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**Decision-Making about Restorative Justice:  
Report on a Survey of HRP Officers**

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## Acknowledgements

This project was funded by the Nova Scotia Restorative Justice-Community Research Alliance (NSRJ-CURA).<sup>1</sup> I would like to especially thank the Halifax Regional Police for their cooperation. Superintendent Don Spicer, Sergeants Mike Spurr, Dennis Crowell, and Lindsay Hernden facilitated my access to members of the police force. Constable Richard MacDonald contributed to the development of the questionnaire. Retired Superintendent Mike Burns was also integral to the early development of the research. Researchers and other partners involved with the NSRJ-CURA contributed to this project by identifying relevant questions for the survey. Several were of particular help including Bruce Archibald, Yvonne Atwell, Sylvia Dearing and Pat Gorham. I should also thank Chris McNeil, Deputy Chief of the Halifax Regional Police, for his valuable feedback on a draft of this report. The research also could not have been completed without the help of two research assistants: Ben Burgess and Josh Norwood.

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<sup>1</sup> The NSRJ-CURA is funded by a grant from the Social Sciences and Humanities Research Council (Dalhousie Grant # 833-2005-1007).

## Executive Summary

This report describes the findings of a survey of police officers working for Halifax Regional Police. The survey asked questions about officers' views of restorative justice, their level of participation in the Nova Scotia program along with several demographic questions. The survey also included two vignettes containing hypothetical encounters between a young person and a police officer. The vignettes were designed to tease out which variables are associated with the officers' views of whether an incident was appropriate for a referral to restorative justice and whether they would caution, refer or charge. The vignettes included variables related to the offence (seriousness, level of harm, and type of victim) and the youth (race, demeanor and criminal history).

### Findings:

- Few officers have attended sessions of the Nova Scotia Restorative Justice Program.
- Officers feel that they are quite familiar with the Nova Scotia Restorative Justice Program and restorative justice more generally.
- Officers generally feel that restorative justice is a viable alternative for adults and young offenders.
- About one-quarter of officers felt that the incidents in the vignettes were not, in their personal views, appropriate for restorative justice.
- Between one-third and almost half of officers felt that they would lay a charge in response to the incidents in the vignettes.
- Officers identified prior involvement with police and seriousness of the offence as the most important factors in their decision to charge, caution or refer to restorative justice.
- Respondents were less likely to refer cases when the youth had prior contact with the police compared to cases in which the youth had no prior contact.
- Race and demeanour of the youth were **not** strongly related to officers' decisions to caution, refer or charge.
- Officers were less likely to refer the incidents describing more serious crime, those resulting in more harm and those involving violence (compared to property crime).
- There was, albeit weak, evidence that constable, younger officers and those with less experience (all of which are highly correlated) were more likely to want to lay a charge than other officers.
- There was some, albeit weak, evidence that officer who have participated in more restorative justice sessions were more likely to choose a referral for one of our vignettes.

## I. Introduction

This research asks questions about the type of offenders and offences that police officers prefer to refer to the Nova Scotia Restorative Justice program. The questions are critical to the success of the program given that the hope is for almost all young offenders to have access to restorative justice. We have investigated which variables inform police officers' decisions to refer a particular case to restorative justice. The goal was to better understand the factors leading to referrals as well as those that discourage them.

This research was funded by the Nova Scotia Restorative Justice-Community Research Alliance (NSRJ-CURA). The NSRJ-CURA is a multi-disciplinary, collaborative team involving university, government and community based partners who share an interest in or work with the Nova Scotia Restorative Justice Program.

## II Context

The Nova Scotia Restorative Justice program is one of the largest and most comprehensive in Canada. Authorized as an “extra-judicial sanction” under the Youth Criminal Justice Act, the program is available for 12 to 17 year olds who come in conflict with the law.<sup>2</sup> Almost all youth are eligible to participate in the program from four entry points: police (pre-charge), crown (post-charge), court (post conviction and pre-sentence), and corrections (post sentence).<sup>3</sup> As Don Clarimont, evaluator of the program has said: having four entry points “implies a total institutional involvement and encourages the kind of positive feedback and networking; not to speak of acceptability and consensus, that have been lacking in so many RJ [restorative justice] initiatives throughout North America.” The program receives approximately 1600 referrals each year. No other restorative justice program in Canada has this wide scope and large case-load.

Police are central to the success of the Nova Scotia Restorative Justice Program. In the province as a whole, 60 percent of cases are referred by the police. In Halifax, between 2004/05 and 2007/08 just under half of referrals to the Community Justice Society were made by police.<sup>4</sup>

In 2009, 62 percent of incidents referred to restorative justice occurred in Halifax.<sup>5</sup> Referral numbers in Halifax have been boosted by a Youth Court Officer. He reviews files and

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<sup>2</sup> The province is currently running pilot projects to extend the restorative justice program to respond to adult cases.

<sup>3</sup> Cases of gendered violence are not eligible.

<sup>4</sup> “The Findings: An Excerpt of the Review of the Nova Scotia Restorative Justice Program” Policy Planning and Research, Nova Scotia Department of Justice (2009).

<sup>5</sup> “Incident” here is counted as one Restorative Justice Checklist. Source: Restorative Justice Information System

determines which cases should be referred to restorative justice, even if the officer dealing with the case did not make that recommendation after his or her initial contact with a youth.

A decision to refer a case to restorative justice depends on several factors:<sup>6</sup>

1. Eligibility of offence to be referred by police;
2. Seven minimum requirements;
3. Discretionary factors.

Police may refer only offences classified as Level 1 or Level 2. Level 1 offences, also eligible for a formal caution, include:

- provincial statute offences;
- minor property offences; disorderly conduct offences;
- minor assaults not resulting in physical injury; and,
- minor mischief.

Level 2 offences constitute all Level 1 offences and all *Criminal Code* offences that are **not** Level 3 or Level 4 offences. Level 3 and 4 offences include:

- fraud and theft-related offences over \$20,000;
- robbery;
- sexual offences (proceeded with as a summary offence);
- aggravated assault;
- kidnapping, abduction and confinement;
- criminal negligence/dangerous driving causing death
- manslaughter;
- spousal/partner violence offences;
- criminal harassment;
- impaired driving;
- indictable sexual offences (indictment); and,
- murder.

Currently, cases involving sexual assault and spousal/intimate partner violence are ineligible to be referred.

To make a referral to restorative justice, officers must complete the “Restorative Justice Checklist” for each encounter with a young person. The Checklist includes the seven minimum requirements that must be met for a referral to be made:

1. Referral is consistent with the protection of society;
2. Referral is appropriate having regard to the interests of the offender, victim, and

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<sup>6</sup> Restorative Justice: A Program for Nova Scotia, Program Authorization (2003) available at <http://www.gov.ns.ca/just/RJ/documents/Authorization.NSRJP.Final%20Jan.03.pdf>

- the community;
- 3. The offender accepts responsibility for his/her actions;
- 4. The offender has been informed of, and consents freely and fully, to participating in the program;
- 5. The offender has been advised of his/her right to counsel without delay and is given a reasonable opportunity to retain and instruct counsel;
- 6. There is sufficient evidence to proceed with the prosecution of the offence;
- 7. Prosecution of the offence is not barred by law.

While these requirements are fairly specific there is still room for officer discretion. For example, officers may differ in how they assess whether an offender has accepted responsibility for an incident. They may also differ in their opinion on whether a referral is consistent with the protection of society.

The protocol that authorizes the Nova Scotia Restorative Justice Program also provides for several discretionary factors that officers may consider. The protocol states that:

Prior to an offender being referred to the Restorative Justice Program at any of the referral entry points, the following discretionary factors must be considered:

- 1. the cooperation of the offender;
- 2. the willingness of the victim to participate in the process;
- 3. the desire and need on the part of the community to achieve a restorative result;
- 4. the motive behind the commission of the offence;
- 5. the seriousness of the offence and the level of participation of the offender in the offence, including the level of planning and deliberation prior to the offence;
- 6. the relationship of the victim and offender prior to the incident, and the possible continued relationship between them in the future;
- 7. the offender's apparent ability to learn from a restorative experience and follow through with an agreement;
- 8. the potential for an agreement that would be meaningful to the victim;
- 9. the harm done to the victim;
- 10. whether the offender has been referred to a similar program in recent years;
- 11. whether any government or prosecutorial policy conflicts with the restorative justice referral;

12. such other reasonable factors about the offence, offender, victim and community which may be deemed to be exceptional and worthy of consideration.

Given the discretionary aspects of the decision to refer, understanding the circumstances under which the police exercise discretion is critical to ensuring successful referrals to the program. Our questionnaire tapped into several of the discretionary factors.

Furthermore, a recent review of the Nova Scotia Restorative Justice Program, conducted by the Policy Planning and Research office of the Department of Justice, suggested that a key area for improvement is “training and education of referral sources.”<sup>7</sup> The information in this report may help guide training and education of police by identifying discrepancies between their sense of what types of cases may be referred and what cases are actually eligible.

### III. Data collection and research design

During the winter of 2011 a researcher attended each police training sessions and invited officers to fill out a pen and paper questionnaire (Appendix A). The cover letter on the questionnaire (Appendix B) advised officers that by filling out and returning the questionnaire they consented to being included in the research. The letter also stated that participation was voluntary. We did not collect names or signatures in order to ensure the anonymity of those who participated. The original questionnaires were destroyed once the data was entered into a spreadsheet.<sup>8</sup>

The questionnaire asked officers about their views on restorative justice and their level of participation in the Nova Scotia program. We included two vignettes, discussed in more detail below, that described a typical encounter between a police officer and a youth. We asked officers to assess whether, in their personal opinion, a referral to restorative justice was appropriate. We also asked respondents to tell us whether they would caution, charge or refer the case to restorative justice. The questionnaire also included several basic demographic questions.

The vignettes included offences that are referable under the guidelines laid out in the program authorization document (described above). None constituted a level three or four offence. The most serious offence involved a youth who hit his friend with a stick. This offence probably does not constitute an aggravated assault as defined in the criminal code.<sup>9</sup> Many of the offences

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<sup>7</sup> “The Findings: An Excerpt of the Review of the Nova Scotia Restorative Justice Program” Policy Planning and Research, Nova Scotia Department of Justice (2009).

<sup>8</sup> This research was approved by the Saint Mary’s University Research Ethics Board.

<sup>9</sup> Section 268. (1) Every one commits an aggravated assault who wounds, maims, disfigures or endangers the life of the complainant.



described in the vignettes constituted a level one offence, making them eligible for a formal caution. For example, the incident involving minor vandalism, with little damage, constitutes a level one offence. Most of the incidents described in our vignettes can be classified as level two and are therefore eligible to be referred to restorative justice.

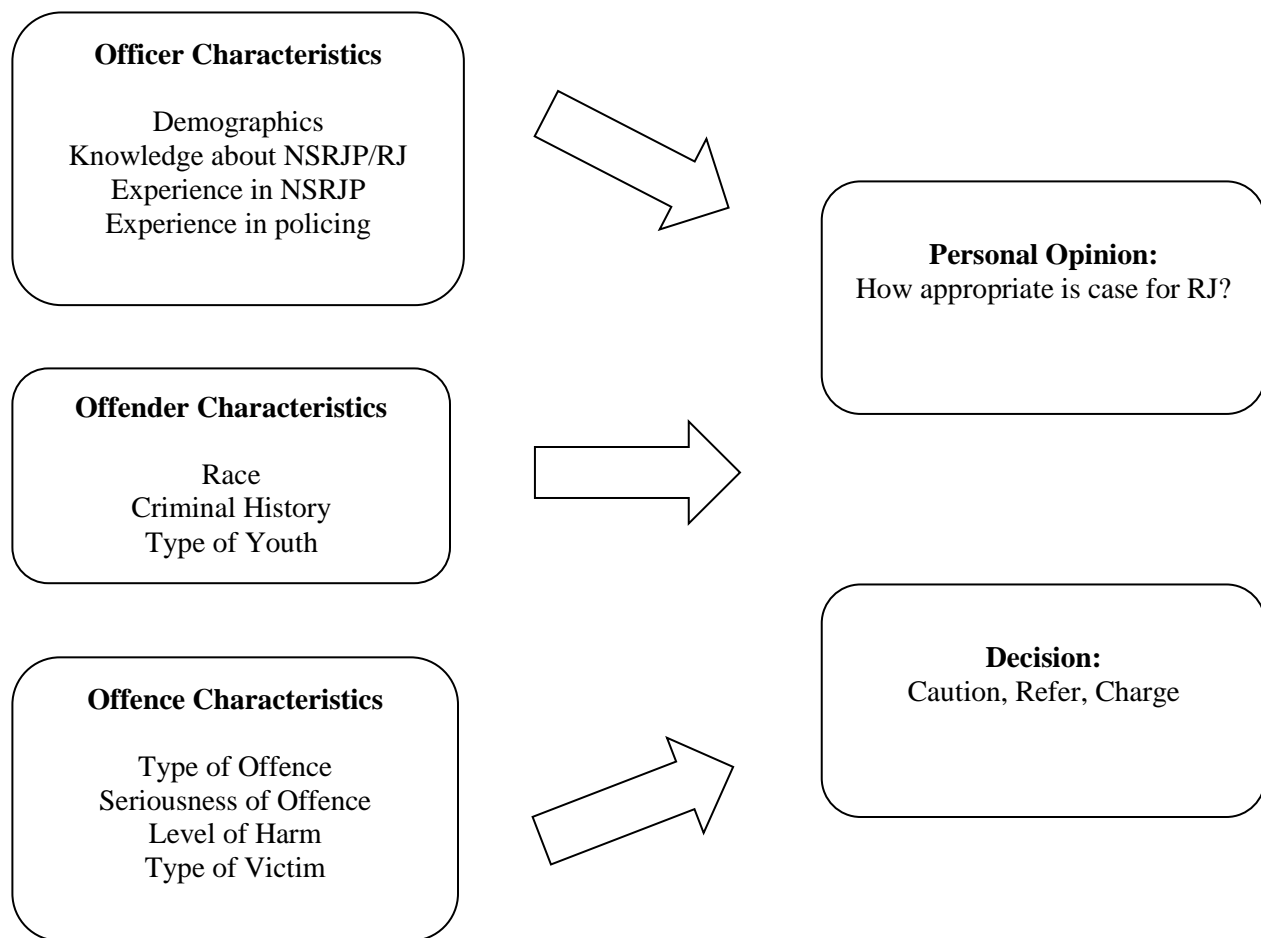
We would not, however, expect all officers to caution or refer all of these cases. Given the discretionary factors outlined in the restorative justice protocols, we would expect officers to use some of the discretionary elements in these vignettes to decide to lay a charge. The survey aims to explore which discretionary elements are most important and how they affect both officers' personal views and how they think they would respond to particular incidents.

We chose variables that may relate to an officer's choice to refer, caution or lay a charge based on a review of the literature and consultations with partners working on the NSRJ-CURA, including members of HRP. The design of the questionnaire, known as a factorial survey, limits the number of variables that can be included. Larger numbers of variables would result in having very small groups of officers answer the same vignette. An analysis of response patterns becomes more difficult with smaller groups. We adapted the vignettes after doing a pre-test with a dozen officers. During that pre-test, we discovered that many of the respondents stated that prior contact with police was an important factor in their decision. We subsequently included this variable in our final vignette.

The variables fall into three broad categories: characteristics of the offence; characteristics of the offender and characteristics of the officer. The table in Appendix C provides details on how each variable was constructed in the vignettes. The diagram below illustrates the design of the research. It shows that we were investigating the effect officer characteristics, offender characteristics and offence characteristics two variables: personal view on the appropriateness of a case for restorative justice and decision to caution, refer or charge.

The design of the survey allows us to look into which variables are associated with officers' personal views and what they say they would do in response to each vignette. Not all respondents read the same vignette. For example, some read a vignette with a property offence while others read a vignette with a violent offence. Our analysis can thus compare responses for the different vignettes to identify which variables are affecting officers' perceptions and decisions.

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## IV. Findings

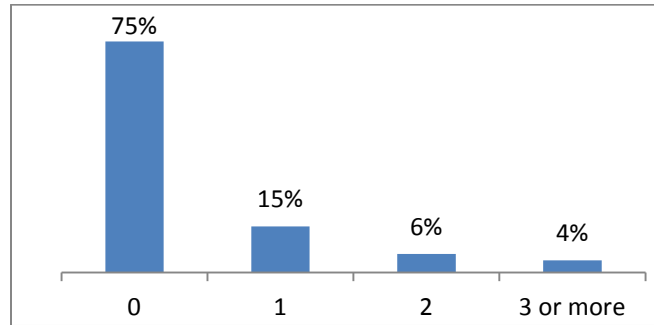
### Who responded to the questionnaire?

A total of 297 members of Halifax Regional Police answered our survey. We asked several demographic questions and found that:

- 81 percent were men;
- 86 percent were Constables;
- on average, respondents had worked for Halifax Regional Police for five years;
- typically, respondents were between 31 and 35 years of age;
- 26 percent had worked for another police force, usually for only one year.

## Are officers actively engaged with the Nova Scotia Restorative Justice Program?

Members do not have a lot of experience attending sessions of the Nova Scotia Restorative Justice Program. Half said that they had never attended a session and only 25 percent said that they had attended in the past year. Those who attended a session in the past year had typically attended only one. A small number, 10 percent, had attended more than one session in the past year; 28 percent had attended more than one at some point in their career with Halifax Regional Police.



Number of Sessions Attended in the Past Year

We asked members to report how often they refer cases and the number of cases they have referred to the Nova Scotia Restorative Justice Program. Half of respondents said that they “sometimes” refer cases. Ten percent said “very often” and eight percent said “never.”<sup>10</sup> We also asked members how many referrals they had made in the past year. The most common answer was none and the average was between three and four. In total, members estimated that they had made more than 1200 referrals to the Nova Scotia Restorative Justice Program last year. This is a gross overestimate given that the Community Justice Society received under 1000 referrals, many of which came from other referral sources.

## What do officers think about restorative justice?

Members responding to the survey believe that they are very familiar with both the Nova Scotia Restorative Justice Program and restorative justice more generally. Their responses were split between being “very familiar” and “somewhat familiar.”

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<sup>10</sup> It is possible that some of those who responded “never” were not, at the time of the survey, working in a role that required them to consider referrals to the program.

How familiar are you with . . .	<u>Percent Responding</u>	
	<u>Very Familiar</u>	<u>Somewhat Familiar</u>
restorative justice?	49	50
the Nova Scotia Restorative Justice Program?	40	59

Restorative justice was generally seen as a viable alternative for youth and adults: almost three-quarters of officers agreed or strongly agreed. Having said that one-quarter of our respondents disagreed the restorative justice offers a viable alternative.<sup>11</sup>

How strongly do you agree that restorative justice offers a viable alternative for . . .	<u>Percent Responding</u>			
	<u>Strongly Agree</u>	<u>Agree</u>	<u>Disagree</u>	<u>Strongly Disagree</u>
young offenders?	12	62	24	1
adults?	9	64	24	3

A large proportion, between one-third and one-quarter, felt that restorative justice was not at all appropriate for the incidents we described. The second vignette was generally seen as less appropriate for referral to restorative justice. This is evident in the table but becomes clearer by looking at the average response. We gave answers of “not at all appropriate” a score of one; “somewhat appropriate” scored two; and, “very appropriate” was given a score of three. By averaging the answers we find that the average answer to the first vignette was 2.15 and the average response to the second vignette was 1.97. The higher average reveals that officers preferred the first vignette; they tended to find it more appropriate than the second vignette. The second vignette described an alleged shoplifter who was subsequently found to have marijuana in his backpack. We received some feedback that officers were uncomfortable that the incident involved drugs and two discrete offences.

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<sup>11</sup> In contrast, public opinion polls show that the general public is more open to the use of restorative justice for youth than adults (Roberts and Stalans 2004).

In your personal opinion, setting aside any of the rules about referring cases to restorative, how appropriate is restorative justice in this case?	<u>Percent Responding</u>			<u>Average Response</u> <sup>12</sup>
	<u>Very Appropriate</u>	<u>Somewhat Appropriate</u>	<u>Not at All Appropriate</u>	
Vignette #1	38	40	23	2.15
Vignette #2	25	46	29	1.97

### What types of officers are most open to restorative justice?

Younger officers and those who are constables were less likely than older officers of other ranks to agree that restorative justice is a viable alternative. Given that HRP is strongly committed to restorative justice the number of more junior officers who disagree that restorative justice is a viable alternative may be cause for concern.

Not surprisingly, officers' views on whether restorative justice is an appropriate alternative is related to their personal opinion on whether the incidents described in our vignettes were appropriate for restorative justice<sup>13</sup>. Despite their high level of support for restorative justice, officers were split on whether, in their personal opinion, restorative justice was appropriate for any of the vignettes.

Officers' personal views on whether a case was appropriate for restorative justice are not related to their demographic characteristics (e.g., gender, rank, experience).<sup>14</sup> Nor are their opinions based on their level of familiarity with restorative justice or the number of sessions they have attended.

### What type of cases do officers feel are most appropriate for restorative justice?

<sup>12</sup> Higher scores indicate more agreement that the case was appropriate for a referral.

<sup>13</sup> We found statistically significant correlations between the questions about whether restorative justice is a viable alternative for youth or adults and the questions on their personal opinion about whether the incidents described in our vignettes were appropriate for referrals. The correlations ranged from .21 to .29.

<sup>14</sup> It should be noted that we did not find much variability in the demographic variables—most respondents were male constables.

Several characteristics of the offence described in our vignettes were related to officers' personal views on whether an incident was appropriate for restorative justice. The tables below show which types of incidents officers deemed to be most appropriate for a referral to restorative justice. They also include statistics that help us assess whether the pattern in the table was a chance finding or whether it reflect a real pattern in the data.<sup>15</sup> The two statistics in the table, the chi-square and the p-value, indicate how likely it is that the values in that table were due to a chance finding. In particular, the p-value tells us how likely it is that the distribution in the table was a chance finding. If, for example, our p-value is less than .01 we can conclude that there is a less than one percent chance that our findings were random. The p-values in the table below are all low enough for us to comfortably conclude that the tables show a real rather than random pattern.

The table below show that patterns of responses for each of the variables in the vignettes. We found that officers were more likely to deem property offences as appropriate for restorative justice compared to violent offences. A higher proportion of them were personally more comfortable with referring minor offences than serious offences and incidents resulting in less harm than those with more harm. We found some evidence, although weaker, about the relationship between the type of victim and the view of the officer. It seems that officers are more likely to deem the incident as “not at all appropriate” for restorative justice if it involved a person as the victim, rather than an institution.<sup>16</sup>

In your <b>personal opinion</b> , setting aside any of the rules about referring cases, how appropriate is this case for restorative justice?	<u>Type of Offence</u>	
	<u>Property</u>	<u>Violent</u>
Very Appropriate	44	25
Somewhat Appropriate	40	39
Not at all Appropriate	<u>16</u>	<u>37</u>
Total Percentage	100	100
Total Respondents	(199)	(96)

Chi Square = 17.9, p<.01

<sup>15</sup> It may seem counterintuitive but it is possible for a table to show findings that look interesting but could have arisen by chance. Probability theory allows us to calculate how likely it is that our findings are random.

<sup>16</sup> We often refer to this as “statistical significance.” When our p-value is less than .10 we conclude that our findings are statistically significant.

In your **personal opinion**, setting aside any of the rules about referring cases, how appropriate is this case for restorative justice?

**Seriousness of Offence**

	<b><u>Minor</u></b>	<b><u>Serious</u></b>
Very Appropriate	51	25
Somewhat Appropriate	35	44
Not at all Appropriate	<u>13</u>	<u>32</u>
Total Percentage	100	100
Total Respondents	(144)	(151)

Chi Square =26, p<.01

In your **personal opinion**, setting aside any of the rules about referring cases, how appropriate is this case for restorative justice?

**Level of Harm**

	<b><u>Low</u></b>	<b><u>High</u></b>
Very Appropriate	45	30
Somewhat Appropriate	39	40
Not at all Appropriate	<u>24</u>	<u>30</u>
Total Percentage	100	100
Total Respondents	(149)	(146)

Chi Square = 10, p<.01

In your **personal opinion**, setting aside any of the rules about referring cases, how appropriate is this case for restorative justice?

**Type of Victim**

	<b><u>Person</u></b>	<b><u>Institution</u></b>
Very Appropriate	34	45
Somewhat Appropriate	40	39
Not at all Appropriate	<u>26</u>	<u>16</u>
Total Percentage	100	100
Total Respondents	(195)	(100)

Chi Square = 5.2, p=<.10

## What type of youth do officers feel are most suited to restorative justice?

Certain characteristics of the youth also had an effect on whether the officers personally believed that the incident was appropriate for restorative justice. Whether the youth had had prior contact with police was particularly important: Officers were more likely to deem a case “very appropriate” if the youth had no prior contact with police and they were less likely to agree if the youth had prior contact.<sup>17</sup> In one of the vignettes, the youth was described as polite and was carrying a private school ID. In the other, the youth was argumentative. Officers were split on whether these cases were very or somewhat appropriate to be referred to restorative justice. We did, however see evidence that the incidents involving an argumentative youth were more likely to be deemed “not at all” appropriate than the incidents involving a polite, apparently upper class, youth.<sup>18</sup> Race of the youth was unrelated to whether the officers deemed to case to be appropriate for restorative justice. The pattern in the table is weak and the p-value shows that the results are not statistically significant.

In your <b>personal opinion</b> , setting aside any of the rules about referring cases, how appropriate is this case for restorative justice?	<b><u>Prior Contact</u></b>	
	<u>No</u>	<u>Yes</u>
Very Appropriate	37	14
Somewhat Appropriate	47	46
Not at all Appropriate	<u>17</u>	<u>40</u>
Total Percentage	100	100
Total Respondents	(144)	(147)

Chi Square = 29.67, p<.01

In your <b>personal opinion</b> , setting aside any of the rules about referring cases, how appropriate is this case for restorative justice?	<b><u>Demeanour</u></b>	
	<u>Polite/private school</u>	<u>Argumentative</u>
Very Appropriate	29	21
Somewhat Appropriate	49	43
Not at all Appropriate	<u>22</u>	<u>35</u>
Total Percentage	100	100
Total Respondents	(146)	(145)

Chi Square = 66. p<.05

<sup>17</sup> Public opinion polls find that the general public is also hesitant to use restorative justice for repeat offenders (Roberts and Stalans, 2004).

<sup>18</sup> Because of the design of this variable we cannot draw any conclusions about the discrete effect of class on officers’ decisions or perceptions.



In your <b>personal opinion</b> , setting aside any of the rules about referring cases, how appropriate is this case for restorative justice?	<u>Race</u>	
	<u>Black</u>	<u>White</u>
Very Appropriate	38	35
Somewhat Appropriate	66	69
Not at all Appropriate	<u>43</u>	<u>40</u>
Total Percentage	100	100
Total Respondents	(147)	(144)

Chi Square = .26, p>.10

### Do officers prefer to caution, charge or refer to restorative justice?

When asked what they would actually do in response to our vignettes, officers were reluctant to refer the incidents to restorative justice. Only about half said that they would refer the incidents and a large proportion said that they would lay a charge.

Applying the rules as you understand them, what do you think you would actually do in this case?	<u>Percent Responding</u>		
	<u>Formal Caution</u>	<u>Refer to restorative justice</u>	<u>Charge</u>
Vignette #1	16	50	34
Vignette #2	8	46	46

### What type of incidents do officer prefer to refer?

All of the characteristics of the incidents in our vignettes had an effect on officers' decisions. The tables below show that the relationship between characteristics of the incident and choice to caution, refer or charge are statistically significant. The tables also show the patterns of what type of incidents were more likely to be cautioned, referred or charged.

The findings show how officers conform to expectations laid out in the protocols. We see that officers were more likely to lay a charge for the violent, more serious, and more harmful incidents. There was also a tendency, although weaker, for officers to be more likely to lay a charge when the victim was a person, not an institution, suggesting that they may deem these incidents as more serious. These findings line up with the discretionary factors outlined in the protocols in so far as they outline a process whereby more serious and more harmful incidents

should be referred at a higher level than the police. Officers are, therefore, using their discretion in a way that conforms to the protocols.

What would you actually do about this incident?	<u>Type of Offence</u>	
	<u>Property</u>	<u>Violent</u>
Formal Caution	10	29
Refer to restorative justice	62	25
Lay a Charge	<u>29</u>	<u>46</u>
Total Percentage	100	100
Total Respondents	(199)	(96)

Chi Square = 38,  $p < .01$

What would you actually do about this incident?	<u>Seriousness of Offence</u>	
	<u>Minor</u>	<u>Serious</u>
Formal Caution	21	12
Refer to restorative justice	58	42
Lay a Charge	<u>22</u>	<u>46</u>
Total Percentage	100	100
Total Respondents	(144)	(151)

Chi Square=20.5,  $p < .01$

What would you actually do about this incident?	<u>Level of Harm</u>	
	<u>Low</u>	<u>High</u>
Formal Caution	24	8
Refer to restorative justice	48	51
Lay a Charge	<u>28</u>	<u>40</u>
Total Percentage	100	100
Total Respondents	(149)	(146)

Chi Square = 14,  $p < .01$

What would you actually do about this incident?	<b><u>Type of Victim</u></b>	
	<b><u>Person</u></b>	<b><u>Institution</u></b>
Formal Caution	17	13
Refer to restorative justice	44	61
Lay a Charge	<u>39</u>	<u>26</u>
Total Percentage	100	100
Total Respondents	(195)	(100)

Chi Square = 7.6,  $p < .05$

### What type of youth do officer prefer to refer?

When looking at the characteristics of the offender, only prior contacts stood out as being related to officers' decision to caution, refer, or charge. A much higher proportion of officers whose vignette included a youth with prior offences decided to lay a charge compared to those who received a vignette with a youth who did not have any prior contact. Demeanour of the youth and his race were not related to the decision.

What would you actually do about this incident?	<b><u>Prior Contact</u></b>	
	<b><u>No</u></b>	<b><u>Yes</u></b>
Formal Caution	9	6
Refer to restorative justice	64	29
Lay a Charge	<u>27</u>	<u>65</u>
Total Percentage	100	100
Total Respondents	(146)	(149)

Chi Square = 44,  $p < .01$

What would you actually do about this incident?	<b><u>Demeanour</u></b>	
	<b><u>Polite/private school</u></b>	<b><u>Argumentative</u></b>
Formal Caution	12	4
Refer to restorative justice	47	45
Lay a Charge	<u>41</u>	<u>51</u>
Total Percentage	100	100
Total Respondents	(148)	(147)

Chi Square = 8,  $p < .05$

What would you actually do about this incident?	<u>Race</u>	
	<u>White</u>	<u>Black</u>
Formal Caution	8	7
Refer to restorative justice	46	47
Lay a Charge	<u>46</u>	<u>46</u>
Total Percentage	100	100
Total Respondents	(148)	(147)

Chi Square = .18, p>.10

### What types of officers prefer to refer to restorative justice?

We might assume that the decision to charge, caution or refer is based on characteristics of the officer, such as attitude toward and knowledge about restorative justice. Our analysis showed no relationship between officers' familiarity with restorative justice or number of referrals made and the choice of caution, refer or charge. Not surprisingly, officers' view that restorative justice as an appropriate alternative for youth or adults was related to their decision to refer to restorative justice. For one of the vignettes, the one that varied the type of youth, participation in sessions increased the likelihood of an officer deciding to refer the case to restorative justice.

What would you actually do in response to vignette #2?	<u>Number of Restorative Justice Sessions Attended in the Last Year</u>		
	None	One	Two or more
Charge	37	32	18
Caution	17	16	11
Refer to Restorative Justice	<u>47</u>	<u>52</u>	<u>71</u>
Total (%)	100	100	100
Total Number of Respondents	(217)	(44)	(28)

The same vignette, the one that varied characteristics of the youth, was affected by personal characteristics of the officer. Constables were more likely to charge than officers in other, higher, ranks. Neither age nor gender had any effect on officers' decision to caution, refer or charge and none of the demographic variables had an effect on the first vignette.

## **V. Discussion**

In deciding whether to caution, refer or charge, it appears that officers' choices line up with the spirit of the referral protocols described earlier. Officers were reluctant to refer the most serious and most harmful incidents. They were also more hesitant to refer cases involving a crime against individual person or violence, both of which may have been interpreted as more serious than property crimes and those against an institution. Officers' referral patterns suggest that they are following a model of graduated referrals leading them to refer the least serious offences.

While the protocols say nothing about type of youth best suited to restorative justice, the list of discretionary factors includes an assessment of whether the youth has taken responsibility for the incident and whether a referral is in line with the protection of society. In responding to our vignettes, we saw officers being more reluctant to refer youth with prior police contact and those who were argumentative. It may be reasonable to assume that officers interpreted the argumentative youth as not taking responsibility and that referring a youth who has had prior contact with police is not in line with the protection of society. These decisions can therefore also be seen as in line with the restorative justice protocol.

These findings would not be of concern if we assumed that officers may have preferred to have some of the cases referred at a higher level (e.g., Crown). However, the responses to other question suggest that many did not personally believe that referrals should be made in many of these cases, all of which were ultimately eligible to go to restorative justice. Approximately one-quarter felt that restorative justice was not at all appropriate for the incidents described in the vignettes. That proportion seems high in a police force that has been highly supportive of the restorative justice program.

Furthermore, it could be argued that all of vignettes described cases that could be referred by the police. Many were so minor that they could have been cautioned. For example, the minor offences involved either a few hundred dollars of property damage or a youth who punched another, with no injury. Arguably, given the nature of the incidents in the vignettes officers should have been less conservative in their application of the discretionary factors and more open to referring what constitute Level 1 and Level 2 offences.

## **VI. Conclusions**

Officers working with Halifax Regional Police believe they are very familiar with restorative justice despite having attended very few restorative justice sessions. Given this perception, they would likely not welcome explicit training about restorative justice but may benefit from attending sessions of the Nova Scotia Restorative Justice Program. Their participation may be

especially important because of the hint in the survey of a relationship between attendance at sessions and comfort with making referrals.

Given the high level of support for restorative justice provided by HRP we might have expected officers to have been more personally open to restorative justice for our vignettes. We might also have expected that fewer of them decided to lay a charge. While the findings suggest that police are making decisions in line with the protocols we might also question why so many were reluctant to refer cases that could be referred. Depending on one's perspective, these findings confirm the utility of the protocols as they stand or suggest that work needs to be done to ensure that they are not interpreted as a way to limit referrals.

## **VII. References**

Roberts, Julian V. and Loretta Stalans (2004) "Restorative Sentencing: Exploring the Views of the Public" *Social Justice Research* 17(3):315-334.

## Appendix A: Questionnaire



Department Office  
T 902.420.5871  
F 902.420.5121

**Thank you for your interest in our project. By completing this survey, you are consenting to participate in the research.**

**Our first questions are about what you think about restorative justice generally and the Nova Scotia program in particular. Please put a check mark in the box next to the answer that applies. There are no right or wrong answers.**

1. How familiar are you with restorative justice?

- <sub>1</sub> Very familiar
- <sub>2</sub> Somewhat familiar
- <sub>3</sub> Not at all familiar

2. How familiar are you with the Nova Scotia Restorative Justice Program?

- <sub>1</sub> Very familiar
- <sub>2</sub> Somewhat familiar
- <sub>3</sub> Not at all familiar
- <sub>4</sub> Not at all confident

4. How strongly do you agree that restorative justice offers a viable alternative for young offenders.

- <sub>1</sub> Strongly Agree
- <sub>2</sub> Agree
- <sub>3</sub> Disagree
- <sub>4</sub> Strongly Agree

5. How often do you refer cases to the Nova Scotia Restorative Justice Program?

- <sub>1</sub> Very often
- <sub>2</sub> Sometimes
- <sub>3</sub> Not Often
- <sub>4</sub> Never

6a. How many referrals have you made to the Nova Scotia Restorative Justice Program In the past month?

\_\_\_\_\_

6b. How many referrals have you made to the Nova Scotia Restorative Justice Program In the past six months?

\_\_\_\_\_

**Next, we'd like you to consider whether you would make a referral to restorative justice in some hypothetical situations. The following story describes an encounter between a police officer and a young person.**

You are driving a marked police vehicle in the area of Robie and Quinpool when you are dispatched to a report of a vandal at a home on Duncan Street. Dispatch advises that an anonymous caller reported seeing a young Caucasian male spray painting a garage. You arrive at the residence and exit your vehicle. You see a young man in the walkway between the house and the garage. He has a spray can in his hand. When he sees you he swears and throws the spray can to the ground. He is clearly angry but does cooperate with your request to provide you with identification.

You identify the male as Daniel Smith, 16 years old. You are satisfied with the information that he has given you and dispatch advises that he has not had any previous contact with the police.

Daniel tells you that he was angry at the guy who owns the garage because he had not hired him to do odd jobs in the yard and around the house. While he admits to doing the damage, he sounds pretty angry and is swearing a lot.

While talking to Daniel, you notice that the damage to the garage is extensive—there's paint all over the door and the siding. It also appears that some of the siding has been ripped off. There is also damage to the eaves troughs. The owner of the building comes out and is clearly very upset. He says it's the second time his garage has been vandalized and he's started to feel like he's being targeted. He estimates it will cost several thousand dollars to fix the damage.

1. In your view, setting aside any of the rules about referring cases to restorative justice, how appropriate is this case for restorative justice?

- <sub>1</sub> Very appropriate
- <sub>2</sub> Somewhat appropriate
- <sub>3</sub> Not at all appropriate

2. What do you think you would actually do in this case? **(please check only one)**

- <sub>1</sub> Charge
- <sub>2</sub> Caution
- <sub>3</sub> Refer to restorative justice



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**We have one more scenario for your consideration.**

Midway through your dayshift you are dispatched to a report of a shoplifter at a store on Spring Garden Road. Dispatch advises you that the complainant, the store clerk, saw a young male enter the store and put several expensive shirts in his backpack. The youth fled the store on foot and was seen running westbound toward Barrington. The complainant described the youth as a Caucasian male approximately 16 years old, five foot seven inches tall. He was wearing what looked like a private school uniform, khakis, a crested jacket, and carrying a green backpack.

You make patrols and locate a youth matching the suspect description. You pull up next to him and exit your vehicle. The youth does not attempt to run and is cooperative. You ask the youth his name and he gives you an ID card from the Grammar School. You identify the youth as Jonathan Smith and you are satisfied with the information that Jonathan has given you. Dispatch reports that he has no previous history with the police. You take his backpack and look inside. While taking out the stolen goods, you also find a small amount of what looks like marijuana. Jonathan reluctantly admits that it's his and says he's worried about getting into trouble.

1. In your view, setting aside any of the rules about referring cases to restorative justice, how appropriate is this case for restorative justice?

- <sub>1</sub> Very appropriate
- <sub>2</sub> Somewhat appropriate
- <sub>3</sub> Not at all appropriate

2. What do you think you would actually do in this case? **(please check only one)**

- <sub>1</sub> Charge
- <sub>2</sub> Caution
- <sub>3</sub> Refer to restorative justice

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**Finally, we would also like to have some basic demographic information.**

- |                |                          |           |                          |                       |                          |              |
|----------------|--------------------------|-----------|--------------------------|-----------------------|--------------------------|--------------|
| Gender         | <input type="checkbox"/> | Male      | <input type="checkbox"/> | Female                |                          |              |
| Rank           | <input type="checkbox"/> | Constable | <input type="checkbox"/> | Other (specify) _____ |                          |              |
| Age (in years) | <input type="checkbox"/> | Under 25  | <input type="checkbox"/> | 25-30                 | <input type="checkbox"/> | 31-35        |
|                | <input type="checkbox"/> | 35-40     | <input type="checkbox"/> | 41-45                 | <input type="checkbox"/> | More than 45 |

Total years working for Halifax Regional Police \_\_\_\_\_

Have you worked for any other police agency?

No  Yes

If yes, for how many years? \_\_\_\_\_

**Thank you for taking the time to participate in this research. If you would like to receive a report our results, please provide us with your business card and we will be in touch when the results are compiled.**

## Appendix B: Consent Information Sheet



Department Office  
T 902.420.5871  
F 902.420.5121

### **Informed Consent Form Police Decision Making and Restorative Justice in Nova Scotia**

#### **Would you like to be part of our research project?**

We invite you to be part of a research study being carried out by Dr. Diane Crocker, a Professor in the Department of Sociology and Criminology at Saint Mary's University. She is conducting research as part of the Nova Scotia Restorative Justice-Community University Research Alliance (NSRJ-CURA).

This form will tell you a bit more about the study, the kinds of questions we are asking and how we will protect your identity.

#### **What is this study about?**

The purpose of this study is to better understand what factors you consider when referring a case to the Nova Scotia Restorative Justice Program. We would also like to get your views on restorative justice and the Nova Scotia Restorative Justice Program.

#### **Who is being invited to participate in this study?**

All (non-management) active duty police officers in Halifax are eligible to participate in this research project.

#### **What will I have to do?**

You will be asked to respond to a questionnaire. It will take you 15 minutes to complete.

#### **Why should I participate in this study?**

Taking part in this study may not help you right now; however, we may learn things that will help us to improve the system in the future. You will not be offered any gift or monetary compensation for choosing to participate in this study.

#### **Are there any risks to me participating in this study?**

We do not foresee any risks.

#### **Can I choose to withdraw from participating in this study?**

Yes, but only up until you submit your questionnaire. Because we do not want your names on the questionnaire, you will not be able to find your questionnaire after you have turned it in. It will not be possible to withdraw after you pass in the questionnaire.

#### **Will everything I say be kept confidential? How will you protect my identity?**

Yes it will. We will not ask you to give us your name or any other information that may identify you. We will not be releasing any information on individual questionnaires to the police or anyone else. We will not be reporting the answers of any one person's questionnaire.

#### **Who should I contact if I have concerns?**

You may discuss any questions you have about this study with the researcher or with Supt. Don Spicer.

You may also contact the Research Ethics Board at Saint Mary's University. They have reviewed and approved this project, meaning that it conforms to the standards of research ethics that university researchers must follow.

Their contact information is:

Dr. Diane Crocker  
Saint Mary's University  
923 Robie Street,  
Halifax, NS, B3H 3C3  
E: [diane.crocker@smu.ca](mailto:diane.crocker@smu.ca)  
P: 902 420-5875

Supt. Don Spicer  
HRP  
1975 Gottingen Street,  
Halifax, NS, B3J 2H1  
E: [Spiced@halifax.ca](mailto:Spiced@halifax.ca)  
P: 902 490-6166

Dr. Veronica Stinson  
Research Ethics Board  
Saint Mary's University  
923 Robie Street,  
Halifax, N.S. B3H 3C3  
E: [ethics@smu.ca](mailto:ethics@smu.ca)

P: 902-420-5728

REB file #:10-191

You may keep this form for your own records if you wish.

## Appendix C: Variables in the Vignettes

### *Characteristics of the officer:*

Gender, Age, Rank, Years Working in Policing (HRP and other police agencies)

### *Characteristics of the offence*

#### Property Offence: Vandalism

##### Institutional Victim

School property

##### Personal Victim

An individual's garage

##### Serious Offence

Several thousand dollars in damage, extensive damage

##### Minor Offence

A few hundred dollars in damage, limited damage

##### High Level of Harm

Victim feels targeted because his garage has been vandalised before; victim has no money to fix the damage

##### Low Level of Harm

Victim is understanding and is concerned about why the incident happened

School principal says that insurance will not cover the damage and the money for repairs will come out the school's budget

School principal says that insurance will cover the damage and she is worried about why the student did what he did

#### Violent Offence: Assault

##### Serious Offence

Youth hit his friend with a stick

##### Minor Offence

Youth punched his friend

##### High Level of Harm

Victim is upset, worried and wants to see a doctor

##### Low Level of Harm

Victim understands why his friend is upset and wants to put the incident behind him

*Characteristics of the offender*

Class/Demeanour

High Class/Polite

Youth has a Halifax Grammar  
School ID and is very polite and  
contrite

Argumentative

Youth argues with officer and  
has a bad attitude

Race

Caucasian

Black

Criminal History

Youth has had prior contact with  
police

Youth has not had prior contact  
with police