



## Restorative Justice Programs: Promising Responses to Crime

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### What is Restorative Justice?

In the criminal justice context, Restorative Justice (RJ) is an approach that focuses on repairing the harm caused by a criminal act. Contemporary RJ approaches are informed by holistic and indigenous models of justice. Criminal acts, according to the RJ philosophy, inflict harm upon both the individuals involved in the specific act (i.e. the offender and the victim), and the broader community. In order to restore harmony to the damaged relationships and the community's sense of solidarity, the victims, offenders, and community members actively partake in and collaboratively discuss how best to respond to the incident with a focus on repairing relationships.

RJ differs quite significantly from the traditional criminal justice response to crime, in which the State is considered the harmed party, and the State administers punishment for the criminal act through a judge.

While there are many variations of programs based on RJ principles, most involve the victim, the offender, family members of each party and members of the wider community. These programs can occur at any stage of the criminal justice process; from the pre-charge stage through to sentencing and post-sentencing stages.

Though RJ approaches will differ across communities and program models, most RJ programs include the following components:

**Voluntary Enrolment and Participation.** RJ programs can only effectively work in circumstances where an accused person willingly admits wrongdoing and has a desire to make amends. The harmed parties must also participate voluntarily.

**Notification of Relevant Parties.** Once a community organization that delivers RJ programming receives a referral, representatives from the organization will contact all parties who are to be invited to participate. The participants will then be informed of what to expect from the RJ process and how they should prepare.

**Scheduling of Meetings.** When all parties are sufficiently informed of the process, one or more meetings are scheduled and the restorative process begins. The substance and duration of the RJ process will depend on the nature of the criminal act, the stage in the criminal justice process and the scope of the specific program.

**Meetings.** During the meeting or series of meetings, offenders, community stakeholders and victims (if they choose to participate) discuss why the crime occurred and how it affected their lives. The parties work toward forming a consensus on the best way for the offender to provide restitution to the victim (or a representative of the victim) and the wider community.

## Reading List

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## The Case for Restorative Justice

Since RJ and the traditional criminal justice system are philosophically and methodologically distinct, they can have starkly different effects on those they are intended to serve. The Canadian criminal justice system relies heavily on the principles of deterrence and denunciation to both punish individuals who break the law and to deter them from committing a similar crime in the future. The trouble with this approach is that numerous research studies have found that deterrence does not "work"—that is, the threat of harsh punishment does not prevent people from committing a crime. Indeed, the use of incarceration – the most severe form of punishment – is startlingly ineffective at preventing or reducing crime.

What has been found to be effective in reducing re-offending and facilitating successful reintegration are appropriate treatment and support services, delivered in a community setting. Incidentally, it costs substantially less to maintain an individual in the community than to keep that individual incarcerated. It makes sense then, wherever possible and appropriate, to explore promising responses to crime that do not rely on the use of prisons.

RJ programs are one such promising and cost-effective alternative to traditional criminal justice responses. While RJ programs have not been as extensively evaluated as other types of programs, there have been a number of systematic reviews of empirical studies that can help shed light on best practices that work to reduce crime and provide satisfaction to all participants.

The United Nations' *Handbook on Restorative*

*Justice Programmes* highlights some key findings from evaluations of RJ programs. The findings include:

### Outcomes

- RJ has a positive effect in reducing the frequency and the severity of re-offending.
- Restorative approaches have reduced court costs and court processing time and improved service delivery in some jurisdictions.
- There appear to be no inherent limitations to the type of cases that can be referred to restorative processes.
- There is some preliminary evidence that RJ processes can reduce post-traumatic stress disorder among victims.
- Many crime victims and offenders will participate in a restorative process if given the opportunity to do so.
- Where crime victims and offenders participate in restorative processes, the rates of compliance with agreements are very high.
- Crime victims report being less fearful after having met their offender in the context of victim-offender mediation than in those circumstances where they were not given the opportunity to do so.

*"Many victims and offenders will participate in a restorative process if given the opportunity"*

### Participant Satisfaction

- There are high levels of support among crime victims and in communities for offender reparation.
- Many crime victims would like the opportunity to meet with their offender.
- Both crime victims and offenders rate restorative processes as more fair and satisfying than the traditional criminal justice system.

# Restorative Justice Programs and the Role of Victims

One of the most valuable characteristics of RJ is the recognition and inclusion of victims in the justice process. According to the Canadian Resource Centre for Victims of Crime, victims of crime are often overwhelmed by the complexities of the court system and feel that their views are not sufficiently recognized or taken into account during the proceedings. The traditional justice system often lacks the resources to provide victims with the closure they need to move forward with their lives.

RJ processes can empower victims while rebuilding local communities in a way that the often impersonal and complex traditional justice process cannot. RJ provides victims with a voice and an opportunity for material reparation. It provides a safe space for all parties to offer their own unique perspectives on why the crime occurred and how the conflict should be resolved.

Below is a list of five of the most common variations of RJ programs, and the role victims can play in each.

**1. Victim-Offender Mediation.** The victim and the offender meet in a safe and formal setting with a trained mediator. Victims explain the physical, emotional and financial effects the crime had on their lives. Offenders explain why they were motivated to commit the crime, express remorse and make amends.

**2. Sentencing Circles.** Sentencing circles involve victims, offenders, families and community members coming to an agreement on an appropriate sentence, which is then recommended to a judge. Sentencing circles are more closely tied to the criminal justice system than other RJ programs.

**3. Youth Justice Committees.** Some RJ programs are specifically designed for youth. Youth Justice Committees involve the victim, the offender, their families and a panel of volunteers

from the local community. The goal is to come to a consensus on how best to repair the relationship between the victim and the offender through discussions, formal apologies, community service and counseling.

**4. Peacemaking Circles.** Peacemaking circles assume that crimes should be addressed not only by those who have been directly impacted, such as the victims, but also the wider community. They focus on identifying underlying problems and building communities so as to repair local relationships and promote cooperation among all community members.

**5. Community Conferencing.** Community conferences are often more directly focused on offenders, their families and their support system. The goal is to hold the offender accountable for the crime, to reduce recidivism, to support the victims and engage the community.

## Restorative Justice in Action: JHS Waterloo-Wellington

Since 1989, the John Howard Society of Waterloo-Wellington (JHS-WW) has offered a Youth Justice Committee (YJC) program that now serves about 700 young people per year. The program involves a number of participants: the offender, the victim, their families and volunteers from the community who act as facilitators. While sometimes victims agree to participate, other times they do not.

The purpose of the volunteers is to provide information to the offenders and their families on the YJC process, the potential consequences of going through the court system, the effect of the incident on the victim and the community, and the possible ways to respond to the incident.

They encourage all participating parties to express their thoughts and feelings about the incident. The goal is to come to a consensus regarding the most appropriate way to repair relationships through community service, formal apologies and making amends. Referrals to YJC

programs are made by police at the pre-charge and post-charge stages. Pre-charge referrals are called "extrajudicial measures" (EJM) and post-charge referrals are called "extrajudicial sanctions" (EJS), and JHS-WW currently receives referrals for both types of cases.

The JHS-WW YJC diverts many non-violent, low-risk clients and an increasing number of more serious cases, including cases of robbery, assault and break-and-enter from the traditional justice system. Participants in these programs are referred to a wide range of programs, including anger management, substance abuse counseling and youth-parent mediation in order to help them develop the social, cognitive and emotional tools they need to become integrated members of society. As with any RJ program, the implementation of resolution measures and counseling may involve agreed-upon timelines and monitoring schedules. Despite its recent focus on higher risk offenders, the JHS-WW YJC still enjoys a near 90% completion rate.



# How to Incorporate Restorative Justice Elements into Programs

Fact Sheets are a publication of the John Howard Society of Ontario on a variety of social and criminal justice issues, intended for our Affiliate staff and community partners. All Fact Sheets are available on our website.

Organizations that serve justice-involved clients can effectively adopt and implement certain components of RJ programs to enhance existing program models. A couple of ways in which service providers can begin to do this are described below:

## Multi-Sectoral Collaboration

The effectiveness of restorative justice processes is increased when agencies and programs work together within a collaborative framework. A key component of many RJ programs, such as peacemaking circles and Youth Justice Committees, is the inclusion of community members in the restorative process. Program developers who wish to incorporate RJ principles into their programs should thus reach out to other community organizations for support and guidance.

One way to build collaborative relationships with other agencies is to invite professionals from diverse sectors, such as mental health workers, lawyers, judges and police officers, to take part in the program's sessions. This will help build rapport between the program's participants and community organizations. These organizations may also be able

to provide a unique perspective on the program's aims and approaches.

## Fostering Active Program Participation

Programs aiming to incorporate elements of RJ should emphasize the importance of personal motivation and engagement as much as possible. Additionally, these programs should provide participants with opportunities to take direct responsibility for their actions. For example, gang-prevention programs serving at-risk youth seek to effect positive behavioural changes in participants while buffering against negative social surroundings. RJ principles could be incorporated into these programs anytime harm is discussed during a session.

For instance, there could be a discussion of who might have been affected by the harm (the victim, their family and friends) and how it may have affected them (financially, physically and mentally). Participants in these programs who feel they have caused undue harm should be encouraged to give back to the community in some way – such as through community service.

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## The John Howard Society Position

The human costs associated with imprisonment have been documented for decades. There is no evidence suggesting that prisons contribute to lower recidivism rates or that they act as either a general or specific deterrent. In fact, there is evidence suggesting that more severe punishments actually make prisoners *more likely* to reoffend.

While there is a role for prisons in our society, there are many individuals in our criminal justice system that can and should be dealt with through less harmful and more cost-effective means. RJ programs are a promising option on both counts. It is important to remember

that RJ is not being proposed as a replacement for the traditional justice system. Rather, it is a promising community-based alternative that can work effectively in certain circumstances. It can also provide a sense of closure and



ownership to all parties affected by a criminal act—a benefit that the traditional justice system has not been successful at consistently achieving.

While the cost savings associated with RJ processes is a significant benefit, the viability of RJ should not rest solely on its cost-effectiveness, but also on its ability to heal relationships and, ultimately, reduce crime. To this end, further research and program evaluation can serve to identify which RJ programs are the most effective, and how service providers can increasingly adopt RJ principles into their practices.