

Restorative Justice

Restorative Justice is not a specific practice, but rather an approach, a set of principles that provides the basis for a community and the justice system to respond to crime and social disorder.

Principles are:

- Crime is a violation of a relationship among victims, offenders and the community. Restorative justice is based on social rather than a legal view of crime. It views crime as an injury to personal and community relations rather than as an abstract legal violation against society.
- It is in opposite to the adversary system, which precludes the acceptance of responsibility and limits the possibility of direct exchanges between the victim and offender.
- involvement of offenders, victims, their families, the community and justice personnel. Material and symbolic reparation for victims and community.
- For those harmed, restoration means repairing the actual the actual damage caused by wrongdoing and restoring the sense of control over their lives.
- For the wrongdoers, restoration means accepting responsibility for their actions by repairing harm caused and dealing with the issues that contributed to the wrongdoing.
- For the community, restoration means denouncing behavior and assisting victims and offenders in the process of restoration.
- a vision of crime in a broad social context
- a preventative and problem solving orientation, and (iv) a flexible and adaptable attitude.

Objectives of any RJ practice:

(i) to fully address the needs of the victims, (ii) to prevent re-offending by reintegrating offenders back to community, (iii) to let offenders assume responsibility, and to create a community of support for victim, offender and community.

Restorative Justice Models

A restorative option can take one of many forms, depending on the circumstances of the case, and the point in the system in which the restorative option is invoked. In general, the models all focus on offender accountability, victim healing, offender reintegration and repairing the harm caused by the offence. The actual model used may be different for different communities, since community agencies will modify the generic models to meet the unique complexities of the community in which they serve.

Informal communicative process:

- A recognition of the injury to personal and social relations.
- A determination and acceptance of responsibility –ideally together with a sense or remorse.
- A commitment to both material and symbolic (e.g. apology) reparation.
- Assistance and community support for both the victim and the community, ensuring reintegration of the offender.

A consensus approach to justice is the most effective response to crime: Social reintegration of the offender.

Victim-Offender Mediation

The victim-offender conference is a forum which provides an opportunity for victims and offenders to meet face-to-face in the presence of a trained facilitator. "The parties have an opportunity to talk about the crime, to express their feelings and concerns, to get answers to their questions, and to negotiate a resolution."

Usual concerns of the victim:

Before mediation, victims usually have the following concerns: (i) re-experiencing the anxiety and feelings related to victimization, (ii) learning painful new information about details related to the crime, (iii) not seeing the degree of desired remorse in the offender, and (iv) unrealistic

expectations in regard to the offender's rehabilitation. Mediators should be trained to deal with these concerns.

Usual concerns of the offender:

POTENTIAL BENEFITS

1. Expressing anger and pain directly to person responsible for it.
2. Learning new information about the crime that is needed.
3. **Seeing remorse in the offender.**
4. **Experiencing a greater sense of closure.**
5. **Feeling more powerful and in control of one's life.**

Potential Risks for offender

1. Re-experiencing anger, frustration, loss of control associated with committing the crime.
2. Reinforcement of shame and despair through learning the effects of the crime on the victim.
3. Unrealistic expectations about the victim's response (ability to work through their feelings, ability to accept offender as human being despite behavior)
4. Feeling vulnerable as a result of expressing some of their true feelings of shame about what they did, or about their life circumstances.

Potential Benefits

1. Learning the real impact of their behavior on others and moving beyond denial to taking responsibility.
2. Building self esteem through taking action to make things right with their victim.
3. Having a chance to tell one's story, to represent oneself, to be heard.
4. **Having a say in determining a plan for restitution.**
5. **Feeling more powerful and in control of one's life.**

Victim offender mediation

Requires Admission of Guilt by offender

Offender Participation Should be as Non-Coercive as Possible

- Victim Participation Must be Voluntary!!

- Mediator Meets With Each Party Separately Before Date of mediation: TO LISTEN, IDENTIFY THEIR NEEDS AND PREPARE THEM FOR MEDIATION.

- Involves Face to Face Meeting

- Empowers V/O to Resolve Conflict Through Dialogue & Mutual Aid

- Involves Neutral Trained Mediators

(Usually community volunteers)

Contract to participate: specify requirements, non negotiable policies; offender rights, alternatives and choices; establish clear goals of Mediation and agreed upon offender tasks; time limits and review dates.

Two Part Agenda:

Discuss Facts / Feelings

(Storytelling and dialogue)

Develop Restitution Plan

(Conflict resolution and closure)

Parties are not disputants: it is clear who is guilty and who is the victim.

No expectation that victim would compromise and request less.

No settlement driven, VOM is primarily dialogue driven.

Family Group Conference

A family group conference is a model similar to a victim-offender conference in that it involves a face-to-face meeting between the victim and offender. A family group conference however, engages a larger group of participants which includes the support people for both the victim and the offender, relevant professionals, the facilitator, and the investigating officer.

Sentencing Circle

In addition to the models described above, another model is available at the court entry point: the sentencing circle. The circle involves the same participants as a family group conference, as well as the presiding judge, Crown attorney, and defence counsel. As with the other models, each participant is given an equal opportunity to participate, and to work together to arrive at a plan for the offender which will not only repair the harm caused by the offence, but also address the personal reasons which led to the commission of the offence. The circle goes beyond developing a sentence for the offender, and engages the support of all participants to assist the offender in fulfilling the terms of the plan.