



RESTORATIVE JUSTICE:

IS IT JUSTICE FOR BATTERED WOMEN?

A Report on the Proceedings of a Forum to Explore Restorative Justice Issues Related to Violence Against Women

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Introduction

Any consideration of a shift in policy philosophy and implementation must be mindful of both the political and economic as well as the social environment within which the ‘new’ philosophy and practices are to be implemented. Of paramount importance is a full appreciation of the potential hazards and risks of implementing ‘new’ philosophies especially in political and social climates that might not yet be ready. What follows is an exploration of some of those climates here in Saskatchewan.

In recent years, Canadian philosophy and practice has been law and order based, when dealing with domestic violence -- at least formally. That is, in Canada, police departments in the 1980s implemented formal mandatory arrest policies.¹ As a result, police departments have been more willing to help, and people have been more willing to seek help from the police, in cases of domestic violence. But have any substantive changes occurred as a result of these retributive justice policies? According to Rodgers (1994 in Johnson 2000:212) the results have been mixed. Rodgers (in Johnson 2000) reports that in 46% of reported cases, victims found the response of the police to be effective in either decreasing or stopping their partners’ violence. A further 40% reported no change while the remainder reported escalation in their partners’ violent behaviour after arrest. However, other research has - indicated that mandatory arrest policies, coupled with resources in the community seemed to offer more favourable results (Dutton 1986; Jaffe et al. 1993; Pence 1983 1989; Shepard and Pence; Sherman, Schmidt and Rogan 1992; Statistics

¹ Substantively however, what occurs after arrest varies from jurisdiction to jurisdiction.

Canada 1994).

As the drive towards more restorative justice community based initiatives gains momentum here in Saskatchewan, organizations currently dealing with violence against women have mixed opinions on the subject. This report contains an analysis of some of those opinions. More particularly, a discourse analysis of the opinions expressed by some of the 85 people who were invited to attend a Forum entitled “Restorative Justice: Is it justice for battered women?” This forum was held over the course of two days on the 14th and 15th April 2000 at the Saskatoon Centennial Auditorium in Saskatoon, Saskatchewan.

Background to the Forum

In the mid 1990s the federal government introduced the National Strategy on Community Safety and Crime Prevention Safer Communities, Everybody’s Responsible² as it was felt that traditional responses to crime were inadequate:

through reactive measures- the apprehension, sentencing, incarceration and rehabilitation of offenders. This approach, while important, is not sufficient to prevent crime ... the National Strategy is aimed at reducing crime and victimization by addressing their root causes through a social development approach (Canada 2000).

In line with this broader federal policy shift, Saskatchewan Justice outlined its commitment to

² Phase I, which began in 1994 and continued to 1997, ‘provided a framework for efforts to support community safety and crime prevention. This policy framework was created in consultation with 25 individual child development experts, community advocates, academics, social workers, lawyers, police officers, doctors and business people who volunteered their time to develop a plan to deal with the underlying causes of crime’ (Canada 2000). Phase II, which began in 1998 and is to continue to 2003, the aim of the National Strategy is to reduce crime and victimization by addressing their root causes through a social development approach. It is a long-term proactive approach directed at removing those ‘personal, social and economic factors that lead some individuals to engage in criminal acts or to become victims of crime (Canada 2000).

implement a 'new' paradigm throughout the province – a strategy with a restorative rather than a retributive emphasis throughout the province in April 1997. This fundamentally new strategy was promoted as a multi-year approach that would better address both the causes and the consequences of crime. Elements of this new strategy were to include a province-wide initiative for alternative measures which would see support for community justice committees, family group conferences, victim/offender mediation and aboriginal community justice development) (Initiative proposal 1:no date). The strategy was to include the cultivating of new partnerships in the community, by the community, and for the community which was reiterated by the Honourable Chris Axworthy in his opening remarks on the second day of the Forum.

...it is critical that government, communities and organizations and people like you continue to work together to find solutions to the problems of relationship violence. Violence has no place in our community, and certainly no place in a safe community, and without question, safe communities are our top priorities We are committed to keeping our communities safe, and we believe that safe communities begin with safe homes and safe families ...

There [is] no single formula to ensuring the success of community justice initiatives. It must be based on each community's aspiration to become a healthy and safe place, and it can't be just another government program. It must be a commitment and process adopted by people who see the norms expressed in our criminal laws valuable to their own health and well being and who then take measures to ensure that their communities respond, and when community members do not recognise the value, the appropriateness and efficacy of our community, [our] justice process (Forum 2000).

At the outset, the position of Saskatchewan Justice was that any cases involving family violence were to be outside the ambit of this 'new' paradigm and handled through conventional criminal justice mechanisms. Recently, however, as a result of ongoing dialogue with certain other justice quarters – both government and community, Saskatchewan Justice is reconsidering this position. While other jurisdictions implemented alternative measures through current justice structures (post-charge, post-conviction), Saskatchewan is the only jurisdiction to consider

community-based (pre-charge, pre-conviction) responses rather than institutional-based criminal justice responses to battering (Initiative Proposal 1:no date). It is unclear, however, what criteria must be met before considering a restorative justice process. Should the criteria be for example an admission of guilt on the part of the perpetrator and/or a request from, or consent of the victim, a history of unreported violence or just one incident. Nevertheless, it was Saskatchewan Justice's initiative in this area that provided the broad impetus for the Provincial Association of Transition Houses'³ response.

PATHS, representing the interests of battered women. responded by undertaking an active role in educating themselves on the salient issues in order to become informed and competent consultants to policy developers on the issue of restorative justice and violence against women. It is the position of PATHS that policy development on the use of these restorative justice measures in family violence cases should, and must, be well informed by those who will be affected most. More particularly, policy should and must be informed by an assessment that says, "here are the reasons not to do it, here are the problems with what's being done now, here is the best model to follow, and this is what better intervention means in rural and northern communities" (Initiative Proposal1: no date) -- with a view to envisioning what is possible in Saskatchewan, given the current political, social and economic environment. It was in this milieu that the idea for the Forum was born. PATHS saw an opportunity for the community to come together and be involved in the policy consultation process, which would be educative for all parties involved, and would promote gender aware policies and programs within the institutions of Saskatchewan Justice (Initiative Proposal, no date: 2). The Forum was to enable: (1) education by way of dialogue with people working in the field, and; (2) an opportunity for

³ The Provincial Association of Transition Houses shall be referred to as PATHS for the duration of this report.

victims and victims' advocates to be involved in the consultation and public policy process regarding the choice of sanctions to be imposed in the decades ahead.

The Purpose of the Forum

The purpose of the Forum was to engage in educative dialogue regarding the viability of restorative justice strategies in Saskatchewan, with particular relevance to violence against women. The central question to be discussed was 'Should the Saskatchewan government allow or institute the use of restorative justice strategies for family violence cases throughout the province in only certain communities, only under certain circumstances, or with certain safeguards?' The Forum was to add to available knowledge on the issue, with a view to enabling interested stakeholders, like PATHS, to better inform policies and programs within the institutions of Saskatchewan Justice that would take account of the gender implications and systemic violence against women (Initiative Proposal, no date: 2-3).

The Layout of the Forum

Dialogue was facilitated by having the speakers situated at the front of the room. Additionally, two additional microphones were placed strategically in the room so that the remaining Forum attendees could add to the discussion after each panel of plenary speakers had spoken. Questions and comments were encouraged throughout the Forum proceedings. The Forum proceedings were audio and video taped to provide a data source for this discourse analysis.

In addition, all forum attendees, both speakers and guests, were asked to fill in a Check-In and a Check-Out questionnaire. The purpose of the pre- and post- Forum surveys were to: (1) gauge, albeit briefly, where people stood on the issue of restorative justice as it pertained to family violence, and; (2) gauge whether a shift had occurred in people's knowledge and perception of restorative justice strategies as they pertained to family violence as a result of attending the Forum. The two surveys, included in a Forum package, were given to participants upon arrival to the Forum. Participants were asked to complete the Check-In questionnaire before the Forum commenced and the Check-Out questionnaire before leaving the Forum. These instructions were included in the package and also announced intermittently during the Forum. Detailed results of the Check-In and Check-Out questionnaires can be found in the accompanying technical report.

The Forum Participants

The majority of Forum participants were Saskatchewan women who represented community agencies. The participants arrived with varying degrees of knowledge about restorative justice, but all were passionately interested in learning through their participation in the Forum.

Ten people were invited as plenary speakers, one was invited as the moderator, and two guests were to give the opening remarks on each of the two days. The 10 speakers, representing opinions that were either supportive or critical of the use of restorative justice, came from different parts of Canada and either worked in various capacities, or were interested in, the issue of family violence. Biographies for the 10 plenary speakers, the host of the Forum, and the moderator can be found in the section entitled "List of Contributors" found at the end of this

document. Missing are biographies for the Honourable Chris Axworthy, Minister of Saskatchewan Justice, and Jan Turner, representing the Community Services Division of Saskatchewan Justice. Ms. Turner replaced Bev Ann Fox who was unable to attend.

It is important to note that while 10 individuals were invited as plenary speaker, Forum participants were given the opportunity to present plenary presentations if they wished to.

Of the 85 Forum participants, 80 (94%) returned completed Check-In questionnaires from which the following information was taken. Forty-two (52.5%) of the respondents reported being of non-Aboriginal ancestry, 19 (23.75%) reported being First Nations, and 12 (15%) reported being of Metis ancestry. Seven (8.75%) of the respondents did not answer this question.

In addition, the majority of participants (75, or 93%) were female and 68 (85%) of the respondents reported residing in Saskatchewan.⁴ This is not to say, however, that men did not attend or actively participate in the Forum, both as speakers and as participants. All the men's intervention groups in the province were invited to attend the Forum and in response, chose one man as a speaker to represent them. As well, it is important to note that immigrant women's groups were specifically invited to participate in the Forum but were, for whatever reason, unable to participate at that time. Finally, one must keep in mind that not all participants went to the microphone to voice their questions or to add input and so their voices are not heard within the content of this report. However, this does not imply that these participants were not fully engaged in the process. When one watches the videotape it is very clear that the participants were actively listening and reflecting on what was being said by both the panel presenters and the participants who responded. Also, many discussions were held during coffee and lunch breaks and fell outside of the range of the videotaping.

⁴ Further details on the demographics can be found in the technical report that accompanies this document.

The Agenda

Last minute changes in speakers included Jan Turner instead of Bev Ann Fox, and Virginia Fisher on behalf of Kim Robertson resulted in changes to the original agenda. Bruce Slusar who was invited as a plenary speaker did not attend. The first three plenary sessions ranged from 75 to 120 minutes in length. There were to be a maximum of four panel members each having 15 minutes to speak after which queries and responses from the floor were taken for the remainder of the time allotted. The final plenary session included all the plenary speakers who were to provide their concluding remarks in two or three minutes after which queries and responses from the floor were taken. Inevitably most sessions went over the allotted time limit. Nevertheless the agenda for the Forum was as follows:

14th April 2000 7-9p.m.

Opening session

Welcome and opening prayer - Virginia Fisher, host of Forum and Coordinator of PATHS

Opening remarks - Judge Bria Huculak, Saskatchewan Provincial Court

Question time

9pm

Wine and cheese reception

15th April 2000

9-9:30 a.m.

Welcome back - Sandi Leboeuf, Saskatchewan Tribal Council.

Opening prayer - Inspector Leonard Bush, officer in charge of Aboriginal Police and Crime Prevention and Victim Services, RCMP headquarters Ottawa.

Opening remarks - the Honourable Chris Axworthy, Justice Minister Saskatchewan.

Current position of Saskatchewan Justice and position under consideration - Jan Turner, Community Services, Saskatchewan Justice.

1st Plenary session 9:30-10:45a.m.

Norma Green - Special Projects, Correctional Service Canada,

Virginia Fisher – Coordinator of PATHS and host of the Forum on behalf of Kim Robertson.

survivor of domestic violence.

Tracy Porteous - Senior Provincial Co-ordinator BC Association of Specialised
Victim Assistance & Counselling Programs.

10:45-11am

Coffee break

2nd Plenary session 11-12:30p.m.

Irene Smith - Executive Director, Avalon Sexual Assault Centre Halifax, Nova Scotia.

Wally Roth - Executive Director, Alternatives for Men Who are Abusive to their
Partners, Saskatoon, Saskatchewan..

Bev Poitras - Director Restorative Justice Unit File Hills, Qu'Appelle Tribal Council.

Wanda Gamble - mediator Alternative Measures Prince Albert, Saskatchewan.

Lunch 12:30-1:30p.m.

3rd Plenary Session 1:30-3:15p.m.

Faye Blaney - Vice-President National Action Committee on the Status of Women.

Pauline Busch - Executive Director Regina Alternative Measures Program,
Saskatchewan.

Anne McGillivray - Professor of Law, University of Manitoba, Winnipeg, Manitoba.

Break 3:15-3:30p.m.

Final Plenary 3:30-5:30p.m.

All plenary speakers.

Methodology

Discourse analysis was the methodology used to analyse the Forum proceedings. Discourse analysis is a qualitative method of investigation which enables in-depth analyses of social phenomena allowing for investigation of both the ways in which the issue at hand are understood or discoursed about, as well as their underlying assumptions. More particularly, discourse analysis enables an exploration of people's views, in the context of the way they understand the issue and in the context of the fiscal and nonfiscal resources available to them. In addition, discourse analysis enables an exploration of people's understandings of the issue in the context of the arguments they use to advocate for or against something that has been proposed for their communities (Cowan 1999:291). In this case, the proposal is for the adoption of restorative

justice initiatives pre-charge pre-conviction for family violence cases throughout the province in only certain communities, only under certain circumstances, or with certain safeguards.

Discourse Analysis of Videotaped Forum Proceedings

The aim of the analysis which follows is to examine the concerns and arguments voiced by Forum participants to either challenge or advocate for the introduction of restorative justice initiatives in cases of violence against women in Saskatchewan and to describe the context they used to justify their arguments. Policy developers must be mindful of the different contexts or policy backdrops of the people who are offering opinions on a subject. For example, different parts of the country have different policy backdrops, have had different experiences, different access to resources and indeed, different resources altogether. However it is important to acknowledge that learning from the experiences from other parts of the country can also be informative when contemplating new policy and practices for one's own province.

The analysis is structured in two parts. The first part entitled 'Concerns' encapsulates the case put forward by those with concerns regarding the proposed initiatives. By way of contrast, the second part of the analysis focuses on 'Reasons for Considering Restorative Justice Processes', that is, the case put forward by people who thought restorative justice might be useful in some cases of violence against women. A brief summary of the findings will serve to conclude this report. Before turning to the analysis of the plenary sessions, however, it may be useful to outline how members of formal justice community understood restorative justice.

What is Restorative Justice?

Generally, restorative justice initiatives are premised on the expanded use of community-based measures⁵. While the majority of adult charges go post-charge to diversion and are not available for those who have been accused of sexual assault or family violence. The accused appears in court and the case is adjourned over for consideration for a community based measures restorative justice initiative, for example a circle process or a mediation process -- like pre-charge diversion practices. But the practice is *not* to do that instead of the court process, but instead at the request of the victim. The underlying belief is that a facilitated conversation is often helpful to the victim. Whereas pre-charge diversion practices do not involve a judge at any step of the process, post-charge diversion practices involve a judge at every step of the process, alongside a prosecutor and a defense lawyer (White 2000a). At the outset of the Forum, Judge Bria Huculak, a former defense lawyer specializing in family and criminal law with 14 years of experience, and one of the instigators for the use of circles premised on restorative justice principles in northern Saskatchewan, defined restorative justice as a way of thinking, a way of behaving, and a way of measuring. 'It's not just the one thing, it's not restitution, it's not just reconciliation, it's not just community. It's a combination of all, of many factors to become what is a restorative justice program' (Forum 2000). Restoration in the case of restorative justice

refers to:

engendering a sense of control over one's life and constructing relationships based

⁵ Currently in Saskatchewan, the majority of pre-charge diversion mediation and conferencing programs or circles involve youth. Armed with clear criteria and guidelines, prosecutors are to determine whether a case meets the criteria for consideration for a restorative justice program and victims are then asked whether or not they want to participate in the process through that system. Of those cases considered for potential diversion, less than five per cent are diverted away from the justice system.

on respect and equality. Restoration is brought about through healing wounds, developing a sense of well-being, and fostering emotional and spiritual growth and moral development. Developing a sense of trust is also an important element of restoration. For both victims and wrongdoers, restoration is the personal reclamation of what was damaged during a conflict. This may or may not involve restoring the relationship that existed prior to the incident (Law Commission of Canada 1999:28).

Jan Turner, a representative for the Community Services Area of Saskatchewan Justice, added:

It means a different kind of approach to resolving conflict at different points of a criminal process, so that could involve a victim.... There are many more ways that we can evoke healing for victims by making opportunities available along the way in criminal justice, but I wanted to make sure that people were clear that that's very different than alternative measures (Forum 2000).

Restorative justice processes maximize opportunities for exchange of information, participation, dialogue, and mutual consent between victim and offender. The needs and incompetencies of the offender as well as the victim are to be addressed by resources in the community. The concept of 'community', like 'restorative', for Judge Huculak are not places or a thing but are instead processes.

Moreover, restorative justice initiatives have met with considerable success in reducing re-offending and incarceration rates of young offenders and also in uncovering some of the underlying issues surrounding Aboriginal overrepresentation in the Canadian criminal justice system (Sharpe 1998; Hylton 1996; Yazzie 1995; Huculak 1995; see also for example Ekland-Olsen et al. 1992, Lin Song 1993 and Roberts 1995 in Church Council on Justice and Corrections no date: iv; also PLEA no date). Restorative justice is a harm-centered approach with the victim playing a key role.

Victims in a community have been harmed and are in need of restoration. Victims, offenders and affected communities are the key stakeholders. Violations create obligations and liabilities. Offenders' obligations are to make things right as possible. The communities' obligations are to victims and offenders and the

general welfare of its members. Restorative justice seeks to heal and to put right the wrongs. The needs of the victims for information, validation, vindication, restitution, testimony, safety and support are the starting points of justice (Judge Huculak: Forum 2000).

The emphasis then is on dealing with offenders by focusing on repairing harm, and in so doing involving victims and communities, as well as offenders in the reparation process (White 2000b) as 'the conventional court system has not served the needs of victims very well' (Inspector Leonard Bush: Forum 2000).

Despite the current State law and order based responses to violence against women, the results of restorative justice initiatives in situations other than violence against women have had more favorable results than conventional retributive justice responses for all parties concerned, including the victim, perpetrator and in some cases the community has also benefited (see for example, Hylton 1996; Sharpe 1998). Benefits of restorative justice initiatives have been outlined by authors such as Braithwaite (1999), Stuart (1993a 1993b), LaPrairie (1995), and have been featured in a recent Ideas (2000) CBC radio series entitled 'To hurt or to heal' aired from the 24-30 June 2000. Briefly, these benefits include a mechanism for empowering those who are marginalized, a contextualization of justice and the return of conflict to its rightful owners.

This understanding of restorative justice was echoed by a participant who stated:

...my definition of restorative justice is a communitarian approach and using your community, your offender and their victim, meeting together in a safe environment with a process that enables them to have a difficult discussion and to resolve any harm that has been experienced. Truly restorative justice is with all three involved ... There's a whole process before they decide whether this individual is ready for a sentencing circle [as an example of a restorative justice process]. Sentencing circles have different meanings ... but sentencing circles when you talk in each community is different. Each community is unique, and each community decides what a sentencing circle is to them. So when you say a sentencing circle in one community, it doesn't mean the same thing in another community, and if you go to Onion Lake right now in Saskatchewan, and you said sentencing circle, they are all pre-charge. There's no post charge, they're not a part of the court. If you go down to Standing Buffalo they're all court driven and the judge determines with a

threshold test if this a case that can go to a sentencing circle. A sentencing circle ... is just a recommendation circle. They recommend to the judge what the sentence should be. They decide what in the community, the resources they have and what kind of plan that they can have for that individual and the judge then decides, and the sentence could recommend two years in jail. They could recommend ten years in jail and it depends on the community and the strengths in the community.

In our tribal council, the restorative justice unit has a communitarian approach, and we use initiatives such as mediation, community justice forums or family group conferencing, sentencing circles, elders counseling, problem solving or alternative dispute resolution, and alternatives to the present justice system. We also have community ownership of probations ... This approach empowers the First Nations to resolve conflict constructively, and I'd just like to say too that before we had the court system, we had a system in our communities that dealt with this. When I talk about restorative justice I also talk about trying to bring those traditions back into our communities to resolve these harms (Bev Poitras: Forum 2000).

Pauline Busch, Executive Director of the Regina Alternative Measures Program also contributed to the discussion:

I have in front of me my sheet that says restorative justice recognizes and repairs harm to victims in communities, distinguishes between offending action and offender, heals and integrates the offender, concerns of the victim and communities are given equal status, and perhaps the "concerns" is a little too lukewarm for what actually happens in the reality of programs. Victims are actively involved, and the process meets the emotional needs of the victims...It requires an admission of guilt of the offender moreso than in the traditional justice system is held accountable, and is made to acknowledge responsibility for their action, and also to have a full look at the consequences of their actions (Forum 2000).

In sentencing, Courts target either the crime or criminal, rarely is there the information or inclination to explore the underlying causes of crime. The Court process is neither designed nor resourced to do so. In failing to appreciate the causes of crime, and specifically the causes of the offender's conduct, the sentence may foster recidivism by worsening the very conditions generating the undesirable behavior in the first place. By engaging the community in a direct way the focus is shifted from retribution to that of restitution, reintegration, restoration,

reparation and rehabilitation. Reclamation is also critical and facilitates the return to the community what is rightfully theirs - the ownership and responsibility for its members.

The goal is to reach a consensus as to the most appropriate way of deal with the offender within the context of the community and the victim. The assumption is that through the process and the group dynamics the healing starts. The process is one that is often painful and emotional to the participants. The offender must face the victim her/his own family and the community. The assumption is that there is no "right" model for restorative justice as each community must find its own way and develop a model that reflects its community values - in other words, the assumptions are that justice must be contextualised and that the community can assist in the building of that community and is capable of bringing about community change. Nothing cripples more than public misconceptions about how the justice system functions, and about what should be done about crime. Community based discussions can profoundly enlighten the public. Their direct involvement in exploring the causes of a crime, in reviewing what the justice system's interventions have been in the past, and in assessing what can be done in a particular case, usually promotes an appreciation that:

- 1) The justice system alone cannot offer an effective solution;
- 2) The community can contribute in a significant manner in sentencing the offender, in assisting the victim, and in preventing similar crime in the future;
- 3) The solutions are not simple but must be uniquely tailored to needs of victim and offender and the community;
- 4) Punishing retributively is not sufficient to prevent crime, and;
- 5) Exclusive reliance on jail does not serve the community interests in healing their members, or in creating safe homes or neighborhoods. If anything, the milieu of

the jail environment teaches citizens to repress their personal problems rather than deal with them publicly.

In this way, restorative justice initiatives might provide both long and short-term services to battered women.

Mindful of these benefits, Judge Huculak also pointed to some issues with regards to restorative justice initiatives that were of particular relevance to violence against women. To begin, she pointed to the complex dynamics between the parties involved. To make her point she alluded to the following quite common scenario:

...if there was a court order of no contact, that frequently even with the court order, there's a lot of contact. We also know that often people come to court and ask to change orders so that they can have contact (Forum 2000).

This point was reaffirmed by Norma Green, a former Board member of Interval House in Prince Albert and former director of Okimaw-Ohci ((Thundering Hills) Maple Creek Healing Lodge who stated:

If the sentence is a probation with no contact order, generally it's breached because the two, no matter what has gone on in their lives, the two people do love each other or feel that they have to be together, and therefore, the no contact order is breached, so this individual will go back to prison again and sort of the circle continues (Forum 2000).

Therefore, one of the primary challenges for future initiatives will be to protect and support the victim throughout the process in a way that the current criminal justice system, which is premised on reactive, retributive justice and focus on the offender is not currently equipped to do.

Issues of Concern Regarding the Implementation and Use of Restorative Justice Measures

It should be said that in general, most of those who offered opinions on the subject were open to the idea of restorative justice - at least in principle and perhaps only in certain cases but there was an acknowledgement that it was going to be difficult and the challenges many. This concern becomes apparent in the following thoughts expressed by conference participants.

...to look at the use of restorative resolutions and to engage in the difficult controversy, the difficult continuum that we are all trying to find our place on in terms of how we proceed with respect to cases of violence against women. I don't think that there's any easy answers, and I think that we are, in terms of the opposite ends of the continuum, as it appears some times, we are I think sort of close in terms of what we are looking for, and that is for the violence to stop (Tracy Porteous: Forum 2000).

...how do you even talk about restorative justice in this particular climate where people want everything tougher, tougher, tougher... (Unknown: Forum 2000).

Discourses of tough law and order measures were evident in the way Forum participants discoursed about the issue - battered women were talked about as *victims* in the hands of men as *perpetrators* of violence either in the context of their upbringing or in the context of patriarchy. As such, women were victims only and men were perpetrators only -- to be dealt with by the appropriate social services and justice agencies.

What was also evident was a lack of clear understanding on the part of some participants on what restorative justice entailed. Some participants understood restorative justice initiatives as a form of alternative measures program under the current reactive retributive based criminal justice system whose focus is the offender and crime control. The following quotations clearly illustrate the complexities involved in the issue of restorative justice and articulated during the

Forum.

To involve sexual assault survivors in a process intent on preserving the offender's integrity and reintegrating him into the community places a tremendous responsibility on the survivor to support the perpetrator's healing. I think that we all need to be significantly concerned by that ... Allocating even the minimum responsibility to the survivor for the offender's healing can all too easily support the common myth and the current myth that women survivors of violence are somehow responsible for the crimes committed against them. I think that's a real danger of the restorative justice program when they talk about restoring the relationship to where it was previously

I would agree with Tracey that indeed it is a fast running train, and it becomes more and more clear to me that what restorative justice means in one community is quite different than what it means in another community. I think we need to be really mindful about that when we're speaking to each other about language that's being used, and we think we're talking the same thing indeed we're not (Irene Smith: Forum 2000).

For me there are a whole lot of issues that need to be reconciled. Part of those issues is that restorative justice, the dialectic of restorative justice is evolving, and there are many issues yet to be addressed in that discussion, and some of the primary issues I think are what are we trying to restore when we talk about restorative justice, and particularly, what are we trying to restore if we are talking about an abusive relationship? Another issue is restorative justice single incident oriented or the other side of the question is how does restorative justice fit in terms of systemic violence against women? What do we do in restorative justice with our context? We live in a violent context. We live in a racist, sexist, classist, ageist society, and the ism's can go further than that. So what do we do with our context when we talk about restorative justice? (Helen Smith-MacKentire, Saskatoon Community Mediation Services: Forum 2000).

Other participants expressed concern or confusion on what was being proposed in Saskatchewan in cases of battered women. They were unclear on what criteria would be used when considering a case for restorative justice and on what would happen should the *victim* not want to proceed with, or withdraw from, a restorative justice process.

... I mean, I personally find the whole concept of restorative justice in family violence situations very scary. I work with a caseload entirely of domestic violence cases, and I can just see so many really scary things that might happen (Liz McQuarrie Regina: Forum 2000).

So if the victim opts to not participate, then the offender has no choice, like he

goes through the regular criminal justice system, is that how it works? (Rae Hart, Women's Secretariat: Forum 2000).

Objectors and cautious proponents were concerned about a number of issues and drew on a variety of resources or lack thereof to make their case. Two main themes were identified: (1) both broad and specific issues surrounding 'community' and; (2) if these initiatives were to take place, who was to mentor these processes? Concerns surrounding the notion of community focused on two particular areas. The first dealt with the definitional challenge of what community means, while the second concern focused on the issues surrounding the implications of restorative justice measures in communities. Issues of what constitutes 'community' also included concerns of who in the community was being consulted with regards to criteria for restorative justice initiatives. This issue, as several Forum participants clearly and forcefully pointed out, was of particular significance to Aboriginal peoples and in particular Aboriginal women who are less organised, relatively speaking, and therefore have a less effective voice in responding to matters. In these communities, restorative justice processes could potentially facilitate a disservice to battered women.

There is absolutely without a doubt systemic discrimination that's happening within the current justice system ...What guarantee do we have that these same people who will be given the discretionary power of referring something to a restorative justice model are not going to operate on the same myths that currently exist within these forces? (Irene Smith: Forum 2000).

As one panel member eloquently put it,

my guess is, a bit of a guess that if restorative justice was a real threat to men there'd be lots of them here opposing it ... (Wally Roth: Forum 2000).

A few participants raised issues of trust and its implications for the community. Some distrusted State-initiated partnerships with the community because of previous negative

experiences. The possibility was that the justice system was using restorative justice as a means of diverting cases of family violence and sexual assault away from the justice system was also entertained. Concerns were expressed that restorative justice measures could be used (a) as a cost saving measure; (b) because of difficulties in prosecution, or; (c) because family violence was not taken seriously by the criminal justice system. Whatever the reason, the end result would be the off-loading of responsibility to the community. Irene Smith articulated these concerns when she stated:

...within the restorative justice model in Nova Scotia is voluntarism. They're proposing that it will be volunteers who will engage in a facilitated meeting with the perpetrator and the woman who has survived sexual violence or domestic violence. I have serious concerns about volunteers facilitating that kind of a meeting, and again, if governments are suggesting that they are not downloading to the community, isn't asking volunteers to do pro-bono work exactly that--downloading to the community. I don't believe that I think it takes a great deal of training and understanding about the dynamics of sexual violence and domestic violence to be able to facilitate those kinds of meetings (Forum 2000).

I have a question about appropriating other people's culture. When I look at my own culture there are some problems that we have. When I turn on the television and we're more concerned about the NASDAQ than we are about what's happening with children ... [who] ... are starving in other parts of the world. I think we have a very long way to go before we can do restorative justice. We can't even restore our communities. I think of things like living in urban areas in this province and in Canada where we don't even learn who our neighbours are. It is very hard for me to trust that we could take a process like this and make it work (Ken Crawford, STOPS: Forum 2000).

The comment about appropriating people's cultures I think is a very important one, certainly in Nova Scotia they're saying we're going to do this community kind of response in terms of restorative justice, but I don't know who my community is. I think that's a fair question. Can we indeed take a model such as you're suggesting and plunk it down in my community? (Irene Smith: Forum 2000).

A major concern for some Forum participants dealt with the concept of a toxic community. These participants defined toxic communities as those that did not meet the needs of the victim in any way. Their concern was that restorative justice measures, if implemented,

would only serve to re-victimise the individual.

I recently have spent time with a woman from a small community in Ontario whose husband is a prominent business man ... [who] told ...of her experience ... in trying to get help for her family. She has four children. Nobody, the schools, the hospitals, the courts, the police, nobody really wants to deal with this situation. There's tremendous collusion going on ... It takes tremendous courage to allow ourselves to feel the pain of what that means and what that is. Our society has been acknowledged as an addictive culture. There are a million and one ways of running from the pain of living in denial.... (Michelle Langery, Victim Services Correctional Service of Canada, Ottawa: Forum 2000).

In our experience with woman who have experienced crimes of sexual violence, the reintegration of the sexual assault offender into the community creates a great deal of fear, and as a matter of fact, re-victimization, not healing for the survivor. Knowledge that the perpetrator is at large is usually frightening and actually a very re-victimising experience for women (Irene Smith: Forum 2000).

As well, some participants emphasised the notion that although the formal message was that family violence was not condoned, the implicit message was that family violence was condoned. This sentiment was clearly expressed by a number of Forum participants through the following quotations.

During the judicial process, abusers do not receive the message that their behaviour is unacceptable much less criminal. Restorative justice strategies seem to me to leave the door wide open for even less onerous consequences for the abuser (Virginia Fisher on behalf of Kim Robertson: Forum 2000).

... restorative justice encourages forgiveness, and I think I want to say very clearly that we are not in the business of forgiving sexual assault and domestic violence. We're in the business of stopping it, zero tolerance. Adopting zero tolerance for sexual assault and abuse is what we want to achieve. Forgiveness is not essential to the survivor in her healing process, and if the survivor is pressured or guilted into forgiving a perpetrator prematurely, it can actually sabotage her healing process (Irene Smith: Forum 2000).

You were here last night and you heard Bria speak, and she talked about the myth that restorative justice is for the offender, and she said it was a myth, but I think ... I think a lot of people were wondering why she thought it was a myth because a lot of us, I think, see it as a reality (Virginia Fisher: Forum 2000).

In sum, Forum participants voiced a number of concerns about community - what was

community; the fact that there were many unhealthy communities and who in the community was being consulted regarding restorative justice processes.

Issues of Social Location Regarding the Implementation and Use of Restorative Justice Measures

Concerns were voiced by many regarding the social location of some communities. Forcefully pointed out by a number of panel members was the fact that communities and people do not live in social vacuums but in a political and social climate that is more or less patriarchal, sexist, classist and racist in nature. This was echoed by a number of the panel members.

It's fine and dandy for people to go in there and to learn how to deal with their anger, but it's a whole other story to come outside those doors and to have to deal with racism and to feel that anger all over ... in terms of socialising our sons and our daughters to be non-sexist and to not have patriarchal values I don't think we can as mothers be solely responsible for teaching our boys to be egalitarian when we live in a patriarchal society. I think that we need to look at society at large and some of the values that are inherent there (Anne McGillivray: Forum 2000).

Justice wants to make things easier for victims or women to get their side heard after they've been hurt ... [but] ... it's not possible to have equal justice when the system in which the laws are built, is biased in favour of one group. In this case, white upper class privileged males...it dawned on me that we were doing essentially what women have been doing all these generations--trying to find a unique way or another way of getting men to stop their violence. Maybe if we did it this way, they'd stop their violence. Maybe if we talked this, they'd stop their violence. My fear is that we're doing the same thing with the justice system. Maybe if we do restorative justice it will stop men's violence, maybe if we do mediation it will stop men's violence. We're not challenging the system. We're simply looking for another way, that's my fear anyway, for another way of trying to fix something that's already broken (Wally Roth: Forum 2000).

And as Tracy Porteous (Forum 2000) emphatically pointed out:

What seems to be missing in the restorative justice literature that I put my hands on so far is an analysis of the dynamics of gendered violence ... a real analysis of violence in relationships and sexual assault, and also what seems to be missing which I think is a key issue, is an understanding about how the impact of women's socialization is connected to these dynamics, and in Virginia's talk ... [we heard] very, very articulately about the environment ... psychological foundation that is

set up for women that have been abused. I haven't read much about the importance of creating or maintaining a deterrence in cases of violence against women, I haven't heard much about the importance of encouraging people that have been victimised and women to come forward.

Forum participants also raised concerns regarding the need to be mindful of who was initiating restorative justice processes for community - was it the community and, if so, were all members being consulted⁶, and if so what were some of the potential repercussions for those who did not want the process? As Faye Blaney emphatically pointed out that this concern was particularly relevant for Aboriginal peoples.

...it's important to talk about some of the systemic and institutionalised discrimination ... we face as aboriginal women... Matrimonial property rights for those ... [who] ... don't know what that is--that is a law that means that Canadian women have certain rights that aboriginal women on reserve do not have, and that is the equal division of assets in matrimonial breakdown, and this is in law ... we also have Bill C49 that has come into play, and that gives bands pretty broad sweeping authority to do whatever they want with land in the name of self government. ... but underneath that is the very hard reality that aboriginal women don't have a voice in that process.

...it's [also] important to note that federal funding formulas very much favour aboriginal men and aboriginal men's organizations ...We have patriarchy in our aboriginal communities. We do have matrimonial property rights that the men are wholeheartedly supporting because it benefits them. Someone else this morning said that women are violent too. That is true, but the facts remain that the overwhelming numbers of victims are women, the overwhelming number of offenders are men. It's men ... [who] ... batter women. We do have language that's been sanitised. We talk about gender equality. We don't talk about which gender is equal and which one is oppressive, and we also talk about domestic violence as if it's violence within the domicile. It's not violence in the household with one partner against the other. It is the husband beating the wife generally speaking. I think that women are the victims of violence and it permeates all our laws across this country whether it's in aboriginal communities or not. The fact remains that aboriginal men are benefiting from those privileges, and they exercise those privileges, and they continue to enforce them. If you look at the structure of who are the chiefs in this country, it's very abundantly clear who is in control ... I know that those of us ... [who] are going to post secondary and getting three

⁶ It is notable that this Forum can be seen as a form of restorative justice process in that Saskatchewan members are indeed being consulted in terms of what is the best way forward for Saskatchewan with regards to the issue at hand.

degrees like you were saying, it's aboriginal women ... [who] ... are doing that, but who sits in positions of power and authority. It's men, overwhelmingly the chiefs across this country and the presidents of the boards of directors and the executive directors, those are men. There's something terribly wrong with our system if we have women in places where we're highly powerless in being able to decide our own futures (Forum 2000).

Elaine Buchrester, a Forum participant from Newfoundland asked the following questions:

There are many things I would like to say, but just for the moment, when Saskatchewan decided not to put violence in domestic, violence in sexual assault cases into the alternative measures were the women's groups consulted? Were First Nations groups consulted? How did it come about? (Forum 2000).

Forum participants also voiced concerns regarding the resources available, or lack thereof, for the community. One Forum participant eloquently articulated the desperate situation in her particular community.

Okay. What I'd like to just share with people here, and if you guys can help out, I guess why I showed up here was to try and find out what's going to be happening in the north if anything. We have, since we went into the health district, we have had 1400 people come through mental health. We've had just about as many through addictions, we have referrals from the prosecutions, victim services, and probation officers and basically it has to do with domestic violence and sexual abuse cases either primary perpetrators or secondary victims. We don't have enough to do what we need to do back home, so if you ladies have any idea, my name is floating around here, and we could use all the help that we can get because basically we have victim services, we have four mental health counsellors for an area a quarter, an area that's a quarter of Saskatchewan and we are from Weyakwin, just outside of P.A. there, all the way to Athabasca Basin which is North West Territories side and then the Manitoba border side. Okay, so if you guys have any ideas, I'd be more than willing to hear and take that information home ... that process Tracey was talking about, we'd give anything to have something like that in our communities, but as it is, we just send the guys to jail, they do use less of their anger and then they come back and beat up their old lady again (Jackie Ballentyne, Chairperson Victim Services La Ronge: Forum 2000).

Faye Blayne added her thoughts on the availability of resources when she stated:

...the real issue of that [*sic*] is a process where you're helpless and have no power. I'm a survivor of abuse, not domestic abuse, and I can tell you honestly that that helplessness that you feel where a 6 year old had more power than I did, I could not see myself in that situation organising and lobbying the government. That was not my reality, and I'm sure in the majority of the cases of women in those

situations, that's not their reality, its not realistic of us to say it's that simple, let's organise, let's talk. It needs to be a much more community based than that ... (Forum 2000).

Discussions also addressed the question: "While there might be a community of shelters and support services for women available, in what sort of political and social climate did these services exist?"

...victims need an opportunity to speak about their feelings and to have the power restored to them that has been taken away by the experience of the offence, and that they need recognition of the pain and the suffering that they have endured ... The terror, the humiliation, the stigma that results from sexual assault makes it a long and difficult and painful process until this type of healing, usually this type of healing only occurs within the context of a safe and trusting relationship (Irene Smith: Forum 2000).

Faye Blaney also addressed this issue, albeit from the perspective of someone who lives and works outside of Saskatchewan. Faye stated:

Well, I think it's really important to talk about some of the systemic and institutionalised discrimination that we face as Aboriginal women that I think is...I'm intending to do this so we can make our case that we do have patriarchy and we have colonization within our Aboriginal communities, not only historically, but that's the case today...It sounds wonderful on the surface that Aboriginal people are getting the right to self-government, but underneath that is the very hard reality that Aboriginal women don't have a voice in that process...I think it's important to note that federal funding formulas very much favour Aboriginal men and Aboriginal men's organizations...when it comes to Aboriginal women's organizations like Puctooteet and the Metis National Council of Women or even the Native Women's Association of Canada, they are not in the formula (Forum 2000).

Not only was the defining of community problematic for some Forum participants, but also problematic was the question of what is 'healthy' in terms of community, gender role socialization and patriarchal structures. The following quotations clearly show the concerns expressed by Forum participants regarding these issues.

We have a track record in many aboriginal communities where the communities rally together, particularly the leadership, they rally together to support and defend offenders and they don't come to the aid of victims ... I just see [restorative justice] as an extension of a system that already exists in which aboriginal women

are silenced...violence is an everyday thing in our lives, and so we're not ashamed of it anymore, and neither are our elders. Our elders are also the perpetrators of that violence ... I don't have confidence in that community ... and to ask that community to be the one to talk about shaming (Faye Blaney: Forum 2000).

I'm not from Saskatchewan. I wanted to be clear that I agree with restorative justice in the sense that it should apply to youth, and it should apply to property crimes. I think the justice system has failed us terribly, but when it comes to situations of violence against women whether it's violence in relationships or sexual assault, I do not think restorative justice is appropriate...we recognise what the socialization process is for women in the patriarchal society that we live in. We know that women are socialised to be passive, to not play an active role in their own lives and in their communities, or even their personal lives... (Tracy Porteous: Forum 2000).

It may be impossible to ask a victim of domestic violence to act with concern for herself during the restorative justice process. Victims have been conditioned to consider only the abuser. This strategy is deeply ingrained as the survival of the victim, her children, and her family depend on it (Virginia Fisher on behalf of Kim Robertson: Forum 2000).

Someone said this morning that women are violent too. That is true, but the fact remains that the overwhelming number of victims of women, the overwhelming number of offenders are men. It's men that batter women. We do have language that's been sanitised. We talk about gender equality. We don't talk about which gender is equal and which one is oppressive, and we also talk about domestic violence as if it's violence within the domicile. It's not violence in the household with one partner against the other. It is the husband beating the wife generally speaking. I think that women are the victims of violence and it permeates all our laws across this country whether it's in Aboriginal communities or not. The fact remains that Aboriginal men are benefiting from those privileges, and they exercise these privileges, and they continue to enforce them (Brenda Tugnal: Director of the First Nations Family Support Centre: Forum 2000).

Wally Roth offers the following cautionary tale.

Both genders get criticised and punished in various ways if they don't follow their expected gender role training. For instance, any woman who acts too male-like is called names like Butch. A man who shows his feelings is called a fag and teased for not being tough enough. Men are told that they have to be in charge, the head of the house, to wear the pants in the family. All this training leads to a belief system that supports men to dominate women at home and at work. Because there's so much support for men to be superior to women, men are expected to use controlling behaviours including physical violence to keep women in their place. Just look at how the media portrays women in comparison to men...men would

probably welcome the chance to work out things with their partners in order to get the relationship back to where they wanted it. My guess is that men like to look good in public so they would willingly go along with the restorative justice procedures especially if it meant avoiding punishment by the courts. I'm also thinking that many women as well would be happy to go along with this new procedure because they would be hoping that this might finally show their husbands that they were wrong and needed to stop hurting them ... Even if we could set up a process that would take these biases into account, how could we be sure that these same laws wouldn't just end up benefiting men more than women ... as the intent of restorative is to restore broken relationships, why would we want to encourage restoring relationships to one where men are expected to be dominant over women? (Forum 2000).

And, as one support worker for a transition house emphatically stated:

I'd put the bugger in jail, that's my thought, and I'm trying to be open minded here and listen to all opinions but I'm wondering, like we talk about the conditioning process, how this woman has become isolated, how her family has, you know, been pushed away from her. These men, their mindset is, they can con ... then you see, you're going to get to the sentencing circle, this guy will say anything because he's done it, he does it, he did it with her, he does it with his family, like you say he does it with the police, he does it with the judges. He comes off so great because that is what he has conditioned himself to do through the whole process ... How are you going to know if this guy's just going to go along with the program, and in the end this woman is going to get it for making him go through this program (Holly Pelletier: Forum 2000).

Once again Wally Roth, Executive Director of the Alternatives for Men Who are Abusive to Their Partners added to the dialogue when he stated:

I'd like to add to the discussion somewhat by saying what we found in the responses that we're getting from the men that we've, over 2000 men that we've seen in our program so far is that the majority of the men would rather be punished than be held accountable. The men would sooner go to jail, get it over with, and then say to everyone, I've done my time, leave me alone, than to be held accountable for their behaviour. That's been a very shocking surprise that we received from the men. I don't know if that adds to the conversation, but it shocked me when I first realised that that's what men really wanted (Forum 2000).

Forum participants also had questions and concerns regarding the role that family or family structure would play in a restorative justice model. Participants discussed the

fact that while many families outwardly claim that abuse is not acceptable to them, the fact remains that the actions of families often encourage the victim to stay within the confines of an abusive situation. Families are always affected by the abuse of one of their members in ways that often bar them from helping.

...my partner's family desperately wanted me to stay within the abusive relationship. They often tried to make it better by treating the children and me very well, but the reality was they were afraid of losing a relationship with their grandchildren if their son was found guilty of assault...My family, on the other hand, had different motives for not addressing our abusive situation until it was almost too late. With a deeply religious background, leaving a marriage went against all values my family held dear. Also, as the abuse progressed, my family learned to fear my partner too and had concerns for their own safety. My family witnessed first hand how working through the justice system had ended in inaction and apathy. They felt as helpless as I did to protect me and my children (Virginia Fisher on behalf of Kim Robertson: Forum 2000).

In sum, Forum participants voiced a number of concerns about (1) the social location of some communities - some being more or less steeped in patriarchal, sexist and racist policies; (2) leadership - who was initiating restorative justice processes. If it was the community who in the community was being consulted; (3) resources in the community and what was the political climate in which those resources existed and finally; (4) what was meant by healthy community.

A number of concerns were also raised regarding the issue of whether restorative justice initiatives should proceed in certain cases of family violence. There were concerns raised about what would happen if restorative justice processes became such common practice as to lose its impact on the offender. It would seem that the assumption was that community would not be addressing some of its issues at the same time.

Sentencing circle [as a form of restorative justice] is a very sacred thing ... You have to deserve it, earn it, get it. So even when you're at that sentencing circle, the people within that circle can say this guy's ... bs'ing us, it'll go back to your courts ... but please keep your options because when a guy gets out he's coming back, and we have to deal with him back at home (Hector Gaudrey, Restorative Justice Program, One Arrow First Nations Saskatchewan: Forum 2000).

There were also concerns raised about how one was to be considered for restorative justice processes. From whom would referrals come? Who would be the gatekeepers? Given the complex nature of family violence, a number of Forum attendees indicated that community members well versed in the dynamics of family violence and *victims* should be consulted and indeed present during the entire process. As Michelle Langery (Ottawa, Victim Services Correctional Service of Canada: Forum 2000) forcefully put it,

... listening to victims talk about why they are really not interested in restorative justice, and [proponents] of restorative justice have had to acknowledge that people who have been involved in instituting so called restorative justice programs have really not done a good job in giving victims prominence because the people who have instituted these programs have largely been people who have worked with offenders ... so there's been a real imbalance which we need to address.

For example, ... the John Howard Society has done ... wonderful work but they are, as far as I'm concerned, identified as working with offenders, right, and being allied with offenders, so how comfortable are victims really to going to the John Howard to have them do an assessment? There's no sense there of neutrality. That I think points out, you know the problem.

Tracey Porteous emphatically reiterated these concerns as evidenced by the following comment:

...the nature and dynamics of violence against women are such that ... solicitation, that initial solicitation should take place with somebody ... [who] ... has some experience ...in the area of women's psychological socialization and the nature and dynamics of abuse ... referral and that work should be done by a women's service or a First Nations women's service so that somebody can take some time ...with her over a course of perhaps a number of sessions to provide her with an opportunity to sort of really look at the full impact of the abuse, and so that she can sort of come to a fully informed place of consent, if that's the route she goes. (Forum 2000).

Also, once the individual was accepted for a restorative justice process there were concerns raised about who was to facilitate these processes and who was to be present during the process. As well, concerns were also raised regarding that idea that once someone was accepted for a restorative justice process it was unclear about who was to facilitate the processes and who was to be present during the processes.

we had a victim who agreed to a sentencing circle and went through all the preparation, got to the sentencing circle, and here it was the ... perpetrator's family, his entire family. It was all his cousins and relatives ... I think that would be very intimidating as a victim to see none of my peers, but all of the abuser's family ... because no family wants to see something bad happen to their own family, you can say that its the hardest person [*sic*] to be judged by is your own family (Shawna Lekowsky, Prince Albert City Police Victim Services Unit, volunteer: Forum 2000).

I guess it could be a good thing, but it could be a scary thing too depending on who's involved and whose family is there. It would have to be pretty open of course (Anne McGillivray⁷: Forum 2000).

Participants stated that before any realistic consideration of any restorative justice processes for any case of family violence could, or should, take place a web of well-informed supportive resources need to be in place.

So the people here who are talking about circles, learn about a circle first and what can happen and yes, in some circumstances circles cannot be used but through talking to elders in the community, and people that work in the community, then you'll know if it's appropriate or not (Jackie Ballentyne - Chairperson Victim Services La Ronge: Forum 2000).

Though objectors' concerns are well founded and their concerns are legitimate and need to be taken seriously, there were also participants who, while concerned about the process, were supportive of the ideas behind restorative justice. Once again, one of the fundamental challenges highlighted by the Forum was the need to clearly define what is meant by 'community'. Are communities places where people live or are communities processes that guide and influence how people live? This has implications for the relative success of restorative justice processes in the long run in that there was a tendency to conceptualise restorative justice as a crime control response to family violence *via* the community rather than an empowering response to family violence *via* community (see Visano and McCormick 1992). And it is for this very reason - empowerment - that proponents thought restorative justice should be considered in certain cases

⁷ * Quoting a woman reported in her study entitled "Black Eyes All the Time".

and in only certain communities.

Reasons for Considering the Implementation and Use of Restorative Justice Measures

Proponents for the use of restorative justice measures in certain cases of family violence saw the process as an opportunity to build resources in the community. In this way restorative justice could be a service to battered women. For example Norma Green understood restorative justice as 'making things right'.

...if you asked me 20 years ago about restorative justice, I would have said, throw the bugger in jail, but since then I have gained more experience in life and have done other things, and so my feeling is I do believe in restorative justice because of the experiences in the past that I've been involved in as well. I did want to sit, so we can change our minds so to speak, depending on the circumstances as well ... In all cases, the community is a part of the solution, and they also accept responsibility, and they are accountable for the resolution of the offence, and it seems that in those cases when breaches of the justice system are brought to families and communities, there is a better chance of resolution happening in a positive manner that has long term effects in the communities What I see is we often put the focus on the offender, not on the problem ... we don't know what the problem is with this individual. I don't think people intentionally go out there and say, oh, I'm going to go and assault someone today or tonight or next week. What is the root of the problem? Have we looked at the background of the offender? What kind of a childhood did he or she have because we have women who also abuse? Do they have positive family life with love and support in their lives? Does the person abuse while under the influence of drugs and alcohol? And why does that person abuse drugs and alcohol? Was this person physically and sexually abused as a young child? Does this person have low self-esteem, lack confidence? ... And is there power and control in the relationship and manipulation? Is the abuse a way of getting some kind of attention even if it is negative? (Forum 2000).

This sense of what restorative justice is, and how it could work, was reiterated by Bev Poitras when she claimed:

Our staff experiences become more varied, and we realise ourselves as facilitators and mediators, we are not counsellors ...We're not fixers, so when we do these initiatives and restorative justice, all we are there as facilitators for change, and we want a ...healing process to start. The communities need the resources for the circle of support in order to provide the follow-up and the after care. The communities know what they can deal with ... they have to determine what

resources they have in their community. Many of the resources that they do have, they say, well we don't have any money for them. I'm saying, don't look at it as money. What kind of resources do you have in your community that are not financial? What kind of elders do you have in your community, what kind of men [do] you have in your community ... [who] ... were abusers, ... [who] ... are free and now are coming out to speak about it? What kind of resources do you have ... The communities know what they can deal with and what training is available, what jobs are opening, the appropriate treatment centres that are out there and what personal development opportunities are coming up, what workshops are coming up (Forum 2000)

Another Forum participant added,

I don't think a community should be isolated to just a certain group of people. Community can be developed anywhere. In our First Nation communities, we're just starting to build that community networking and the supports in it, and I think that can happen anywhere. The other thing that elders talk to us about is that restoring community and sharing values of other people, when they talk to us they say, you take the best of every culture that you know about or that you study, or that you hear about, and you leave the bad. They say that about our own community, our own culture, and our own traditions. Take out the good and leave the bad (Unknown: Forum 2000).

Norma Green (Forum 2000) believed that restorative justice might be more effective for Aboriginal peoples and this belief was clear when she stated:

...as the present justice system is alien to many First Nation's people, and I can give an example, like a lawyer flying into a remote northern community, usually the judge and lawyers fly together, and ... the people in the community do not know the judge. They probably don't respect the judge; therefore, when a judge sits in judgement and says you are sentenced to or you have to act this way, I don't think they're going to listen. While in sentencing circles, the communities are part of it, the families are, anybody who has an involvement in the sentencing circle appears and sits there. They are sitting, the offender is sitting there, and people, his peers, people that he cares about, sit there in judgement of him, and that has more of an impact ... I think that many things have to be looked at, and I think with what I see with aboriginal people is we've had a very horrific past, and it's going to take a number of generations for people to get well again.

One Forum participant raised an interesting point for discussion by suggesting that a way forward from this point might be to research what competencies exist for restorative justice processes in communities and seek ways to cultivate and enhance those competencies. Those with competencies could act as mentors for other individuals and/or communities.

...we need demonstrations about what the possible processes are going to be and that as a community, we need to work together, and I think you take a look at the diverse backgrounds of the people that are sitting in this room, and we are a community. We all come together with the same purpose, the same thought in mind, and there may be some opposing viewpoints or some differences of opinions on how to deal with it, but we're all here because we have the same concerns. The justice system is not working, so what are the other alternatives, and we need to think about it and take some action on what the other alternatives should be, and we do need to value choices (Sandy LeBoeuf: Forum 2000).

Proponents also postulated that restorative justice processes might be a means of involving the community in addressing patriarchy, sexism, racism and classism in community that lent itself to a whole host of issues, including family violence.

Family violence is an insidious and silent abuse used by one member of the family over another, and I say that because I've known of women abusers too. They're not just men. To get the community involved breaks that hidden and isolated nature of spousal abuse. Many offenders strive to isolate their spouse from their families, their friends, their resources, and we need those respected members of our communities to tell the offenders that their behaviour is not acceptable and make the offender responsible for their actions (Bev Poitras: Forum 2000).

We're doing the after effect, but let's go to prevention. There's a lot of programs that deal with prevention. One of them is child rearing. The other one is a school. It's called peace making. They have peace making skills. They have zero tolerance on violence. We should support that, also, recommend that RCMP go to the domestic violence, like, would that be a question for the panel, would that be one of the recommendations for the RCMP to respond to domestic violence right away instead of after, before burglary, I guess, or drunken drivers or something, set a precedence? I think with restorative justice, when do you think it would work, like it's a timely factor too. When is it appropriate? Not right after, or maybe some time? Like eventually we know that women go back to the relationship, but can't we work before that? Can we work with the family? (Lena Campbell, Victim Services Co-ordinator Beauval Pachinak: Forum 2000).

While opponents were concerned that restorative justice processes in cases of family violence would send out the message that family violence was condoned by the justice system, proponents pointed out that while the message of criminal justice system was that it did not

condone family violence, the mechanics of the criminal justice system (i.e. prisons; alternative measures in communities rather than *via* community) could not guarantee that this message was always heard. Two panel members recounted their haunting experiences:

Within the last two years there's been two murders ... related to domestic violence. The judge came to us in the community and asked us what can we do? So it's not only us as First Nations people saying that the courts aren't working, the courts are asking us what can we do because they're not working. This is giving us the opportunity now to say what can we do ... We have to start dealing with the deep rooted issues, not just the ... slap on the face. We have to start dealing with why is he doing that? What is the issue that he deals with? ... the present justice system has caused more problems in some cases and its track record speaks for itself, and we've heard of many of the cases today ... where the courts are not fair to victims ...one stat last night was 11% of the cases go to court. What happens to the 89% that are sitting in our communities? The state or the court becomes the voice of the victim, and this is not always the most effective or efficient way to deal with family conflict.

I think it is 35 times the woman is beaten before she actually phones the cops. I mean, you know, when you get to that level I guess it is very serious before she even thinks about doing something, so why not try something in our communities that maybe even started before when the first initial start, reactions start coming in, when the police do their first visitation, or the wife does the, the neighbour calls in and says that there's an interaction in this house next door, could you please go and check on it? Why can't we start something right there? (Bev Poitras: Forum 2000).

It really hit home to me when I saw a four year old boy and his mother had brought him and his sister to the haven, and said, there had been an incident of violence at home, and she needed time to get her stuff together, and she left, and the little boy was very upset. He was very angry, and I was trying to calm him down a little bit, and I just said your mom just needs a little break. She needs some time, she's not feeling well, she needs some time. This is his exact words to me, and I'm not trying to be vulgar or anything, She doesn't need a fuckin' break, she needs a fuckin' slap. And he's five years old, and in my mind I was saying, if something doesn't happen for this child, we're going to be seeing him in the papers, or something's going to happen in the future for him that's going to be traumatic. I mean, obviously this kid has seen things, and it's going to continue the cycle. The little girl never said a word. She sat there with her head down like this, all the time (Wanda Gamble: Forum 2000).

Forum participants also discussed, some from personal experiences and some not, about

how restorative justice might empower some victims as well as change some victims, as well as some offenders.

Talking to her, again, she said, even now I would like that opportunity to tell him exactly what he did to me and how it felt. I don't know if it's going to repair anything, I don't know that, but as a victim, just being able to let that person know how it impacted you, and if he chooses not to hear it, you know that you've said it to him. It's a start to the healing process (Wanda Gamble: Forum 2000).

I'm not saying let's go full speed ahead. It's a question that we have to look at but in my opinion, it is by far the best thing that I've ever seen. It's not a perfect thing but I've seen how our conventional system has failed victims, and in the ones that I've seen and I'm a facilitator in family group counselling and I've done 60, many of which have been due to violence and not domestic violence but fights and assaults in schoolyards and things like that. And the healing that I've seen happen is certainly encouraging to me because I've never seen healing happen in a court room and even when the victim's side of an adversarial victim wins, I often see the victim going away realising that there's no healing, their fears are not being relieved, living day to day in apprehension of when the offender's going to be back out on the street, and they don't have the support that they need to carry on. In this process, as the one lady there said, can intervene in cycles of violence ...(Leonard Bush: Forum 2000).

Two other panel members voiced their thoughts in this way:

I have in front of me my sheet that says restorative justice recognises and repairs harm to victims in communities, distinguishes between offending action and offender, heals and reintegrates the offender, concerns of victim and communities are given equal status, and perhaps that word "concerns" is a little bit too lukewarm for what actually happens in the reality of the programs. Victims are actively involved, and the process meets the emotional needs of the victims. This we know from doing ongoing evaluation, bringing the victims back that have participated. It requires an admission of guilt of the offender more so than in the traditional justice system is held accountable and is made to acknowledge responsibility for their action, and also to have a full look at the consequences of their actions (Pauline Busch: Forum 2000).

The whole issue about violence in relationships and sexual assault is about disempowerment. We believe that in order for the system to be working effectively we need to be building in at every step of the way processes that work towards her empowerment, so giving her the opportunity to have some control we think is key (Tracy Porteous: Forum 2000).

Some Forum participants also stated the belief that restorative justice processes could be beneficial for at least some offenders.

...for example, the horrendous story we heard that was read into the record today talked about how over a period of time it got worse and worse and worse and seemed nothing could be done. Maybe that type of case certainly would not be appropriate at the later stages to deal with in the circle, by that time it's far gone and that guy should be locked up and never be near anybody ever again as far as I'm concerned. But at some point there was a time that perhaps that person could have been brought into a circle, and they could have looked at why are you doing this and what are your needs, why do you feel you have to dominate somebody, why do think that violence is an answer to your own pain, your own suffering? And I think at that point you really have a chance to turn things around ... Now there's no guarantee that any system we use is going to work 100% of the time. There's always going to be people saying that didn't work, look at that, so that whole process, let's ditch it. But I don't think that's the answer (Leonard Bush: Forum 2000).

I think trying to help them would be a lot better than trying to get revenge on them or trying to do something to them worse. I don't think they're going to learn anything if nobody is there to help them...Some of them have just about killed their partners. Those are the ones that should go in court and struggle there too, but those that are not doing bad, like not really hurting their partners should go and ask for help. Maybe those are the ones that would get better soon, but the bad ones should go in court, and the public can see what's going on out there...It would probably work better than the justice system. It wouldn't spit out hard core criminals. Someone goes in for petty crime and comes out hard core because you know, that's the way jail is. (Anne McGillivray: Forum 2000)

Summary

An analysis of the Forum proceedings clearly shows that some Forum participants opposed restorative justice processes for a number of reasons. They felt their particular communities did not have the appropriate resources; or because they felt their communities were collusive, and by implication not healthy. Some felt that the use of restorative justice processes would send the implicit message would be that family violence was condoned while others argued that restorative justice would not work because of women's and men's socialization, or; because of institutional patriarchy, sexism, racism and classism. Interestingly, it was for these very same reasons proponents felt that restorative justice processes might be a way forward.

These participants felt restorative justice processes represented a means of building resources of community, enabling community to address issues of collusion, patriarchy, sexism, racism and classism and in doing so, affect women's and men's socialization.

Issues for Future Consideration

Though most of those participants who voiced opinions seemed to be receptive to the idea of restorative justice, what appeared to be lacking was information on restorative justice processes and what community might look like in successful restorative justice processes in cases of family violence. In the absence of clear guidelines, a clear understanding of restorative justice principles, competent facilitators, and a few demonstration projects, restorative justice has the potential of being a disservice to battered women. This potential was clearly articulated by Irene Smith:

The definition of restorative justice is described as elusive in our document. To define it is to limit. If the definition of a program eludes us, so too do the limits of the program. As such, restorative justice is potentially and elusive, slippery slow with non-existent or at best nobody to be the gatekeepers of the process. Clear, specific guidelines about sexual assault and domestic violence cases need to be identified, and they need to be done in consultation with women's groups and women who have experienced sexual violence (Forum 2000).

Bev Poitras also succinctly expressed her views on this issue when she said:

Should the government allow or institute the use of restorative justice strategies for family violence throughout the province in only certain communities? If the trained mediators and resources are available, with the support for the family, then why not try something different? The communities that recognise that this is a major problem have to be prepared. They have to have strong resources, willing to participate, and they have to have started on their own healing journey. These communities would be ideal as pilot projects or areas that we can start something in restorative justice (Forum 2000).

Anne McGillivray (Forum 2000) provided comments from women who participated in her recent study through the following quotations:

Victim input, victim safety, vindication and victim satisfaction are what [victims] wanted. These are promises the justice system has made that it has not yet kept. I

think this is what diversion would have to actually keep as a promise if it were going to work for women who come out of or whose offenders have offended against them (Study participant).

I see men as manipulating the system, as an easy way out. In the majority of communities it is usually relatives that sit on the sentencing committee anyway (Study participant).

I think they should send them to jail instead of going through all that. Behind bars for what they did to people, for what they did to partners because if they send them to something like that, camps or something, they're going to think I can do it again because he's not behind bars for what he did (Study participant).

It's too easy, it's too easy for them because most abusers don't realise what kind of pain they put their partners and kids through. I don't mind them being sentenced by Aboriginals, but it's just like that's too easy for them---restitution or going to counselling, community service work ---too easy (Study participant).

Once again, it was interesting to note that the ways in which opponents and proponents discoursed, or understood, the issues appeared, at times, to be at odds with each other. Opponents tended to discuss the concept of community in the physical sense with communities viewed as geographical locations while participants who advocated for the possibilities of restorative justice measures discussed community as a process. As well, opponents tended to conceptualise restorative justice as a crime control response to family violence *via* the community while those supportive of restorative justice viewed these measures as, at least potentially, an empowering response to family violence *via* community. Moreover opponents tended to discourse about women as 'victims' and men as 'perpetrators' which potentially overlooked the fact that they might also be someone's brother, sister, aunt, uncle, mother or father, neighbour, friend -- some of whom might be powerful resources upon which to draw. Nevertheless before any restorative justice processes should be considered for a particular community a number of provisos were put forward by Forum participants that needed to be in place:

1. An ongoing web of support services and protection for the victim and support services for the perpetrator and their families in place.

...as long as there's good supervision where the person or victim didn't have to worry about being stalked or maybe even killed (Anne McGillivray: Forum 2000).

...the one thing I think we can all agree on here is that the conventional court system has not served the needs of victims very well. I think everybody recognises that, and so we're looking for other options, ways that we can better deal with different types of antisocial behaviour and violence and things like that. I don't think ... we certainly are not purporting to see restorative justice being the one route that can or should be taken when dealing with terms of domestic violence. I would never want to see a time come when a victim is given a subpoena to attend a family group conference. I don't think anybody is in favour of that sort of thing. Right now victims are being given subpoenas to attend court and to testify and to be made out as liars by one side of the adversarial system, and I know of being a police officer of 23 years I do believe that sometimes a court process is more traumatic on a victim than the actual abuse had been (Leonard Bush: Forum 2000).

I guess it could be a good thing, but it could be a scary thing too depending on who's involved and whose family is there. It would have to be pretty open of course (Anne McGillivray: Forum 2000).

2. A gendered analysis of restorative justice processes.

...not just looking at the offender and what would be good for the offender and the community, but looking at what the offender did. So they still want those elements of, I suppose you could say, punishment or payback, but this time in a slightly different context, and they want to make absolutely sure that the process is free of bias and free of manipulation by the accused and his supporters, and many, many of them had experienced this where the accused, or where their abuser let's just say, because often it didn't even make it to level of accused was rallying all sorts of powerful strengths around themselves to prevent that person from complaining (Anne McGillivray: Forum 2000).

There were some comments made this morning about why the government isn't doing this analysis about the impact on women of restorative justice and sexual assault cases. I think that doing this kind of analysis will require the government to be accountable for all the systemic factors we've talked about that contribute to women's inequality. The long list that we've talked about here today, and I think that they're not prepared to do that (Lisa Adario: Forum 2000).

3. Trained facilitators, close supervision, tracking and ongoing evaluation of restorative justice processes by battered women and/or their advocates.

We need to have the people built within our programs, not ones we borrow from elsewhere. We need to have those family therapists on site; we need to have the people that have the background. We, ourselves, we're mediators, we're facilitators, we're not counsellors, and we're very cautious about crossing that line that we set for ourselves, not to go and pretend that as a facilitator I can see beyond the issue that's in front of me here and begin to dig into very deep rooted issues. We're very cautious about that, and these are some of the things that need to be explored, and they need to be explored by professionals that will be built into the programs ... I know that from a personal point of view where I've began to work on my own childhood sexual abuse since 1986, I'm nowhere near finished. I still have a very long journey, and for me to think that I can look at other women and say, we're going to fix you up and send you on your way, girl, no more problems. I'm not prepared to do that. I'm not prepared to be that callous and to look at that woman within that respect. I also believe very strongly that restorative justice does have the ability to address many of those given the right resources, given the right people being part of that process. In fact, I would put the restorative justice process before the court system. I have seen nothing that gives me confidence in our present court system. I have seen plenty that gives me confidence in restorative justice (Forum 2000).

Just in closing, I think that before going down a restorative route in term of violence against women...we need a gendered analysis. There needs to be funding...There needs to be screening, really clear screening and training and guidelines, and standards, and monitoring, and a tracking system in place, sort of back to strengths that you would be looking at putting al all of these things in place before going down the road...(Unknown: Forum 2000).

4. An efficient communications and consultation network among interested stakeholders both within and between communities.

I think that it's important to keep talking, and keep talking means dollars, and for the Saskatchewan Justice Department or whomever else in the province provides money for forums like this or other kinds of dialogues is important (Unknown: Forum 2000).

There are questions that are raised. There's questions that are raised in communities, in many of the isolated communities about why these matters can't go in, and as one of the gatekeepers, I want to take this conversation very seriously, and I don't want it to just happen somewhere and we turn a blind eye. I don't want it driven by a policy that no one's ever talked about. I want it driven if it's going to change, and I'm not saying it is going to change, but if it's going to change, we need to do it a really thoughtful, really careful way, and we need to listen to a lot of different voices, and it's not going to happen over night...

Well, we'll keep...I think we keep needing to have sessions like this. Have lots of discussions, I think we all do in the room. We all go back to the communities where we live, we work in the programs---many of us---not me, but many of the people in the room talk to clients that come in everyday that have views on this as well... (Jan Turner, Community Services, Saskatchewan Justice: Forum 2000).

I want to add my voice to those that have already been raised with regard to continuing the dialogue. We need to keep talking, and my hope is that Saskatchewan Justice will continue talking with us, and will listen, and will in as many ways possible, enable and empower all the voices to be heard (Helen Smith-Mackentire: Forum 2000).

And finally,

5. Clear criteria and guidelines for consideration for restorative justice processes.

... in some cases it might work. It depends on how severe or to what extent the violence or abuse is. It depends on the type of abuse, whether sexual or what. It depends on the length of the program (Anne McGillivray: Forum 2000).

I think it's really quite critical that an extensive consultation be done and that you involve all of the key stakeholders in your communities, and that certainly would include women themselves, and that has to be done in a very sensitive way, and I think there are models obviously in this province that you can look at in doing that ... There needs to be screening, really clear screening and training, and guidelines, and standards, and monitoring, and a tracking system in place, sort of back to the strengths that you would be looking at putting .. I think is a much more respectful place to begin in terms of respecting women and respecting others so that you're not ending up making mistakes and having to backtrack (Marilyn McCrea, Executive Director, Moose Jaw Transition House: Forum 2000).

Thus, before restorative justice processes should, or can be considered for certain cases and in certain communities, the community, including, but not exclusively, the professional community organizations, should be well-informed, well-researched, and committed to the process. The aim of restorative justice should be enchantment, rather than estrangement, and must operate in conjunction with a shift in focus to process and interaction and away from action/response/reaction. Development and implementation of restorative justice processes should not proceed without the backing of a web of co-ordinated community based agencies. If a restorative justice process is considered in a particular case of family violence it should proceed

with great caution and self-reflection, and within a web of other social agencies in the community whose overall focus is not act/response/reaction but rather process and interaction.

Do restorative justice processes have the potential to address systemic violence against women? A few Forum participants thought possibly, but not immediately, and not directly. Can restorative justice processes be a service to individual battered women? Again some thought possibly, but only if a web of appropriate support services was in place. Should restorative justice processes be used in certain cases of family violence, in certain communities with certain safeguards? Some thought yes, but again, only if a web of appropriate support services were in place. 'Restorative justice is not a panacea. It's not an answer to criminal conduct. It can be part of a solution, but only part of a bigger solution' (Judge Huculak: Forum 2000). Perhaps the most eloquent summation was provided by Forum participant Marilyn McCrea when she said:

There's all kinds of possibilities. I guess that since I'm here anyway, I'll bring up the point I wanted to make which is that we've heard about the different kinds of restorative justice, things that are in place now for a number of different things like mediation and sentencing circles and family group conferencing. I was thinking I've heard this analogy all day about how restorative justice is a runaway train, and we've got to somehow get on board and put the brakes on if we can, and put some things in place, guidelines and policies and that kind of thing because it seems as if we're not going to be able to stop the sexual assaults and domestic violence cases from eventually becoming part of the restorative justice system. If this is true, and it should come to pass, I would think that as the kind of forum we are today, we're all very good at coming up with very innovative ways of dealing with things, and we should be able to come up with a way of dealing with these issues that both hold someone accountable for their violence and hold the justice system accountable for taking these kinds of assaults seriously, more seriously than they seem to be doing now (Forum 2000).

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List of Contributors

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Pauline Busch is a member of the Nisichawayasihk First Nation, Woodlands Cree, in Northern Manitoba. She was raised in a traditional matriarchal community, with a commercial fishing and trapping economic base, a lifestyle that dictates a nomadic existence and a strong system of co-operative survival. Pauline is a graduate of SIFC, with a degree in Cree Linguistics. She has taught in the Cree Immersion Program for the Saskatchewan Centre for International Languages at the U of R, been a Guest Lecturer at SIFC on the role of women in Traditional Cree Society, and a Guest Lecturer at the University of Manitoba on Aboriginal Government Structure, Aboriginal Environmental Issues, and Traditional Cree Community Structures. She provides presentations and lectures for the RCMP and Regina City Police on Aboriginal cultural practices, and on current issues facing Aboriginal communities. Pauline is the Executive Director of the Regina Alternative Measures Program. She is an accredited instructor for the Family Group Conference training and has provided this training to Social Workers, Police Officers, Community Justice employees, and band office employees.

From 1981 to 1994, **Virginia Fisher** had a general law practice in B.C., with an extensive Family Law component. During that time, she was a member of the firm team that wrote a successful proposal for government contracts to do Reciprocal Enforcement of Maintenance Orders and Child Paternity suits. Since 1995, Virginia has been the Co-ordinator of the Provincial Association of Transition Houses of Saskatchewan (PATHS), the umbrella association of Saskatchewan's shelters for battered women. As PATHS' Co-ordinator, Virginia has lobbied the government extensively on behalf of battered women and presented educational sessions on violence against women in numerous post-secondary classrooms. She is the organiser and host of this national conference on **Restorative Justice for Battered Women**.

After receiving her education and participating in various community-orientated areas, **Wanda Gamble** began her employment at the Aboriginal Women's Council of Saskatchewan as a Mediator/Facilitator in 1997. Interested in working with people and helping her community, she knew she could do both as a justice worker. Through the three years she has been with the Alternative Measures Program, she has seen the positive effects Restorative Justice has on victims, offenders and the community as a whole. Wanda wants to be part of implementing new and better programs for people in her community, and throughout Canada.

Norma Green is a member of the Wahpeton Dakota-Sioux First Nations, near Prince Albert, Saskatchewan. She is currently employed by Corrections Service, Canada, in Special Projects. From March 1, 1994, to February 11, 2000, she was the Kikawinaw (Warden) at Okimaw Ohci Healing Lodge, in Maple Creek, Saskatchewan, an Aboriginal healing lodge that houses federally sentenced Aboriginal women. There, Norma was responsible to oversee the building of the Lodge at a cost of \$9.2 million, the hiring and training of staff, and the development of programs. Aboriginal spirituality, culture, and traditions are the focus of the Lodge. Norma's drive in life is to provide support and help to those who are socially and economically disadvantaged, and to work to alleviate racism, sexism and classicism for future generations.

Judge Bria Huculak was appointed to the Saskatchewan Provincial Court in January 1992. Prior to her judicial appointment, she was the Legal Director of the Saskatoon Legal Assistance, a position she held from 1978. Her area of practice was criminal and family law. Judge Huculak has had a long-standing interest in issues relating to equality. She spent many years working in the area of gender and racial-ethnic equality, was on the national board of LEAF, and is a founding member of LEAF Saskatchewan. She was a founding member of Women and The Law, and The E. Fry Society in Saskatchewan, and is a member of the Gender Committee of the Law Society of Saskatchewan and chair of the Gender, Race and Ethnic Equity Committee of the Saskatchewan Provincial Court Judges Association. In 1996, she took a one-year leave from her judicial duties and commenced a Ph.D. in Law at the University of British Columbia. Her thesis concerns Restorative Justice and Sentencing. She has been a guest lecturer at the Universities of Saskatchewan, Alberta and British Columbia Law Schools, and a frequent speaker on sentencing circles and restorative justice, and at conferences concerning Aboriginal Justice. In August this year, Judge Huculak will be part of an International Institute on the Spiritual Roots of Restorative Justice.

Sandi LeBoeuf is a First Nations from Muskoday First Nation. She is the Director of the STC (Saskatoon Tribal Council) Family Centre, which was set up to deliver in-home counselling and support for at risk families. Sandi is very active in the community of Saskatoon, Co-chairing the Working Group to Stop the Sexual Abuse of Children by Johns and Pimps, Saskatoon Communities for Children, and sitting on several other Boards and committees, including EGADZ, AIDS Saskatoon, Diabetes Ad Hoc Group, Hepatitis C Committee, and Meyoyawin (advisory to Saskatoon District Health).

Anne McGillivray is Professor of Law at the University of Manitoba, where she teaches Children and the Law, Law and Literature, Criminal Law, Professional Responsibility, and Legal Systems. She has written numerous articles and reports, and has edited essay collections, in the areas of childhood and Aboriginal childhood, domestic violence, criminal law, *parens patriae*, and law and literature. She was a member of the CIDA delegation to Cuba on children's rights in 1997. Her most recent book is *Black Eyes All of the Time: Intimate Violence, Aboriginal Women and the Justice System* (with Brenda Comaskey), University of Toronto Press, 1999.

In 1997, **Bev Poitras'** employer, the Touchwood First Nations, changed Bev's focus in community planning from project management, to social development for youth, because the communities were experiencing high youth crime and wanted alternatives to the court process.

With funding from the RCMP, Bev attended a trainer's workshop in Family Group Conferencing (now known in Canada as Community Justice Forums), facilitated by Real Justice from Australia. This approach became the agency focus until formal alternative measures were implemented. On April 1, 1999, Bev was hired as the Director of the Restorative Justice Unit for the File Hills Qu'Appelle Tribal Council. She found the crossover to the restorative justice unit to be an easy process, because the social problems in the communities reflect the problems that exist in the justice program.

Tracy Porteous is a long time advocate for justice and social change for women and others who have been victimised. She has worked for 18 years as a counsellor, trainer, curriculum developer, policy maker, administrator, fund-raiser and advocate. As the Senior Provincial Co-ordinator for the BC Association of Specialised Victim Assistance & Counselling Programs, Tracy works closely with many levels of government and related service sectors across B.C. on the development of program, policy and legislation in the area of violence against women and others. She is known for her numerous creative and innovative projects, many of which have created important social change provincially, nationally and internationally. Tracy has been a member of the Ministry of Attorney General's Sexual Assault Policy Development Committee for the past five years, and, most recently, has led grass roots activities to provide the B.C. government with critical feedback related to public policy development, and the current reforms taking place called Restorative Justice.

Kim Robertson is a 34-year-old professional woman, who is married and has three children. "I am a survivor of domestic violence. Although it now seems like a lifetime away, only seven years ago I lived in a relationship that included daily emotional abuse, physical abuse and sexual abuse. My relationship lasted for almost 10 years and was, without a doubt, the most difficult and life-altering period of my existence, and in the lives of my children. I want to include my voice in the discussion about instituting restorative justice in the province of Saskatchewan. As a survivor, I hope I can bring a perspective to this conversation and help you to understand how this decision will affect those who are the victims – the very people society is obligated to protect. While I speak for myself and about my experiences, the communication I've had with others tells me that I speak for many survivors of domestic violence."

Irene Smith, the Executive Director of the Avalon Sexual Assault Centre, in Halifax, Nova Scotia, graduated from Mount St. Vincent University with a degree in Psychology and Sociology. She has taken a number of women's study courses, and holds a certificate in Personnel Management and Industrial Relations, and has comprehensive training in "Mediation of Work Place Harassment". As a Human Rights Officer working with the Nova Scotia Human Rights Commission, Irene was responsible to assist companies and organizations to develop and implement their sexual harassment policies and guidelines. With over 12 years experience with non-profit and grass roots organizations, Irene has done extensive work in the area of community development, and has been an advocate for improvement in public policy and services for a wide range of social issues. She has also been very active in lobbying for law reform with respect to a broad range of justice issues.

Wally Roth's experience as a social worker includes financial assistance, child protection, juvenile delinquency, adolescent psychiatry, adult counselling, family counselling, and group

work. For the past 14 years, he has been primarily involved in co-designing, co-facilitating and co-ordinating the ALTERNATIVES program for men who are violent to their partners. ALTERNATIVES is a four stage, 64-week group program designed to support men to end their violence, particularly against their partners and their children. Wally works full-time in ALTERNATIVES, co-ordinating and co-facilitating four groups per week. From 1990 to 1993, he also co-facilitated a weekly women's support group. He has made numerous public presentations about ending men's violence against women.

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