into effect in 2003, replacing the *Young Offenders Act*, and governing the application of criminal and correctional law to youths 12 years old or older, but younger than 18 at the time of committing an offence. As to the lower age limit, the *Criminal Code* specifies that "No person shall be convicted of an offence in respect of an act or omission on their part while that person was under the age of twelve years."[[2]](#footnote-2) At the same time, community-based restorative justice programs can certainly address cases involving youth under the age of 12.

The significance of the *Youth Criminal Justice Act* for restorative justice programs is that it establishes a Canada-wide legal framework under which all sentencing decisions involving youth must be made, and that must consider rehabilitation and social reintegration as fundamental components. The Declaration of Principle underlying the *Act* states, in summary form, the purpose of the youth criminal justice system is to prevent crime by addressing the circumstances underlying a young person's offending behaviour, rehabilitate young persons who commit offences and reintegrate them back into society, and ensure that a young person is subject to meaningful consequences for his or her offences, in order to promote the long-term protection of the public."[[3]](#footnote-3)

In reviewing the need to reform and replace the *Young Offenders Act* with this new legislation, a 1997 parliamentary report by the Standing Committee on Justice and Legal Affairs clearly identified the false dichotomy between rehabilitation and public safety, stating that "the Committee believes that the community is safer if rehabilitation efforts are effective and appropriate."[[4]](#footnote-4) In stating this position, the Committee report referenced a point made by Supreme Court Justice Cory in *R. v M.(J.J.) 1993* that:

"The aim must be both to protect society and at the same time to provide the young offender with the necessary guidance and assistance that he or she may not be getting at home. Those goals are not necessarily mutually exclusive. In the long run, society is best protected by the reformation and rehabilitation of a young offender. In turn, the young offenders are best served when they are provided with the necessary guidance and assistance to enable them to learn the skills required to become fully integrated, useful members of society."[[5]](#footnote-5)

As a result, the *Youth Criminal Justice Act*, as described by one policy analyst, improved upon the *Young Offenders Act* by:

* increasing the number of extrajudicial measures available such as police warnings, referral to restorative justice agencies in which the offender must face his/her victim and the victim's family, and deferred custody orders, whereby a young person can avoid incarceration by showing good behaviour;
* reintroducing the concept of Youth Justice Committees whose purpose is to develop community-based solutions to youth offences. These can include extrajudicial measures such as restitution, arranging community support for the youth, or arranging a meeting between the victim and the young offender;
* establishing that the court process is reserved for more serious offences. Police must consider all other options, such as a warning or making restitution, before laying charges;
* clarifying the conditions for sentencing youth into custody; and
* making provisions for reintegrating youth in custody back into society. Where sentencing does occur, the *Act* introduces a graduated sentence, where youth spend two-thirds of their time in custody, and one-third in the community under supervision.[[6]](#footnote-6)

**Takeaway:** While the above may seem like unnecessary legal background, diversion programs, including the use of RJ principles, are not just "nice to have" alternatives to traditional sentencing, but fundamental and essential components of the justice system that are incorporated into legislation, with rehabilitation and community reintegration as primary goals. The *Youth Criminal Justice Act* requires that police and the courts consider as a first option the application of restorative justice and other diversion measures in dealing with young offenders. This legal requirement consequently requires provincial Ministries of Justice to develop and support community-based restorative justice initiatives.

**Current status of Restorative Justice Programs in Canada**

A Department of Justice *Directory of Restorative Justice Services* lists 444 restorative justice organizations/programs across Canada (updated as of October 2017). Not surprisingly, Quebec and Ontario have the most organizations, with 74 in Quebec and 65 in Ontario. In Ontario, 36 (55 percent) are listed as serving only indigenous people. A number of these first nations programs provide services to multiple communities across Ontario's North.

Those agencies serving both indigenous and non-indigenous persons include a number located in smaller centres in Ontario, such as Dryden, Stratford, Kapuskasing, Kirkland Lake and St. Thomas, as well as larger centres including Toronto, Waterloo, Ottawa, Barrie, Kingston, Sudbury, London and North Bay. Many of the agencies (17 in total) serving indigenous and non-indigenous persons only handle youth cases and are listed in the directory under the banner of the Ontario Youth Justice Committee Program.

Following is a brief snap-shot of some of the Ontario organizations that parallel the work of LCCJ (based on whatever website information was available). For a more in-depth look at Community Justice Initiatives (CJI) in Kitchener-Waterloo, see page 20.

**Youth Diversion – Kingston**

In existence for 44 years, Youth Diversion operates a large number of programs in the Kingston area, with Youth Justice being the longest running program. According to the latest annual report[[7]](#footnote-7), their vision reflects four goals:

* Everyone in the community knows about Youth Diversion and understands what we do
* We are part of a community where all youth are supported in making positive choices
* Our community develops the leadership capacity in all youth
* Our community has a youth incarceration rate of zero percent.

This large organization serves youth in the Kingston, Frontenac and Lennox & Addington (KFL&A) area with a large contingent of volunteers and staff (19 staff as of 2019 Annual Report), and an annual budget of over $1 million.

In addition to justice forums for youth implicated in a crime, Youth Diversion offers a wide range of youth-oriented programs designed to keep young people out of trouble. These are:

* Individual mentoring to help youth achieve goals established for the relationship;
* Youth outreach worker program, a prevention and intervention program that helps at risk and marginalized youth and their families better navigate and connect with services and social opportunities in their communities;
* SNAP – a program helping students who have been suspended or expelled from school to receive academic and non-academic programming to assist in their reintegration to the learning environment. With school and parental/guardian approval, suspended students bring homework/home study assignments to the Youth Diversion offices where they can complete this work and receive further training. A typical student day begins with an assessment, followed by development of an intervention plan. Work alternates throughout the day between academic work and cognitive skill development. Program volunteers are trained in anger management, temper control, and conduct management.
* Rebound - a ten week program designed to provide youth with the skills necessary to overcome the challenges of adolescence. This program is supported by the KFL&A United Way and community donations and received Ontario Trillium Foundation support for a detailed evaluation by a clinical psychologist which found, among other things, that delinquent behaviour, measured by the Modified Self-Report Early Delinquency Instrument showed a 63 percent reduction in overall delinquency as well as similar reductions for all specific types of delinquent behavior: interpersonal/aggressive, theft, drug/alcohol, and destructive/vandalism.
* MEND – (Mediating by Empowering using Nurturing Dialogue) is a restorative practice that focuses on relationship building within Limestone District School Board (LDSB) school communities (60 schools/educational centres). MEND began as a pilot in 2006, initially funded by the Ministry of Child and Youth Services along with the Ontario Education Services Corporation and Ministry of Education. It is now funded by the LDSB, the Ontario Trillium foundation, the Ministry of Child and Youth Services and the Kingston community.
* Kairos – a counselling service, funded by the KFL&A United Way and community donations, which specializes in outreach treatment for youth who are experiencing any level of substance abuse, personally or with a family member; and
* Intersection Program - an evidence–informed early intervention program for children and youth who are at-risk of becoming justice-involved, with supports to their families as needed. This program is in pilot stage and 100 percent funded by the United Way.

Albeit it serves a much larger urban/rural constituency, Youth Diversion is the geographically closest large organization looked at in this brief review. Their programming provides a glimpse of some programming LCCJ might consider in future growth directions if a sufficient volunteer base and adequate funding was available.

**St. Leonard's Community Services – London**

This non-profit, community based organization offers a number of school-based and justice based programs that are restorative in nature. These are:

* [Peer Power](https://www.slcs.ca/programs-services/school-based-youth-diversion-programs/peer-power-program/) - serving approximately 4,000 young people per year, with in-school group-based programming in grades four through 12, and community-based programs in the organization's offices aimed at developing healthy communications and conflict resolutions skills;
* [Justice Circles](https://www.slcs.ca/programs-services/school-based-youth-diversion-programs/youth-justice-committee/) – very similar in structure and focus to LCCJ;
* [Youth Counseling](https://www.slcs.ca/programs-services/school-based-youth-diversion-programs/choices-program/) – there are three programs, Choices, Get a Grip and Time to Think. Choices is an eight-session early intervention program that covers the importance of positive decision making, values, communication, and victim awareness/empathy. Get a Grip provides youth ages 14-18 with appropriate and positive skills for interacting with peers, family, and community when faced with difficult situations.

**Port Cares – Port Colborne and Niagara Region**

Port Cares runs a variety of community-oriented programs, including in housing and crisis support, employment and learning, a food bank and meals program (staff of 46). They have a Youth Justice Department about which little information is available online, other than mention of a new program, *No Longer the Norm*: a legal information training project on sexting and cyberbullying funded by the Law Foundation of Ontario. This training is aimed at front-line staff working with youth. The complete training module and resources are available online and seem to be very professional in nature. See: [https://www.portcares.on.ca/youth-justice-services#](https://www.portcares.on.ca/youth-justice-services)

**Huron-Perth Centre – Clinton/Listowel and Stratford and Firefly in Dryden**

I mention this organization only as an example of how many youth justice services (i.e. extra judicial measures diversion programs and restorative justice forums) are offered throughout Ontario. Many of these services are integrated within multi-needs organizations that have, on staff, mental health workers and other professionals who can address such issues as childhood trauma, sexual abuse, employment, retraining, counseling, etc. In the case of the Huron-Perth Centre, the organization has a Dedicated to Youth on Probation Team – mental health counselors and child and youth workers who work with clinicians to address issues facing youth on probation, including school issues, interpersonal conflicts, employment and the need for other supports to reduce risks of re-offending.

Another example is Firefly in Dryden which offers restorative justice forums through its Youth Justice Committee program, among many other programs aimed at helping youth and families through Northwestern Ontario. Their annual report (see: <http://www.fireflynw.ca/mission-vision-values>) lists dozens of community partners and funding agencies that support their work (along with their 184 staff).

Integrating a restorative justice program within the realm of a larger community-based multi-focus agency has both pluses and minuses. Being subsumed into a much larger entity with different values and operating methods could mean loss of identity and independence and possibly control over program directions, but there could be more stability and more capability to integrate restorative justice with other supportive programs such as youth mental health services. It is worth considering.

**Sudbury District Restorative Justice**

Established in 2004, the organization is funded by the Ministry of Children and Youth Services, Youth Justice Services, Northern Region, as well as the United Way and through fees and charitable donations. The organization serves adults as well as young persons 12-17 at the time of the offense, provided they are first time offenses, and forums include both pre-charge measures and post-charge sanctions. The organization lists the Greater Sudbury Police Services, John Howard Society, Canadian Mental Health Association and Elizabeth Fry Society as community partners.

**Takeaway:** This short and highly selective glimpse into other program models in Ontario, very few if any which truly mirror LCCJ, shows that many youth justice programs are run out of multi-focus agencies, which integrate other youth-oriented services such as counselling and mental health support.

It might be useful for LCCJ staff and board to consider communicating with other Ontario RJ programs with similar values to learn how they have integrated a youth justice program into a larger agency. This would provide at least some better understanding of the pros and cons of how such a model works, and provide good background knowledge if discussions with other agencies in Lanark County were ever to proceed.

**Ontario's New Pilot Projects – four new justice centres**

While the Government of Ontario struggles in major ways to respond to the corona virus crisis, not surprisingly there has been little recent news coming from the Ministry of the Attorney General about the province's proposed four new justice centres announced in May 2019 to be located in Downtown East Toronto, Toronto Northwest, Kenora and London.

As the Ministry explained in 2019, justice centres are designed to "bring to together justice, health, and social services to address the root causes of crime, break the cycle of offending, and improve community safety." Each centre will connect offenders with services such as health, mental health, addictions, housing, and employment supports to reduce the risk of re-offending.

There is still scant useful information about how exactly these centres will be established, funded and governed, the role of multiple existing community organizations and government, how the clientele will be determined (youth or adult only or both?), and how success outcomes will be measured.

So far, based on needs assessments, the most concrete goals established by the agencies participating in development of the Toronto Northwest community justice centre are addressing escalating gun crime and violence by exploring gun violence intervention and prevention strategies, as well as programs that provide employment, education, and skills training, so that at-risk youth have new alternatives to criminal activity.

### In Kenora, the focus will be on indigenous justice as the needs assessment demonstrated that Kenora's criminal justice system has become a holding place for Indigenous people who often face challenges rooted in forced relocation, loss of culture, involvement in the child welfare system, systemic discrimination, racism, and sexual abuse. The goal will be to increase indigenous leadership in restorative justice practices, provide multi-disciplinary trauma-informed supports, and facilitate access to culturally-appropriate services run by local service providers, indigenous organizations and First Nations leadership.

### In London, the needs assessment determined that many young adults are falling through the cracks once they age out of child protection or teenage social and health services, and young adults aged 18-25 now account for a disproportionate share of criminal charges and *Mental Health Act* apprehensions in the city, compared to other communities in Ontario. London will be exploring approaches that address the relationship between the adult criminal justice system, the child protection system, and the youth justice system. The focus will be on helping young people in the 18 to 25 age range avoid and exit the adult criminal justice system through stronger collaboration with justice, health, education, child protection, and social service providers.

The Ministry has stated it will be taking a phased approach to designing, piloting, evaluating, and expanding each justice centre, and measuring performance to ensure they are delivering results. According to the government, "This staged, evidence-informed approach will ensure we make smart investments that move Ontario closer to a more integrated and sustainable criminal justice system."[[8]](#footnote-8)

**Takeaway:** This approach models justice centres now operating successfully in more than 70 communities around the world, and models to some extent the approach already taken in many communities in Ontario (without the "justice centre" designation) to bring together RJ with mental health and other social services to better address the rehabilitative needs of offenders while reducing crime in the communitt. As a starting point, the Ministry is supporting and funding four high profile pilot projects in communities that have identified a great need for a more intensely focused and deliberative approach to addressing prevalent issues such as high levels of indigenous incarceration, youth crime, gun violence and so on.

Hopefully this new focused approach will result in reduced crime rates, reduced engagements with the justice system, reduced incarcerations, more effective rehabilitation and greater potential for young people in particular to lead a better, crime-free life.

As real results from these focused efforts become known, the experience and knowledge gained could inform how the Ministry might encourage other communities in Ontario to enhance their existing RJ programs. Certainly a closer relationship between RJ programs and mental health, educational, employment-training and other social services programs can only benefit offenders and the community.

What remains unknown right now is the timing of real rollout of this new justice centres initiative, how individual participating agencies will interact with each other, and most importantly, how much new funding the province will allocate for these centres. Especially now in the midst of the Covid 19 pandemic and its potentially long-term social and economic consequences, these remain, at present, big questions.

**Return on Investment for RJ Programs**

In 2008 the UK Ministry of Justice published its final report from a £7 million, seven year research program into restorative justice. While the government labelled the results "inconclusive," an independent analysis of the research findings by the Justice Research Symposium, which provided RJ conferencing in 374 cases over three sites during the seven year period, found a statistically significant drop in the frequency of reconviction of 27 percent (the Ministry of Justice assessment was 14 percent).

Research on the views held by adult offenders following an RJ conference also found offenders were less likely to offend depending on their perception of the following:

* the extent to which the conference had made them realize the harm done;
* whether they wanted to meet the victim at the start;
* the extent to which they were actively involved in the conference; and
* how useful they felt the conference was.

In measuring value for money, researchers found skilled RJ conferencing facilitators who can prepare the offender well for the conference and enable their full participation resulted in an average demonstrated cost reduction of 9:1 through reductions in the frequency of reoffending. The ratios varied considerably by location however. For example, in London where more serious crimes of burglary and robbery were addressed, reductions in reconvictions through RJ Conferencing saved the criminal justice system 14 times the cost of delivering RJ. In one lower crime area (Thames Valley), the cost savings ratio was only 2 to 1.

Modelling by the Restorative Justice Council and Victim Support in 2010, using Ministry of Justice data, found that applying restorative justice in 70,000 cases would provide cost-savings to criminal justice agencies alone of £185 million over two years.[[9]](#footnote-9)

In Canada empirical research on the benefits of RJ programs is spotty. A 2018 sampling of empirical research results from Canada and elsewhere by Justice Canada highlighted a number of studies, while noting that the research methods utilized in most studies were not rigorous and lacked randomized control groups. In addition, none of the studies was current. [[10]](#footnote-10)

Still, many of the highlighted studies found recidivism rates ranging from 26 percent (New Zealand, 1998) to 7 percent (Australia1988), to a gap between mediated and non-mediated offenders in a 1994 US study of 18 percent re-offense within a year for mediated offenders versus 27 percent for non-mediated offenders.

The main conclusion of Justice Canada, based on its review of empirical evidence was simply that "If restorative justice programs are to be considered a reasonable alternative to certain aspects of the formal criminal justice system, more research is required on the long-term effects along all four entry points"[[11]](#footnote-11) (the four entry points being police, Crown, courts, and within the correctional system itself).

The above 2018 review also examined studies on victim satisfaction and perceptions of fairness, noting the following significant fact, based on a review of numerous studies:

"It is clear that victims tend to be satisfied following their involvement in a restorative justice program. This is perhaps the most critical piece of evidence to support the development of restorative approaches. Programs using restorative principles achieve the central goal of addressing the needs of victims. It is also likely, although somewhat less so, that victims in the traditional justice system are less satisfied than victims in a restorative program."[[12]](#footnote-12)

Studies examined by Justice Canada found satisfactions levels ranging as high as 100 percent, and in one comparison study of RJ versus traditional court cases, 79 percent of mediated victims were satisfied with the processing of their case compared to 57 percent of the victims within the court sample. The mediated victims were also more likely to perceive their case to be handled fairly by the justice system (83 percent vs. 62 percent). There were similar levels of satisfaction expressed by offenders participating in mediations.

However, one study examined by Justice Canada (Morris & Maxwell, 1998) found only 49 percent of family-group conferencing victims were satisfied with the program, although the reason most frequently reported for their dissatisfaction was a failure to receive the appropriate restitution. This points to the complexity of conducting such empirical research studies, where restitution models may vary widely, offenders may include those likely to re-offend regardless of the outcome of a RJ conference, and where self-selection of participants may skew results. This was, in addition, a more than 20 year-old study.

The Justice Canada empirical evidence review also found high levels of completion of restitution agreements. For example, a 1995 study at four different Canadian restorative program sites found that restitution agreements had been successfully negotiated in 93 percent of cases. Similar high levels of completion of financial restitution, service restitution (e.g. community service) and accepted apologies were found in other studies.

On the big question of cost and cost-savings through RJ programs, Justice Canada, in answering the question "for the large majority of offences that are less serious, does it cost more for an offender to be tried and subsequently supervised in the community by a probation officer than a referral to a restorative justice program?", the answer was "We could not locate a comprehensive comparison of the traditional system and a restorative justice program to adequately answer this question."[[13]](#footnote-13)

Justice Canada added:

"Unfortunately, we could not locate published research on the effects of restorative justice on the criminal justice system. This is a significant gap in our current knowledge. We do not know how the increasing number of restorative justice programs will affect the role of police, attorneys, or court and correctional officers. The formal criminal justice system is, in all probability, experiencing significant changes as we move towards a secondary community-based stream of justice in Canada."

Public Safety Canada, however, has funded two reports that looked closely into the cost issue, one a general meta-study examining and aggregating studies results from many countries, the other an Ontario-specific study of juvenile offender costs in Toronto.

*Costs of Crime and Criminal Justice Responses*, a 2016 study by Thomas Gabor[[14]](#footnote-14), was a meta-study that reviewed costs of crime from 65 previous studies that were based on original costing data. Three-quarters of the studies had been published since 2000.

Over half were conducted in the US and close to a quarter were from either the United Kingdom or Australia. Three studies were conducted in both Canada and South Africa. Two studies took place in Chile and one was conducted in each of France, New Zealand, Poland, and Italy. The vast majority based their crime and justice system cost estimates on data drawn from crime victims and/or offenders who were adults or a combination of adults and youth. Fewer than 10 percent (five) of the studies based their cost estimates exclusively on youth. All costs were adjusted for inflation and converted to Canadian dollars as of 2014.

A bottom line question for the researcher was "Which programs and policy options will yield the greatest reductions in crime at the lowest cost? Some crime prevention programs, for example, have been found to yield reductions in crime, criminal justice, and mental health costs that are many times the amounts invested."[[15]](#footnote-15)

As example, he cited a study that examined seven delinquency, violence, and substance abuse prevention programs in Pennsylvania. These programs were found to produce a return on investment of between $1 and $25 per dollar invested. Collectively, they not only paid for themselves but represented a potential return of $300 million to the state due to reduced corrections costs, lower social services costs, savings in mental health and drug treatment, and increased employment and tax revenue.[[16]](#footnote-16)

The report's primary recommendation was the need for additional research, noting that the literature review did not uncover a single Canadian study in which per incident costs of specific crimes were estimated. The author also states:

"Canadian research is urgently needed to fill this gap, as this study has shown that cost estimates for crimes vary considerably across nations. In addition, this review identified a need for more comprehensive costing studies on youth crime and interventions, as well as specific justice system processes. Furthermore, additional analyses are required regarding the impact on costs of offence type, costing methods, and the jurisdiction/country being considered."[[17]](#footnote-17)

In looking at results in this meta-study, the author cautions that costs vary greatly across jurisdictions, by the nature of the offence and factors that make some individual offences outliers that can affect cost averages (for example one US murder trial cost over $20 million in court and victim costs), as well as different costing methods, also noting that studies conducted in the US reported the highest costs of crime, with a per incident average of over $1.1 million.[[18]](#footnote-18)

However, the author does draw some data that might be applicable to crimes in Lanark County that, depending on the specific nature of the crime, could be diverted to RJ. It is helpful here to remember that even small crimes that might result in a diversion to a restorative justice program could instead end up going to court if the offender or victim refuses to participate in a forum. Thus the costs derived below by the study author could in fact apply (keeping in mind the cost variables noted above).

The study differentiated costs by categories, including homicide, sexual assault or rape, motor vehicle theft, arson and fraud. For the purposes of this analysis, only the categories of assault, motor vehicle theft, residential burglary and theft are considered here – as LCCJ has organized RJ forums in all of these categories. It should be noted that the study does not differentiate between major crimes and minor or "mischief" crimes and in the data aggregation there is no attempt to separate out the types of crimes that would constitute theft under $5,000 under Canada's *Criminal Code*.

A second reason for picking these four categories is that they all had the lowest average criminal justice system costs associated with them, putting these categories most in line for comparison with an RJ alternative.

These categories include victim tangible and intangible costs, and "criminal career costs," the latter of which I have dropped from the analysis as not all categories included this component. All costs were converted to 2014 Canadian dollars. Readers should be mindful of the caveats on costing methods noted above

**Assault**

The range of tangible and intangible costs for an assault charges in the chart below reflects, no doubt, that some assaults do potentially cause life-long physical and psychological harm to victims. Still, the Criminal Justice System costs remained in line with the other categories below.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Assault** | **Mean Cost with Outliers Removed\*** | **Median Cost** | **Minimum Cost** | **Maximum Cost** |
| **Victims' Tangible** | $40,002 | $2,792 | $77 | $359,976 |
| **Victims' Intangible** | $14,502 | $11,902 | $615 | $970,348 |
| **Criminal Justice System Costs** | **$4,381** | **$4,381** | **$692** | **$8,071** |
| **Total Costs** | $58,886 | $19,075 | $1,384 | $1,338,395 |

\* Outliers were those individual cases that skewed the results dramatically (for example the $20 million US murder trial).

**Motor Vehicle Theft**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Motor Vehicle Theft** | **Mean Cost with Outliers Removed\*** | **Median Cost** | **Minimum Cost** | **Maximum Cost** |
| **Victims' Tangible** | $6319 | $6847 | $657 | $14,840 |
| **Victims' Intangible** | $552 | $552 | $317 | $2,346 |
| **Criminal Justice System Costs** | **$846** | **$805** | **$77** | **$4,674** |
| **Total Costs** | $7,717 | $8,204 | $1,051 | $21,860 |

**Residential Burglary**

The third category, residential burglary, is far from a "mischief" crime in most cases, as it typically involves a break-in or home invasion and offenders are sometimes dangerous, even possibly armed, and a risk to the community. However, this category has among the lowest criminal justice system costs and therefore provides a useful picture of what the average costs might be to investigate such crimes, apprehend and try an offender. As the chart shows, those costs are still in the thousands of dollars.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Residential Burglary** | **Mean Cost with Outliers Removed\*** | **Median Cost** | **Minimum Cost** | **Maximum Cost** |
| **Victims' Tangible** | $1,892 | $1,981 | $306 | $3,235 |
| **Victims' Intangible** | $786 | $671 | $388 | $1,898 |
| **Criminal Justice System Costs** | **$2,427** | **$2,579** | **$1,256** | **$4,989** |
| **Total Costs** | $5,105 | $5,231 | $1,950 | $10,122 |

**Theft**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Theft** | **Mean Cost with Outliers Removed\*** | **Median Cost** | **Minimum Cost** | **Maximum Cost** |
| **Victims' Tangible** | $444 | $483 | $87 | $6,846 |
| **Victims' Intangible** | $113 | $113 | $12 | $215 |
| **Criminal Justice System Costs** | **$732** | **$594** | **$231** | **$3,480** |
| **Total Costs** | $1,292 | $1,190 | $330 | $10,541 |

The four charts above show a considerable variance in victim tangible and intangible costs, reflecting the fact that costs to victims can be very substantial, depending on the nature of the crime actually committed. At the same time, the costs to the justice system in the above categories never rose above $10,000, and the median cost, averaged across all four categories, was $2097.

The second research report funded by Public Safety Canada, published in 2016, expressly looked at the costs of going to trial in Ontario, particularly for juvenile offenders. *The Monetary Cost of Criminal Trajectories for an Ontario Sample of Offenders*,[[19]](#footnote-19) by four Ontario academic researchers, used official criminal records for juvenile and adult offences from Ontario government ministries and the Canadian Police Information Centre, to track 386 male offenders in Ontario whose offence trajectories were followed for an average of 16.4 years. These 386 offenders represented a 50 percent randomly selected sample of the population of juvenile offenders who had been sentenced between January 1986 and December 1997 to one of two open custody facilities in Toronto.

In looking at both youth (ages 12 to 17) who committed crimes during the study period and those who became adults during that time (ages 18 to 26), the researchers found that (subtracting the six homicides in the 18 to 26 years adults group during this period), the average cost per person per crime incurred by the criminal justice system was $22,944.[[20]](#footnote-20) Obviously, these costs varied greatly by the nature of the crime. However, the most startling conclusion of this study was that the most costly three-year age interval for this randomly selected group of 386 male youth offenders was between the ages of 15 and 17, during which time the sample of 386 offenders cost society, including costs to victims, roughly $900 million.[[21]](#footnote-21)

This astounding and almost astronomical cost projection, based as is on high-risk young offenders who were apprehended and spent time in a Toronto-area correctional facility, may not be a good reflection of likely costs to society of the types of offenses normally handled by LCCJ. At the same time, it is cost projections like this that may be driving Ontario's new emphasis on justice centres, especially in Toronto where youth-oriented gang violence and gun crimes have spiraled out of control.

In a 2017 letter to former Attorney General Yasir Naqvi, as an LCCJ Board member, I outlined that in 2013-3014, on a budget of only $75,000 (of which approximately $53,500 was provided by the MAG), LCCJ conducted 41 forums throughout Lanark County, with the specific costs for volunteer facilitator training and the direct expenses associated with forums only $5,263 – making the directly attributable costs of each forum (other than program staff salaries), on average, less than $200.

I also identified the other inherent benefits, namely speed and efficiency, acceptance of responsibility, providing a real voice for victims, almost zero recidivism, and no criminal record.

In the above-noted Ontario study's conclusion, the authors state:

"We know from studies that have calculated the cost-benefit ratios ... that early intervention and prevention programs have demonstrated potential to yield substantial cost savings with a high degree of confidence on the return on investment. Accordingly, we believe this is where the largest investment needs to be made. Given that even the ten least costly offenders still accumulated over $1.1 million dollars each, on average, bolsters the argument that even the most modest investments in developmental crime prevention programs can pay enormous dividends to society."[[22]](#footnote-22)

RJ programs certainly fit within the matrix of "developmental crime prevention programs" and, whatever the true cost to society of youth crime within Lanark County, the argument clearly prevails that restorative justice forums are by far a much better and far less expensive alternative to a court trial, conviction and punishment.

**Takeaway:** It is relatively easy to quantify average costs for LCCJ's diversion program for both youth and adults. It is much more difficult to accurately quantify the costs of employing the traditional justice system for similar youth and adult crimes, as there are so many factors involved (e.g. police, youth workers, Crown Attorneys, Judges and other court officials, and mental health workers) as well as the costs of maintaining courts, detentions centres and so on.

In addition there is the speed and efficiency of RJ forums versus the drawn-out and time-consuming impacts of lower risk offenses on victims, families, offenders, and on already clogged courtrooms. Finally and most importantly is the much higher level of positive satisfaction of victims, the much lower chances of recidivism of offenders and the positive impact on the community in general of restorative justice approaches.

As problematic as it might be to put an actual dollar savings on LCCJ's work, it is irrefutably the case that community-based RJ programs deliver far better results at dramatically lower costs.

It is important to add full agreement with the various study authors cited above that we do need more analysis of the true cost savings to the criminal justice system of taking an offender to trial for the types of offences that organizations like LCCJ are equipped to handle.

**Measuring Social Return on Investment**

In 2008, as part of the Government of Alberta's efforts at crime reduction and prevention, a Safe Communities Innovation Fund was created with three-year seed money grants to communities across the province (82 projects funded in total) to increase community and police partnerships, enhance community capacity to carry out effective crime prevention initiatives, and implement innovative projects built on evidence-based and promising practices that focus on the needs of high-risk groups.

Funded projects were required, as part of the granting process, to integrate a Social Return on Investment (SROI ) analysis into their evaluation approach. Each project's SROI is represented as a monetized ratio, and reflects how each project would describe the value of the results they achieved, noting that not all social change can be easily monetized.

Below is a sampling from a September 2015 report[[23]](#footnote-23) on some of the projects that focused on restorative justice and how they measured the social value created.

The Edmonton-based Alberta Conflict Transformation Society (ACTS) computed the value of all "proxies" using, as best as possible, the Social Return on Investment (SROI) Canada Financial Proxy Database to determine costs for financial proxies[[24]](#footnote-24) – which include the cost of a youth being processed through the formal court system, police attendance at the initial complaint, follow-up supervision with a probation officer, the cost of youth participating in community service hours, and victim costs including costs associated with pain and suffering, medical fees, missed work and follow-up care.

ACTS determined the amount of social value created from Alberta's investment in its restorative justice program over four years by dividing the total value of all proxies (multiplied by the number of individuals that experience the change) by the total dollar amount invested in the program. By investing $594,608 in the program over four years, the SROI ratio for ACTS was 1.63:1 indicating that for every dollar invested in the program, there was a return of $1.63.[[25]](#footnote-25)

ACTS noted, however, the difficulty in measuring the value of other highly pertinent RJ outcomes, "such as repairing intangible damage, better communication skills, the acceptance of responsibility, learning to empathize, and having a better understanding of self."[[26]](#footnote-26)

A Youth Leadership and Resiliency (YLR) program (think BE STRONG but on a far more intense scale) on Alberta's Kainai (Blood) Reserve addressed multi-generational issues including poverty, drugs, alcohol abuse, and violence which place youth at high risk of committing crimes. In 2009, 50 grade 9 students on the reserve entered the YLR program, followed by 50 more each year through to 2012. Most of these students were at risk with low self-esteem, distrust, and a lack of hope for the future and at risk of becoming enmeshed in the cycles of addiction, violence and poverty.

YLR computed the financial benefits of individual male and female students participating in their program as the following immediate and downstream cost avoidances:

|  |  |  |
| --- | --- | --- |
| **SROI Indicators Included** | **Value per Change** | **Notes** |
| Stay in women's shelter avoided | $1,846 | Nominal estimate – 2 weeks stay |
| Counseling services avoided | $1,791 | 1 session per month, 10 months |
| Addictions treatment avoided | $6,856 | 1 treatment program per year |
| Incarceration for selling drugs, violence avoided | $9,698 | 1 month incarceration |
| Youth Court avoided | $1,371 | 1 per year |
| Income support avoided | $4,320 | Single adult living with relatives, 1 year |
| Income support avoided | $13,462 | Single adult with one child, 1 year |
| Subsidized housing avoided | $8,400 | Subsidized housing for single adult with 1 child, 1 year |
| Adult Court avoided | $2,059 | Police investigation and police attendance at Court |

This program, which links youth with elders and other community leaders, had a three-year total budget of $1,071,000 and an estimated net value of $1,232,544 based on their calculations of SROI.

In addition, the program cites non-monetary intangible benefits that the youth involved had "a better chance to become community leaders themselves, leading to a virtuous cycle of health, happiness, and community engagement"[[27]](#footnote-27)

A third program example from Grand Prairie involving at-risk youth aged 12 to 17 showed an extremely positive SROI. The Youth Intervention Program (YIP) is a community-led early intervention/diversion program that provides police officers with the tools to identify youth who are at risk to offend and direct them to community resources that best address the root factors of their conduct/behaviour, while addressing community reparation needs.

In their SROI calculations, YIP looked at four actual youth profiles and calculated potential and long-term projected SROI from early intervention via pre-charge RCMP diversions.

For the sake of brevity, only the costs for the specific possible negative outcomes without early intervention in these four cases are listed below. However, based on the four youth profiles, YIP calculated a potential SROI of 5.46:1, in other words for every dollar spend on early intervention, $5.46 was saved. Below are YIP's estimated savings to society based on the four actual case profiles and the trajectory of the possible lives of the individuals if there had been no early social intervention. All costs are specific to the profile of the individual involved, but present a reasonable picture of possible short term and long term social costs.

|  |  |  |  |
| --- | --- | --- | --- |
| Cost of victim’s support services case | $700 | Cost of criminal prosecution per case | $1,114 |
| Average criminal court case cost | $1,418 | Cost of behavioural special education (per year) | $1502 |
| Shoplifting (minimum once per month) | $1,523 | Costs to treat undiagnosed mental illness | $1,523 |
| Legal aid | $1,680 | Cost of AHS Addictions School Worker | $1,708 |
| Cost of police call out | $2,052 | Cost of group home (three months) | $9,063 |
| Cost of psychiatric admission to hospital | $9,343 | Cost of Fetal Alcohol Spectrum Disorder | $15,812 |
| Cost per high school drop out | $24,495 | Cost of child/youth community-based mental health services | $24,495 |
| Cost (health, justice, social services) per addicted person | $55,400 | Cost of pain and suffering per sexual assault victim | $84,500 |
| Cost of suicide | $849,877 |  |  |

YIP notes as well that the above cost estimates reflect only the monetizable aspects of the change created by YIP, adding that "Youth involved in the program also experience increased self-esteem, increased quality of life, a better sense of responsibility and community, and a stronger sense of civic appropriateness, all of which are not monetizable for the purposes of the analysis."[[28]](#footnote-28)

**Takeaway:** Social Return On Investment (SROI) is becoming an increasingly important metric to evaluate the impact of community-based initiatives such as RJ programs. It is certainly a useful exercise for LCCJ to attempt to quantify SROI to demonstrate the value of restorative justice forums and other related activities in reducing social costs that would otherwise occur. Some costs, especially criminal justice system costs (see pages 12-13), are reasonably easy to quantify, but other costs will be more speculative in nature, depending on the likelihood of an offender committing future offences if there is no early deterrent, the tangible and intangible costs for victims (for example from sexting crimes), and the long-term community costs of incarceration, addictions, undiagnosed mental illness, chronic unemployment, etc.

It will also be important to stress the non-monetizeable costs to individuals and society if organizations like LCCJ did not exist and were not adequately funded. As described above, highly pertinent RJ outcomes include such things as repairing intangible damage, better communication skills, the acceptance of responsibility, learning to empathize, and having a better understanding of self.

**Any sense of valuing of RJ**

This question was specifically posed by an LCCJ board member: "Is there any movement to influence or change sanction-based court diversion to restorative justice court diversion?"

There certainly is pressure coming from Crown prosecutors and defence counsel concerning the need for more flexible, restorative options rather than court-sanctioned diversion. A study by Justice Canada on Crown referrals to extrajudicial sanctions[[29]](#footnote-29) noted the following comments by study participants:

"In British Columbia, victim-offender reconciliation (mediation), community service and letters of apology were the most common diversion sanctions, according to respondents. Several B.C. respondents, both Crown and defence counsel, wanted more variety in EJS programming."

"They need more programs. There are two options: Alternative Measures through youth probation – agreements with counselling and/or community service, and second, victim-offender reconciliation – but we need more than that (B.C. Crown counsel)."

"All we ever see is counselling, letter of apology, and CSW [community service] and I don't even think the CSW is tailored to their needs."

"Because of the lack of funding everyone gets sent to community service.... Now they tend to be much more regimented, there needs to be more flexibility [and variety]."

"In Saskatchewan, most respondents remarked favourably on the EJS programs but a defence counsel said that the community needed 'more of a variety of EJS programs and more of a commitment to working through problems with kids.' He also said that the diversion programs tend to try to refer any difficult cases back to court. These kids are used to being rejected. And they end up being rejected. When the EJS guys can push them away, that confirms that is what they are supposed to be – 'pushed away'."[[30]](#footnote-30)

In answering the question concerning Ontario's position, I first canvassed the Ministry of the Attorney General website, which since the election of Premier Doug Ford in June 2018, has a paucity of new information, especially concerning restorative justice. There is no new annual report to the legislature for the time period following Premier Ford's election, there are no new published business plans, the Crown Prosecution Manual which provides direction to prosecutors has no mention of diversion programs, there have been no major speeches published on line since Attorney General Naqvi.

A June 2019 blog posting by Ottawa criminal defence counsel Michael Spratt, following a speech by new Attorney General Doug Downey, might offer some insider perspective, albeit a biased view, into what may appear as stagnation on the part of the Ministry in embracing innovation and change in Ontario's legal system, despite many plans to modernize the system. This addresses the role of the previous minister, Caroline Mulroney. Spratt writes:

"Mulroney, Ontario’s former attorney general, provided cover for Premier Doug Ford when he unnecessarily invoked the *Charter’s* notwithstanding clause in a petty fight over the size of Toronto’s city council. Even when Ford undermined the judicial process, asking why unelected judges should prevail over the will of the majority, Mulroney bobbled in agreement instead of acting as a champion for the rule of law and due process.

"Most recently, Mulroney silently oversaw deep cuts to the legal aid system that will inevitably result in impoverished and marginalized Ontarians facing prosecution, conviction, and deportation without the assistance of a lawyer.

"And Mulroney took no meaningful steps to reform and modernize Ontario’s overburdened court system. Under Mulroney, our courts were overworked, underfunded, and plagued with delays. They were a throwback to the 1990s when the fax machine was considered modern technology.

"Mulroney may be remembered as one of the most unambitious and subservient Attorneys General in Ontario’s history."[[31]](#footnote-31)

Spratt adds that Doug Downey, the newest AG, "does have the opportunity to surpass the incredibly low bar set by his predecessor" and "there may be some hope that Downey will be more than merely a Ford sock puppet."

The four new justice centres mentioned earlier in this paper (see pages 8-9) do offer some hope. They are in fact moving ahead. In a September 2019 news release,[[32]](#footnote-32) the government announced the creation of a Kenora Justice Centre Advisory Council, adding that pilot projects are expected to launch over the winter of 2019-2020 (although the pandemic may be affecting these plans).

In describing the Kenora project which is focused on indigenous offenders struggling with poverty, mental health, addiction, lack of secure housing, and unemployment (and where 90 percent of individuals in the Kenora jail are indigenous), Minister of Indigenous Affairs Greg Rickford commented that the intent is to move justice "out of traditional courtrooms and into a community setting" with the goal "to increase referrals to restorative justice programs and reduce the number of people in jail awaiting trial."

In the way in which the Kenora justice centre is being described by the government, use of restorative justice is a key priority as the government says the program "will build on successful programs that are designed, developed and delivered by Indigenous communities and organizations and supported by the government, including the region's Indigenous Restorative Justice Programs."

Beyond the new justice centre initiative, there may be small inklings of change in the court system, for example the May 2019 appointment of Justice AndréChamberlain to the Ontario Court of Justice. Chamberlain is a specialist in restorative justice who has served as the lead Crown prosecutor in Toronto's Gladue Court[[33]](#footnote-33) and is currently the Federal team lead for the Drug Treatment Court. He has also been involved with the United Way as a member of the Community Impact Committee.

As to any real top-down movement, at this stage there is scant information coming out of the Ministry on any broader initiatives to move away from court-sanctioned diversions to true restorative justice programs throughout the province.

Any real transition to a fully restorative-based alternative to traditional court sentencing would likely require more inspired leadership, more community demand for such change, strong support from police, Crown prosecutors, defence attorneys and bar associations, and a thorough in-depth cost-analysis on how community-managed restorative justice programs offer lower recidivism rates, better outcomes and greater overall social return on investment (SROI).

Such a cost analysis would have to track the cost of sanction-based court diversions versus restorative justice forums and look at recidivism rates and whether the quality of justice is improved. It would have to incorporate intangibles such as the perceptions of victims concerning the value of participation in the process, and the long-term community impacts. These factors were all looked at in the section on SROI.

Finally there is the question of political will, and whether Ontario is willing to move beyond the current status quo and make a push for more restorative justice forums as part of Ministry of Attorney General plans in the foreseeable future or simply pay lip service to the idea.

**Takeaway:** On the question "Is there any movement to influence or change sanction-based court diversion to restorative justice diversion, new pilot projects such as the Kenora Justice Centre are being based on restorative justice values, and the Ontario Government seems very much on board with this approach. At the same time, there seems to be no discernible move yet to replace existing sanction-based court diversion programs with restorative justice approaches. It would likely require a considerable push from law societies, bar associations, Crown Attorneys, social and mental health agencies, and the public itself to bring about such change. A good start would be credible new research into the social return of investment (SROI) of migrating to a fully restorative justice model.

**Beyond the Criminal Justice System: Other Kinds of Cases for which RJ is used**

In writing this section, I was encouraged to look at Community Justice Initiatives (CJI) in Kitchener-Waterloo, an organization that grew out of a suggestion in 1974 by two probation officers that two teens apologize and make restitution for vandalizing the property of 22 people in Elmira instead of going to jail. The Judge agreed, setting a new legal precedent in Canada.

What began in 1974 under the auspices of the Mennonite Central Committee has since grown into an agency with more than 25 staff and more than 200 volunteers, all applying restorative justice in many different program areas. In its 2018-19 annual report, CJI claims to have provided restorative justice services to close to 2,300 people, and influenced more than 18,000 people through speaking engagements, events, social media and communications.

Starting with an adult-focused **Victim Offender Reconciliation Program** (VORP) which today receives hundreds of referrals from the adult court system in the Waterloo Region, **Youth VORP** followed and in the 1990s, CJI began offering **conflict resolution services** for individuals, neighbours, families, and groups in the community. Recognizing an issue with elder abuse in 2005 CJI developed specialized conflict resolution services for adults who are 55 and over.

**Applying Restorative Justice to sexual trauma** began in 1982, when CJI gave people who had been sexually abused a place to meet so they could talk about their experiences. This led to a program to provide group support for survivors of sexual trauma.

Rather than dealing solely with the aftermath of sexual abuse, CJI also pioneered **Revive**, a healing support program for offenders. This then led to a **cybersex offenses group**.

In 2013, CJI added **support groups for intimate partners** of people who have offended sexually, intimate partners of survivors, and a group for male survivors who have also offended sexually.

With the opening of Grand Valley Institution in 1997, a new federal prison for women in Kitchener,[[34]](#footnote-34) CJI added a **Stride** program[[35]](#footnote-35) as a telephone support service for federally sentenced women in prison and on parole. This evolved into a program offering reintegration support for women leaving prison focused on empowerment, meaningful and responsible choices, respect, dignity, community engagement, capacity building, social justice, and accountability.

Stride has now been augmented with a **Circles Program** which matches trained volunteers with women wanting support as they re-enter the community. In 2014, CJI received funding from the National Crime Prevention Centre to replicate the Stride program across Canada in partnership with women's prisons, half-way houses, and other organizations that serve women involved with the justice system.

In 2012, **Backhome** replicated the Stride program for young offenders in partnership with Ray of Hope. Volunteers participate in recreational activities each week with youth at custody facilities in the Waterloo Region. Upon their release, teens can choose to be supported by a circle of volunteers as they reintegrate.

**Family Centred Programs** began in 2007 as a collaborative effort between Community Justice Initiatives, Ministry of Children and Youth Services, and Family and Children's Services of Waterloo Region. Using restorative justice principles, CJI volunteers empower families to make decisions about their children in child protection through culturally sensitive, respectful meetings. In 2012 CJI added one-on-one parent conflict coaching.

In its over 45 years of existence CJI has built partnerships with many organizations in the extensive Kitchener-Waterloo region. Some of these partnerships include the Region of Waterloo and Waterloo Regional Police Services, cities of Waterloo, Kitchener and Guelph, Public Safety Canada, the Ontario Ministries of the Attorney General and Community Safety and Correctional Services, the Ontario Seniors' Secretariat, the United Way, and several regional and national charitable foundations, churches and Christian charities, and faith-based business organizations such as Kindred Credit Union.

CJI is very focused on building partnerships based on applying restorative principles and practices. Examples from their 2018-19 annual report include a partnership with Waterloo Regional Housing to resolve conflicts in subsidized housing complexes, and engagement with Wellbeing Waterloo Region (WWR) in which CJI provides circle training to build capacity among the more than 70 local organizations involved in WWR to resolve conflicts amicably.

In the **Revive** program for sexual offenders, for example, probation, parole officers and defense lawyers often refer their clients when an individual has been charged with a sexual offence, but before sentencing. After meeting with a CJI Revive staff member, offenders attend a seven week psycho-social education program and then often join a Revive support group to continue taking responsibility for their actions and learning how to avoid re-offending.

After completing the seven week program, Revive staff provide a summary letter to the lawyer on behalf of their client, to be considered as part of their sentencing. CJI claims many lawyers and probation and parole officers report a difference in their clients– they're more accountable, more reflective, better able to express themselves, and understand and own the damage they inflicted on another person.

CJI is also challenging probation and parole officers to consider the root causes when survivors of sexual harm are in conflict with the law—including trauma, mental health issues, and substance use.

Within the education system, CJI is providing restorative circle training for Catholic Board educators four times a year (in 2018-19, 127 Waterloo Catholic District School Board educators were trained). Teachers can then implement restorative circles in their classrooms to build understanding, belonging, and conflict resolution skills among students. According to a 2018 CBC news story, one Catholic secondary school that introduced restorative circles in the 2017-18 school year saw rates of physical conflict drop by 74 percent from 2015-16 and suspensions decrease by 44 percent.[[36]](#footnote-36)

The organization is also focused on helping challenged and minority populations to integrate better in their community, for example LGBTQ+ seniors moving into a retirement or nursing home who fear the need to hid their sexuality, people who have experienced sexual harm, conflict coaching for parents who are separated and for families who are working to stay together, and refugee youth between 12 and 25.

As a large organization with a large budget of just over $1.75 million in 2018-19, CJI derived 67 percent of its revenue from government grants and contracts, 15 percent from donations and fundraising, 14 percent from fees and other income and 4 percent from the United Way (still a hefty $73,000).

CJI serves a region with a population of just over 600,000, making it the fourth largest population centre in Ontario, with a higher regional median household income than the Ontario average, high levels of educational attainment, a lower percentage of low income families than any other major Ontario population centre and a lower crime rate than the national average, and it is not surprising that the community can support the many initiatives of CJI. In addition, CJI has successfully reached out to funding partners such as the Laidlaw Foundation and has tapped the resources of giving portals such as Benevity – an organization that helps link vetted non-profit organizations with corporate and employee giving programs.

While CJI operates on a vastly larger scale than perhaps any other restoratively focused non-profit in Canada, some of the initiatives of this agency might be applicable to LCCJ and certainly provide food the thought.

**Takeaway:** CJI's impressive and diverse range of programs illustrate how restorative principles and practices can be expanded well beyond the justice system, especially in collaboration with other existing agencies. Food for thought for LCCJ.

**Funding:**

Funding has been in the back of my mind as I wrote other sections of this report. However, the only new funding opportunity I could locate in my research came from an Ontario government news release of December 11, 2019 in which the Ministry of the Solicitor General announced a new grant program to support police services across the province by investing $195 million over three years in a new [Community Safety and Policing (CSP) Grant program](http://www.mcscs.jus.gov.on.ca/english/Policing/ProgramDevelopment/PSDGrantsandInitiatives.html) (click to see details).

The initiative includes a local priorities funding stream, under which 89 police services boards will be allocated a total of $181 million to address issues that were identified by their communities as local areas of focus. These include collaboration between the police and community organizations to help individuals suffering from mental health issues and addictions (e.g., mobile crisis response teams), as well as programs to combat impaired driving, property crime and other public safety concerns. In addition, approximately $14 million will be allocated to 18 police services boards under the provincial priorities funding stream to address gun and gang violence, sexual violence and harassment, and human trafficking.

As stated by Solicitor General Sylvia Jones "Our police services and their partners know best what they need to combat crime in their communities." That could mean an opportunity for greater collaboration with LCCJ in and the police services boards in the county, including some financial support, depending on what initatives can be agreed upon. Any new initiative would require a SROI analysis.

News release: <https://news.ontario.ca/mcscs/en/2019/12/investing-in-community-safety-across-the-province.html>

Backgrounder: <http://www.mcscs.jus.gov.on.ca/english/Policing/ProgramDevelopment/PSDGrantsandInitiatives.html>

**Addendum**

I was remiss in not adding some information about Ottawa's Collaborative Justice Program. This program began in 1998 as a demonstration project at the Ottawa Provincial Courthouse. It was initially sponsored by the Church Council on Justice and Corrections (CCJC) to demonstrate that the application of a restorative approach in cases of serious adult or youth crime.

As stated on the CJP website, "though the Program's priority will always be the more serious cases, CJP has evolved over the past 21 years to allow the acceptance of post-charge/pre-sentence cases, adult and youth, regardless of level of seriousness."

On the CJP website, there is no annual report available and no information on its budget or current funding sources, number of cases managed during the last year or any other information about its operations, other than a listing of its Board of Directors.

What is interesting about the Board makeup is that the Board president (Eric Granger) is an Ottawa criminal defence lawyer with Greenspon Granger Hill who was invited to join the CJP Board in 2014.

In addition, of the other seven Board members, one was an Assistant Crown Attorney and Deputy Crown Attorney for the Ottawa Crown Attorney's Office, another is also a criminal defence lawyer, another is the Director of Mediation and Intake Services at the Canadian Human Rights Commission, and two are PhD students in criminology and Law and Legal Studies who have done extensive research into restorative approaches in the justice system.

With the presence of two major universities in Ottawa, both with programs in criminology and law, a greater number of law firms practicing criminal law, and organizations such as the Canadian Human Rights Commission located in the capital, it is not surprising there is a great deal of expertise to draw upon in finding Board members with legal expertise and commitment to restorative justice.

This is in fact largely a "professional board" where most members have an intimate working knowledge of the criminal justice system. While such s Board composition is neither possible nor even desirable for LCCJ, it may be a worthwhile exercise to reach out to the legal community in Lanark County to see if any Crown Attorneys or defence lawyers would be willing to serve on the LCCJ Board. I a not sure if such overtures have been made in the past; however the expertise and contacts/connections that having a member of the Bar serve on the Board might be very valuable to the organization.

I also took a look at the Ontario Trillium Foundation 2018-19 Annual Report. In 2018-19, OTF awarded $108 million to 629 projects across the province.

Noteworthy were the following:

* Community Justice Initiatives of Waterloo Region received $248,000 for 36 months, no other details on the award in the Annual Report.
* Kingston's Youth Diversion Program received $399,200 over 36 months to scale up its Intersections program to access to clinical supportive interventions for at-risk youth in rural areas. According to the Annual Report, this initiative is designed to help children and youth who are facing barriers develop strong emotional and social skills, with an expected an impact on the lives of 300 people in the community (that would be an average of more than $1300 per person over the three year period).

1. *National Justice Survey 2017: Issues in Canada's Criminal Justice System*, Ekos Research Associates Inc., 2018. http://publications.gc.ca/collections/collection\_2018/jus/J4-59-2018-eng.pdf [↑](#footnote-ref-1)
2. *Criminal Code of Canada*, s. 13 [↑](#footnote-ref-2)
3. *Youth Criminal Justice Act*, s. 3 (as summarized) [↑](#footnote-ref-3)
4. 13th Report of the Standing Committee on Justice and Legal Affairs, 1997 [↑](#footnote-ref-4)
5. R*R. v M.(J.J.) SCC, 1993, page 433:* <https://scc-csc.lexum.com/scc-csc/scc-csc/en/1008/1/document.do> [↑](#footnote-ref-5)
6. Jay Makerenko, Youth Justice in Canada: History & Debates, Mapleleafweb, 2007: <https://www.mapleleafweb.com/features/youth-justice-canada-history-debates.html#young> [↑](#footnote-ref-6)
7. Youth Diversion 44th Annual Report, 2019: <https://www.youthdiversion.org/index.cfm/about/annual-report-2019-pdf/> [↑](#footnote-ref-7)
8. Ministry of the Attorney General backgrounder, May 2, 2019: <https://www.attorneygeneral.jus.gov.on.ca/english/justice-centres/> [↑](#footnote-ref-8)
9. Restorative Justice Council, *What Does the Ministry of Justice RJ Research Tell Us?*, November 2001, <https://restorativejustice.org.uk/sites/default/files/resources/files/Ministry%20of%20Justice%20evaluation%20of%20restorative%20justice.pdf> [↑](#footnote-ref-9)
10. The effects of Restorative Justice Programming: A Review of the Empirical, 2018: [www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/rr00\_16/toc-tdm.html](http://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/rr00_16/toc-tdm.html) [↑](#footnote-ref-10)
11. Ibid, section 3.2.1. [↑](#footnote-ref-11)
12. Ibid, section 3.2.2 [↑](#footnote-ref-12)
13. Ibid, section 3.3.1 [↑](#footnote-ref-13)
14. Thomas Gabor, *Costs of Crime and Criminal Justice Responses*, Public Safety Canada, 2016: <https://www.publicsafety.gc.ca/cnt/rsrcs/pblctns/2015-r022/2015-r022-en.pdf> [↑](#footnote-ref-14)
15. Ibid, page 4. [↑](#footnote-ref-15)
16. Ibid, page 10. [↑](#footnote-ref-16)
17. Ibid, page 8. [↑](#footnote-ref-17)
18. Ibid, page 6. I find this to be an amazing statistic, and the author does not explain how it was derived. [↑](#footnote-ref-18)
19. David M. Day, Christopher J. Koegl, Lianne Rossman, Sandra Ozeil, *The Monetary Cost of Criminal Trajectories for an Ontario Sample of Offenders*, 2015, published by Public Safety Canada: <https://www.publicsafety.gc.ca/cnt/rsrcs/pblctns/mntry-cst-crmnl-trjctrs/report-en.pdf> [↑](#footnote-ref-19)
20. Ibid, page 22. [↑](#footnote-ref-20)
21. Ibid, page 32. [↑](#footnote-ref-21)
22. Ibid, page 40. [↑](#footnote-ref-22)
23. Safe Communities Innovation Fund Pilot Project Executive Summaries, Government of Alberta, September 2015. [↑](#footnote-ref-23)
24. The Canada Financial Proxy Database is a resource that calculates an accepted and justifiable financial value (a proxy) where it is not possible to determine an exact value, such as with social returns. Proxies are critical for accurately estimating social return on Investment. For a short two page overview of SROI, see: <https://www.calgary.ca/CSPS/CNS/Documents/fcss/Understanding%20SROI.pdf?noredirect=1> [↑](#footnote-ref-24)
25. Safe Communities Innovation Fund Pilot Project Executive Summaries, page 11. [↑](#footnote-ref-25)
26. Ibid, page 12. [↑](#footnote-ref-26)
27. Ibid, page 43. [↑](#footnote-ref-27)
28. Ibid, page 67. [↑](#footnote-ref-28)
29. Crown Decision Making Under the Youth Criminal Justice Act, Justice Canada, date of publishing unclear: <https://www.justice.gc.ca/eng/rp-pr/cj-jp/yj-jj/moyer_basic/decision/p4a.html> [↑](#footnote-ref-29)
30. Ibid. [↑](#footnote-ref-30)
31. Michael Spratt, Doug Downey: Who is Ontario's Newest Attorney General, June 25, 2019: <http://www.michaelspratt.com/law-blog/doug-downey-who-is-ontarios-newest-attorney-general> [↑](#footnote-ref-31)
32. ### Ontario Taking Next Steps to Establish Kenora Justice Centre, Government of Ontario, September 26, 2019: <https://news.ontario.ca/mag/en/2019/09/ontario-taking-next-steps-to-establish-kenora-justice-centre.html>

    [↑](#footnote-ref-32)
33. The Gladue Court was established to ensure the application of certain sections of the *Criminal Code* referring to the sentencing of Aboriginal people and to respond to significant social and justice related issues facing Aboriginal people. [↑](#footnote-ref-33)
34. Tragically, this is the institution where 19 year-old Ashley Smith took her own life in 2007 while under suicide watch. [↑](#footnote-ref-34)
35. Stride began as Project Another Chance, started by a woman who had been incarcerated at the now closed Prison for Women in Kingston, who became frustrated with the lack of female-oriented community programs and supports. When CJI took it over, they renamed it Stride. For more detailed information on Stride, see Stride Operations Manual, Module 1: https://cjiwr.com/wp-content/uploads/2018/07/Stride-Operations-Manual\_Module1.pdf [↑](#footnote-ref-35)
36. # Flora Pan, Restorative justice in Catholic schools gets to root of student conflict, CBC News, February 28, 2018: <https://www.cbc.ca/news/canada/kitchener-waterloo/restorative-justice-catholic-schools-waterloo-region-1.4553858>

    [↑](#footnote-ref-36)