

The rise of participant-centric justice through restorative practice values

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Abstract

Aotearoa, New Zealand has the second-highest rate of incarceration in the world, second to the United States. With a burgeoning prison population, that is over-represented with Maori (Indigenous people of Aotearoa, New Zealand), changes to Government legislation and policy over recent years have been implemented to provide enhanced participant-centric services for those who have been harmed and the people who harmed them.

At the heart of restorative justice practice is a values system that is proven to provide improved outcomes for the participants. To which of these values do the practitioners ascribe? This study is a collation of narratives from the practitioners working in the criminal justice system, at the Christchurch District Court, New Zealand. Practitioner titles involved include Judge, lawyer, police, probation officer, social worker, victim advisor, facilitator, and service managers.

This qualitative inquiry investigates the challenges of practice across a diverse group of professionals by interpreting their experience and worldview. The analysis explores how values are influenced by these professional networks within the restorative justice system. It aims to identify indigenous (Maori) values that influence and link practice to the professional values alongside participant-centric outcomes. The analysis concludes with theories-of-change to assist practitioners in improved delivery, by transforming participant centric aims into practice. This analysis of values and principles of service delivery highlights areas of improvement and suggests possible new directions for research.

Acknowledgements

“The power of the narrative is not so much that it is about life, but that it interacts in life” (Diaute 2014, p.xviii), Merriam, S. and Tisdell, E. 2016.

Maori whatatoki:

Ahakoā, Nga uaua. Kia toa, Kia Kaha, Kia Manawa Nui. (When life becomes difficult. Stand tall, stay strong and be of good heart).

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1. Introduction

This study shows that the link between effective participant-centric restorative practices, as identified by participants, relate to the ritual and tradition of criminal law and, lies in the values demonstrated by practitioners.

Restorative justice practice is widely heralded as beneficial to victims of crime (Zehr, 2015). This study complements research undertaken on the efficacy of Restorative justice on victims and the people that harm them. While analyses of people entering the criminal court system already exist, there is no comprehensive analysis of the other stakeholders in criminal court processes, particularly legal professionals (Jülich and Bowen, 2015, Latimer, Dowden, and Muise 2001, and Richardson, and Young, 2015). Further inquiry is needed to understand the value of restorative justice practice across a wider stakeholder cohort.

While people who have been harmed and those who have done harm have a vested interest in the perceptions and realities associated with their experience of crime and criminal justice (Jülich and Bowen 2015, p.5), this study brings together data from stakeholders as practitioners in the restorative justice process and provides a comparison that informs society of ways to improve the outcomes for people who have been harmed and those who have done harm.

This study analyses the practice values of the people working in the restorative justice system and process, conducted throughout Christchurch and surrounding localities from criminal justice proceedings originating from the Christchurch District Court. The use of Restorative justice in Christchurch has grown since the December 2015 amendment to the Sentencing Act 2002 [24A]. A recent change in sentencing procedure highlights the Government's desire to ensure victims are placed at the centre of justice procedural and outcome thinking in society. By exploring the values and interests of practitioner stakeholders, this study goes some way to understand the shared culture of Restorative justice in the new era of Christchurch's criminal justice law. It is relevant to

Judges, Defence lawyers, Prosecutorial staff and Police, Courts staff, Courts services for victims, and Restorative justice practitioners, all working within the scope of Sentencing Act 2002 and its subsequent amendment.

Key research questions included 'What are the common values and interests of people working with restorative practices (the subjects) in the criminal justice environment? How are these values and interests similar/dissimilar to each practice group? What are the sources of collaboration and conflict between the practice groups?'

In the context of this research, the term 'people who have been harmed' is synonymous with the term 'victim' and terminology referring to people who have done harm is synonymous with the term 'offender'. The terms, 'Parliament of New Zealand', and 'The Crown' are synonymous with the term New Zealand Government.

Of extreme relevance to the context of this research is Te Tiriti o Waitangi:

"Te Tiriti o Waitangi, the Treaty of Waitangi, is the agreement New Zealand is built on. Signed by Maori chiefs and representatives of Queen Victoria in 1840, Te Tiriti is an agreement of how Maori and the Government of New Zealand will work together and the respect they will show each other. The principles of the treaty are reflected in the values, principles, and standards of restorative justice best practice in New Zealand. Collectively, the Ministry of Justice and the restorative justice providers are committed to upholding the principles of the treaty at all times." (MOJ. 2017. p 7).

These values are described as separate attributes of practice. This divergence of practice to values across New Zealand's national justice programme is mirrored across many aspects of society in the delivery of services that are effective, safe and appropriate for indigenous New Zealanders.

Defining Values

This inquiry utilises *a priori* coding (Saldana, J. 2016). Provisional codes were adopted from the list of practice values developed by the Ministry of Justice (p. 8-9).

“Tika. We do things in the right way. We do things ‘with’ people rather than ‘to’ or ‘for’ them. Restorative justice engages the people who have the problem in solving the problem. By ensuring the people directly affected by the offence aren’t treated as outsiders, restorative justice can achieve outcomes that other processes can’t.

Pono. We’re truthful, honest and sincere in our interactions with people. We are honest and have integrity in all that we do. Truthful speech is essential if justice is to be done. In restorative justice, truth entails more than clarifying the facts and establishing guilt within strict legal parameters; it requires people to speak openly and honestly about their experience of the offending, their feelings, and their moral responsibilities.

Whanaungatanga. We develop relationships and work together. We recognise that the restoration of social balance rests with the community, rather than individuals. Relationships between people are at the heart of restorative justice. While stressing individual freedom and accountability, restorative justice recognises the communal bonds that unite victim, offender and community.

Āhurutanga. We provide a place of warmth and safety. While restorative conversations can be difficult, we create safe spaces where people can express themselves without fear of being made to feel uncomfortable or unsafe on the basis of their race, culture, sexual orientation, gender, age, beliefs, status in society, or mental or physical ability. All people in a restorative justice conference have something valuable to contribute to the goals of the conference.

Manaakitanga. We show respect, generosity and care for others. We treat people respectfully, irrespective of who they are and where they come from. We build relationships

between victims, offenders and communities through manaakitanga. The restorative justice process should uphold the mana and dignity of everyone present.

Mana motuhake. We enable people to achieve self-determination. All people require a degree of self-determination and autonomy in their lives. Restorative justice seeks to re-empower victims by giving them an active role in determining what their needs are and how these should be met. It also empowers offenders to take personal responsibility for their offending, to do what they can to remedy the harm they have inflicted and to begin a rehabilitative and re-integrative process.

Aroha. We feel compassion, caring and empathy for others. No matter how severe the wrongdoing, we respond in ways that lend strength to those who are suffering and that promote healing and change.”

Definition of participant-centric restorative practices and therapeutic jurisprudence

Emerging during the 1980s, therapeutic jurisprudence aimed to add further psycho-social elements to the provision of criminal justice. Essentially, therapeutic jurisprudence adds therapeutic aspects to the recognised traditional (Maori) procedures and rituals while maintaining the integrity of the law. In the book, *Therapeutic Jurisprudence: New Zealand Perspectives* (Brookbanks. 2015), Marshall (p. 147), quotes London (2011),

“Despite the efforts of many brilliant minds and the expenditure of vast sums, we have managed to create a criminal justice system that transforms innumerable personal misfortunes into yet other calamities. Victims, who have suffered the trauma of crime, enter the portals of this system with high expectations of justice, only to find themselves wandering its halls feeling bewildered, unfulfilled, and used. For those accused of a crime, entry into the system portends the beginning, of a personal nightmare of dehumanization, ruinous financial losses, and unending suspicion. As a criminal justice professional, I came in

contact with hundreds of human beings caught up in this labyrinth. Time and again, I saw the same look of despair on those who emerged from the process embittered, exhausted, and defeated.”

In his text, Marshall explores the genealogy of the restorative justice movement. The analysis draws attention to the development of a set of values attributed to the notion that (quoting London, 2011), “we can devise a criminal justice system that promotes genuine healing, forgiveness, and reintegration.”

Alongside studies that support the virtues of restorative practices from the perspective of the participants, this study aims to characterise the values of restorative practices identified by the practitioners and to outline which of those values support the aims of participant-centric restorative practices.

The efficacy of restorative practices

In 2015, Julich, and Bowen used meta-analysis to examine the complexities of the use of restorative justice for cases of sexual violence, particularly if restorative practices could be employed as an alternative to the current formal adversarial criminal justice system. They theorized the present criminal justice process re-victimized people who were sexually assaulted. Further, they do not support the concept of restorative justice as a standalone alternative to prosecution as it may not meet the wellbeing of victims of sexual violence. Combined with results of earlier work by Julich between 2001 and 2015, Julich and Bowen proposed a five-stage model of recovery for victims of sexual abuse. Their research had found that owing to the complex nature of sexual assault and any subsequent impact of the Stockholm Syndrome, restorative justice as an intervention worked most effectively as part of the current criminal justice process. They supported a view that practitioners of restorative justice and individuals working with criminal proceedings be specifically trained to deal with victims of sexual violence considering the five stages of recovery. Their inquiry, although unique

to cases of sexual abuse, informs this investigation of the need to understand the impact that *all* stakeholders have upon the recovery of victims, including the perceived outcomes for offenders.

Joyce-Wojtas and, Keenan (2016) reviewed various works of inquiry to highlight the contentious paradox between the criminal justice system and restorative practices in cases of sexual violence. Their research examined the concept of a hybrid system of justice where the needs and rights of victims and offenders are protected. They theorised that restorative justice is an innovative and complementary process within a highly adversarial criminal justice system. They found that a major difficulty facing restorative justice as a stand-alone intervention occurs if the process breaks down, and when the offender may have given up their right to not self-incriminate. This potential breach and resulting lack of procedural fairness could also have detrimental effects upon the complainant who may feel re-victimised. Their study concluded that restorative justice was no adequate alternative on its own, that it is best employed within the criminal proceedings as a *complementary* intervention. They also warned against the possible re-victimization of complainants by saying, "Additional justice responses are required. We have made [a] case for restorative justice and established ... that the needs of victims can be effectively met by reconciling restorative justice with criminal justice responses." (p. 45). While their article focuses specifically on victims of sexual violence, this inquiry finds that the values of restorative justice and those of the criminal justice system are not dissimilar regardless of the nature of the crime. The work of Joyce-Wojtas and Keenan inform this paper of the importance of integrating the collective needs and values of all stakeholders.

As a collaboration between Restorative justice Otautahi Christchurch and the University of Canterbury Social Work Department, Richardson and Young (2015) inquired if the services purchased by the New Zealand Government (via the Ministry of Justice) about victim-centric services, were perceived favourably by the people who have been harmed. They focused on the process of measuring victim satisfaction to determine the facets of restorative justice that were

most valued. The mixed-method qualitative inquiry identified 81 victims, of which 25 agreed to participate. Data were collected from 14 subjects. The sample consisted of ten males, four females; Thirteen Pakeha [People of European descent] and one person of Samoan descent. They found high levels of satisfaction in the process of restorative justice but that the current tool for evaluating their satisfaction did not allow for their 'voice [to be] heard' (Richardson and Young 2015 p.19). Their study made recommendations that have informed this inquiry, including, 1.) Increase the volume of the voices of victims and offenders and utilize this to promote change in policy/process and practice. 2.) That the community continues to inquire into restorative practice in collaboration with academia and, 3.) Inquire into the link between participant satisfaction and the criminal justice system.

The meta-analysis of Latimer, Dowden, and Muise (2001), and participant satisfaction research (Richardson, and Young, 2015) give suggestions of the factors necessary to create an environment and practice conducive to positive outcomes for participants. They found that restorative practice improves outcomes in locations where Restorative justice programs are in place. Some research has shown that Restorative justice could do harm in circumstances involving sexual and domestic violence if the practitioners are not specifically trained. Stakeholders participating in the delivery of services associated with the sentencing process have interests, values, and needs that, when met, are conducive to participant-centric restorative practices. The literature on therapeutic jurisprudence indicates that it adds value to the proposition that service excellence improves outcomes for the public who enter the criminal justice system.

Emotional intelligence within a restorative practice system

Given the proven benefits of restorative justice, King (2008) inquired into the role of therapeutic jurisprudence and the application of emotional intelligence upon the criminal justice system to understand the role emotion plays in a typically adversarial system. In his meta-analysis of the wellbeing of victims of crime and people in dispute, King concluded that Judges and Lawyers

must include intrapersonal and interpersonal skills in their training. He found that restorative justice practices are valued by participants, and these are enhanced through the application of therapeutic jurisprudence behaviour of people working in the criminal justice system. The application of skills development in this sector must balance with the need for emotional intelligence within the system (Goleman, 1998).

However, there remains some debate about the relevance of emotional intelligence in psychology. King quotes Goleman, “However, critics consider that some components of mixed models – such as reality testing, stress tolerance and, impulse control do not comprise emotional intelligence.”

In summary, research on the process of restorative justice shows gaps in understanding the values and interests of stakeholders involved in restorative practice. Consequently, this paper examines the narratives of stakeholders within the field of restorative practice. It exposes the sources of conflict and collaboration experienced by stakeholders. Furthermore, this study theorises on changes that could be made to policy/process/practice to improve outcomes for the participants, their families and their community, following the application of restorative justice processes.

2. Research method

As general qualitative research, narratives were recorded from an eclectic sample of practitioner stakeholders, working in the restorative justice environment (n=20). The resulting emic oriented data was first coded against predetermined (a priori) values developed by the Ministry of Justice, as stewards of New Zealand’s criminal justice system. The data were further coded by the sole researcher, from their perspective as a restorative justice facilitator. Three cycles of coding were followed by a theming exercise utilising a transitional framework of therapeutic justice values, defined by Warren Brookbanks. (Brookbanks, W., 2015. p 163-177). The resulting analysis informs

this paper of theories of change to make sense of the data, in concert with the findings of other scholars of restorative justice and therapeutic jurisprudence.

To understand the narratives of stakeholders (specifically, judges, defence lawyers, prosecutorial staff and police, victims' advisors, probation officers and Restorative justice practitioners), within the Restorative justice process, this study used interviews as a primary means of collecting data. (Pajares, F., 2007. Para VII.).

20 participants were interviewed. All participants contributed data voluntarily after first consenting to proceed. Private meeting venues were agreed for participants that provided for ease for the participant and confidentiality of the process. Two practitioners were selected as purposeful subjects (n=2), and the rest (n=18) were recruited by the snowball method of garnering interviews.

The purposeful sampling began with the identification of one key individual as an initial sample. At a point where snowball sampling had stalled, one further purposeful subject was recruited. As a research strategy, this ensured a growing network of stakeholders until *saturation* (Merriam and Tisdell. 2016. p.98).

The study method and intent were first ratified by the Institutional Review Board (IRB) at the Eastern Mennonite University to ensure the protection of human subjects.

This study utilized an emic approach to data collection and analysis with a researcher as a practitioner already working in the field of restorative practice. To address the issue of reflexivity (Merriam & Tisdell, 2016. p. 62), interviews were undertaken by the researcher and monitored during a supervision process by an Eastern Mennonite University practicum advisor and a New Zealand based advisory group. The ongoing potential for inherent bias was discussed and examined in the context of a research environment that had close ties to the local restorative justice provider.

Validity, reliability, and ethical concerns

The researcher is a certified researcher in the protection of human research participants by the National Institutes of Health, Office of Extramural Research. (Certificate number: 2160584).

The research was approved by an academic committee of the Centre of Justice and Peacebuilding at EMU.

As a restorative justice facilitator, the author demonstrates skill as a neutral observer of the telling of stories. These stories lie at the heart of the Restorative justice process and qualitative research. This apparent cross over between practitioner and researcher is supported by an ability to report impartially the analysis of the narratives. The collection of narratives in the Restorative justice process and the taking of narratives in the course of this inquiry adds consistency to the method of collecting qualitative data.

Data was collected from the cohort using a structured questionnaire, by face to face interviews, and recorded for transcription, before three cycles of coding, theming and analysis. (Saldana. 2016). The programme began in May 2018 with an invitation to the first purposeful subject. [AA]. From then, 14 further interviews were undertaken via the snowball recruitment method. The initial 14 interviews, [AH; AF; AP; AJ; AG; AM; AM; AQ; AX; AV; BA; BD; BP; AO], were garnered from 57 snowball referrals. Progress in recruiting further subjects stalled by the middle of August 2018, so a second purposeful candidate was recruited and interviewed as subject number 16 [BQ]. From this subject, four further subjects [BU; BX; BR; BI], were interviewed, and data collection was closed on September 25, 2018, with the final interview, [BI], on the basis that no new information contributing to the research questions was forthcoming from the snowball subjects.

The cohort was initially classified by their primary role description (n=20), as shown in Table one. From this classification, the subjects were further classified by all the roles they have

undertaken that are pertinent to restorative practices (ref, Table two). The sample was further classified by gender and age, as shown in Table three.

Table one. Primary Role Description.

Role descriptor	
Barrister – defence	2
Barrister – prosecution	1
Restorative justice community panel member	1
Restorative justice facilitator	3
Restorative practices trainer	1
Judge	2
Police officer	3
Police prosecutor	1
Probation officer	1
Service manager	5
total	20

Table two. Secondary Role Description.

Practice descriptor	
Mediation	4
Social work	4
Restorative justice facilitation	4
Restorative justice panel membership	4
Social work	4
Victim services	2
Advocacy – defence	6
Advocacy – prosecution	3
Law enforcement	4
Administration of services relating to Restorative justice	11

Table three. Sample gender and age.

Descriptor	
Male	9
Female	11
Aged 24 to 35 years	1
Aged 36 to 47 years	5
Aged 48 to 59 years	8
Aged 60 to 71 years	5
Aged 72 to 83 years	1

Data analysis

The sole researcher attended all interviews face to face. The interviews were recorded on iPad, iOS 10.3.3 using Supanote v3.2.8 and transcribed from VLC for iOS v3.0.5I to MS Word v1809. All data were managed by MS Excel v1809 and Dedoose v8.1.9. All analysis was supplemented by researcher notes throughout the process of coding, theming and analysis.

Limitations

Specific work-stories provided by the subjects, although recorded, were not transcribed. This eliminated the identification of actual events, to actual people, that would otherwise represent a significant ethical dilemma and privacy breach for the subjects.

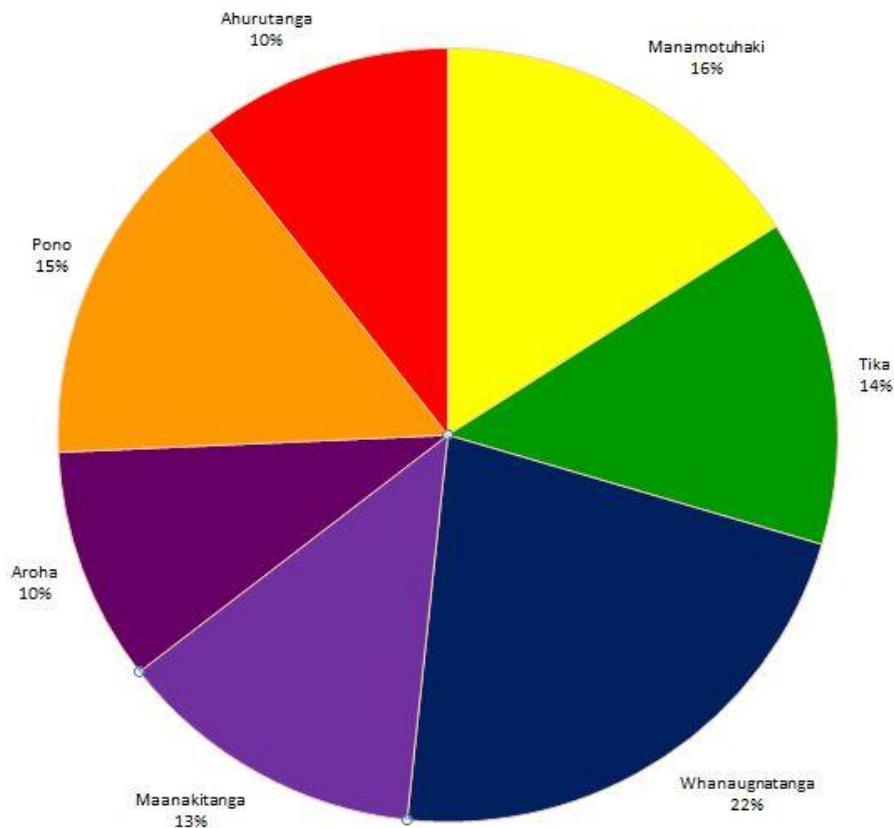
3. Results

Primary coding: Ministry of Justice practice values

Coding is a heuristic, a process that makes meaning of the narrative. The discovery of the meaning behind the views of the subject's links ideas together in a transitional spectrum in the analysis of this *a priori* coding. The MOJ national guidelines for restorative practices assign to it a common set of values that function as the initial codes in the study (MOJ. 2017. p. 10-11). Each of these values is described in Figure one as the proportionality of primary codes.

The primary coding process did not find gaps in the overall values demonstrated by any practice group across the sample. Indeed, it found a reasonably even distribution (Figure one). The first phase of analysis underscored behaviours associated with values. These were identified from the sample, which demonstrated tangible connections to the intangible values of those restorative practices prescribed by the MOJ. The secondary coding process outlined the key principles in the delivery of services that impact directly on participants within the criminal justice system.

Figure one. Amalgamated values proportion by practice

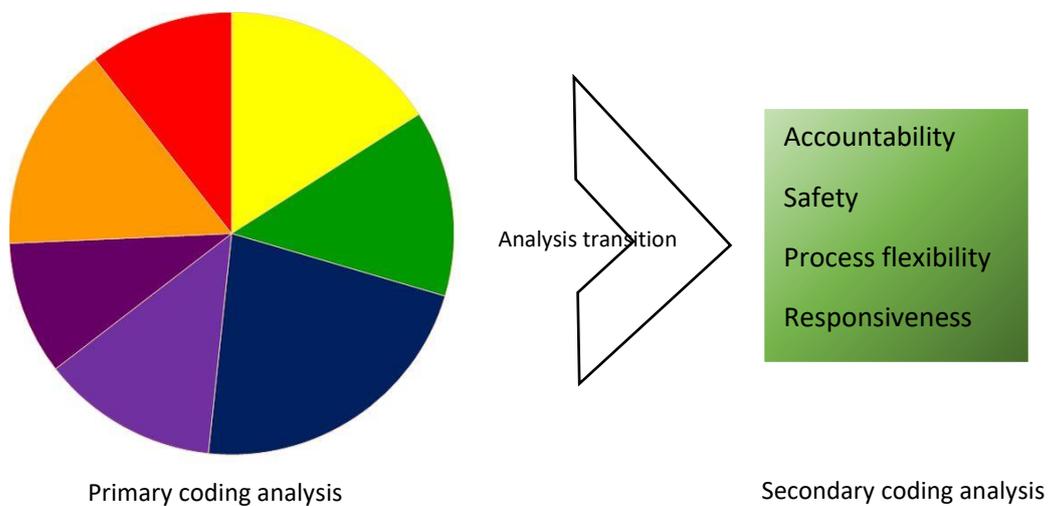


Secondary coding: behaviours that connect participants and practitioners

This study further constructs connections between the principles of restorative practices as they relate to participants and applies them to the practitioner stakeholders who deliver various components of the restorative practice and underpinning therapeutic jurisprudence a key driver for the participant-centric services. Practitioners need to model behaviours they expect from the participants in the justice system. From the data, the author concluded that practitioner values in the delivery of services must be consistent with the values that are attributed to current measures of successful restorative justice outcomes.

So, the secondary coding aligned the narratives with values, as *a priori* codes, to a series of principles that describe the relationship between the needs of the participants of restorative practices to the behaviour of practitioners (Figure two).

Figure two. Values transition to principles



The principles of accountability, safety, process flexibility and responsiveness, understanding, and voluntariness come directly from the MOJ practice guidelines (p. 10-11). Each principle is described below with an analysis of the data.

A. Accountability

“Offender accountability is key to the restorative justice process. The offender must acknowledge responsibility for the offence before the case can be accepted for a restorative justice process.” (MOJ, p.11).

This study found that practitioner behaviour was a determining factor in the behaviours required by the MOJ for the participants. The Te Pai Oranga Iwi panel process acknowledges that,

“The [person] that is the head of our restorative justice processes is very skilled, and the police that is there might appear threatening to the people. The [police, facilitator and panel members] that are on the panel, if they act professionally and with empathy, we have to uphold the law, then if [participants] want to participate in the process, they have to admit to the offence. We provide an arena where people can be settled in the presence of authority.” (AJ interview, June 26, 2018).

A service manager of a criminal justice practice that works predominantly in the pre-sentence Restorative justice arena added weight to the evidence that practitioners' values directly impact many areas of their work when they said, "Implementing [restorative practices] across the different service practices, in terms of my work that I do its almost 100%, probably people management needs restorative practices as part of my values. I'm passionate about that." (BR interview, September 4, 2018).

Further, the connection between what happens in restorative practices and the experience of participants is captured in commentary that demonstrated a personal accountability to the process by not defining people in it with pejorative terminology, "I don't want to reduce people to their trauma, so I'm avoiding talking about people as victims or offenders as it puts them in a corner. It puts us all in a corner." (AA interview, May 22, 2018).

B. Safety

"Restorative justice processes are safe for participants. Safety underpins all decisions made by facilitators and providers." (MOJ, p. 11).

A recurring interest expressed by subjects were the principles of safety. Interviewees referred to the inherent risk of violence between participants of restorative justice, physical and emotional, before, during and following any criminal justice proceeding. The resulting risk mitigation is designed to ensure people are not put in positions of doing more harm nor people further harmed as a result of the criminal justice process. "It's done in very simple terms. I make it very plain. These are the outlined risks as I see them, and this is my view as to whether Restorative justice should go ahead based upon those risks." (AF interview, June 21, 2018). Yet, a more risk avoidant view was expressed as, "I have a lot of concerns about family violence, and I would say, that with family violence cases, I sometimes don't find [restorative justice] valuable. [Restorative justice is more appropriate] for criminal behaviour that is not involved in intimate partner violence / family violence." (AG interview, June 27, 2018).

Alongside the need to provide safe environments and process for participants, practitioners also acknowledged the principle of safety in their practice. While they wish to work in safety, it also transpired the risk of emotional harm is an inherent consequence of their work.

“My own personal boundaries are something I’m trying to get better at. Sometimes a case will get under your skin, and you will carry that person around with you. Patterns in relation to my speciality – family violence – cases where young babies and children are involved, where injustices have been done by the system – whether it is under-charging or plea bargaining, whether it is where the victim’s voice has been silenced. Anything involving pregnant women is likely to get under my skin. This happens through an over-identification with that women, empathy. I have lost sleep a couple of times, but it’s not like it completely dominates my life and be obsessed with it. I can feel myself holding that person.” (AM interview, July 5, 2018).

Additionally, the need for a formal protective process such as employee assistance programmes (EAP), supervision and mentoring, was voiced as “ [Practitioners] go to a place where people can talk to each other about something that has happened, with a person that is well trained. That’s really important. The value is if we think that, as human beings, we do value people’s minds, we value a certain equilibrium within ourselves.” (AV interview, July 12, 2018).

Not all practice groups have formal mechanisms to maintain personal health. Some simply apply behaviours that aim to resist secondary trauma that can be created by working in environments where the practitioner is exposed to trauma. Informal strategies employed were exemplified by, “I live quite a reclusive life. I have a very select group of people I mix with socially and emotionally. I do a lot of things that I love, like when I’m really low, or things are really bad. I will spend a day gardening or putting in trees or creating a garden.” (BU interview, August 30, 2018).

Another subject said of their work, “It’s very draining. I used to find quite a lot of elation and jubilation. Now it’s just relief. Ultimately, as a defence lawyer, people ask, how can you defend those

people?” (AO interview, August 24, 2018). This subject outlined a plethora of physical and social activities that assisted them to remain healthy in such a challenging environment.

Process flexibility and responsiveness

“Restorative justice processes are flexible and responsive to the needs of participants.

Restorative justice processes can be tailored to meet the cultural, emotional, spiritual and health needs of participants” (MOJ. 2017. P10).

Some interviewees held the belief that restorative practices permeate communities all the time. This was expressed as a personal principle that they modelled as a series of altruistic behaviours. For these people, this holistic view drives behaviours and practices beyond their professional lives.

While subjects held various views on when the Restorative justice process began, they were not so clear about when it ended. While practitioners supported the responsive and flexible principles within their work, many identified that the current processes gave them insight into a lack of flexibility and responsiveness. “The after is really important – support for people after – especially for cases where male assaults female – what’s available for after? Currently, the Restorative justice process is a limited intervention, and people need a whole journey as a process so that they have an improved outcome.” (AV interview, July 12, 2018), and “I’m passionate about a process that brings everything together and gives us an opportunity to do things differently and give people what they need individually.” (BR interview, September 4, 2018).

A connection was made between the restorative nature of the process with the healing of the participants. Subjects suggested that healing was not complete simply by the application of restorative justice, but that it needed a longer-acting intervention that assisted parties through the process.

C. Identified Gaps in Restorative justice services

Subsequently, a series of gaps were identified by the subjects. While the efficacy of current restorative practices provided for good outcomes for participants, they also considered that the current processes lacked a holistic approach to the practice of Restorative justice. “I’m a fervent believer in therapeutic jurisprudence. [I like] designing an outcome in a criminal case that is designed for the participants so that one size does not fit all.” (BQ interview, August 27, 2018). A significant gap in the provision of pre-sentence Restorative justice involved the formulaic approach to service delivery. Subjects opined that a one-size-fits-all approach could limit the effectiveness of the process and offered suggestions such as, “That restorative justice is a brief intervention is the gap. Like if we preconference, two, three four five times before we have a conference, I wonder what that conference would look like.” (AC interview, May 30, 2018).

Additionally, the acknowledgement that many service providers, while effective in their respective disciplines, were not easily accessed across the wider practitioner cohort. This gap highlighted not only the limited resources available to participants but also the strengthening of mechanisms that connect participants with the services they require. “We have some pamphlets that we can give people, it’s not wrong, it’s [just] a bit random.....We have these people who have poured their hearts out to us. We should be giving something back” (AC interview, May 30, 2018).

Furthermore, some subjects voiced a need to offer various forms of restorative practices, beyond simply applying the process within the pre-sentence environment. Such as in the pre-plea environment,

“Flexibility is the key. I think about restorative justice right at the outset now. [There is] a need for more innovation in the application of restorative justice prior to conviction.

Sometimes victims want [to be] more creative in the remedy of the charge. In lieu of a guilty plea to a reduced charge or a sentence of dismissed without a conviction.” (AO interview, August 24, 2018).

In the post-conviction/pre-sentence environment, subjects felt that the criminal justice process was too adversarial, and this could limit the opportunity for people to want to engage in a restorative process. None-the-less, having access to restorative processes could be made available for parties after a sentence had been handed down to assist parties to recovery. "I have discomfort in some responses of criminal justice because the system is adversarial in court, where you allege, and I deny, and we fight it out in court. Examples of one size fit all even when people have made serious misjudgements but are not necessarily bad people." (AO interview, August 24, 2018).

D. Understanding

This inquiry supports the notion that the depth of appreciation of values increases with the relative experience of the practitioner.

"Understanding is the key to effective participation. Facilitators provide participants with high-quality information and work with them to ensure they know what to expect throughout the restorative justice process." (MOJ, p. 10).

By comparison, the principle of understanding of values for the practitioner parallels that of the participants of restorative practices required by the MOJ. It is the principle of understanding that links all the principles and values. Practitioners that grasp an in-depth understanding of the entire restorative process appear able to link their professional and personal concepts of restoration.

"I want to relate it to the community in some way. It would be of most value if people understood restorative justice and this is the accepted definition by the framework recently arrived at, it is a community-based response to crime that aims to hold people to account for offending, and as far as possible, repair harm done to individuals and communities that is that it aims to healthy community...If we communicate restorative practices and have restorative relationships, we will live healthy lives. In this country, we are a long way from doing that. So how valuable is that? Its value has yet to be seen. I kind of want to say because we've got a pretty sick society in parts of it." (AA interview, May 22, 2018).

Further evidence of a widened understanding of restorative practices and its benefits to society were recorded as,

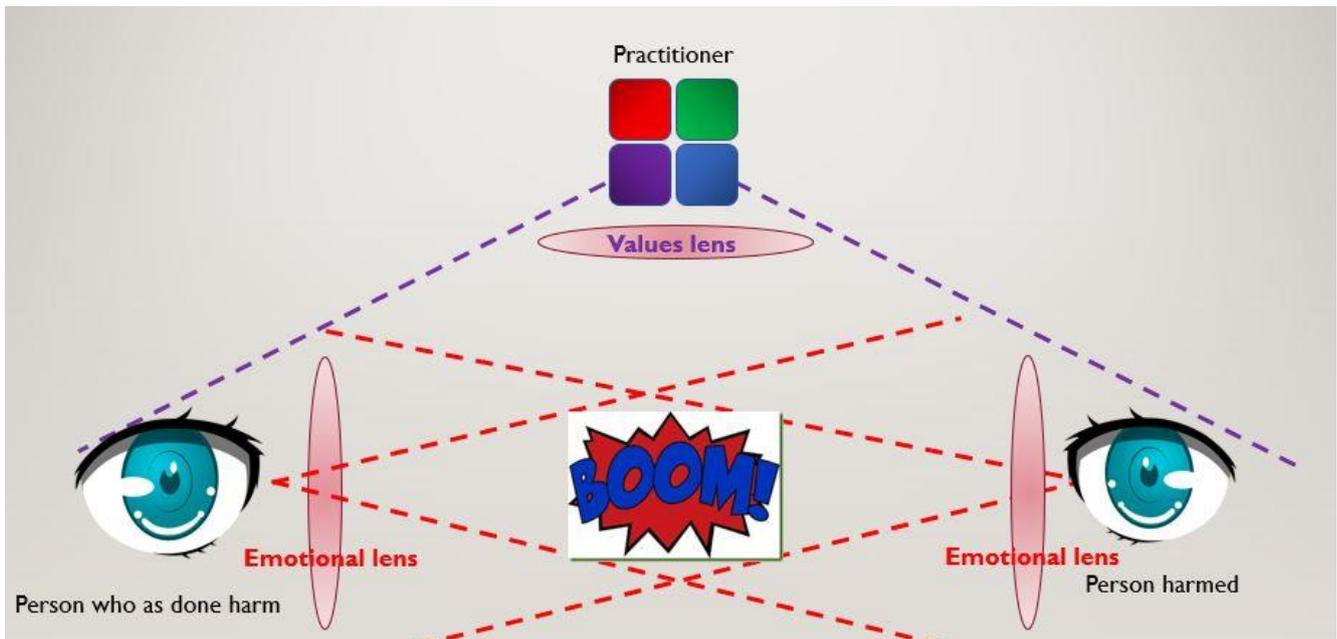
“You invoke or engage with a regime that deals with the causes of the offending and you understand what the causes are, whether its alcohol or drugs or mental health or poverty or homelessness, then you deal with the issues that have caused the offending, in the hope that the therapeutic approach will reduce the risk of reoffending.” (BU interview, September 25, 2018),

and as an example of helping participants understand each other, the practitioner also must strive to understand,

“The offender can see for the first time, the victim as a person. We can understand what we feel, but [it’s] difficult to understand what others feel. They see things, common events, as completely different. [The practitioner] has two people viewing the event. We have party ‘A’ and the eye of party ‘B’. This is their field of view, they can see what the other person did in the context of that event, if it were an object, for example, they could see opposite sides of the same [event]. That object is not the same on both sides.” (BU interview, September 25, 2018).

The principle of understanding, from a third-party perspective, highlights for the participants, that an additional view of the events also influences the process that generates a higher degree of empathy in all the people involved. “So, [the participants] can’t argue, no that’s not what happened. It isn’t a contest of who is telling the truth and who’s not. It is about putting it all together to figure out what really happened.”

Figure three. Subject BU fields of view



A lack of understanding of the Restorative justice process may result in decisions made by practitioners who limit the options to the participants, thereby reducing the potential benefit that restorative justice. This disempowering of the restorative justice process most often come for the connections by police with potential participants. “They’ll say things like restorative justice is not an option, which indicates to me that they’ve got a lack of understanding about what restorative justice actually is. [In my view] it’s always an option, but it’s for the victim to think about it.” (BD interview, July 31, 2018).

The judiciary also voiced concern about the Sentencing amendment act where restorative justice assessments were mandated under the legislation that aimed to increase victim participation in the criminal justice system.

“I would much rather have discretion. But parliament has said I must order one. If I had discretion, then I would cut down on the number of assessments and conferences that I would order and get on with the business with sentencing and finalising matters. It’s law for me to order the assessment – I get the report back that the conference can’t go ahead or

won't go ahead for some safety issues, or the victim doesn't want it. You can't get frustrated by the law, I would prefer, I suspect that the vast majority of judges would prefer the discretion. Must, to may. I'd have thought most judges had been around the traps long enough to know when it's a good idea and when it not a good idea." (BI interview, September 25, 2018).

Further, in a decision of Judge G S MacAskill in 2015, His Honour set out a critique of the Sentencing Amendment Act. Regarding "who makes the determination as to appropriateness" [22-25], His Honour contemplated his understanding of the standard of assessment practices being made at that time by restorative justice providers. He said, "...is typically performed by volunteers who have no training or experience in making decisions that affect the outcome for consideration in sentencing." While this study does not evaluate the veracity of the claim made then, for now, His Honour's understanding of restorative justice practice appears incorrect. This inquiry found that practitioners from the restorative justice provider were not volunteers. As professional practitioners they are not inclined to make decisions for parties to restorative justice, but do make decisions of appropriateness and may send cases back to the sentencing judge when they found parties entering the restorative process, declined participation, were unsafe, are a risk of re-victimization or they simply could not make contact with one of the parties.

Judge MacAskill was not interviewed for the purposes of inquiry into values. The decision made in that case, however, carries some importance to the notion of understanding various practitioners of restorative practitioners as it provides the court with precedence that may influence future jurisprudence.

Other subjects opined that mandatory referral to restorative justice assessment seemed to waste court time when it seemed obvious that the Restorative justice process would fail to conclude with a conference prior to sentencing for reasons of safety, revictimization or failure to make contact with one or more parties. The resulting delay in sentencing simply suspended due process

and worked to create scheduling pressure on a system already groaning under the battle between time and resources. Contrary to evidence from a subject who said, “Restorative justice does not slow down our process. So, what if it did? We just want the best outcome. We find restorative justice is done in a timely manner.” (BA interview, July 20, 2018).

So, there appears to be a misunderstanding of the process from various practice perspectives. For some, the loss of discretion to refer cases for Restorative justice suggests their experience and skill in determining process is not respected. Also, there is disagreement that the Restorative justice process delays jurisprudence. By acknowledging the disparate experiences in the practice of the Restorative justice process, this enquiry indicates that is a lack of understanding of the work of different practice professionals in the values they hold in the delivery of services. Also, this study does not assess quantitatively the process of the timing of restorative practices. Therefore, further understanding of the roles and responsibilities within the system of restorative justice requires further inquiry to evaluate process timing from a systems perspective versus a qualitative measure as experienced by the participants in this study.

By bringing together the value of an understanding of practice, credentials, skill and experience, the importance of understanding as a principle of practice is consistent with the findings of this study.

E . Voluntariness

“Participation is voluntary throughout the restorative justice process. Informed consent is always sought from participants. Victims determine their own level of participation, and all outcomes are arrived at voluntarily.” (MOJ, 2017 p. 10)

This study found the connection between practitioners and participants where voluntariness was supported by the belief that the system is sustained with quality outcomes most often when the parties choose to participate. Subjects supported a process of ‘informed consent’ in helping parties decide if restorative justice was likely to be beneficial to them.

“If the person were there voluntarily and they say I’ve come to this conference to hear your point of view, then you would know it was genuine.” (BQ interview, August 27, 2018).

“It is not compulsory, and they are invited to participate.” (AQ interview, July 9, 2018).

“There’s a potential risk by putting that pressure on that victim or offender to participate, now with the judge saying they have to do it. That takes away the voluntary nature of the restorative justice process.” (BR interview, September 4, 2018).

“Then they can get beside the [participants]. The facilitators are there to give them information, not [to] make decisions. [It] gives people [an] informed choice.” (BU interview, August 30, 2018).

The benefits of voluntariness, as perceived by practitioners, was tempered by concerns that restorative practices create a dangerous environment for victims of family violence.

“... I still find with clients that with anything to do with the information [that] goes to restorative justice, immediately puts pressure on what she’s going to do, and of course she is going to do whatever it is to keep her[self] safe, and this might mean not going to restorative justice. She’s been coerced by him, and she’s being coerced by a system. A protection order is somebody actually asking not to have contact. So, respect that. I just don’t agree with restorative justice [in these cases].” (AG interview, June 27, 2018),

and, “She doesn’t want anything to do with the offender, and the last thing she wants to do is sit around a table with him to glare and gloat at her and revictimize her, so generally if there is an identifiable victim then the law requires me to order an assessment.” (BU interview, September 25, 2018).

A difficulty faced by restorative justice providers occurred when parties referred to Restorative justice are not contactable. Facilitators and coordinators all mentioned this as a challenge. It was captured by this quote,

“When people don’t respond. A referral comes through, you try to make contact with the offender, and I find it frustrating and annoying when either they don’t respond, and you don’t have the correct phone number, sometimes they simply don’t want to be part of the process. The timing is not right for them. Sometimes they answer, yes, yes, and they don’t turn up to the meetings. I find that kind of thing, that’s the bit I find the hardest.” (AH interview, June 10, 2018).

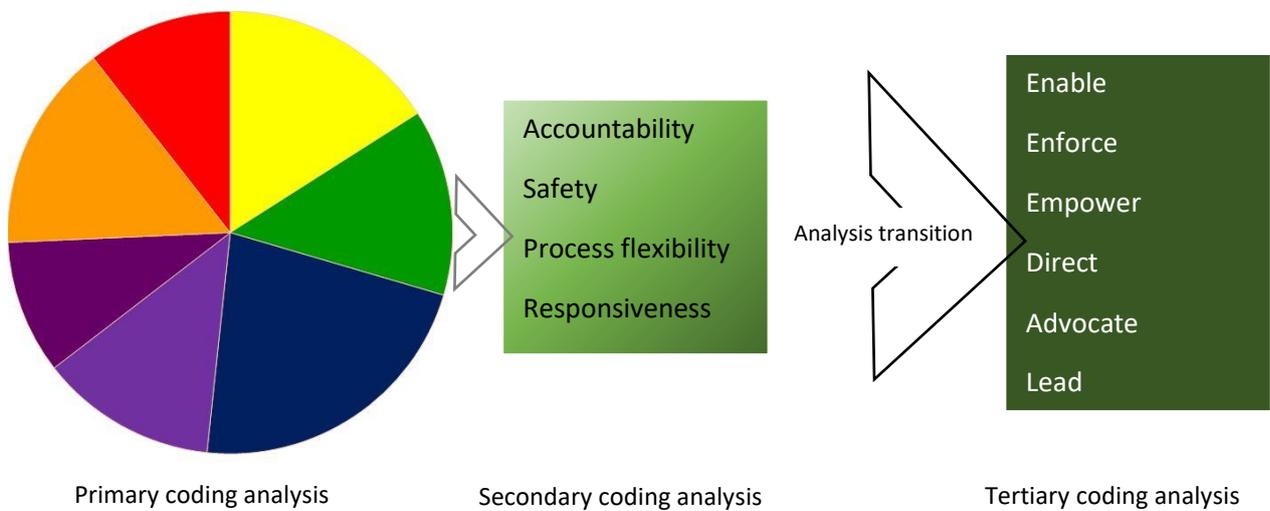
This observation about the relative difficulty in contacting parties may be common in the criminal justice environment. This commentary alludes to the importance of voluntariness in the process. Non-party contact is experienced in the system as a withdrawal of consent. Surely people wanting to engage in a process would make attempts to return messages or reach out to a practitioner? This study cannot speak to the reasons why participants do not follow-up on messages or reach out. However, what is clear in this study is there is a general lack of understanding in society in the role and benefits of restorative practices, as suggested by one subject,

“I haven’t had enough contact with victims to know why that might be, but it is worth more investigation to ensure that the general public understands the benefit in this. The police have a role in that. The victim advisors have a role in that. How it is approached must be pretty important.” (BQ interview, August 27, 2018).

Tertiary Coding: Convergent analysis of practitioner experience.

The process of narrowing a focus from secondary to tertiary coding found that practitioner behaviour could be delineated by the terminology, Enable, Enforce, Empower, Direct, Advocate, and Lead. These are important distinctions in the analysis of qualitative inquiry. Saldana quotes Rubin and Rubin, (2012, p.132), highlighting the differential association where “theory that suggests that people’s values are influenced by the groups they interact with most intensely.” (Saldana, 2016, p.134). This study defines what meaning it attributes to the tertiary codes as follows.

Figure four. Tertiary analysis transition



A. Enable.

Mainly attributed to the practice of helping people get access to information, such as restorative resources. The practitioners interviewed fitting this description include victim advisor, social worker and service coordinator.

B. Enforce.

Attributed to the work of law enforcement agencies. Their role is to enforce the provisions of law, without fear or favour. Two agencies are represented in this research. The New Zealand Police and the Corrections Department Probation Service.

C. Empower.

The work of restorative justice facilitation, both in the pre-sentence conferencing and panel restorative justice, their work is designated as empowering participants in a quest for good outcomes, pursuant to the MOJ values and principles.

D. Direct.

The judiciary is the directors of proceedings. In converging upon their substantive role in restorative practices, their mandate is to decide on a process and make a judgement based on the information to hand, especially as it pertains to the offender.

E. Advocate.

Simply by definition, this term is applied to the work of lawyers, and for this study include, defence, prosecution lawyers and police employed prosecutorial staff.

F. Lead.

This study attributes to the managers and coordinators of the cohort agencies; a code simply labelled, 'lead'. In designating this code against a practice discipline, it was clear that all the subjects in positions of leadership were once practitioners of some other related field. These folks bring to their work a great depth of skill, experience and values. These connections with other practice groups are outlined in Figure five (Systems mapping of practitioner experience.

This leadership complexity was examined; in the first interview, the initial question asked of the subject was "What is your role within the restorative justice process?" The following response provoked a change in how this question was asked for successive subjects, and as a result it gave a richer insight into the impact of the leadership of restorative practices.

"In the restorative justice process? [chuckles]. So, it doesn't quite [pause]. I can talk about my understanding of restorative justice processes that we, the agency I work with, uses. I'm uncomfortable talking about the restorative justice processes because one of the important strengths of [our agency] is that it is innovative, flexible and responsive. When you use the term restorative justice process, I feel I'm being put into a corner, and I don't see the work that we do is that."

An amended question put to the subject, and their response follows. Researcher: "What is your specific role in the agency?"

"So, mine is the management role. It is to oversee, to look after the staff, the team of [withheld to maintain anonymity] and to oversee the work, so there is quite a lot with the agency grown in the time that I've been with it. So, there is a lot of care of people now, care of the team. So that is probably the most important thing because people are the most

important thing in our work. However, there is also care of the agency in terms of resourcing, funding, policy, keeping the board apprised of what is going on. There's also relationship management in terms of the community, the wider community, Christchurch, Canterbury and Aotearoa New Zealand. There is also the infrastructure stuff such as looking after the [technology] and working space and all the things that come with contracts, staff, employment agreements. The people, the people, the people, the work of the people, the trustees, the infrastructural things, the funding, resourcing. The stakeholder relationships. Relationships, lots of relationships.” (AA interview, May 22, 2018).

This commentary was mirrored amongst other subjects. The data coded to 'lead' also came from subjects that were not employed to leadership positions. This informs the study of the values of leadership across many of the people interviewed that related their practice values to leadership with a connection to relationships with people across a wider spectrum of stakeholders. The connections between people, their colleagues, other practitioner teams, funders and upline management and the wider community are supported by the work of Bill Grace. In his book, *Sharing the Rock* (2011), Grace cites Kohlberg (p.16), leaders demonstrate moral development in three phases. These are, Pre-conventional where “peoples’ choice-making is motivated by personal interests only”, Conventional where “choice-making is driven by conventions of society”, and thirdly, Post-conventional, where “choice-making is motivated by principles of what’s mostly just in a given situation”. This study finds a significant link between the stakeholders of the subject cohort and their relative moral development. The following narratives of practitioners support the view that moral development in leadership strengthens the practice of values:

Enable: (Victim advisor).

“You need to be a compassionate being and know why you are there. Have supervision skills, your own personal skills and empathy. [You give participants your own] life experience and you do bring comparisons in, where every case is individual, you get themes, but don't want

to bring bias in. I might bring a bias in when you bring in a male, where I might deal with a female differently in a potentially punitive environment. Restorative in everything. I use the fact that I'm a woman, a sister, a mother, my experience. I'm not their best friend. I have to have boundaries [but] you need to bring your compassionate self." (AJ interview, June 26, 2018)

In this statement, the subject provides insight into the importance of moral development in their practice. They add weight to the notion that although practitioners have professional boundaries, their personal boundaries can be challenged and that in that challenge, enhance their leadership qualities and, provide better outcomes in the provision of services.

Enforce: (Police Officer).

"I'm a sworn police officer. 5.5 years. Occasionally we come into contact with people who need to be arrested, and an alternative means of resolution instead of sending them through court and their victims meeting them again in court is to meet them face to face to discuss together about their actions. Police can be victims too. Recently I have been a victim of some assaults, but I have been happy to meet these people to talk about what happened and hopefully steer them onto the right path" (BP interview August 2, 2018).

This subject sees beyond their traditional enforcement role and applies additional moral development base on their experience as a person harmed and their desire to provide an opportunity for the person that harmed them additional options, above those prescribed by law.

Direct: (Judge).

"I'm a fervent believer in therapeutic jurisprudence. Designing an outcome in a criminal case that is designed for the participants so that one size does not fit all. [T]he people have their first appearances, and where the people plead guilty when people are sentenced where no report is required, it is a wonderful opportunity to sit there and try and identify in the seconds

that you have available, what's going on between the defendant and the victim.” (BQ interview, August 27, 2018).

This judge endeavours to apply remedies that reflect the needs of victims alongside the offenders, acknowledging the participants may have ongoing relationships that suggest the benefit of further flexibility in the sentencing process.

Advocate: (Defence lawyer).

“[The success of restorative practices] relies on very good relationships I have with the two restorative justice [coordinators] in the court. I think they struggle to get information from the police and it can be [the same] from a defence point of view, you're doing about five or ten different things, then there is that mandatory [restorative justice referral] in there. Being able to provide contact details [helps the process]. It's an administrative struggle, but there are some pretty good systems in place. There are so many moving parts. I'm comfortable in addressing the difficulties in the process. The restorative justice process is well-coordinated, and they generally attend to the [participants] very well. The system can be dealing with thousands of files at any one time. The chances of a snafu (sic) at any point of the system where anything can fall out. So, even though it is a mandatory part of the sentencing process, it should not have too much of an impact. In recent months there has been a push to get this right. There needs to be changed in such a bureaucratic organisation [District Court].” (AX interview, July 10, 2018).

This practitioner understands that time sensitivity can influence the process. There appears an ongoing tension between participant-centric process and the pace at which the courts can deal with the constraints in sentencing time frames. The point is, that where change is required, it is incumbent on the practitioners to collaborate to ensure sustainable decisions positively impact on participant outcomes.

Empower: (Restorative practices facilitator).

From the question, “What more or less could be undertaken to improve outcomes for victims and offenders”, this subject replied,

“I think that it’s around ensuring that organisations like victim support know what we do and how we do it, so it’s about providing information so that they can tell, or suggest to victims that they can give us a ring so [the participant] can make up their mind. I was interested in [a service coordinator] saying that there had been lawyers that had provided difficulties. In terms of lawyers, all we can do is maybe say something to the court or go to the law society. There has got to be a way around it...it’s about finding other ways of communicating or getting the information we need. It’s about time constraints; it affects the time we have to process work. The hard work we put into getting contact information will pay off in the end, whether or not the conference goes ahead. I don’t know about the [District Court] or how they work, but it would be good to see more than one person doing the referrals, maybe several people.” (AH interview, June 10, 2018).

This Restorative justice facilitator comment is like that made by the defence lawyer. It provides insight into the same challenges but from an alternative practice perspective. This practitioner calls upon collaboration to communicate the challenges they face and to be able to suggest process remedies.

Systems mapping – practitioner experience

Examination of the complexity of relationships in the restorative practice environment is outlined by system mapping. (Schirch 2013). It shows that no one practitioner is isolated in the application of restorative practices. All subjects, tasked with a specific function, brought to the environment a mix of complementary skills from their experience that enhanced the application of values on the system. There are natural connections between groupings with a significant

connection of all the subgroups by the respective leaders. Therefore, the role of leadership within each practice designation is pivotal to the positive outcomes generated within the system.

Each subject brings to their work a worldview through which they see their environment and relationships (Schirch, L. 2013. p. 120). This world view influences personal and professional choices and is tempered by the mandate given them by society in the form of norms, mores and values. The strength in this system is that the relationships are maintained across the different role descriptions. This system analysis highlights the assumptions that affect relationships between the practitioner stakeholders. There exist opportunities for the practitioners in the system to collaborate given their converging values that drive the realisation that they are not in this alone, though they have distinct role descriptions (Schirch, 2013, P. 62).

The system map (Figure five), shows the strength of bonds between the elements. The powerful liaisons are apparent between the director, advocates and enforcers. Weaker associations exist between the empowering factors of directors and enablers. Notably, the communication channel is unidirectional by the evidence that communications flowed mostly in one direction. The system is held together by the respective leadership assets in each element. Without such, the system may cease to function, and the support of restorative values could render restorative practices impotent.

Figure five. System map of practitioner experience.



Key: Arrowhead indicates the main direction of information flow, and increasing arrow thickness indicates stronger bonds of association.

Also, the connection between enforcing and empower represents the significant relationship between police and the Te Pai Oranga Iwi panel function. This is not present in other forms of pre-sentence restorative justice.

4. Discussion

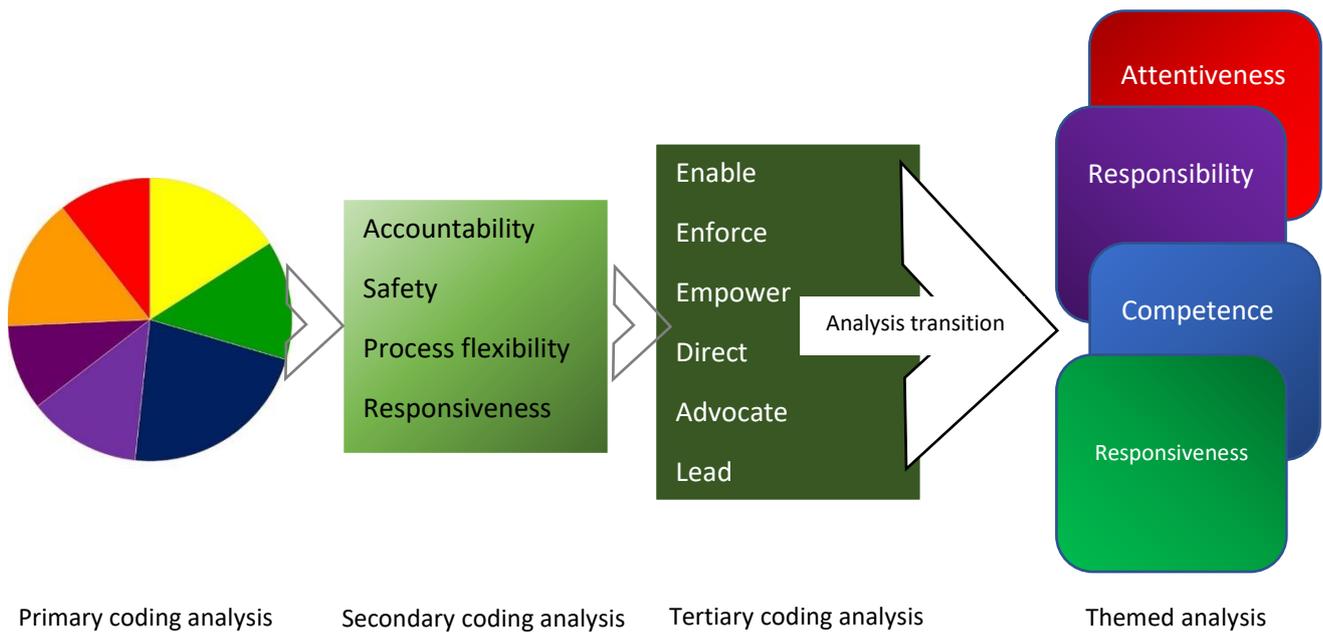
As a transitional representation, the data is interpreted from participant focused values and principles of restorative practices to a conclusion of themes. Analysis of the data provides the justice

system with insight into how services could be delivered for the benefit of participants while supporting the rule of law (Figure six. Themed analysis). It codes the data through this lens to explain that the same values and principles held by practitioners are essential within the system. This final stage of analysis adapts themes in the data as a series of theories-of-change in the delivery of effective, sustainable outcomes for the participants of restorative practices. The themes highlight a tension in the Christchurch District Court system as processes of enforcing the rule of law (enforced consent) are set against the values provided for by restorative practices (informed consent) (Ref, Appendix three).

In the book, *Therapeutic Jurisprudence: New Zealand Perspectives* (2015), Brookbanks draws upon the scholarly endeavours of 12 contributing authors. In the section ‘therapeutic jurisprudence and its role in corrections, (Part two – practice issues, p.163.) Brookbanks writes that it is paramount that the correction of criminal offenders must engage the community too, recognise the cultural identity, aspire to psychosocial needs, help and support, promote voluntary participation, accept an ongoing responsibility and commitment to stakeholders. Furthermore, the author lists four moral principles of participant-centric criminal justice as (p.163)

1. Attentiveness: Recognising and being attentive to others
2. Responsibility: Taking responsibility for action
3. Competence: Competently performing caring work
4. Responsiveness: considering the position of care receivers from their perspective

Figure six. Themed analysis



Brookbanks participant-centric values inform this study of the importance of applying these same principles to the practice of the rule of law. They form a foundational framework to build strategies that can ensure the rule of law provides for positive and beneficial outcomes for all people entering the criminal justice system where the values, codes and themes analysed through the lens of practice, supports the view that the practitioners will strengthen the foundation of the system when specifically tasked to improve outcomes for participants. For the purposes of this foundational framework, the four moral principles are defined as:

a. Attentiveness

Practitioners who recognise the values of their peers, and are attentive to the practices of others, will understand the need for change in the system to the benefit of all stakeholders.

b. Responsibility

In taking responsibility for their actions, within a context of the likely consequences within the system, practitioners will be best placed to implement values-driven sustainable outcomes in practice, for the benefit of all stakeholders.

c. Competence

Competently performing caring work lies at the heart of the safe practice. The values associated with professional competencies directly impact on safety in the system that directly transfers to those participants who have already experienced breaches of safety and trust in their relationships.

d. Responsiveness

Considers the value of collaboration by practitioners. The fostering, building and maintenance of relationships in the system is key to provoking change in a system, striving to be flexible and responsive to the needs of participants of restorative practices.

This study, viewed by the researcher's emic research lens show, from the perspective of a restorative practitioner that service delivery values as defined by the Ministry of Justice can be transformed into workable strategies so long as they are defined and implemented by *collaborating* practitioners. The study findings show that the values required by participants in the criminal justice system are consistent with the personal values of the practitioners working in that system. It also highlights the gap between the personal values of the practitioner and the opportunity the system provides to demonstrate these values.

To be fully effective, strategies developed from the following theories of change must include the foundational moral principles. (Figure six. Theories of change #1. Concurrent strategy implementation). The strength of any single strategy comes from the collaborative interactions of these moral principles.

Theories of change

Strategies implemented in tandem with the four cornerstones of restorative practice principles will drive system transformation with greater agency because together they will have collaborative continuity and therefore, more sustainability. The suggested theories of change sit upon and bind together the themes from the analysis of the data. However, the strategies included

in this paper are merely options. Practitioners working in collaboration will consider, plan and implement strategies relevant to their unique environment.

Figure seven. Theory of change #1: Concurrent strategy implementation



Strategy one: Practitioner working party

Collaboration is the key to successful programme design and implementation. To ensure system-wide change is competent, responsible, attentive and responsive to the requirements of the law while useful to participants practitioners that adopt this strategy can reform their existing networks to one group built on the concurrent nature of the moral principles described in the themed analysis. Independently facilitated, the structure and function of the group would first meet to agree on foundational principles and structure and function. Ongoing collaboration is best applied

on a regular but not frequent basis that focuses on goal setting, implementation strategy and review.

Strategy two: Peer supervision for practitioners

This study showed that while some practitioners participated in and valued peer supervision, it was either not apparent in others or unavailable owing to financial constraints. As a safety net for the wellbeing of practitioners and efficacy of their practice, strategy two recommends practitioners to engage in regular peer supervision. Furthermore, it may be possible for the network of practitioners to support their peers. Given their best efforts and generosity, it could be implemented as a cost-neutral exercise, ensuring an excellent return on investment. This strategy could become a core function of the practitioner working party to develop, implement and review.

Strategy three: Education programme with Law Society

Based on the value of continuing education, practitioners would benefit from a structured programme of education and information sharing. One mechanism to design and implement such a programme would be applied by the local Law Society, presenting restorative practice subject matter with the experts from the various practice groups. The provision of a coordinated education programme would give continuity and sustainability to the needs of all practitioners within the system.

Theories of change #2: Opportunities for further research

New avenues of qualitative research of how practice principles and values interface with service delivery, will further enable the system to be attentive, responsible, competent, and responsive because practitioners have a vested interest in participant-centric outcomes. For example, conducting an ongoing inquiry into participant satisfaction measured against the accepted restorative justice values. Implemented as an independent research programme, the analysis would be critically reviewed by the practitioner working party.

Strategy four: Participatory action research

Continual research, audit and review of systems ensure it is fit for purpose. The role of restorative practices in the criminal justice system is complex in its structure and function. So that the system is better understood by the general public, participatory action research would add to the general acceptance of restorative practices, aiding in the participation rates and efficacy of the processes that aim to deliver the rule of law based on the moral principles outlined in this study. In the form of television documentary, the real-life journey of participants and practitioners will bring in to public homes, raw, unscripted demonstrations of the work of the system, the people and the outcomes that are generated from the moment of the arrest following an offence, to the reintegration of the offender into the community of release.

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Appendix One. Research questions.

1. What is your role title within the restorative justice process? [qualifying question]
2. When does, restorative justice start?
3. When does, restorative justice finish?
4. What is your understanding of the term, therapeutic jurisprudence?
5. What specific training has been undertaken specifically in the restorative process?
6. How valuable is restorative justice?
7. What does your role add to improve outcomes for victims of crime?
8. What does your role add to improve outcomes for offenders of crime?
9. How much of your role involves restorative practice?
10. What is the most enjoyable part of your role? Why?
11. What part of your role is most challenging? Why?
12. What gaps are apparent in the restorative justice process?
13. How can these gaps be filled?
14. What more, or less, could be undertaken to improve outcomes for participants in restorative justice services?
15. Could you please refer me to further stakeholders of restorative justice to broaden our research? [collect contact details and make a separate note for follow-up]

Appendix two. Eastern Mennonite University Institutional Review Board. Study Information & Consent Form.

The purpose of this research is to evaluate the values and practices of people working with restorative justice within the criminal justice system. If you participate in this research, you will be asked to talk with Wayne Marriott, the researcher who will record your views and comments. Generally, this includes things such as providing demographic and vocational information, sharing opinions and attitudes. It will also include being audio-recorded for research purposes.

There are no foreseeable risks or discomforts to you as the subject pertains to your professional capacities and views associated with your work. There will be no personal benefits to you from your participation in this research. However, the results of the research may contribute to knowledge about therapeutic jurisprudence and restorative practices, gaps in the provision of services and, ideas for change within the system. The research will benefit practitioners of restorative practice and policy groups/service providers who work within the field of therapeutic jurisprudence and restorative practices and the people they serve.

Your participation in the research interview will take approximately 60 minutes. The duration of this research project is 15 May 2018 to 30 September 2018.

Your participation in this research is strictly voluntary. You may refuse to participate at all or choose to stop your participation at any point in the research without fear of penalty or negative consequence.

The information/data you provide for this research will be treated confidentially, and all raw data will be kept in a secured file by the researcher. Results of the research will be reported as aggregate summary data only, and no individually identifiable information will be presented unless explicit permission is given to do so.

You also have the right to review the results of the research if you wish to do so. A copy of the results may be obtained by contacting the researcher:

Wayne Marriott.
wayne.marriott@emu.edu
Phone 027 2803147

If further questions arise, or you feel you have been treated unfairly, please contact Dr Cheree Hammond, of the Eastern Mennonite University Institutional Review Board, Eastern Mennonite University, 1200 Park Rd., Harrisonburg, VA, ph. +1 (540) 432-4228, email: cheree.hammond@emu.edu.

Participant consent

I, (print full name) _____, have read and understand the foregoing information explaining the purpose of this research and my rights and responsibilities as a subject. My signature below designates my consent to participate in this research, according to the terms and conditions listed above. Furthermore, I give the researcher permission to use, publish, and republish, in the context of this research, any audio recording of my voice made for this study.

Signature _____ Date _____

Appendix three. Coding and theme transition guide

Primary code	Secondary code	Tertiary code	Theme
Aroha <ul style="list-style-type: none"> • Caring • Compassion • Empathy Maanakitanga <ul style="list-style-type: none"> • Respect • Generosity • Care Mana motuhake <ul style="list-style-type: none"> • Self-determination Pono <ul style="list-style-type: none"> • Truth • Honesty • Sincerity Tika <ul style="list-style-type: none"> • Process validity • Efficacy Whanaungatanga <ul style="list-style-type: none"> • Relationship 	Accountability Safety Process flexibility and responsiveness Understanding Voluntariness	Enable Enforce Empower Direct Advocate Lead	Attentiveness Responsibility Competence Responsiveness
<i>Participant centric outcomes</i>	<i>Maintain the rule of law, tradition and ritual</i>		<i>Practitioner outputs</i>