

# Exploring Restorative Justice Standards in Oregon

A DISCUSSION PAPER

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the Restorative  
Justice Coalition of  
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Linn and Benton County	<a href="#"><u>Neighbor to Neighbor Mediation</u></a>
Clackamas County	<a href="#"><u>Clackamas County Resolution Services</u></a>
Eastern and Central Oregon	<a href="#"><u>Community Solutions of Central Oregon, Deschutes County Community Justice, and Eastern Oregon Mediation Center</u></a>
Jackson County	<a href="#"><u>Resolve Center for Dispute Resolution and Restorative Justice</u></a>
Lane County	<a href="#"><u>Center for Dialogue and Resolution</u></a>
Multnomah County (Criminal Justice Focus)	<a href="#"><u>Multnomah County Juvenile Services Division</u></a>
Multnomah County (Schools Focus)	<a href="#"><u>Resolutions Northwest</u></a>
Washington County	<a href="#"><u>Beaverton Dispute Resolution Center</u></a>

We would also like to thank the eight interviewees that graciously shared their time, learning, and experience with issues of standards, equity, and program/practitioner accountability in the restorative justice movement. Their insights are reflected in this report, and will be utilized throughout the three-year term of this project.

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- Christina Albo, Executive Director, Resolutions Northwest
- Carley Berkey, Executive Director, Beaverton Dispute Resolution Center
- Chip Coker, Executive Director, Center for Dialogue and Resolution
- Amy Davidson, Crime Survivor Program Director, Partnership for Safety and Justice
- Rhea DuMont, Restorative Justice Coordinator, Multnomah County Juvenile Services Division
- Simon Fulford, Executive Director, Parrott Creek
- Matthew Hartman, Principal, Just Outcomes
- Amy Chase Herman, Deputy Director, Clackamas County Resolution Services
- John English, Program Director, Conflict and Dispute Resolution Master’s Program – UO
- Avrohom Perlstein, Chaplain, Oregon Department of Corrections
- Linda Showman, Community Member
- Cara Walsh, Director of Restorative Justice, Resolve Center for Dispute Resolution and Restorative Justice

# INTRODUCTION

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*“Standards can enable the deliberative democracy of the people or it can disable it. It all depends on what the standards are and how they are implemented.”*

*John Braithwaite<sup>1</sup>*

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The Restorative Justice Coalition of Oregon ([RJCO](#)) is currently partnering with [Just Outcomes](#) in an exploration of standards within Oregon’s restorative justice field. An earlier Listening Project conducted by RJCO and Portland State University revealed that the topic of standards is of high priority for further discussion among many who practice and promote restorative approaches to justice across the state. Based on this feedback, the current three-year process involves literary research and outreach to restorative justice practitioners across the state, along with community-members and professionals who are impacted by restorative justice initiatives. The purpose of this project is to engage a broad representation people involved in and affected by restorative justice service delivery in reflective, informed, and future-focused conversations about the potential of restorative justice standards in Oregon. The information and learning gained through this process will be provided to RJCO as a basis for further discussion, action, and continued consultation with the wider RJ community in Oregon. The current initiative is supported by Porticus Foundation and a philanthropic donor advised by the Open Philanthropy Project.

The intent of this discussion paper is to help inform this ongoing dialogue in Oregon with perspectives gathered through local and international research. Following a brief Research Synopsis, this paper describes the project’s methodology, summarizes themes and key learnings gained through outreach, and reviews a cross-section of US and international literature on the topic of restorative justice standards. There is no attempt made here to suggest or describe a definitive path forward for Oregon on the question of standards. Instead, we hope this will serve to raise questions that can stimulate further informed discussion on this important topic. Specific opportunities for such discussion are available over the course of the coming two years; readers with an interest in these opportunities are welcome to visit Just Outcomes’ [website](#) or contact [info@justoutcomesconsulting.com](mailto:info@justoutcomesconsulting.com).

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<sup>1</sup> Braithwaite, J. (2002). Setting standards for restorative justice. *British Journal of Criminology*, 42, 567-577.

# RESEARCH SYNOPSIS

## OVERVIEW

This synopsis aims to briefly highlight key themes, ideas and feedback gained through the research conducted this past year. These observations are subjective; choices over what ‘stands out’ from the research are a product of the authors’ experiences and perceptions of the issues. The authors’ backgrounds are described in Appendix 1. For those interested in greater nuance and context on these themes, the remainder of this report offers more of this detail.

## KEY THEMES

The following themes are drawn from consultation with restorative justice advocates and observers across Oregon, along with evidence and ideas offered within the literature on restorative justice standards.

### **Exploring standards is complex because people have differing understandings of restorative justice.**

There is ongoing dialogue and debate in Oregon and more broadly about how wide the restorative justice “tent” should be.<sup>2</sup> While some envision RJ specifically as a principled response to harm, for others the term describes a relational philosophy of life which is expressed in preventative activities and relational practices more generally. For those interested primarily in the ‘intervention’ understanding of RJ, there remains questions as to what constitutes a restorative intervention. While most agree on general principles (for example principles of inclusion, repair, and understanding root causes), there is uncertainty for example on whether or under what conditions a practice aimed at directly supporting only people who have committed a crime, processes which lack community involvement, or (less commonly) practices where only crime victims/survivors are served can be considered under the rubric of “restorative justice.” Added to this are distinctions over “restorative practices,” and sometimes confusion over the differences between conflict resolution and restorative justice. Given diverse understandings, the obvious first question regarding standards is, “standards for what?”

### **Standards have the potential to create coercion and exclusion.**

“Standards” often has connotations of hierarchical control and ‘gatekeeping’ by a governing institution. While that is not the only possible understanding (this theme will be explored further in the following sections of this report), it is true that restorative justice standards in some jurisdictions place restrictions on who can practice the work. This can take the form of costly certifications, formal education requirements, practical experience requirements; and other accreditation measures. Not surprisingly, is often the most privileged segments of society (for example white, educated, more affluent people) that

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<sup>2</sup> Sharpe, S. (2004). How Large Should the Restorative Justice “Tent” Be? In H. Zehr & B. Toews (Eds.), *Critical issues in restorative justice* (pp. 17-31). Monsey, NY: Criminal Justice Press.

are in the role of setting standards, enforcing standards, and restricting access for those who do not meet the standards. There are risks in the exploration of standards that values of inclusion and voluntariness, along with the notion of cultural responsibility – all essential to the restorative justice paradigm – could be jeopardized. In practical terms, there is a risk that standards, approached through the lens of certification through formal education, could further marginalize (for example) Native American, Black, Latino and working-class communities in Oregon who because of systemic pressures may lack the necessary credentials or financial resources to participate.

### **Standards are strengthened when they are developed by diverse coalitions.**

Project research suggests that standards are more likely to be widely understood and adopted when they are developed collaboratively among a variety of stakeholders. People or groups who do not see themselves represented in the process of developing standards are more likely to view standards with skepticism, and the standards may (even inadvertently) favor certain interests over others. The scope and type of collaboration in this process could influence whether standards are, for example, adequately victim-survivor sensitive, attentive to the needs people who commit crimes, relevant in communities of color, or relevant to criminal justice system professionals. It was emphasized by some that the process of developing standards must engage not only professionals representing various interests, but also the people directly impacted by RJ practices. Working in collaboration to develop standards is complex and takes time, yet it also creates opportunities for people to come together across silos to have critical conversations about restorative justice.

### **There appears to be significant and widespread support for continued exploration of restorative justice standards in Oregon.**

The prevailing response to this outreach has been a positive one. This has been true of many restorative justice providers/practitioners working in communities across the state, as well as criminal justice partners (such as victim assistance, district attorneys, and law enforcement personnel) who attended the focus group discussions. Many respondents were optimistic that standards could benefit restorative justice clients/participants, enhance buy-in from referral agents and funders, help foster shared language and understanding within the restorative justice field, and foster the growth and self-governance of the restorative justice movement in Oregon. Some discussions focused around specific practice standards, while others focused on broader provisions within restorative justice programs.

### **Standards should be understood in relationship to restorative justice principles.**

Oregonians and international authors alike have pointed out that standards alone cannot ensure restorative outcomes because they do not typically speak to the ethos or intent of the work. Measurable standards may act as a minimal safeguard against harmful practices; however, they cannot instruct practitioners on the aptitudes and nuanced decisions that go into effective practice. Principles remain necessary foundations for guiding decisions around practice, and some have even suggested it is appropriate to deviate from even the best standards in the spirit of restorative justice principles.

## **Exploring restorative justice standards invites “outside the box” thinking regarding program and practitioner accountability.**

Internationally, there is a range of approaches taken to address the question of how to uphold standards. Some jurisdictions have followed a path of certification and accreditation for RJ practices, which are common measures in other fields. On one hand, these mechanisms seem to provide a straightforward way of measuring compliance with standards. On the other hand, they lend themselves strongly to the critiques around access and equity noted above. Alternative ideas include developing communities of practice/peer feedback systems, collaborative evaluation, and establishing processes for increased organizational transparency. These and related themes are explored in detail within this report. In Oregon, there is clearly more discussion required before any emerging consensus can be found regarding program and practitioner accountability to standards.

## **CONCLUSION**

Taking stock of the rich discussions throughout Oregon this past year, we perceive that though the path to standards is complex and involves risks, Oregon’s restorative justice advocates and allies clearly possess the experience, insight, relationships, and value commitments necessary to hold this ongoing conversation with wisdom and skill. We are optimistic that through this ongoing process of learning and dialogue, Oregon will arrive at a useful framework for protecting those served through restorative justice while clarifying and strengthening the work. We look forward to continuing the conversation in a way that honors the values and diverse voices of this movement.

# METHODOLOGY

## RESEARCH TEAM

This research for this report was conducted by the Principals of Just Outcomes. The team brings extensive restorative justice practice, training, and facilitation experience.<sup>3</sup>

### Research Team

#### **Just Outcomes Principals**

Catherine Borgen

Aaron Lyons

Matthew Hartman

## ADVISORY COMMITTEE

The Restorative Justice Coalition of Oregon (RJCO) Coordinating Committee is the Advisory Committee for this exploration of standards. RJCO is Oregon’s only state-wide association of restorative justice practitioners, programs and stakeholders developed to “promote and support the implementation and practice of restorative justice principles and models in Oregon’s justice, law enforcement, educational and other community institutions.”<sup>4</sup> One of the researchers, Matthew Hartman, is also the President of RJCO and facilitator of RJCO’s Coordinating Committee. In light of these dual roles, when discussing matters of this project with the RJCO Coordinating Committee, Matthew Hartman does not facilitate as President but as a research and project coordinator.

## RESEARCH LIMITATIONS

This research project was designed to be elicitive and inclusive, yet is limited in its capacity to fully achieve this aspiration. The research team members are all white, middle class, cisgender individuals. Though the structure of the project limits the capacity of the Research Team in making decisions about outcomes, it is the group that conceived of the project, designed the strategies of engagement, and facilitated the interviews and focus groups. We are aware of the limitations our backgrounds cause in our efforts to elicit information from those most directly impacted by justice systems and reforms, particularly communities of color. This limitation is significant, and as voiced by some partners engaged in this process, needs to be addressed to move forward with integrity.

We also understand that our backgrounds shape our framing of the research, summative information, and issues as outlined in this report. We acknowledge that the narrative reported here is imperfect, and the framing and synthesis of issues could have benefited by the review and contributions of any stakeholder group involved in the research, but especially from participants of color and other marginalized groups. The Research Team is engaging our colleagues of color to actively explore ways to address this gap through partnerships.

A related limitation of this research is that the methodology involved placing the responsibility of convening focus groups into the hands of restorative justice providers in Oregon. The people invited to

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<sup>3</sup> See Appendix 1 for biographies.

<sup>4</sup> Restorative Justice Coalition of Oregon. (n.d.). *Who we are*. Retrieved from <http://rjoregon.org/about-us/who-we-are>

share their perspectives were determined by the existing networks and partnerships present in any given region. This method limits the voices heard in this outreach to those who were known to the restorative justice service provider.

## **METHODOLOGIES**

The information provided within this Report is informed by existing domestic and international literature; interviews of select practitioners engaged in standards development in Oregon, the US and abroad; focus groups with attempted representation of key stakeholders to restorative justice practice in Oregon; and a survey distributed as an alternative access point for those unable to attend one of the regional focus groups.

### **LITERATURE REVIEW METHODOLOGY**

The Research Team conducted a review of academic research and grey literature in the US and internationally. The scope of the literature review included conceptual and empirical scholarship in the field of restorative justice, with a focus on how standards are conceptualized, the process of developing standards, and some analysis of the intended and unintended impacts of standards for restorative justice as reported in the literature. The review did not attempt to capture all that has been produced internationally on the subject of standards, but instead to highlight themes and examples within the literature that might guide the discussion in Oregon moving forward.

### **INTERVIEW METHODOLOGY**

The research team conducted interviews with individuals experienced in the creation of standards for restorative justice and conflict resolution, by telephone or in person. The purpose of these interviews was to elicit a variety of perspectives and experiences on the various processes of developing standards. The primary focus was to understand the learning from these processes. The team also consulted with local leaders in the restorative justice field with expertise in restorative justice evaluation and equity.

Nine semi-structured interviews were conducted between May and September of 2018. Six of these interviewees, who will remain anonymous, assisted the research team in better understanding their experiences in the creation and implementation of standards outside Oregon. One interview with two individuals from Oregon, also anonymous, focused on exploring issues of equity within the current structure for this project. The final two interviews were with Rachel Cunliffe, a professor of restorative justice at Portland State University. These two interviews were conducted for the purposes of eliciting her expertise regarding the structure of the Standards Workday to be conducted on October 24<sup>th</sup>, and to explore her ideas on collaborative evaluation methodologies and learning-community frameworks for maintaining fidelity to restorative justice standards.

The methodology of the interviews was anecdotal in nature, involving the exploration of a consistent set of questions and issues with each interviewee while including flexibility to pursue related questions relevant to the project, given the responses of the interviewee.

Interviewees were identified through various channels. Names emerged through the literature review, as well as through recommendations from those contacted in jurisdictions that standards for restorative justice have been created. The data gained from all interviewees is referenced throughout the report to inform relevant sections.

## FOCUS GROUP METHODOLOGY

Focus groups were conducted in order to hear from a broad spectrum of people involved in (or interested in) restorative justice in Oregon on the question of standards. The aim was to understand people’s initial responses, concerns and questions pertaining to the topic, and to be guided by these initial responses in the work to come.

Eight regions were chosen to convene focus groups. These regions were chosen based on the current presence of restorative justice programming, with an eye to geographic diversity throughout the state of Oregon. A ninth focus group was convened in the Portland-Metro area specifically for those involved with restorative justice or restorative practices in the schools. The tenth focus group was offered electronically via Zoom technology for those that were unable to attend one of the regional focus groups offered.

For each of the in-person focus groups, local program(s) or agencies that offer restorative justice in their communities were asked to sponsor the focus groups and convene the focus group participants. The conveners were asked to invite participants with a focus on the following priorities for representation.

- **Criminal Justice and School Partners**, including: criminal justice system leaders, law enforcement, victim assistance professionals, judicial partners, school administrators, and teachers.
- **Directly Impacted Individuals/Community Members**, including: those that have participated in restorative justice processes as someone that has committed harm or as a victim/survivor; victims and survivors; those that have been marginalized by the existing criminal justice system or school push-out; communities of color; and, tribes.
- **Community-Based Partnering Agencies**, including: non-profit agencies that act as champions or allies to restorative justice work in their community.
- **Restorative Justice Administrators and Practitioners** (paid and volunteer), including: those who oversee agencies or programs that offer restorative justice services and those that provide direct restorative justice services to clients.

Following is the resultant participation levels of the combined focus groups:

<i>Stakeholder Group</i>	<b>Total Participants</b>
<i>Criminal Justice and School Partners</i>	68
<i>Directly Impacted Individuals/Community Members</i>	6
<i>Community-Based Partnering Agencies/Programs</i>	40
<i>Restorative Justice Service Providers</i>	64
<i>Total Focus Group Participants</i>	178

This participant breakdown reflects the Research Team’s analysis based on organizational affiliation and title based on the focus group sign-in forms. It is the perspective of the Research Team that there would be significant overlap on how individuals would identify if asked directly to identify within these stakeholder groups. It is also clear that the focus group structure and methodology was not fully successful in engaging directly impacted individuals and community members. As mentioned in the research limitations, this is an area that the Research Team is actively attempting to address as the project moves forward.

Focus Groups were designed, facilitated and recorded (electronically and written notes) by the Research Team, specifically Matthew Hartman and Aaron Lyons. In the Southern Oregon focus group, written minutes were recorded by a staff member of Resolve.

Focus Groups were divided into two sections. The first focused on eliciting information from criminal justice, school, community-based partners, and directly impacted individuals on their perceptions of restorative justice and standards for restorative justice. The second half of the focus group was focused on discussion among restorative justice service providers regarding concerns and potential benefits of standards, and ideas for meaningful accountability to standards (hypothetical conversations on how to maintain compliance).

Notes and recordings were used by the Research Team to summarize themes that emerged in this report. Meetings were not transcribed, nor was a quantitative approach taken to summarize the information.

## **SURVEY METHODOLOGY**

The survey was created for those in Oregon that were not able to attend the regional focus groups. This survey was sent out via the RJCO network and through the RJCO Quarterly. The survey consisted of 12 questions related the creation of standards in Oregon. The survey saw only seven respondents and was incorporated into this report in relevant sections along with the focus group data.

# LITERATURE REVIEW

## INTRODUCTION

Restorative justice initiatives have taken root in many communities and jurisdictions around the world. From the first modern/western prototypes during the 1970s until today, restorative justice has been gaining recognition as a valid response to criminal harm within and as an alternative to the conventional criminal justice system, along with numerous other community and institutional settings. Along with this growth comes both opportunities and risks for the people and institutions involved in restorative justice work.

Restorative justice programs have often been developed by ideologically-motivated enthusiasts who understand their work to be subversive to dominant justice systems and institutions. Yet, these initiatives all exist in relationship to existing systems and institutions, and to a public whose understanding of and appreciation for restorative justice is not assured. Intrinsic to the restorative justice field is the tension between the grassroots spirit at the heart of restorative justice as a worldview and philosophy, and the pressures toward the field to establish itself within the broader society as a worthy and credible response to victimization and harm. Currently, restorative justice in the United States remains largely unregulated while ongoing questions churn both within the field and among its observers. These questions include:

- How does a person affected by a crime, or a person responsible, determine whether a restorative justice program is trustworthy?
- How do referral sources know that they can safely refer their vulnerable clients?
- How do we retain the creative community spirit that gives strength to the field of restorative justice?
- What dangers are there in cooptation by the conventional/adversarial system?
- How much and what type of training is enough? Who decides?
- What does success look like and how is it measured?

This section will review a cross-section of literature regarding the risks and opportunities of implementing standards within restorative justice, and highlight some examples of how restorative justice advocates around the world are tackling the issue of standards. This survey of academic and grey literature is by no means a comprehensive account of all that has been written on the subject; instead, the object is to highlight themes and examples which can inform and stimulate further discussion in Oregon.

## WHY EXPLORE STANDARDS?

Restorative justice proponents identify closely with values of participation, respect, accountability and empowerment, among others.<sup>5</sup> Restorative justice is described as a compass, not a map; a principled

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<sup>5</sup> See for example Pranis, K. (2007). Restorative values. In G. Johnstone & D. W. van Ness (Eds.), *Handbook of restorative justice* (pp. 59-74). Portland, OR: Willan.

approach, not a ‘one-size fits all.’ Many theorists and practitioners have emphasized the need to be flexible and responsive to the people and cultures affected by justice processes.<sup>6</sup> With these responsive values at the core of a movement, and with dedication to the values so revered, the notion of measurable standards is sometimes greeted with skepticism. Numerous legitimate questions abound: Who is involved in setting the standards, how are they empowered to do so, and what is their agenda? Will standards damage the creative and flexible essence of restorative justice? Who decides whether a standard has not been met, and what are the consequences? Will standards unfairly exclude certain people or groups from practicing under the banner of restorative justice? There are indeed numerous and important reasons for caution. These cautions will be explored later in this section.

On the other hand, experience and research have demonstrated that even well-intentioned programs can produce unsatisfying or even harmful consequences for participants in a restorative justice process.<sup>7</sup> Andrew Ashworth’s research, for example, has documented that frequently “enthusiasm for [restorative justice] processes leads proponents either to overlook the need for safeguards, or to imply that they are not relevant.”<sup>8</sup> The lack of safeguards in restorative justice is a concern raised by crime victims/survivors, offenders, criminal justice personnel, and restorative justice practitioners alike.<sup>9</sup>

Simply put, a primary purpose of standards is “guiding against improper and unethical things happening within a restorative process.”<sup>10</sup> For example, standards may be considered in order to:

- **Provide safeguards for victims and survivors:** Bazemore and Green (2007), for example, contend that demonstrable and consistent commitment to the principles of restorative justice (especially those of giving voice to victims and seeking to repair the harm) is necessary to ensure benefits for victims, and that restorative justice processes do not fall prey to the traps of the Criminal Justice System to focus excessively on offenders and their outcomes.<sup>11</sup>
- **Protect the dignity of people who offend:** Andrew Ashworth warns of the temptation of overly enthusiastic communities to administer disproportionate consequences to offenders, and that the process of agreement-making can be grossly influenced by biases. In this way, he argues,

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<sup>6</sup> Zehr, H. (2015). *The little book of restorative justice: Revised and updated*. New York, NY: Good Books.

<sup>7</sup> See for example Zernova, M. (2007). Aspirations of restorative justice proponents and experiences of participants in family group conferences. *The British Journal of Criminology*, 47(3), 491-509. <https://doi.org/10.1093/bjc/azl063>

<sup>8</sup> Ashworth, A. (2002). Responsibilities, rights and restorative justice. *The British Journal of Criminology*, 42(3), 578–595. <https://doi.org/10.1093/bjc/42.3.578> (p. 591)

<sup>9</sup> For further information on this theme, readers are encouraged to see the summaries of focus groups under *Issues with Implementation and Application of Restorative Justice*, pg. 35 of this report.

<sup>10</sup> Johnstone, G. (2012). The standardization of restorative justice. In T. Gavrielides (Ed.), *Rights and restoration within youth justice* (pp. 91-115). Whitby, ON: de Sitter Publications. (p. 97)

<sup>11</sup> Bazemore, G., & Green, D. L. (2007). Yardsticks for victim sensitive process: Principle-based standards for gauging the integrity of restorative justice process. *Victims & Offenders*, 2(3), 289–301. <https://doi.org/10.1080/15564880701404031>

restorative justice processes have an obligation to abide by certain standards of objectivity and fairness when dealing with offenders.<sup>12</sup>

- **Ensure alignment with Human Rights, and especially the rights of children and youth:**<sup>13</sup> Shannon Moore and Richard Mitchell (2009) have explored the natural alignments between human rights mandates and restorative justice mandates. That said, for restorative justice to advance its credibility as a viable option for especially youth/juvenile justice issues, it must demonstrate that it does adhere to International Human Rights benchmarks, particularly the rights of the Child.<sup>14</sup> Standards may assist with this advancement.
- **Enhance perceptions of restorative justice:** Archibald and Llewellyn note that standards may serve a two-fold benefit: 1) they serve as criteria for community agencies to follow when supervising and evaluating their volunteers, and; 2) government entities can evaluate the performance of the agency based on these standards. They note that the implementation of standards has “a great deal to do with the aspiration of the program to inspire public confidence in the program and the justice system more broadly.”<sup>15</sup>

## WHAT ARE “STANDARDS?” DEFINITIONS AND CAVEATS

Before digging deeper into the issues of standards in restorative justice, we will briefly bring attention to terms that are often used in connection with standards. Indeed, one hurdle in having meaningful discussion on the topic of standards in restorative justice is the differing terms used to describe what should guide the quality of RJ practice and programming. These terms have included:

- Codes of Conduct
- Standards
- Standardization
- Values
- Principles
- Guidelines
- Best Practices

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<sup>12</sup> Ashworth, A. (2002). Responsibilities, rights and restorative justice. *The British Journal of Criminology*, 42(3), 578-595. <https://doi.org/10.1093/bjc/42.3.578> (p. 591)

<sup>13</sup> Moore, S. A., & Mitchell, R. C. (2009). Rights-based restorative justice: Evaluating compliance with international standards. *Sage Journal*, 9(1), 27-43. doi: 10.1177/1473225408101430

<sup>14</sup> UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at <http://www.refworld.org/docid/3ae6b38f0.html>

<sup>15</sup> Archibald, B. P., & Llewellyn, J. (2006). The challenges of institutionalizing comprehensive restorative justice: Theory and practice in Nova Scotia. *Dalhousie Law Journal*, 29, 297. Retrieved from <https://ssrn.com/abstract=2120718>

For the purpose of this project, we consider standards as **measurable norms established by general consent**.<sup>16</sup> This review will not seek to provide distinctions among the variety of other terms listed above.

Many within the field of restorative justice have proposed principles and guidelines, as for example in the [United Nations Basic Principles on the Use of Restorative Justice Programs in Criminal Matters](#)<sup>17</sup> These and similar contributions continue to be a source of guidance, inspiration and debate among restorative justice proponents are not contested in this review. On a similar theme, Susan Sharpe has authored an excellent guide entitled [Walking the Talk: Developing Ethics Frameworks for the Practice of Restorative Justice](#). For the purposes of this paper we are specifically contemplating measurable standards, along with raising the complex issue of how various jurisdictions have set about trying to uphold their standards.

Notably, we are also setting a distinction between standards with standardization. Here, we define standards as tools to measure a certain benchmark of quality, whereas we view standardization as an institutionalized process of creating conformity of service. A metaphor may be useful here. In many urban centers, you will encounter a variety of food trucks with different specializations. Some offer Thai food, others Pita Wraps, others Grilled Cheese Sandwiches. The type of food offered is not “standardized.” The uniqueness and creativity to each food truck is not tampered with when Food Safety Guidelines outline minimum reasonable “standards” such as the expectation that employees wash their hands before preparing food or abide by a food storage safety regime. The spirit in which we explore standards in this paper may be thought of similarly—with a desire to honor the innovation and uniqueness of each restorative justice service, but also with a hopefulness that overall service and safety can be enhanced through the development of standards.

## CAUTIONS AND CONCERNS

Setting standards in restorative justice is a complex and contested issue. Gerry Johnstone summarizes the ambivalence about standards as follows:<sup>18</sup>

*On the one hand, it is felt that [standards] will enhance the quality of practice, ensure that the human rights of participants are protected, and enhance confidence in restorative justice amongst policymakers, criminal justice professionals and members of the public. On the other hand, there are fears that it can stifle the innovation necessary to discover the better and more effective ways of doing restorative justice; result in a standard practice model when what is required is a variety of models adaptable to different*

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<sup>16</sup> This definition is offered by the report’s co-author, Aaron Lyons. It also served as the working definition for British Columbia’s standards initiative, in which Aaron Lyons was a project leader.

<sup>17</sup> UN Economic and Social Council (ECOSOC), *UN Economic and Social Council Resolution 2002/12: Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters*, 24 July 2002, E/RES/2002/12, available at <http://www.refworld.org/docid/46c455820.htm>

<sup>18</sup> Johnstone, G. (2012). The standardization of restorative justice. In T. Gavrielides (Ed.), *Rights and restoration within youth justice* (pp. 91-115). Whitby, ON: de Sitter Publications. (p. 103)

*contexts; and lead to a “recapture” of responsibility for handling crime by state officials and professionals.*

Johnstone goes on to raise the question, in whose interests are standards being promoted?

*“standardizers are often motivated by concerns about having what is best for themselves adopted as a standard, to create a “closed shop” and to exercise control over what is available, rather than with standardizing optimal solutions for others and consumers.”<sup>19</sup>*

A prevailing concern around standards is the risk of cooptation by the logic or paradigm of existing systems. John Braithwaite suggests that justice issues related to criminal behavior need to be owned by the people rather than by the state.<sup>20</sup> Carsten Erbe similarly contends that “the movement’s central ideal is to retain control of community issues within the community,” framing this goal as surpassing even goals of repairing harm caused by crime.<sup>21</sup> Erbe argues that moves toward professionalization within restorative justice, including the control of standards by conventional institutions, could cater more to the system than to the community members it is originally designed to serve. This may in turn undermine a core purpose of restorative justice—to place greater control of justice responses in the hands of communities.

Theo Gavrielides has expressed a similar concern, warning of the “McDonaldization” of restorative justice. He warns that if standards are approached poorly, the restorative justice movement’s “diversity and ability to deliver equity and fairness at a local level, its creativity and innovation will all die out.” Speaking in the UK context, he specifically contends that “ignoring victims while imposing top down controls on restorative justice is not the way forward.”<sup>22</sup>

## STANDARDS, COLONIZATION AND MARGINALIZED COMMUNITIES

Perhaps nowhere is the concern over cooptation of restorative justice (in the form of imposed standards) greater than with respect to marginalized and Indigenous groups, where state-imposed justice has already been a powerful facet of colonization. As Johnstone describes,

*Perhaps the core worry [...] is that standardization will mean that certain powerful figures or agencies, especially western ones, will impose their preferred model of restorative*

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<sup>19</sup> Johnstone, G. (2012). The standardization of restorative justice. In T. Gavrielides (Ed.), *Rights and restoration within youth justice* (pp. 91-115). Whitby, ON: de Sitter Publications. (p. 106)

<sup>20</sup> Braithwaite, J. (2002). Setting standards for restorative justice. *The British Journal of Criminology*, 42(3), 563-577. <https://doi.org/10.1093/bjc/42.3.563>

<sup>21</sup> Erbe, C. (2004). What is the role of professionals in restorative justice? In H. Zehr & B. Toews (Eds.), *Critical issues in restorative justice* (pp. 289-298). Monsey, NY: Criminal Justice Press. (p. 289)

<sup>22</sup> Gavrielides, T. (2013). Where is restorative justice heading? *Probation Junior*, 5(1), 79-95. (p. 88)

*justice practice on all others, with non-western ways of doing restorative justice being denigrated as poor practice.*<sup>23</sup>

Canadian Indigenous legal scholars Val Napoleon and Collette Arcand remind us that restorative justice and Indigenous justice are not synonymous.<sup>24</sup> They point out that there is an ongoing temptation within non-Indigenous rhetoric, to “fold-in” Indigenous ways of doing justice into the restorative justice movement, as if they were the same or very similar. They note that “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.”<sup>25</sup> Napoleon and Arcand’s critique suggests that whatever standards may be developed (by communities or institutions) for and by Western restorative justice programs cannot be presumed to apply to Indigenous groups doing justice. This is not meant to preclude the possibility that standards could be developed and implemented alongside Indigenous (including Native American) communities as partners and knowledge keepers, rather to suggest they should not be developed by non-Indigenous people then imposed upon Indigenous communities.

The Maori scholar Juan Tauri offers this sharp critique of the institutionalization of restorative justice in New Zealand/Aotearoa:

*The policy process established in New Zealand takes the form of top-down managerialism, which applies the techniques of business accounting and ethics to the policy development process. The central focus of this policy process is on fiscal responsibility, accountability and measurable outcomes. Top-down managerialism as a policy technique does not have a positive history in criminal justice, particularly where indigenous peoples are concerned. ...The reasons for this are many, but broadly speaking it can be explained by the fact that indigenous justice is a component of a bottom-up social movement (tino rangatiratanga (sovereignty)) for which a key philosophical fundamental requires Maori (meaning hapu (sub-tribe), iwi (tribe) and urban authorities) to exercise power accountably. In contrast, managerialist (restorative) justice is by definition a state-centered, top-down process, designed to ensure state control of program design, delivery and funding.*<sup>26</sup>

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<sup>23</sup> Johnstone, G. (2012). The standardization of restorative justice. In T. Gavrielides (Ed.), *Rights and restoration within youth justice* (pp. 91-115). Whitby, ON: de Sitter Publications. (p. 107)

<sup>24</sup> Arcand, C., & Napoleon, V. (2008). Where is the law in restorative justice? In Y. D. Belanger (Ed.), *Aboriginal self-government in Canada – Current trends and issues* (3<sup>rd</sup> ed.). Saskatoon, SK: Purich Publishing. Online: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2264801](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2264801)

<sup>25</sup> Arcand, C., & Napoleon, V. (2008). Where is the law in restorative justice? In Y. D. Belanger (Ed.), *Aboriginal self-government in Canada – Current trends and issues* (3<sup>rd</sup> ed.). Saskatoon, SK: Purich Publishing. Online: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2264801](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2264801)

<sup>26</sup> Tauri, J. M. (2009). An Indigenous perspective on the standardization of restorative justice in New Zealand and Canada. *Indigenous Policy Journal*. Retrieved from <https://ipjournal.wordpress.com/2009/12/16/an-indigenous-perspective-on-the-standardisation-of-restorative-justice-in-new-zealand-and-canada/>

Tauri ultimately encourages Maori to develop their own standards consistent with the Maori way of “doing what is right,” that is, *tika*. He notes:

*“Having critiqued the state-centred process of standardisation, I now want to pose a contradiction – standards are not all bad! As indigenous practitioners, theorists and researchers we should all be concerned with the quality of programme design and delivery. After all, there is such a thing as poor practice, which can be just as damaging as no practice. Surely, we are all concerned with ensuring that tikanga is appropriately applied when dealing with the actions that have torn the social fabric of our communities? One limitation of the state-centred process is its use of the terms ‘standard’ and ‘standardisation,’ both of which imply there is one way of doing things. It may be more helpful and accurate for us to use the term tika in its broadest sense, meaning ‘doing what is right,’ As Maori we know that there are many ways of doing ‘it’ right, as hapu and iwi determine their own tikanga.”*<sup>27</sup>

Paralleling this critique, the African American scholar Morris Jenkins notes that restorative justice continues to evolve (in the United States) within a society where “institutional racism is the foundation of the power imbalance between Whites and Non-whites.” Within this context, he points out:

*“if the state or agents of the state remain a dominant participant in the restorative justice process, African Americans will continue to mistrust the process. The restorative justice process will be perceived as simply an expression of the social control mechanism of the criminal justice system.”*<sup>28</sup>

It may be concluded from Jenkins that for African American communities impacted by reforms in restorative justice, this mistrust of state agencies would extend to the implementation of standards; a “top-down” or government-led approach to regulation of restorative justice, would likely be viewed as contrary to African American emancipation and self-determination.

In the UK, the Restorative Justice Council’s approach to standards has been critiqued on the premise that the provisions may create barriers due to cost, and there are concerns about the level of due process in the creation of the accreditation measures. For example, Gavrielides points out that:

*In order to enter into the process of assessment, a fee ranging from £3,000 to £1,500 will have to be paid. According to the consultation document, the standards and quality mark*

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<sup>27</sup> Tauri, J. M. (2009). An Indigenous perspective on the standardization of restorative justice in New Zealand and Canada. *Indigenous Policy Journal*. Retrieved from <https://ipjournal.wordpress.com/2009/12/16/an-indigenous-perspective-on-the-standardisation-of-restorative-justice-in-new-zealand-and-canada/>

<sup>28</sup> Jenkins, M. (2004). How do culture, class and gender affect the practice of restorative justice? In H. Zehr & B. Toews (Eds.), *Critical issues in restorative justice* (pp. 315-328). Mosney, NY: Criminal Justice Press. (p. 319)

*were drafted by an “expert steering group.” How and who selected its members remains unknown. What is certain, however, is that victims were not included. What is also certain is that organisations representing and advocating for victims were also excluded from the process.”<sup>29</sup>*

In sum, the literature offers a vital caution about the development and implementation of standards: we must not presume that marginalized, indigenous and/or other self-determining groups will wish to assist in developing or abide by standards aimed at mainstream society. These sources suggest an imperative to seek out dialogue with marginalized voices, honoring their autonomy and self-determination in creating or not creating their own culturally-specific frameworks for maintaining quality.

## A PRINCIPLED APPROACH TO STANDARDS

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*“Restorative justice programs should be evaluated according to how effectively they deliver restorative values.”<sup>31</sup>*

*John Braithwaite*

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Scholarly literature suggests that restorative justice principles must be the basis for any development of restorative justice standards. 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.

*“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. 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.”<sup>31</sup>*

Simply put, principles remind us of *why* we do something, which is an essential starting point to the questions of “what” we do or how we measure our success. As Jennifer Llewelyn et al. contend, the restorative justice field has often fallen into a pattern of measuring success against the purpose and goals

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<sup>29</sup> Gavrielides, T. (2013). Where is restorative justice heading? *Probation Junior*, 5(1), 79-95. (p. 87)

<sup>30</sup> Braithwaite, J. (2002). *Restorative justice and responsive regulation*. New York, NY: Oxford University Press. (p. 14)

<sup>31</sup> Braithwaite, J. (2002). *Restorative justice and responsive regulation*. New York, NY: Oxford University Press. (p. 14)

of the Criminal Justice System (CJS).<sup>32</sup> For example, we want our programs to demonstrate lower recidivism rates, greater compliance with agreements and more satisfied participants than would emerge out of a courtroom. While these are reasonable goals, Llewelyn et. al argue, they do not adequately capture the spirit of the drive or purpose behind restorative justice. This focus on criminal justice system goals can divorce us from the broader goals and vision of restorative justice, including improving society, fortifying relationships between people, addressing injustice, providing inclusion, offering reintegration and repairing harm.<sup>33</sup> Seen in this light, standards represent an effort to set out measurable operational norms that would advance and give form to the principles and goals of restorative justice.

Developing standards in this way requires an ongoing reflective process that allows time to evaluate “how are we doing?” and, “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 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.*<sup>34</sup>

It is possible that this resistance to evaluations and their results may be linked to the reality that many traditional evaluation methodologies are done *to* restorative justice programs, rather than *with* them. One compelling model of evaluation, resonant with many restorative justice principles, is the model mapped out by Rita O’Sullivan in *Practicing Evaluation: A Collaborative Approach*.<sup>35</sup> Such an approach may provide a useful ingredient in the exploration of how to measure fidelity with standards.

## DOMESTIC AND INTERNATIONAL EXPERIMENTS WITH STANDARDS

As we have seen by now, the issue of standards in restorative justice is both complex and controversial. It may therefore be instructive to examine the approaches of other regions and jurisdictions, in order to weigh those approaches in light of Oregon’s priorities and values. What follows is a partial (non-comprehensive) examination of standards being used around the world, along with a brief discussion on

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<sup>32</sup> Llewellyn, J., Archibald, B. P., Clairmont, D., & Crocker, D. (2013). Imagining success for a restorative approach to justice: Implications for measurement and evaluation. *Dalhousie Law Journal*, 36(2), 281. Retrieved from [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2417301](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2417301)

<sup>33</sup> Llewellyn, J., Archibald, B. P., Clairmont, D., & Crocker, D. (2013). Imagining success for a restorative approach to justice: Implications for measurement and evaluation. *Dalhousie Law Journal*, 36(2), 281. Retrieved from [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2417301](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2417301)

<sup>34</sup> Zehr, H. (2007). Evaluation and restorative justice principles. In E. Elliott & R. M. Gordon (Eds.), *New directions in restorative justice – issues, practice, evaluation* (pp. 296-303). Portland, OR: Willan Publishing.

<sup>35</sup> O’Sullivan, R. G. (2004). *Practicing evaluation: A collaborative approach*. Thousand Oaks, CA: Sage Publications.

each region's approach to upholding practitioner or program accountability to the standards (where that information is available).

## UNITED STATES

### US Guidelines

In 2000, the Office for Victims of Crime partnered with the Center for Restorative Justice and Peacemaking (University of Minnesota) to produce "[Guidelines for Victim-Sensitive Victim Offender Dialogue: Restorative Justice Through Dialogue](#)."<sup>36</sup> The document outlines recommended (mainly non-measurable) procedures and guidelines for program development and practice in Victim Offender Dialogue.

The National Association of Victim Service Professionals in Corrections (NAVSPIC) has produced "[Victim-Centered Victim Offender Dialogue: 20 Essential Principles for Corrections-based Victim Services](#)."<sup>37</sup> This resource is specific to restorative justice in correctional settings, however some provisions may also be instructive for practitioners and programs in non-correctional environments. The document does not constitute measurable standards.

The Victim Offender Mediation Association (VOMA) published "[Recommended Ethical Guidelines](#),"<sup>38</sup> These include guidelines pertaining to:

- Preamble (containing definitions and principles of Victim Offender Mediation)
- The Process (training for facilitators, case screening and facilitator responsibilities and activities)
- Procedures (in mediation)
- Impartiality and Neutrality
- Confidentiality and Exchange of Information
- Self-Determination
- Professional Advice
- Parties' Ability to Participate in Mediation
- Concluding Mediation
- Training and Education
- Costs and Fees
- Advertising
- Relationship with Other Professionals

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<sup>36</sup> Umbreit, M.S., Greenwood, J. (2000). *Guidelines for Victim-Sensitive Victim-Offender Mediation: Restorative Justice Through Dialogue*. Retrieved from [https://www.ncjrs.gov/ovc\\_archives/reports/96517-gdlines\\_victims-sens/ncj176346.pdf](https://www.ncjrs.gov/ovc_archives/reports/96517-gdlines_victims-sens/ncj176346.pdf)

<sup>37</sup> Crocker, M., Deichert, D., Ho, K., Koinis, S., Miner, K., Newlin, L., . . . Wilson, J. (n.d.). *Victim-centered victim offender dialogue in crimes of severe violence: 20 essential principles for corrections-based victim services*. Retrieved from <http://restorativejustice.org/am-site/media/victim-centered-victim-offender-dialogue-in-crimes-of-severe-violence.pdf>

<sup>38</sup> Victim-Offender Mediation Association. (n.d.). *Recommended ethical guidelines*. Retrieved from <http://voma.org/docs/ethics.pdf>

- Media Policy

There is no apparent formal accountability mechanism attached to any of these US-wide guidelines.

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## Colorado

The Colorado Restorative Justice Council, in partnership with the Colorado Coalition of Restorative Justice Directors, has published a [“Restorative Justice Facilitator Code of Conduct and Standards of Training and Practice.”](#)<sup>39</sup> The document contains standards of conduct for individual facilitators, including provisions regarding:

- Client participation
- Impartiality
- Conflicts of interest
- Competence
- Respect for privacy
- Quality of the Process
- Advertising and Solicitation
- Fees and Other Charges
- Advancement of Restorative Justice Practices
- Standards of Training
- Standards of Practice
- Standards for High-Risk Victim/Offender Dialogue

The standards range from measurable provisions (e.g. “A restorative justice facilitator should provide a process for filing of grievances to someone, other than themselves, for all participants in the restorative justice process,” or “Facilitators should participate in restorative justice processes as a community member prior to becoming a restorative justice facilitator”) to non-measurable guidelines (e.g. “Facilitators should maintain an atmosphere of mutual respect for all participants”). The document is accompanied by other works which recommend guidelines for restorative justice facilitator training.

Regarding expectations around accountability to these standards, the Colorado Restorative Justice Council website states:<sup>40</sup>

*In the spirit of restorative practices, the RJ Council asks all practitioners, facilitators, trainers, consultants, teachers and others who claim to do restorative justice practices or restorative practices in schools to voluntarily commit to these best practices. There is currently no governing or regulatory body to hold people accountable to these guidelines and recommendations.*

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<sup>39</sup> Restorative Justice Colorado. (n.d.). *Colorado standards of practice*. Retrieved from <https://www.rjcolorado.org/restorative-justice/colorado-standards-of-practice>

<sup>40</sup> Restorative Justice Colorado. (n.d.). *Colorado standards of practice*. Retrieved from <https://www.rjcolorado.org/restorative-justice/colorado-standards-of-practice>

While currently the Colorado standards remain on a voluntary opt-in basis, personal communication with a Colorado stakeholder involved in this effort suggests that concern over formal accountability to standards – through, for example, the formation of a state-wide professional association – is a recurring conversation in Colorado.

## CANADA

### British Columbia

In 2016 a document entitled “[Recommended Principles and Standards for Restorative Justice in Criminal Matters](#)” was produced by a group of British Columbia practitioners and researchers, with support from BC’s Ministry of Public Safety and Solicitor General.<sup>41</sup> The document was developed collaboratively with the primary intent of enhancing safeguards for crime victims and survivors involved in restorative justice. This initiative included a province-wide consultation process with victims and survivors, victim assistance providers, restorative justice facilitators and administrators, Indigenous justice providers, and other stakeholders. The details and FAQ from the process are documented separately from the document.<sup>42</sup>

Despite its robust consultation process, the document is notable for its brevity (7 pages total), containing a recommended set of principles to be read in concert with 22 practice standards.<sup>43</sup> Many of the standards are flexible in how they are achieved, and speak to restorative justice programs creating their own policies to enhance safeguards to participants, especially victims (e.g. creating policies for confidentiality, training volunteers, receiving informed consent from participants). In the same vein, the document’s pre-amble states,

*The Standards outlined in this document cover a field in which thought is constantly developing. They are not intended to preclude experiment and creative practices, provided these are in harmony with the Principles and seek to further the purposes that derive from the text of the Standards as a whole.*

The practice standards include recommended standards for restorative justice program administration and practice. Examples include:

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<sup>41</sup> Lyons, A., Paras, C., Abramson, A., Lindquist, G., Grant-Warmald, S., Field, J., & Kalaski, T. (2016). *Recommended principles and standards for restorative justice providers in criminal matters*. Retrieved from [http://www.cjibc.org/sites/cjibc.org/files/Standards\\_2016final.pdf](http://www.cjibc.org/sites/cjibc.org/files/Standards_2016final.pdf)

<sup>42</sup> Lyons, A., Paras, C., Abramson, A., Lindquist, G., Grant-Warmald, S., Field, J., & Kalaski, T. (2016). *Recommended principles and standards for restorative justice providers in criminal matters*. Retrieved from [http://www.cjibc.org/sites/cjibc.org/files/Standards\\_2016final.pdf](http://www.cjibc.org/sites/cjibc.org/files/Standards_2016final.pdf)

<sup>43</sup> Lyons, A., Paras, C., Abramson, A., Lindquist, G., Grant-Warmald, S., Field, J., & Kalaski, T. (2016). *Recommended principles and standards for restorative justice providers in criminal matters*. Retrieved from [http://www.cjibc.org/sites/cjibc.org/files/Standards\\_2016final.pdf](http://www.cjibc.org/sites/cjibc.org/files/Standards_2016final.pdf)

- “The service provider shall have a policy of asking primary participants for their input in selecting a physical setting for any upcoming preparation meeting or dialogue with other affected parties.”
- “The service provider shall have a policy outlining procedures and timelines for the collection, retention and destruction of all data and case file information, in accordance with the law.”

These standards are currently being voluntarily piloted by several restorative justice programs within British Columbia. While there are no formal accountability mechanisms for restorative justice in BC, there are examples of experimentation with peer support models. One experiment that is ongoing is restorative justice programs choosing to “partner” with another restorative justice program and engaging in monthly calls to reflect on how the implementation of standards is unfolding. Anecdotally, this process has reported favorable results in that restorative justice programs are learning a great deal about how to implement standards, while also strengthening their relationships with other restorative justice programs in the province.

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## **Nova Scotia**

The province of Nova Scotia is considered to have the most comprehensive restorative justice initiative in Canada.<sup>44</sup> The Nova Scotia Restorative Justice Program (NSRJP) is administered in partnership between the provincial government, justice stakeholders and community justice providers. In 2007 the Program published the “[Restorative Justice Program Protocol](#).”<sup>45</sup> The document outlines:

- Program Goals and Objectives
- Service Deliver protocols
- Eligibility Criteria
- Referral Process (included protocols for Pre-Charge, Post-Charge, Post Finding of Guilt, and Post Sentence
- Restorative Justice Process Options
- Restorative Justice Agreements
- Supervision of Agreements
- Administrative Requirements (e.g. data retention/storage and statistical information gathering)
- Agency Standards (including volunteer screening, training and supervision)

Nova Scotia has undertaken significant work in developing research frameworks and quality controls within restorative justice. In 2007 the Nova Scotia Restorative Justice Community University Research

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<sup>44</sup> Nova Scotia Restorative Justice Community University Research Alliance. (n.d.). *The Nova Scotia restorative justice program*. Retrieved from <http://www.nsrj-cura.ca/home/the-nova-scotia-restorative-justice-program>

<sup>45</sup> Nova Scotia Justice. (2007). *Restorative justice program protocol*. Retrieved from <https://novascotia.ca/just/rj/documents/Restorative%20Justice%20Protocol%20Eng%20Web.pdf>

Alliance (NSRJ-CURA) published the “[Results-Based Accountability Framework](#)” which outlines a province-wide approach to participatory research of restorative justice program outcomes.

## NEW ZEALAND

Juvenile/Youth Justice in New Zealand is administered by the Ministry of Vulnerable Children, whose approach to all child and youth offending is governed by the [Children’s and Young People’s Wellbeing Act 1989](#). The Act specifies in detail the responsibilities of all criminal justice personnel involved in the system, including that of Youth Justice Coordinators who convene Family Group Conferences (a collaborative practice which is often considered as under the rubric of restorative justice). New Zealand Youth Justice Coordinators are thus accountable to their nation’s legal standards.

Since the mid-1990s adult criminal offending in New Zealand has increasingly been addressed through restorative approaches. Cases referred to conferencing are facilitated by non-governmental agencies, with the Ministry of Justice providing core funding while maintaining standards for best practices,<sup>46</sup> training and accreditation.<sup>47</sup> Services are delivered by individual non-profit organizations under the auspice of Restorative Practices Aotearoa, a professional association of restorative justice providers that oversees quality practice through accreditation and other processes.<sup>48</sup> New Zealand’s approach to adult restorative justice has yielded positive results, both in terms of victim-satisfaction measures<sup>49</sup> and reductions in re-offending.<sup>50</sup> However, the country’s approach has not been without critique, particularly as related to appropriately honoring Indigenous knowledge and voices, as noted by Tauri, above.<sup>51</sup>

The New Zealand Ministry of Justice [website](#) outlines its approach to evaluation, standards and accreditation.<sup>52</sup> The Ministry has detailed a suite of standards related to different types of offences which include “Specialist standards for family violence cases,” “Standards for sexual offending,” and a more general “Best practice framework.”

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<sup>46</sup> New Zealand Ministry of Justice. (2004). *Restorative justice: Best practices in New Zealand*. Retrieved from [www.justice.govt.nz/about/lawyers-and-service-providers/service-providers/restorative-justice-providers](http://www.justice.govt.nz/about/lawyers-and-service-providers/service-providers/restorative-justice-providers)

<sup>47</sup> Resolution Institute. (n.d.). *Qualifications*. Retrieved from <https://www.resolution.institute/accreditation/rj>

<sup>48</sup> Restorative Practices Aotearoa. (n.d.). Retrieved from <https://www.restorativejusticeaotearoa.org.nz/>

<sup>49</sup> New Zealand Ministry of Justice. (2011). *Victim satisfaction with restorative justice: A summary of findings*. Retrieved from [www.justice.govt.nz/assets/Documents/Publications/Restorative-Justice-Victim-Satisfaction-Survey-Summary-of-Findings.pdf](http://www.justice.govt.nz/assets/Documents/Publications/Restorative-Justice-Victim-Satisfaction-Survey-Summary-of-Findings.pdf)

<sup>50</sup> New Zealand Ministry of Justice. (2014). *Reoffending analysis for restorative justice cases 2008-2011*. Retrieved from [www.justice.govt.nz/assets/Documents/Publications/rj-reoffending-results-report-20140403.pdf](http://www.justice.govt.nz/assets/Documents/Publications/rj-reoffending-results-report-20140403.pdf)

<sup>51</sup> Tauri, J. M. (2009). An Indigenous perspective on the standardization of restorative justice in New Zealand and Canada. *Indigenous Policy Journal*. Retrieved from <https://ipjournal.wordpress.com/2009/12/16/an-indigenous-perspective-on-the-standardisation-of-restorative-justice-in-new-zealand-and-canada/>

<sup>52</sup> New Zealand Ministry of Justice. (n.d.). *Restorative justice providers*. Retrieved from <https://www.justice.govt.nz/about/lawyers-and-service-providers/service-providers/restorative-justice-providers/>

New Zealand has developed comprehensive formal accreditation schemes for restorative justice practices. The accreditation process is contracted out by government and is operated by the [Resolution Institute](#).<sup>53</sup> There are different tiers to practitioner accreditation, including:

1. Restorative Justice Facilitator – Trained Status: Has the skills to facilitate restorative justice cases with an accredited facilitator
2. Restorative Justice Facilitator Accreditation: Has the skills to facilitate restorative justice cases
3. Restorative Justice Facilitator Advanced Accreditation: Has the skills to facilitate complex cases and supervise and mentor others.

## EUROPE

The European Committee on Crime Problems, a body of the Council of Europe, recently published “[Draft Recommendation of the Committee of Ministers to Member States Concerning Restorative Justice in Criminal Matters](#).”<sup>54</sup> This non-binding working document proposes a definition and principles of restorative justice, along with a legal description of the relationship between restorative justice services to the judicial system. The document states,

*“Restorative justice services should be governed by recognized standards. Standards of competence and ethical rules, and procedures for the selection, training, support and assessment of facilitators, should be developed.”*

The document goes on to specify recommended guidelines for the operation of restorative justice services, pertaining to service provider agencies and facilitators. An example of one such guideline is:

*40. Facilitators should be recruited from all sections of society and should generally possess good understanding of local cultures and communities. They should possess the sensitivities and capacities which enable them to utilize restorative justice in intercultural settings.*<sup>55</sup>

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<sup>53</sup> Resolution Institute. (n.d.). *Qualifications*. Retrieved from <https://www.resolution.institute/accreditation/rj>

<sup>54</sup> European Committee on Crime Problems. (2017). *Draft recommendation CM/Rec (2018) XX of the Committee of Ministers to member states concerning restorative justice in criminal matters*. Retrieved from <https://rm.coe.int/draft-recommendation-cm-rec-2018-xx-concerning-restorative-justice-/168075f2b7>

<sup>55</sup> European Committee on Crime Problems. (2017). *Draft recommendation CM/Rec (2018) XX of the Committee of Ministers to member states concerning restorative justice in criminal matters*. Retrieved from <https://rm.coe.int/draft-recommendation-cm-rec-2018-xx-concerning-restorative-justice-/168075f2b7> (p. 6)

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## United Kingdom

The UK-based [Restorative Justice Council](#) (RJC) offers a variety of resources on their website, including a “Practitioner Code of Practice” which contains measurable standards, for example: “Practitioners must have completed, as a minimum, facilitation training delivered by an RJC registered training provider.”<sup>56</sup>

The Practitioner Code of Practice is a 4-page document and its stated purpose is:

1. To protect individuals receiving restorative services and those involved in the delivery of restorative services, and
2. To set out the minimum standards for restorative practitioners

The RJC has developed comprehensive accreditation process called the “[Restorative Services Quality Mark](#)” (RSQM)<sup>57</sup> The Ministry of Justice Restorative Justice Action Plan, published in November 2012, tasked the RJC with the development of standards and a national accreditation framework. The process, costing anywhere from £1500 (Small agency) to £4500 (Large agency such as a police force) is described in the following stages:

1. Online health check
2. Support to develop your service (if required)
3. Apply and pay to start formal RSQM assessment process
4. Assessor allocated
5. First site visit
6. Develop online portfolio
7. Final site visit
8. Final Report
9. Receive your RSQM.

## SOUTH AFRICA

[Practice Standards for Restorative justice—A Practitioners Toolkit](#)<sup>58</sup> (South Africa) outlines a set of 33 standards, including a self-assessment using “yes/no” responses to measure whether the standard has been met. Each standard is linked to a stated principle. The preamble discusses the difference between standards and principles, while emphasizing their interest in creating measurable evaluative tools. In the Introduction of the document, 34 principles are offered and specific principles are referred to in the Standards section. The stated purpose of the document is to (1) uphold human rights standards, and (2) maintain integrity of restorative justice values and principles. The document was commissioned by the Restorative Justice Initiative (RJI) with funding support from the Royal Danish Embassy and their process

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<sup>56</sup> Restorative Justice Council. (n.d.). *RJC practitioner code of practice*. Retrieved from <https://restorativejustice.org.uk/resources/rjc-practitioner-code-practice>

<sup>57</sup> Restorative Justice Council. (2015). *The restorative service quality mark FAQs*. Retrieved from [https://restorativejustice.org.uk/sites/default/files/files/RSQM%20FAQs\(3\).pdf](https://restorativejustice.org.uk/sites/default/files/files/RSQM%20FAQs(3).pdf)

<sup>58</sup> Frank, C., Skelton, A. (2007). *The Practice Standards for Restorative Justice: A Practitioners Toolkit*. Retrieved from <http://restorativejustice.org/10fulltext/frankcheryl.pdf>

of developing the standards (including the consultation process) is detailed in Part 2 of the document itself.

The standards reflect an attempt to maintain a flexible and responsive approach to restorative justice, while maintaining measurability. For example, Standard 31 states: “Restorative justice programmes have a duty to establish and administer mechanisms through which programme participants may complain about services.” (pg. 34). They then follow up this standards with “Measurable Outcomes” as follows:

<b>Measurable Outcomes:</b>	<b>Yes</b>	<b>No</b>
<b>Does the programme have a complaints mechanism?</b>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Have participants been informed about how it can be used?</b>	<input type="checkbox"/>	<input type="checkbox"/>

In this way, individual programs may develop complaint mechanisms that are suitable to their context, and the practitioner is reminded that this standard is related to the value/principle of accountability.

Part 4 of the document sets out to help organization identify benchmarks to evaluate their performance of the standards, and references the potential to engage an external evaluator for this purpose. There is no reference to broader schemes of accountability, such as evaluation between programs or accreditation processes. One can conclude that each program is responsible for its own adherence to standards, if it so desires, and at present there appears to be no oversight body in South Africa.

## **BEYOND RESTORATIVE JUSTICE**

The field of restorative justice is not the first to contend with the issue of standards and accountability to the standards. As practitioners and advocates advance in this area, it is worthwhile to consider how other fields of practice have taken steps to develop accountability structures for their quality standards. Appendix 2 has a list of these areas for consideration and application where appropriate. This list can simply be food for thought for the pioneering work of developing restorative justice standards.

## **IN CONCLUSION**

Ultimately, the development of standards and accreditation in restorative justice worldwide is still in its infancy, with some regions showing considerable leadership in its advancement (for better or for worse). The debate on whether and how to create standards and accreditation is a valuable one, but one that must not stifle brave experimentation and innovation in advancing the quality of the field. Of utmost consideration is how to maintain fidelity to the restorative justice values of inclusion and diversity while also instilling confidence in the worthiness of the practice. Groups like Oregon seeking to map its own standard-development process may find the summary of lessons contained in this document useful.

# EXPLORING STANDARDS IN OREGON

## OVERVIEW

As detailed in the Methodology section (above), Just Outcomes researchers conducted focus groups across Oregon, on the topic of restorative justice standards. These focus groups were convened by local restorative justice program administrators and included both RJ practitioners and other stakeholders. To augment this learning, the researchers conducted a survey and several individual interviews. The themes shared through these channels can be summarized in five areas of discussion.

1. The variety of ways that restorative justice is viewed and understood by criminal justice system stakeholders, community partners, and people who have undergone a restorative justice process.
2. The shared concerns and potential benefits of the idea of implementing standards for restorative justice in Oregon.
3. Concerns regarding the process used to develop standards in Oregon.
4. How accountability to standards might be conceptualized in alignment with the values and principles of restorative justice.
5. If standards were to be developed, what should the content or focus of those standards be?

One focus group was convened specifically for school partners, stakeholders, and restorative justice practitioners in the Portland-Metro area. Though many of the things discussed in the above themes were repeated in the school-based focus group, there also were distinct themes that are important to summarize. These are summarized in the final section.

## PERCEPTIONS OF RESTORATIVE JUSTICE

The perceptions of restorative justice partners, stakeholders, and people who had been directly impacted by restorative justice services can be grouped within five general topic areas:

- 1) their general understandings about the approach of restorative justice;
- 2) the perceived and experienced outcomes of restorative justice;
- 3) client-specific discussion, regarding who it does and doesn't serve well;
- 4) concern about how the public and system understands restorative justice; and,
- 5) perceptions around the implementation of restorative justice

The question about participants' perceptions of restorative justice was framed explicitly to encourage not only personal perceptions, but also those of the participants' stakeholder groups. For example, we would ask, "what are your colleagues, clients, or system-partners saying to you about restorative justice?" The purpose of this framing was to give permission to participants to share critical perspectives and concerns about restorative justice, which we believed would be valuable information for the restorative justice practitioners in the room and for the readers of this report. That said, much of the perspectives shared were favorable to restorative justice. While the ambivalent and critical views were particularly important to us in this study, the following summary includes all views for the sake of maximal accuracy and transparency.

## GENERAL PERCEPTIONS OF RESTORATIVE JUSTICE

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### **Restorative Justice Evokes Personal Experiences and Feelings**

For many participants this question around perception of restorative justice elicited personal memories and associations. Some discussed how it aligned with their parenting, one person described it as being “music to my ears,” another explained that it is a “way of being that works,” For many it conjured up positive emotions and descriptions, but for some it elicited concern and distrust.

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### **Restorative Justice is Attentive to Relational and Individual Needs**

Based on participant comments, there is a perception by many that restorative justice is both relational in its approach and goals, while at the same time attentive to individual needs with an emphasis on providing agency/choice to those most directly impacted. There were several comments that emphasized that the strength and uniqueness of restorative justice is in its attention to the broad relational needs that emerge after harm and crime. This is what stands out for some when contrasting restorative justice with the criminal justice system.

While many focused on the attention to relational needs in restorative justice, others also emphasized the facilitative and individualized approach to the work. It was important to some that restorative justice provides ownership and agency/choice as a critical part of the process. For these participants, the capacity to modify processes to attend meaningfully to the needs of the individuals involved was what sets restorative justice apart from the criminal justice system.

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### **Restorative Justice Requires a Paradigm Shift**

It was asserted throughout many of the focus groups that restorative justice both indicates a shift from our society’s focus on punishment as a response to harm and crime. It provides a framework for shifting the paradigm and response away from “punitive responses,” while also being difficult to practice in the reality of a paradigm that relies on punishment.

This shift was also discussed by some as a key obstacle in the successful implementation of restorative justice; that due to the current paradigm and environment, we are left with doing (or perceived as doing) “soft justice.” Punishment as a theory of change, the notion of personal responsibility without attention to social context, and political polarization, all were seen to contrast with the values and principles of restorative justice, making it difficult to practice with integrity.

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### **Restorative Justice as Soft Justice**

Perhaps as a reflection of restorative justice in contrast to a punitive paradigm, participants also reflected on how many of their peers and professional alliances believe restorative justice to be “soft on crime,” “touchy feely,” “lacking accountability,” and “justice-light.” This was primarily expressed as views held by others not in the room rather than an expression of personal beliefs among participants.

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### **Restorative Justice as Coercion**

Some expressed that restorative justice practices can be used to coerce participants toward prescribed goals of the system, program, or practitioner – including the potential of perpetuating inequity and colonization. The expectation of participation, what outcomes are “accepted”, and how the issues are framed in restorative justice encounters for both those that cause harm and for those that are harmed was expressed as sometimes harmful and problematic.

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### **Restorative Justice Varies in Its Cultural Responsiveness**

One potentially instructive theme that emerged was that while some people felt that a strength of restorative justice was in its ability to adapt according to cultural needs of those participating, others expressed the opposite – that in fact restorative justice has failed to be culturally relevant. For example, one participant explained that when they speak to their community about restorative justice it elicits negative thoughts due to how misaligned it is with their understanding of what responses are necessary after harm. Another participant explained how frustrating it is to get calls from the Latino Community explaining that they are unable to access restorative justice services in Spanish.

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### **Schools-Specific Perceptions and Experiences**

For some, the term restorative justice took their mind directly to its application within the school context. Some of the perceptions and beliefs that emerge from that context are specific to that context. Some examples of these expressions included:

- the feeling that restorative justice in schools needs to be prioritized within the field;
- the opportunity that restorative justice offers in schools to teach students to be in meaningful dialogue with one another, while learning what it means to be a part of a community – along with the ripple effect that can have on the larger community over time; and,
- the opportunity that restorative justice presents for schools, but the many obstacles that get in the way of achieving this opportunity.

## **OUTCOMES OF RESTORATIVE JUSTICE**

Some participants asked about their perceptions of restorative justice reflected specifically on perceptions about the outcomes of restorative justice processes. Following are some of the themes that emerged regarding the outcomes.

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### **Restorative Justice Results in Reparation, Healing, and Transformation**

For many participants, restorative justice elicited experiences and perceptions of the repair, healing, and/or restoration that occurs for those that participate. It was mentioned that these outcomes emerge due to the focus restorative justice places on making things right, on collaboration, and on restoration of balance in the impacted relationships.

Some participants pointed to their own, or others’ experiences of restorative justice as personally transformative. That is, they observed that restorative justice acts as an agent of change for how people

see each other and themselves; how people think about responsibility and accountability; and how peoples' lives can be changed positively through restorative justice.

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### **Restorative Justice Builds Connection**

Participants shared the perception that restorative justice results in human connection, and that is important in a current social environment of disconnection. There were several participants that emphasized connection as being foundational to restorative justice philosophy. It was also referenced that restorative justice can result in understanding, care and empathy within diverse communities.

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### **Restorative Justice Can Foster Equity**

Equity in process and outcome was a major theme for many of the focus groups and will show up under several of the major headings below. In the context of perceptions and beliefs about restorative justice outcomes, equity was raised as a priority outcome that restorative justice can and perhaps should be defined by. One participant stated that “justice equals equity, and nothing else,” emphasizing the importance of restorative justice to “restore balance.” Restorative justice was also seen as a potential interrupter of inequity in the “system” – that it has the potential to disrupt the school to prison pipeline for example, or to confront the deep, systemic, and historical harm perpetrated on many marginalized groups throughout our history.

On the other hand, some participants reported having witnessed restorative justice processes facilitated in a way that perpetuates white supremacy. The example provided was a circle process where race and equity emerged in the context of the relationship and harm, but was not addressed because it was not “considered” part of the process or issue the circle was meant to address.

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### **Restorative Justice Can Be Transformative for Those That Cause Harm**

As one of the most commonly emphasized outcomes of restorative justice, many participants linked restorative justice with the potential it holds for changing the lives of those that have caused harm. This transformation was defined as building the capacity of those that cause harm to be successfully integrated back into society; “helping” them instead of punishing them; building the moral and ethical capacity of those that cause harm – specifically their understanding of how their actions impact others (empathy development); mitigating or reducing shame and disconnection that those that cause harm are experiencing; “changing their hearts;” and diverting them from the harmful impacts of the criminal justice system.

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### **Restorative Justice Results in Accountability**

Another outcome that was expressed as a result of restorative justice was accountability. One participant described it as “a whole new level of accountability.” Several participants however simply responded with this one word when describing their perceptions of restorative justice – “accountability.”

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### **Restorative Justice Results in Problematic Outcomes**

Some described their perceptions or experiences of restorative justice outcomes in negative terms. One victim-assistance professional described their colleague's skepticism of the idea of creating standards for restorative justice through the statement "nothing will ever come of it," and then declining to participate in the focus group. Another discussed the problems of fairness and balance in that one person that caused harm might get an entirely different consequence than another that committed an identical crime just based on their privilege and access. The question was asked "how can you defend the outcomes when they are so subjective?" Another spoke to the participants of restorative justice that were not happy with the outcomes of the process.

### **WHO DOES RESTORATIVE JUSTICE SERVE?**

Many participants perceptions and experiences of restorative justice focused on the "who" of restorative justice. Discussions of who it serves and who it does not serve were strong themes in response to this general inquiry.

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### **Restorative Justice is Inclusive**

In most of the focus groups, and from a significant number of participants, inclusivity was expressed as a primary perception of restorative justice. For some this meant directly using the word "inclusion" to describe restorative justice. Many spoke to the focus of restorative justice being on the victim, offender and community. Quite a few took this further and expressed how for them restorative justice was broad in its reach – that it ultimately it is in service to strengthening, repairing, and sustaining community as a whole. One participant spoke to how rare it is that both victim and offender leave a courtroom feeling that their needs had been meaningfully attended to – and that this is possible and does happens through restorative justice.

While some were sharing that restorative justice is best used with our youth, one elder contested the idea that restorative justice is just for youth.

*Youth is a relative term. To me, many in this room are youth. I believe that we should be talking about all ages when discussing issues of justice. For me, we are forming through constant process – right now, I am forming into something new, and learning something new.*

Throughout the process there was significant energy around the idea that restorative justice is rooted in inclusive ideals, and that this characteristic is a core part of what sets it apart from our society's current responses to harm and crime.

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### **Restorative Justice Serves Those That Cause Harm**

In contrast to the above, many others associated restorative justice with targeting the needs of those that cause harm – and more specifically *youth* that cause harm. Whether through school prevention and intervention, or criminal justice programming and diversion, the motivation around restorative justice for

many participants was related to the transformation and support it can provide for youthful offenders to be reintegrated back into community.

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### **Restorative Justice Serves Victims and Survivors**

For other participants, enthusiasm for restorative justice was related to what it can offer victims and survivors. As one participant stated, part of the promise of restorative justice is that it shifts our response to harm from an “offender-focused response to a victim-focused response.” Some mentioned the evidence-basis for successfully attending to victims and survivors needs. Others, within the context of the positive outcomes for victims and survivors, wished that we could somehow help victims and survivors understand what it has to offer. Still others expressed concern that while it does have the capacity to serve victims and survivors well, this needs to be left to them to discern; i.e. that it is not right for every victim/survivor, and that we have be careful not to “push it on them.”

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### **Restorative Justice Does Not Serve Victims and Survivors**

There was a significant number of participants, spread across the majority of focus groups, that also spoke to their experiences, perceptions and concerns about how restorative justice falls short in its service to victims and survivors. The concerns and experiences included:

- a perceived and experienced imbalance in service and consideration – that the service and concern was primarily for the person that caused the harm;
- that often it felt as though more responsibility was placed on the victim/survivor than the person that caused the harm;
- that the outcomes were unfair and unbalanced in favor of “helping” the person that caused the harm;
- that victims expressed needs are dismissed; and,
- how participation in a restorative justice process might put a victim’s rights in jeopardy.

Some participants expressed that due to these experiences and concerns, it is very difficult for them to have discussions with victims and survivors about restorative justice, or that these experiences and perceptions contribute to a lack of confidence in offering restorative justice opportunities to clients.

## **RESTORATIVE JUSTICE ELICITS CONCERNS ABOUT THE PUBLICS’ UNDERSTANDING**

Many of the concerns that emerged in the conversation about perceptions and experiences of restorative justice involved the public’s understanding and awareness, coupled with the ways in which the restorative justice movement compounds this misunderstanding.

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### **Restorative Justice Lacks a Concrete Understanding or Definition**

Many comments were made regarding the lack of a concrete or shared understanding or definition. Participants named their own confusion with the meaning of restorative justice, and asked the question that if within the room there isn’t shared understanding, how can we expect that to exist in our communities or with the public? It was identified that restorative justice is being used as a buzz term to

talk about a range of work and programs including rehabilitation for youth offenders, victim's rights, conflict resolution practices, community building, etc. One participant specifically spoke to their concern that without shared understanding the framework will lose relevance and shared the demise of "community policing" as an example of this concern.

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### **Public Awareness of Restorative Justice is Minimal**

Several participants also shared concerns that there is a lack of public awareness in general. These comments spoke to the need for a public information campaign, more trainings for the community, and a focus on the necessary public relations work for restorative justice to be successful.

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### **The Language of Restorative Justice is Problematic**

Lastly, several participants pointed to concerns with the language of "restorative" and "justice." Some concerns shared included:

- the word "justice," conjures notions of injustice and harm for many people within marginalized communities;
- when victims/survivors hear the word "restorative," they resist because some things simply cannot be restored; and,
- for some, "justice" is too legalistic, bringing to mind the legal system and its laws.

## **ISSUES WITH IMPLEMENTATION AND APPLICATION OF RESTORATIVE JUSTICE**

One consistent theme across focus groups were the concerns related to the fidelity and integrity of application and implementation of restorative justice. Many participants simply named that implementation is "messy," "complex," and/or done "improperly." Others spoke to specific concerns like:

- how well restorative justice applications are attending to clients' rights;
- the lack of training for practitioners of restorative justice;
- the difficulty of getting those that caused harm to follow-through with their commitments made in restorative processes;
- the difficulty of implementing restorative justice in rural communities; and,
- the initiative-fatigue that restorative justice implementation can cause within organizations for those meant to incorporate it into their daily practices (i.e. teachers).

Other concerns about implementation and application were shared and follow these additional key themes.

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### **Restorative Justice Lacks Concrete Structure and Procedure**

Some participants shared their concerns that restorative justice lacks "concrete," "shared," or "standardized" procedures. Some participants shared their concern that practices rely on the "good heart" and training of practitioners rather than a set of standards. Others shared how the processes and outcomes feel subjective, and that poses a problem of bias in the work.

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### **Restorative Justice Practice That is Not Aligned with the Values and Principles**

Some participants shared a concern over “restorative justice” terminology being used incorrectly to describe non-restorative practices. One example given was that of programs using victims and survivors for the purposes of attending to the needs (e.g. reintegration, empathy, accountability) of the person that cause harm – particularly in restorative justice programs created for youth offenders.

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### **Restorative Justice Programs and Practitioners Lack Necessary Resources**

Many participants observed that restorative justice is not afforded the proper resources to be applied with integrity. The work is resource intensive, and the funding and time allocations are not sufficient to practice restorative justice with integrity. This was named as a problem for programs/practices in both schools and criminal justice.

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### **Restorative Justice and the Current System are Misaligned**

Several participants raised the issue of significant misalignment in philosophy and outcome goals between currently existing institutions (schools and criminal justice) and restorative justice as a philosophy. One participant asked whether it is realistic to host conversations between victims and offenders when the system doesn’t support that. Another participant was considering how something that is meant as an alternative to the existing system can partner meaningfully with the existing system. Another example provided is how current systems emphasize accountability toward authority within the system, whereas restorative justice emphasizes accountability to those who have been impacted. It was implied that this and other contrasting ideas of justice, accountability, harm, and responsibility may contribute to the difficulties of implementation and practice grounded in the values and principles of restorative justice.

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### **Restorative Justice Referral Parameters and Procedures are Problematic**

Many expressed the concern that who gets access to restorative justice practices is so limited. Some of the limitations named were the age, criminal charge or offense of the offender; providing access only to first-time offenders; limited access for people of color; and, access based on whether the authorities (i.e. probation, prosecutors, defense attorneys, law enforcement, judges, teachers, and vice principals) feel it is appropriate. It was named as problematic that most referral parameters leave the voice of the victim and survivor out of the referral discussion. Another repeated theme was how the system only allows access to those implicated in “minor” criminal charges, rather than more serious crimes “where the needs of all stakeholders are much greater.” One last concern shared regarding referrals was regarding the common idea of restorative justice being ‘voluntary;’ the question was posed as to how voluntary any justice process can be within the constraints of a system that has authority over the person who caused harm.

## **CONCERNS AND POTENTIAL BENEFITS OF STANDARDS**

In the second phase of each focus group, partners, directly impacted individuals, and restorative justice administrators and practitioners were invited to share both their concerns of standards, and their perceptions of the potential benefits. Throughout every focus group, participants were able to name

benefits that standards may offer as a solution to some of the issues named above. However, this was consistently followed up with a caveat: that these benefits would only be seen as positive if the concerns were avoided. The discussion often took the shape of “Standards would be good . . . if, and only if they are done “right.” Standards done “right” was defined with relatively consistent themes across all focus groups, as indicated in both what to avoid (Concerns) and what to aim towards (Benefits).

## CONCERNS ABOUT STANDARDS

### **Standards Can Create an Exclusive Community of Practice**

A consistent concern raised by participants across all focus groups was the concern that standards for restorative justice may result in an exclusive and closed community of practice. Particularly concerning for participants was how the creation of standards for restorative justice could directly exclude communities of color, Indigenous groups, and other marginalized groups from the practice. For some, the idea of standards elicited direct concerns of “a bunch of white guys telling an elder how to practice restorative justice.” They felt that it could follow the same history of mediation – how it became professionalized, and in doing so went from a social justice movement to a profession that excludes marginalized groups from the practice.

For example, the idea of using formal educational requirements or fees for “certification” elicited the concern of standards acting as a gate-keeper to the practice, ultimately resulting in the exclusion of those that do not have equal access to education or resource for these types of standards. Another concern raised was that the standards could become so prescriptive that bar of entry becomes a limiting factor for those that wish to get involved as volunteers or those that wish to start new programs.

The concern was raised that standards could create more barriers for rural communities with less resource than urban communities. Someone also raised the concern of what it would do internally to the community of restorative justice administrators and practitioners – effectively creating “out- and in-groups.”

Some were concerned that the creation of standards would funnel funding away from practices that perhaps do not have the capacity to meet these standards, or simply don’t buy into the standards created. The concern was that this approach to standards would perpetuate systems of exclusion and oppression.

Last, a key concern was raised regarding who the “holder” of standards would be. It was concerning to some to think about any group holding authority over restorative justice programs, administrators and practitioners through the standards.

### **Standards and Restorative Justice Have Contrasting Values**

For some in the focus groups, the idea of standards was met with resistance due to the perceived misalignment between standards and restorative justice values. The concern expressed was that the logistics, bureaucracy, or rigidity of standards stands in direct contrast to the responsiveness, flexibility,

and relational nature of restorative justice. They highlighted a risk that due to these contrasting values, the creation of standards themselves could interrupt practice with integrity, rather than support it.

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### **Standards as a Term and Framework is Problematic**

Related to the last theme, for many, the language of standards was problematic because of what it elicited. Some alternative frameworks offered included:

- “guidelines;”
- “best practices;”
- “guiding principles;” and,
- “core principles.”

It was emphasized by some that whether we create standards or not, “core principles cannot be emphasized enough.” Some felt that guiding principles felt more dynamic, whereas standards felt more static.

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### **Standards Will Result in Unanticipated Impacts**

For some it was the concern of unanticipated impacts that was most disconcerting. Some of the potential unanticipated impacts shared included:

- the cooptation of restorative justice through codification by white people;
- standards that exceed resource allocation;
- a skill-down effect on practitioners as the emphasis is put on achieving standards rather than rootedness in principles and values; and,
- a loss of emphasis on the prevention activities of restorative justice.

## **POTENTIAL BENEFITS OF STANDARDS**

Many participants found potential benefits in restorative justice standards, provided the concerns mentioned were somehow avoided in the process. Following are the key themes that emerged for participants when considering the benefits that standards could provide.

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### **Standards Could Benefit Our Clients**

For some participants, there was significant potential that standards could help protect those served by restorative justice. This hope was applied to protecting all restorative justice participants from harm, and also specifically how they may mitigate and protect against practices that have not attended sufficiently to the needs of victims and survivors. In this light, it was expressed that standards might support stronger trust from the victim assistance movement.

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### **Standards Could Create More Buy-In and Referrals from Key System Partners**

A significant and consistent theme throughout all focus groups was how “legitimacy” and “credibility” of restorative justice in the minds of key partners could be enhanced.

Some system stakeholders expressed the view that standards might help them know what kinds of cases they should refer, including more serious cases than they currently feel confident in referring. Some victim assistance professionals stated that standards would help their field to get “on board” with restorative justice as they would have a better understanding of what to expect when they refer their clients. One partner specifically spoke to how standards would support more victim/survivors and their service providers to buy into restorative justice. Specifically, they felt that standards could provide clear language and expectations that would allow for them to communicate more compellingly with the victims and survivors they are working with. Currently, some felt that they don’t know what to expect, nor do they have confidence that those they are speaking to would get quality services, and that standards might attend to this perceived weakness.

Some provided examples of other fields that gained legitimacy through the creation of standards. Youth development and trauma-informed practices were two recent examples provided. The view was expressed that standards had the potential for moving restorative justice from “a bunch of cool theory to a profession or philosophy that is applied in clearly defined ways.” The hope was expressed that in creating standards, schools and government agencies considering partnering with, or implementing restorative justice will have a new and higher level of confidence that the work will be done with integrity without causing harm. Another thought expressed was how standards in restorative justice might inspire exploration between the restorative justice movement and the institutions it currently serves regarding their mutual aspirations. Put simply, the view was that standards would make it easier for them to understand restorative justice and in return to make referrals where appropriate.

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### **Standards Can Be the Basis of Shared Language**

Participants also shared in the anticipation that standards could be the gateway for the creation of a shared language in restorative justice. One participant explained that “I feel like the quest for standards in Oregon will really be a ‘who we are’ conversation,” and was excited by that conversation. Another felt that this process would help us to define some of the words that we have found difficult to define – words like “restorative” and “accountability” for example.

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### **Standards Can Support the Integrity of Restorative Justice Practice**

For many directly involved in restorative justice work, this potential benefit emerged out of current concerns about the growth of the field of restorative justice. The concern was that in this growth, practices will emerge that are at best out of alignment with restorative justice values and principles, and at worst cause harm. The belief was expressed that the creation of standards has the potential to mitigate this risk.

For many participants, the creation of standards holds the potential to both strengthen their practice, and provide a level of comfort that they are on track or aligned with a shared set of norms in the work. Standards, in the minds of many, could be a mechanism to ensure that the work being done in the field has integrity, and maintains its alignment with the values and principles of restorative justice. One participant expressed hope that standards could provide guiding questions for them to ask when they face the many ethical questions that emerge in restorative justice practice.

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### **Standards Can Support Additional Funding**

For some, the potential of standards also was linked to funding accessibility. Optimism was expressed that standards might make potential partners and funders more willing to financially support the practice.

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### **Standards Can Support the Growth and Self-Governance of the Restorative Justice Movement**

Another theme expressed when exploring the benefits of standards was the potential standards hold to supporting the growth and self-governance of restorative justice. For some, the creation of standards represented a proactive measure by the movement to assure that governmental or other institutions do not co-opt the movement into their own mechanisms of control. These voices expressed a hope the creation of standards, due to the perceived benefit of the strengthened legitimacy noted above, can support the growth of restorative justice.

## **THE PROCESS OF DEVELOPING STANDARDS**

A shared theme throughout the interviews, focus groups, and survey results was that the process used to establish standards would greatly determine whether standards are beneficial or harmful to the work of restorative justice in Oregon. One concern raised was regarding the focus of the standards; for example that if the focus was on standards for restorative justice intervention in crime or other similar violations, then it was believed that standards could help; but if we were including the prevention side of the work, including much of the work being done in educational settings, then standards would be problematic. It was also expressed that the approach to creating standards needs to be both slow and iterative – that the learning that comes from the process of creation and implementation of standards results in the evolution and strengthening of standards over time. One participant shared that they felt the process of creation, if done poorly, could lead to divisions within the restorative justice movement that would damage the movement’s progress. Related to these concerns, a very prominent and consistent theme in this outreach was that the process of creating standards must assure that the right people are at the table and have mutual power in the process, direction and outcomes of the standards discussion in Oregon.

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### **Meaningful Leadership by Communities of Color, Indigenous Peoples, and Other Marginalized Groups**

Several participants pointed out that if marginalized groups are included in the process of creating standards, this process provides an opportunity to protect those hit hardest by our criminal justice system and school push-out. However, for many participants the racial/cultural makeup of the focus groups they participated in elicited concern that these voices were not being meaningfully involved or engaged. The concern is that white, western culture would take over the process, and therefore lead to Eurocentric, westernized standards that exclude marginalized groups and do not address the concerns of those most impacted by justice processes. As a result, standards hold the dangerous potential of perpetuating white supremacy, neo-colonialism, and other means of oppressive social control. A concern was expressed in one of the interviews that significant groundwork has already been done in the current exploration,

without adequate contributions from marginalized groups, and that the process needs to slow down or cease until these issues are addressed.

The marginalized groups being referred to in these discussions was defined widely. Groups included directly impacted individuals (victims/survivors and those that have caused harm), communities of color, Indigenous or tribal groups, the LGBTQ+ community, and youth and elders were all mentioned as groups that both were not prominent in the focus groups and needed to have a meaningful voice in the process.

One observation raised in both a local interview and a focus group by several individuals was that the focus of standards may affect this risk of standards having an exclusionary effect. The view was that if the focus is maintained toward being guides for ethical practice, (here Oregon’s mediation standards were cited as an example), then they may be less likely to exclude anyone from the practice. On the other hand, standards that outline who does and does not qualify to be a practitioner, exacerbate the risk of exclusion. A particular concern raised by several participants related to this issue was the idea of certification for practitioners, and how exclusive that can be toward marginalize groups.

Based on concerns over inclusion of marginalized groups, creativity was advised in how the current project may conduct its outreach. It was noted that surveys and focus groups may not be culturally relevant or accessible to some groups, and a recommendation was to explore additional avenues for engaging these communities. One such mechanism suggested was to provide an additional workgroup facilitated by people of color and focused on providing safe space for communities of color to wrestle with these issues internally.

## **PROGRAM AND PRACTITIONER ACCOUNTABILITY TO STANDARDS**

The question was raised during this outreach, “if the restorative justice community in Oregon did come to widespread agreement about standards, how might practitioners and programs uphold or be accountable to these standards?” When this issue was raised, a great deal of discussion throughout the focus groups addressed the contrasting concepts of a hierarchy with strong control mechanisms on one hand, versus more “flat” accountability structures reliant on relationship and community.

## **ACCOUNTABILITY THROUGH SELF-REFLECTION AND RELATIONSHIP**

The majority of ideas that emerged in the focus groups related to this topic area were under the framework of individual (both as individual practitioners and individual organizations) and relational (between practitioners and between programs) accountability mechanisms. Many participants expressed support for internal mechanisms of keeping practice aligned with standards. Internal was referenced as both internal to organizations, programs, and the movement as a whole.

Many participants strongly discouraged the idea of compliance to standards being managed by any kind of supervisory agency or organization. Several participants supported the idea of self-regulation coupled with “natural consequences” (e.g. low referrals from partners) for noncompliance to standards.

Another theme that emerged was the importance of voluntary buy-in to the standards. This view encompassed the idea of ensuring that standards and compliance to these standards was relational, and

based on accountability to people, not rules or regulations had significant resonance with many participants.

The relational structures of accountability offered by participants ranged from self-reporting mechanisms to programmatic and group feedback and reflection.

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### **Organizational Transparency**

Several participants raised the idea of providing mechanisms, perhaps via an online forum or posting site, for programs or agencies to respond to a specific set of questions related to the standards set. This would provide a public venue for clients, partners, and the restorative justice community to be able to see how different programs are responding and complying with standards.

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### **Self-Assessment and Reflection for Individuals and Organizations**

Some participants suggested that an important initial step may be creating mechanisms for individuals and programs to be independently reflective of their alignment with a shared set of standards. This could include check-lists, self-reflection forms to use following a restorative justice process, and organizational assessments, all based on the standards created by the restorative justice community. This may provide specific means for individuals and organizations to assess their level of compliance, and allow for self-governance regarding steps that need taken to achieve sufficient (in the minds of the individuals and organizations) levels of alignment.

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### **Peer and Staff Feedback**

One idea for developing and maintaining alignment with standards for practitioners was to develop structured mechanisms for peer feedback. For example, it was suggested that a useful mechanism would be using co-facilitators in restorative justice processes and providing a list of questions that could be posed to each other after a facilitation. One participant expressed that this could be most useful if there were structured ways of ensuring that staff of organizations regularly facilitating with volunteer facilitators were providing feedback and coaching afterwards. It was suggested that this could be structured into a shared set of standards while simultaneously strengthening alignment to these standards. One program supervisor reflected how they would feel it their responsibility to ensure that there was “fidelity with shared standards in programs utilizing restorative justice” practices. They imagined this might look like “random observations, review of paperwork, or other quality assurance steps.” Several participants specifically discussed the importance of assessment tools that could be used by practitioners and program administrators to initiate and conduct peer and staff feedback.

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### **Group Feedback and Reflection**

Several participants felt that mechanisms of accountability needed to be structured in a way that brings the restorative justice community together for collective feedback and reflection. Ideas for how this could be done included quarterly meetings, RJCO-hosted meetings, group conference calls, regional programmatic meetings, and programmatic peer-consultation and feedback mechanisms. These

collaborative ways of coming together to create a learning-community, with leverage toward greater learning due to shared standards, was preferred by many when compared to legalistic or hierarchical structures of accountability.

Within the framework of coming together as a community of practice for the purposes of fidelity to shared standards, Rachel Cunliffe discussed the option of utilizing collaborative evaluation as articulated by Rita O’Sullivan in *Practicing Evaluation: A Collaborative Approach*.<sup>59</sup> This form of evaluation would provide a mechanism for eliciting feedback directly from those we serve, and then through cluster evaluation methodologies, collaboratively reflect on this feedback for the purposes of fidelity and learning. The vision Rachel provided included program administrators coming together regionally on a consistent basis, facilitated by paid restorative justice evaluators, to compare shared evaluation and outcome results. Based on differences, they could collectively explore and discover best practices, aligned with standards, that lead to the outcomes that programs aspire toward for their clients. This formative evaluation approach could assist the restorative justice community in maintaining fidelity with a shared set of standards, while also encouraging the modification of standards based on the emergent data and learning.

This vision aligns well with a consistently raised idea that as programs and practitioners, we are most responsible and accountable to those we serve through restorative justice. It was felt that ultimately our fidelity with a shared set of standards, should be measurable through the experiences and feedback of our clients. For some, this was the clearest path forward in assuring that we maintain the value of relationship and people in our mechanism for accountability. One participant explained that “evaluation requires us to ask the people we serve about their experience, and whether this matches with what we are hoping to do” (through our standards of practice). Another participant wondered what a person might share regarding their experience of restorative justice if “they knew they could speak their mind without any strings attached” – pointing to the importance of data collection that assures honest and transparent feedback. The use shared mechanisms to eliciting feedback from our clients, then reflecting this data against a shared set of standards fits with the collaborative evaluation framework suggested by Rachel Cunliffe.

## ACCOUNTABILITY THROUGH ASSOCIATIONS OR REVIEW BOARDS

For some participants, the question of accountability brought to mind more traditional models of compliance and accountability like the existence of review boards, complaint boards, tribunals, and certification. Though these ideas were raised by some, it also was voiced that these “superstructures” might meet significant resistance from the restorative justice community.

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<sup>59</sup> O’Sullivan, R. G. (2004). *Practicing evaluation: A collaborative approach*. Thousand Oaks, CA: Sage Publications.

## ACCOUNTABILITY THROUGH INCENTIVES

A final theme that emerged regarding accountability was to build compliance to standards through incentives.

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### Inclusion

Several participants felt that in order for standards to have meaning, there needed to be an initial nucleus of practitioners or programs maintaining alignment with the shared standards. Becoming a member of the collective would require an adherence to standards.

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### Funding

Another idea raised by several participants included basing the provision of funding on adherence to the shared standards. One participant encouraged the group to look specifically at how specialty courts are funded in association with their level of compliance with shared standards. Others felt that this was dependent on there being a funding stream from the local, state or federal government, which currently does not exist for restorative justice in Oregon.

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### Certification/Accreditation

Another concept raised in relationship to incentive-based accountability was the creation of certification or accreditation for practitioners and programs. The idea was that system partners could then “ask for or prefer” to refer to programs that have prescribed certifications or accreditation. One participant suggested using different tiers of certification, like that used in environmental certification for buildings. One participant specifically spoke to how certification is ultimately about the client – to provide them confidence in the qualifications of their service provide, and the quality of service they can expect.

## EXAMPLES OF ACCOUNTABILITY TO STANDARDS

Three specific examples were provided in the discussion about accountability structures as possible models that we could learn from.

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### Alternative School

The first example was that of an alternative school, regarding the Principal’s accountability to the policies set by the School Board. It was explained that on a regular basis, the Principal was required to self-report their interpretation of a policy, and then provide evidence on how the school is in compliance with this policy. After hearing the presentation, the Board is then provided three options of response.

- 1) accept the interpretation of the policy and the school’s alignment;
- 2) accept the interpretation, but require that the evidence (practices) is strengthened to achieve compliance; and/or,
- 3) disagree with the interpretation, which results in the Board’s responsibility to rewrite the policy.

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## edTPA

The second example discussed was the Education Teacher's Performance Assessment (edTPA). This is an assessment structure for teachers which analyzes performance and outcomes.

*For the first time, edTPA gives teacher preparation programs access to a multiple-measure assessment system aligned to state and national standards – including Common Core State Standards and the Interstate Teacher Assessment and Support Consortium (InTASC) – that can guide the development of curriculum and practice around the common goal of making sure new teachers are able to teach each student effectively and improve student achievement.<sup>60</sup>*

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## Kuja Kuja

Kuja Kuja is a tool of assessment used by the American Refugee Committee meant to emphasize the experience of refugees with the services provided to them.

*Kuja Kuja started with an observation. At some point in time, humanitarian organizations like ours had stopped thinking of refugees as their primary customer and instead become focused on large funders. We had deprioritized the people we are here to serve - and that wasn't good enough. Kuja Kuja is our answer.*

*It's a real-time feedback system that tracks customers' levels of satisfaction with products and services, records their ideas for how those services might be improved, and makes that data freely available for everyone to see and use. So after accessing water at a water point or getting health care at a clinic, refugees can share their experience and have real input in making the system better.*

*Kuja Kuja is more than a moral obligation - it's also good business. Understanding our customer more deeply will allow ARC to increase the value and impact that its services currently deliver and to make better decisions about new services to design. We're starting by testing Kuja Kuja on our own organization. We believe that Kuja Kuja will revolutionize service design and implementation for non profit and for-profit organizations around the world.<sup>61</sup>*

## ACCOUNTABILITY – GENERAL ASSERTIONS

In addition to the specific themes noted above, several general themes emerged within the focus groups and interviews. Several participants discussed the importance of standards being evolutionary in nature.

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<sup>60</sup> edTPA. (n.d.). *About edTPA*. Retrieved from <http://edtpa.aacte.org/about-edtpa#Overview-0>

<sup>61</sup> American Refugee Committee. (n.d.). *Kuja Kuja*. Retrieved from <http://arcrelief.org/kuja-kuja/>

As we evaluate alignment with standards, inevitably we will learn more about what works for those we serve. This learning should inform consistently evolving standards.

One shared concern for some was the problem of telling someone that what they are doing is not restorative justice. The feeling was that this needed to be avoided if at all possible, and that the focus should be on what we desire and aspire toward, rather than what we exclude.

Several participants shared the belief that without accountability, standards felt meaningless. This was stated within the context of a belief that standards have value for those we serve. Standards are created for the protection of our clients, yet this protection will only go so far as people feel compelled toward alignment with these standards. The feeling was expressed that if what emerged were just “suggested” practices, that this will not go far enough in protecting those we serve from harmful practices.

In several focus groups, including the schools-specific group summarized at the end of this document, the distinction was raised between programs and services in schools, versus those within the criminal justice setting. The needs, tools, and differing emphasis of these initiatives require differing frameworks that would need to shape the conversation around standards within those respective contexts.

Several participants pointed out that whatever mechanisms for accountability are created, they should be “restorative” in nature. For example, it was suggested that if a complaint was made, participants themselves should be a part of the discussion (suggesting the principle of focusing on harms to people rather than rule infractions). One last comment was how important it felt to have standards linked with evidence. It was felt that without a basis of evidence backing up the standards, it would be hard to buy-into the standards.

## CONTENT OF STANDARDS

When participants were asked what the focus of standards for restorative justice might include in Oregon, the results were varied and wide-reaching. Participants spoke to issues ranging from what discussing standards should attempt to address (safety for example) to offering specific standards on practitioner competency. Participants also put significant focus on a few key parameters for what standards “must” do to be meaningful. This section will highlight some of the major themes that emerged through this conversation.

## STANDARDS FOCUS

### **Standards and Safety**

Several participants noted that ultimately standards should focus on maintaining safety for those served through restorative justice processes. A number of participants resonated with the “Food Truck” analogy shared by the researchers in the focus group preamble and stated that perhaps we can all “agree on minimal standards for safety.”

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### **Broad Application for Standards**

Several participants also encouraged the creation of broad and general standards that could apply to every level and context of restorative justice. The hope was to be able to develop provisions that were in the interest of the general public, while applying to schools, juvenile justice, criminal justice, etc. For this to be possible, some likened it to developing the “simplest” basis of standards to help maintain a baseline of protection for all stakeholders.

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### **Standards and Collective Understandings**

For many participants, the priority for the creation of standards was to address the lack of a common understanding, purpose, vision, values and principles of restorative justice. One participant stated that “a good way to mitigate cooptation would be to clearly communicate the goal and purpose of RJ.” Others felt that standards should help define what practices fall under the restorative justice umbrella. Some stated that simply coming to a collectively shared understanding of restorative justice would be a sufficient goal of standards. One participant felt that perhaps standards needed to begin with a code of ethics, since in that domain there may be less cultural difference, and less likelihood of perpetuating cultural bias.

The goal of fostering greater common understanding also raised concerns about whether or not these common understandings or collective decisions would incorporate the viewpoints of everyone. The idea that the common understanding could exclude the voices of those most directly impacted or end up being the “values and principles of white-dominant culture,” was most alarming for participants.

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### **Standards and Restorative Justice Processes**

For some, standards should start with shared and measurable norms specific to restorative justice intervention processes – victim-offender dialogue, conferencing, and circle process. One participant gave an example of how they have seen facilitators of victim-offender dialogues suppress specific forms of expression (language for example) because of their own discomfort of it, and how this can be a form of perpetuating white supremacy. Another participant pointed to how this could help educate clients as to what they are getting into so that they can make more fully-informed decisions regarding their participation.

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### **Standards and Programs**

For others, standards should be based at a programmatic level. One reason given for this was to avoid some of the previously discussed pitfalls related to inequity. One participant felt that standards could “ensure that options are provided at every level and on every issue” to clients, allowing for significant agency in the process. Another raised how focusing on this could help ensure that we are providing support throughout the process.

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### **Standards and Evaluation**

For a few participants, standards could also create shared evaluation practices throughout restorative justice programs in Oregon. It was shared that there should be standards “about how programs self-evaluate, collect, and share data on how their practices are impacting their clients. Another pointed to the fact that if we are not consistently measuring and reflecting on outcomes, it is difficult to know whether or not standards are meaningful.

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### **Standards and Referrals**

Also discussed within the context of program standards was how this could provide guidance for referral parameters and processes. For example, participants explored how standards might expand who gains access to restorative justice programs, how they gain access (who initiates referrals), and when they gain access (at what points of the institutions response to harm can referrals be initiated). For some partners that participated, it wasn't necessarily about expansion of access, but instead about clarity of access. For these participants, clear knowledge of what cases are appropriate would be helpful for them in supporting referrals from their agencies. Some victim assistance professionals were concerned about this idea however, as many of the existing thresholds have been established on the basis of offender/offence characteristics, not on the impact and needs of the victim or survivor.

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### **Standards and Case Development**

Some expressed the view that standards could provide guidance around responding to issues that can emerge in case development/preparation. Standards could promote effective practice by, for example, guiding program policy toward taking the time necessary to address the present trauma for the victim/survivor and the often-present historic trauma for the person that caused harm.

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### **Standards and Restorative Justice Outcomes**

Several participants spoke to the importance of standards to clearly identify shared outcomes for restorative justice intervention (i.e. a shared vision of what restorative justice is trying to achieve). The hope was expressed that this work would set the stage for shared data collection, and the ability to measure whether standards themselves were leading to the outcomes they are meant to produce. One participant expressed the view that this discussion needed to go beyond the measurement of reduced recidivism or other goals of the criminal justice system: instead, outcomes need to be specific to what our clients expect and desire as outcomes to their participation in our services. Another participant explained that one concern regarding shared outcomes is how culturally specific this may be, leading to difficulty to create something that is culturally flexible based on the context.

Others raised the issue of whether standards might mitigate the sometimes harmful and inequitable outcomes of restorative justice processes. The example given was a youth that was ordered, via a victim-offender dialogue, to pay \$100,000 in restitution, and how in New Zealand's Family Group Conferencing approach for example, there are standards that protect against these kinds of unrealistic and potentially harmful agreements.

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### **Standards for Serving Victims and Survivors**

A significant number of participants regarded standards as a necessary component to strengthen restorative justice services provided to victims and survivors. One issue raised by several participants was how restorative justice processes, both in schools and in the criminal justice system, might infringe on victims' rights. Participants expressed hope that standards might interrupt this potentially harmful impact of restorative processes.

Other participants shared how having standards would significantly help in their capacity to introduce the idea of restorative justice to victims and survivors. It was felt that standards would provide a level of confidence, both in the explanation, and in the potential exploration by victims and survivors themselves, if they knew more about what they could expect from the process. One participant felt that standards would provide a level of safety for victims and survivors that does not currently exist, and that this would both expand the number of referrals, and protect those that choose to participate in the process.

Several participants also spoke to how standards could raise the level of understanding and care given to those experiencing trauma. Examples included how ensuring agency/choice for victims and survivors, providing sufficient time for necessary story-telling, and being attuned to the manifestations of trauma for victims/survivors.

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### **Standards and Restorative Justice in the Criminal Justice System**

For some participants, standards would need to address the relationship between restorative justice and the criminal justice system. It was felt by these participants that issues around implementation, service delivery, location of service delivery, overincarceration, diversionary practices, and prison practices could all be places where standards may be helpful.

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### **Standards and Restorative Justice in Schools**

There was a significant amount of conversation within the focus groups regarding the creation of standards for restorative justice in schools. Many restorative justice advocates placed priority on school-based initiatives, due to the leverage schools have on the "long game" of cultural change and paradigm shift. Comments like "if you intervene in schools, practice will no longer be needed at the criminal justice level," and "if we really want to make a societal impact, it seems like schools would be the key," were shared in the context of this conversation.

Some participants felt that the creation of standards for restorative justice in schools would have an impact on the scalability of the work (expansion of schools adopting the practices). Other felt that significant work needed to be done around what even defines restorative justice in schools, to the point of even differentiating between restorative justice and restorative practices for example. Another participant simply encouraged the discussion of standards leading to an understanding of what the non-negotiables were for quality practices in schools. Some were also interested in how standards might provide clearer guidance for what restorative justice implementation in schools means for teachers, and

how standards might result in earlier intervention, prior to truly harmful incidents that lead to criminal justice system involvement.

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### **Standards and Training for Restorative Justice Practitioners**

There was significant energy expressed by participants around the idea of standards to guide the training expectations and content for restorative justice practitioners in both the school and criminal justice context. The concern was that where practitioners lack the capacity to respond to the complex dynamics that emerge, this could result in causing harm to students. Training standards were seen as a potential remedy to help address this concern.

While this focus for standards emerged consistently across focus groups, it also was met consistently with the caveat that whatever standards in training emerge, need to do so in an equitable and inclusive way. It was asserted that the expectations for practitioners cannot indirectly or directly exclude community from playing a meaningful role as practitioners.

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### **Standards and Restorative Justice Practitioner Competencies**

Many participants noted the importance of creating standards around demonstrated competencies in the work. Some discussed how standards could articulate what is expected from practitioners in restorative justice work, and then provide a means to measure practitioner competency in the context of the standards. One participant felt that this could urge facilitators and practitioners to aspire to higher levels of practice and included the idea of having tiers of practitioner competency to encourage this aspirational and growth mindset. Another participant felt that cultural responsiveness needed to be a part of recognized competence.

## **STANDARDS MUST . . .**

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### **Attend to and Aspire Toward Equity**

Across the board, one of the most discussed topic areas was how any standards must avoid the perpetuation of colonization and white supremacy while also expanding the movement and its practitioners' capacity to be culturally responsive and equitable in their work.

The starting place for many participants in this discussion is the significant concern that standards themselves risk perpetuating colonization and white supremacy. For some, standards elicit ideas of "white-centric," "academic," "western, homogeneous," and "bureaucratic" structures and systems that have historically supported the continued prominence of colonization and white supremacy in our culture. Given that understanding, there is understandable resistance to standards from many. Assuring that the creation of standards – both in the process of creation, and in the standards themselves – does not perpetuate hegemony was given as a non-negotiable for many in this process. Either standards avoid duplicating historical harms, or they should be avoided at all costs.

On the other hand, a number of participants noted that standards could also strengthen the capacity of the movement and its practitioners to interrupt and dismantle inequity through the work of restorative justice. For many, the standards themselves could set parameters around capacities that practitioners must demonstrate specific to their responsiveness to cultural diversity and inequity in their work. One participant suggested that standards could protect restorative justice processes from ways of responding to harm that are rooted in dominant white culture – “authority, coercion, punitiveness, etc.” Another participant specifically suggested that restorative justice practice has to be rooted in an equity lens, allowing us to clearly view interpersonal and system relationships within the context of equity and respond appropriately to interrupt inequity. Some participants explored the dynamics of power within restorative justice processes, and how standards might mitigate the abusive or coercive use of power through these processes.

This equity parameter for the creation of standards was a passionately and consistently communicated message throughout all focus groups and interviews.

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### **Provide for, and Maintain Flexibility and Creativity in the Work**

Another consistently-mentioned parameter for the creation of standards is that it must allow for continued flexibility, creativity, and responsiveness in practice. It was clearly named that if the creation of standards molds restorative justice practices into prescriptive or rigid procedures and protocols, most participants want nothing to do with them.

For this significant group of participants, the ability to adapt to context, culture, individual needs, community ethic, etc. is a requirement to practice principled restorative justice. The concern is that standards gets in the way of this flexibility, it would quickly divert our work from alignment with restorative justice values and principles. Another concern shared is that if standards create this kind of stagnation, it also limits the innovation that is currently thriving within the restorative justice movement.

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### **Be a Platform for Communicating What Restorative Justice Is**

A final consistent theme across all focus groups was an aspiration that standards might be a platform for communicating more clearly about the meaning of restorative justice both internally and externally (with partners and the public). Many participants expressed exhaustion over the significant misunderstandings heard from partners and communities what restorative justice. The hope was shared that perhaps having this shared language and understanding could also protect against the potential cooptation of restorative justice by institutions or government. The idea that standards have the potential to meaningfully address these significant hurdles in their work elicited hope and energy.

## **PORTLAND-METRO SCHOOLS FOCUS GROUP**

During the research process it was suggested to schedule a focus group specifically to bring together stakeholders, community members, restorative justice administrators and practitioners working within the school context. This focus group was unique in that it took place within a broader exploration of largely criminal-justice focused discussion across the state. The focus group was scheduled on the premise that

restorative justice advocates within criminal justice and schools exist within the same community of practice; the intent was to gain anecdotal information about how school-based restorative justice advocates view the issue of standards. This was the most diverse group convened, including school administrators, community members, communities of color, and a culturally diverse representation of restorative justice practitioners.

Many of the perceptions of restorative justice, concerns about standards, and ideas regarding a potential focus for standards expressed in this focus group resonated with themes noted above. However, there were also some particularly distinct themes that emerged in the conversation that are important to highlight in this discussion.

### **DISTINCT FRAME OF REFERENCE FOR RESTORATIVE JUSTICE**

The discussion within many criminal-justice oriented focus groups around the state treated restorative justice purely as a response to crime and injustice. In this focus group, restorative justice was defined primarily as the work of community and equity-building. Restorative justice seemed to be understood and discussed in a more comprehensive sense than in other focus groups – where community-building was the foundation, and intervention was limited in scope and not the major focus of the work. One participant summarized this by stating that restorative justice is “not something you do after the fact, but is embedded into everything so that you never actually have to say the words restorative justice.” Another participant named that this is particularly true in schools, that there are “so many moments to interrupt toxicity and trauma.”

### **INSTITUTIONAL CULTURE CLASH**

Another clear delineation between the discussion in this focus group versus the others, was how a significant portion of the work done is not by outside organizations in partnership with schools, but internally within the institution itself. This reality seemed to highlight the misalignment between restorative justice and the power structures within the schools it is being implemented. One participant shared that the sharing of power that restorative justice requires is problematic in the context of “traumatizing institutions.” They explained that in their experience schools are “hubs for people who struggle to share power,” and the only places where they have seen the healing power of restorative justice is when those with power have chosen to share that power. It was expressed that one of the largest barriers to restorative justice implementation in schools is the fact that it is being attempted within supremacist structures.

### **CONCERNS REGARDING THE CREATION OF STANDARDS**

Early in this focus group, deeply felt concerns were shared regarding the leadership and facilitation of the process of creating Standards thus far. It was recognized that both facilitators were white and male, and that the Advisory Committee for the project, RJCO, was comprised of all white individuals. Some participants named this as offensive and perpetuating systems of white supremacy. The concern was raised that this conversation, and the involvement of communities of color in the focus group felt like other historically oppressive conversations that imply power-sharing, but do not live up to this

expectation. One participant expressed this by explaining that they were “tired of sitting in these contrived spaces.”

Following are some of the key concerns that were raised within the context of this focus group.

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### **Process Conception and Facilitation**

There were several concerns raised specifically regarding this project’s conception and delivery. One participant named that the relationships necessary for true collaboration and power-sharing do not yet exist. They were concerned that the time was not taken by the Research Team before the conversation of this focus group to develop those relationships so that trust may have been built. It was expressed that without those relationships, it is difficult to trust the intent and nature of the focus group and the Research Team.

As described above, it was also explicitly stated as problematic that the facilitators were two white males. The feeling expressed by several was that Just Outcomes should not be leading this process without the representation of people of color within the facilitation team. It also was named that given the makeup of the RJCO Coordinating Committee, it is also problematic that they are the Advisory Committee providing leadership to the process. Several participants characterized the process as “offensive” and unsafe in that people of color were not in a leadership role and stressed that the project should prioritize compensating leaders of color to help fill that gap.

There was also a concern shared in the room regarding how these conversations may be translated into policy. It was named as important that policy not be created in a vacuum of two white facilitators’ summary of these focus groups. The creation of any set of standards must, in more meaningful ways than currently constructed, be created in the context of shared decision-making power with those directly impacted by restorative justice and any eventual standards. There were doubts as to whether the project had an intent to share this power, thus leading to mistrust and concerns about the process moving forward. One participant expressed this by stating that “the process we’re using tonight perpetuates harm and existing structures.”

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### **Standards as a Framework is Problematic**

Another issue that emerged in the conversation of this focus group was the framing of what we are attempting to create. “Standards” as an outcome was problematic for many in the group based on the following ideas this word elicits:

- “standards keep people out – can be exclusionary;”
- “standards is coded supremacy language;”
- “language of standards reflects the values of white culture;”
- “putting standards on restorative justice turns it into a program – and it is not a program;” and,
- “restorative justice is about de-standardizing schools . . . about re-humanizing the lives of those most impacted...how can you standardize de-standardization?”

Several participants recommended other terminology that might better reflect the intent. Framing like “best practices” or “reflective norms” were suggested as alternatives to the framing of standards. Many explained that perhaps standards was simply not right for the school context, but may be more useful in other applications. One participant was concerned that “we haven’t all agreed about what the problem is, but we are entering this conversation as though it is a given that ‘standards’ is the solution.”

In the midst of these critiques, there were also some that felt the conversation over standards was important. One participant felt that there should be standards around how much resource is provided to practitioners to do the work with integrity. Another explained how at first they were extremely resistant to the idea, but now getting “the purpose of having this conversation.”

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### **We Don’t Have the Right People at the Table**

The final theme that was emphasized in this focus group was the importance of getting the right people to the table. It was expressed that the communities that are most impacted by the current institutions should speak to the issues that need to be addressed. One participant directly asked where the people most impacted where? The idea of power-sharing and inclusivity was seen as a prerequisite to establishing any set of standards that would have meaning, and that this prerequisite was missing.

In the context of creating standards, one participant expressed a meaningful methodology would be to find out from those most directly impacted the things they have seen that are most harmful, and what could be done to avoid those things – that this could be the baseline for a set of standards. Another participant explained that you cannot expect to get the most vulnerable people to address these types of questions in a group like this, but that instead you need to go to them.

This priority of both engaging those most impacted in the creation of standards, and doing so through alternative methodologies than focus groups was a prominent message in this focus group.

### **WHERE MIGHT STANDARDS BE USEFUL**

In the second half of the focus group, some discussion emerged regarding the focus of standards. For some, a potential focus was to create standards that prioritize community-and relationship-building within the school context, and that this be paired with minimum standards of resource and time provision to do so with integrity.

Several participants explained that it is right to be concerned with the avoidance of perpetuating more harm through practices framed as restorative justice, and that standards might be a construct support this intent. For many, this meant focusing on minimum standards – standards that do not impeded individualized and culturally relevant practice but do create a baseline of protections for those most vulnerable. A few participants felt that standards might help indicate the minimum level of training necessary for restorative justice practitioners. Another participant wondered whether standards might be able to validate their existing practices that were already working well.

# APPENDIX 1

## RESEARCH TEAM BIOGRAPHIES

**Matthew Hartman (MA):** 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 Masters 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 (MA):** Aaron is a dynamic facilitator, trainer and mediator spanning issues of conflict, accountability and justice in a variety of settings. He currently facilitates both workplace conflict interventions and victim-offender dialogue in serious and violent crimes, while providing 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 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 Conflict Transformation with the Centre for Justice and Peacebuilding. While 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.

**Catherine Barga (MA):** Catherine has been working within communities toward developing community-responsive conflict and 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.

# APPENDIX 2

## EXAMPLES FROM OTHER DISCIPLINES OF UNREGULATED STANDARDS, GUIDELINES, ACCREDITATION, ETC.

### **MEDIATE BC**

[https://www.scribd.com/document/209261276/Standards-of-Conduct-for-Mediators#from\\_embed](https://www.scribd.com/document/209261276/Standards-of-Conduct-for-Mediators#from_embed)

### **LIFE COACHING**

<https://coachfederation.org/accredit-a-program/acsth-accreditation>

### **DRUG AND ALCOHOL COUNSELLOR/ EMPLOYEE ASSISTANCE PROGRAM (CANADA)**

<http://www.ccdus.ca/Eng/topics/Workforce-Development/Certification-and-Accreditation/Pages/default.aspx>

### **DOULA CERTIFICATION (CANADA AND INTERNATIONAL)**

<https://www.pacificrimcollege.com/faculties-programs/program/holistic-doula-certificate/>

<https://www.dona.org/become-a-doula/>

### **YOGA TEACHER**

[https://www.yogaalliance.org/Credentialing/Credentials\\_for\\_Teachers](https://www.yogaalliance.org/Credentialing/Credentials_for_Teachers)

<https://ajnayoga.ca/yogatherapy/> (has different specializations)

### **TUTORING**

<http://tutorsforless.com/tutors/canadian-certified-tutors/>