



OECS-CIDA
Judicial and Legal
Reform Project

OECS
Restorative Justice
Workshops

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OECS-CIDA Judicial and Legal Reform Project

OECS Restorative Justice Workshops

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I. Background

1. JLR Context

In 2001 and 2002 the JLR conducted national consultations in six countries in the OECS to identify country-specific priorities for pilot project funding under the Complementary Measures Component of the Project. Three countries - Antigua, Grenada and Dominica - identified restorative justice programs for juveniles as one of their top priorities. In response to this interest a two-day Restorative Justice Planning Workshop was developed by the JLR and held in each of these countries in November 2002.

2. Restorative Justice Overview

2.1 Why restorative justice?

Many jurisdictions, including Canada, United States, Australia, New Zealand, England and Belgium, have been looking to new approaches such as restorative justice to address some of the following concerns with the current criminal justice system:

- Offenders are not being held accountable
- Offenders are committing repeat offences
- Justice workers are frustrated by the backlog of cases
- Victims, offenders and their families are frustrated by lengthy delays
- Victims and community members do not have a voice in the justice system
- Victims and offenders are confused by justice system rules
- The justice system is unable to effectively reduce crime
- More people are living in fear of crime
- The public lacks confidence in the justice system

2.2 What is restorative justice?

Restorative justice is a philosophical framework that embraces a set of principles emphasizing a more human response to crime, one that has the potential to transform lives, families and communities. It subscribes to the belief that all parties with a direct interest in a particular offence (the offender, the victim and members of the community) should have an opportunity to be involved in a process to collectively resolve the aftermath of the offence and its implications for the future.

Four key principles distinguish a restorative justice approach:

1. Hold the offender accountable in a more meaningful way
2. Invite full participation and consensus

3. Repair the harm caused by the offence
4. Reintegrate the offender back into the community

A variety of processes can be used to achieve the principles of restorative justice. The process used will depend on a variety of factors, including: the circumstances of the case; the point in the justice system in which the case is referred to restorative justice; and the traditions and preferences of the communities that adopt restorative alternatives. Commonly used restorative processes include: victim-offender mediation, family group conferencing and sentencing circles.

The real essence of restorative justice is a face-to-face meeting between the victim, offender and community members. Each participant is given an opportunity to ask questions and to talk about how the offence has affected them. The meeting helps the participants develop an understanding of the offence and the steps needed for the offender to make amends and address the underlying issues that led to the commission of the offence. The meeting is premised on a consensus building approach in which the participants attempt to reach an agreement outlining how the offender will make reparation to the victim and the community. The agreement will outline specific actions the offender must take to make amends. Terms of the agreement could include, for example: financial restitution, personal service to the victim and community service work.

2.3 The Benefits of Restorative Justice

Addressing the problems with the current criminal justice system will take enormous effort over many years. It will require a rethinking of not only the justice system but also of related systems in education, health and social services. Restorative justice provides an opportunity for this improvement. Restorative justice is not intended to replace the existing justice system but can be used as an effective tool to:

- Enhance the criminal justice system
- Create new opportunities in existing justice processes
- Meet needs not being met by the existing system

Research conducted to date suggests that restorative justice approaches are a more effective method of improving victim/offender satisfaction, increasing offender compliance with restitution agreements and decreasing recidivism of offenders than more traditional criminal justice system responses such as incarceration, probation and court-ordered restitution.

Successful implementation of restorative programs can lead to:

- A decrease in crime and victimization (thus reducing justice system costs)
- Meaningful consequences for offenders
- Constructive roles for victims and offenders in the justice process
- Reparation of harm to victims and communities
- Improved rehabilitation and reintegration opportunities for offenders
- Improved respect for societal values by offenders
- Enhanced involvement of families, communities and community agencies in addressing the needs of offenders and victims

2.4 Restorative Justice Programming Options

Restorative justice programs can be designed to provide services at various points in the criminal justice process. Some programs have been developed to serve cases at one specific point in the system whereas others provide a continuum of options throughout the entire justice process.

The key decision-making points in the criminal justice system at which a referral to restorative justice can be made can be summarized in the following way:

1. **Pre-Conviction** (either pre-charge or post-charge):
 - A police caution or referral to restorative justice is used to resolve the matter instead of processing the case through the court system.
 - The decision to issue a caution could be made by the investigating officer.
 - The decision to refer to restorative justice could be made by the investigating officer and/or the prosecutor.
2. **Post-Conviction/Pre-Sentence:**
 - A referral to restorative justice is made for the purpose of providing input into a sentencing plan for the offender.
 - The decision to refer would be made by the Judge, perhaps on the recommendation of defence counsel or the prosecutor.
3. **Post-Sentence:**
 - A referral to restorative justice is made for the purpose of planning for the offender's reintegration back into the community.
 - If the offender is serving the sentence in a custodial institution, a corrections officer could make the referral.
 - If the offender is serving the sentence in the community, the probation officer could make the referral.

See the Table in Appendix "A" for a complete summary of restorative justice programming options.

II.

Workshop Overview

The objectives of the Restorative Justice Workshops were:

1. To educate participants about the philosophy of restorative justice and the potential benefits it can provide to offenders, victims, communities and the overall justice system.
2. To identify and discuss restorative programming options and the potential policy and legislative implications of each.
3. To clarify the role of government, justice system stakeholders, NGOs and the community.
4. To provide participants with the information and tools necessary to finalize an outline for its project proposal.

The workshops were attended by 13-15 participants representing diverse interests, including: Government officials, Magistrates, representatives from the Bar Association, police officers, prosecutors, probation officers and representatives from other agencies working with juveniles. For information purposes two participants from each of the remaining three countries – St. Lucia, St. Kitts & Nevis and St. Vincent & the Grenadines – also attended a workshop. (See Appendix “B” for a complete list of participants for each workshop).

Prior to the workshops participants were provided with a package of reference materials including a planning checklist that outlined a series of questions to consider when developing a restorative justice program. (See Appendix “C” for a complete list of workshop materials).

The workshop was premised on an interactive approach and used a variety of approaches, including small and large group discussion, small group exercises and brainstorming techniques to provide participants with ample opportunity to discuss the issues related to restorative justice and the implementation of a program using this approach. (See Appendix “D” for Workshop Agenda). A workbook, outlining a series of questions to be addressed in the planning, development and implementation of a restorative justice program, was distributed to the participants during the workshop and provided the basis for a facilitated discussion to discuss planning issues. Through the use of this workbook the participants explored the following questions:

Scope of the Program:

- What type of restorative justice program is needed in your country?
- What would be the goals of the Program?
- What cases should be eligible for referral to the Program?
- Who would make the referrals?
- In what geographic area(s) of your country would the Program be offered?

Service Delivery/Staffing/Program Management:

- What type of organization is best suited to deliver the Program's services? Court staff? Government ministry? Community-based organization? Other justice workers?
- Does this structure or organization currently exist?
- Would it be appropriate to use community volunteers to deliver some or all of the services related to restorative justice? If yes, how would volunteers be screened and selected?
- Who would determine Program direction and policies?

Policy/Legislative Implications:

- Do existing policies/legislation preclude the use of a restorative justice program in your country? Do any existing policies/legislation support such a program?
- What policy or legislative amendments would be required to make a restorative justice program operational?
- Who has the responsibility to make these amendments?

Links With Support Services:

- What existing agencies could provide support services to the parties referred to restorative justice? (for example: anger management; counseling, drug addiction counseling etc.)
- What existing agencies could partner with the Program to provide opportunities for community service work for juveniles referred to the Program?

Education/Training/Communication:

- What type of training would be needed for those providing restorative justice services?
- What type of training/education would be needed for those making referrals to the Program?
- What type of communication/education would be needed for justice system and related officials?
- What type of communication/education would be needed for the general public?

Anticipated Demand/Resource Requirements:

- How many cases could potentially be referred to the Program?
- How many cases are manageable?
- What resources are required to:
 - To run an office?
 - To provide administrative support?
 - To provide case management services: assess referrals, prepare parties for a restorative justice session, follow-up with the parties, report to court and justice stakeholders, etc.?
 - To provide the necessary training/education of staff, volunteers, referral sources, justice system officials, the public, etc?

III.

Key Issues/Considerations Highlighted in the Workshop

1. Public legal education is a key component to a program such as restorative justice. The public may question the effectiveness of restorative justice or be concerned that it is a “soft” approach to crime. Education of the public should be part of a larger communication strategy targeting justice system stakeholders, community leaders, the media, churches, politicians, community groups, etc.
2. The deliverers of a restorative justice program require extensive training to ensure that they have the skills necessary to work with juveniles and victims and facilitate a restorative justice process. A regional training program and training standard would be useful.
3. A train-the-trainer program for facilitators is necessary to ensure the development of national training resources, thus enhancing the capacity of countries to deliver their own training programs as the need arises in the future.
4. National restorative justice programs can and should be linked with a number of other initiatives being developed or underway in the Region, such as the development of alternative sentencing approaches, development of family courts, increased use of mediation, etc.
5. A multi-disciplinary approach, involving all the key stakeholders, is needed throughout the development and implementation of a restorative justice program to ensure its success.
6. A data collection system is needed to collect program information such as the number of referrals to the program, age and gender of juveniles referred, type of case, resolution of a case, etc.

IV.

Workshop Overview

IV. Next steps

1. Countries to form a Steering Committee with the mandate to:
 - a. Finalize the scope and structure of the restorative justice project
 - b. Engage appropriate stakeholders in the development and implementation of the program
 - c. Identify an organization to deliver the program
 - d. Provide advice on policies, guidelines, protocols and project implementation
 - e. Develop the project proposal to be submitted to the JLR
2. Countries to examine statistics related to juvenile offending (number and type of case) to help identify the potential demand on a restorative justice program.
3. Countries to analyze potential policy and legislative implications of the proposed restorative justice program.
4. Countries to finalize the roles of key stakeholders in project development including the Attorney General, other Ministries, justice system stakeholders, community organizations and the PAC.
5. Countries to finalize project proposals and submit to the JLR by April 2003.
6. JLR to provide information, support and technical assistance as necessary with respect to the development of project proposals and the implementation of restorative justice programs.

APPENDIX “A”

RESTORATIVE JUSTICE PROGRAMMING OPTIONS

Stage in the Justice Process	Purpose	Participants	Decision Makers
Pre-Charge Caution	To deal with minor matters using the least intrusive means	Investigating Officer Offender Offender’s parents	Investigating Officer
Pre-Conviction (pre-charge or post-charge)	To resolve the crime within the community	Offender Victim Community members Investigating officer Support people Facilitator	Participants
Post-Conviction/Pre-Sentence	To allow participants an opportunity to provide input into a sentencing plan to be presented to the Court	Offender Victim Community members Support people Facilitator	Participants decide on the plan to be presented to the Court. The Judge takes the plan into consideration in sentencing the offender and has final discretion for sentencing.
Post-Sentence/Corrections	To plan and strategize for the offender’s reintegration back into the community	Offender Victim Community members Support people Corrections staff Probation officer Other justice officials Service providers Facilitator	Participants

APPENDIX “B”: WORKSHOP PARTICIPANTS

DOMINICA WORKSHOP PARTICIPANTS

NOVEMBER 18 & 19, 2002

FORT YOUNG HOTEL

Irmin Stephen - Legal Officer, Legal Affairs
Gloria Augustus - State Attorney
Louise Anne Paris - Social Worker, NCH
John Lambert - Prison Officer
Lucy-Ann Jean Baptiste – Attorney, Dominica Bar Association
Ossie Lewis - Magistrate
Alicia Wiltshire - CCF Project Worker
Patsy Letang - Guidance Counsellor
Philbert Alfred - Superintendent of Police
Martin Anthony - Welfare/Probation
David Andrew - Inspector of Police
Shirley Stuart - Director, NCH
Floreta Nicholas - Chief Magistrate, St. Lucia
Marcia Anne Polius - Social Worker, St. Lucia

ANTIGUA WORKSHOP PARTICIPANTS

NOVEMBER 21 & 22, 2002

ROYAL ANTIGUAN HOTEL

Vince Jackson - Director of Corrections
Joan Gomes - Development Officer, Social Improvement
Maureen Hyman - Senior Magistrate
Knolly Hill - Psychologist
Sheila Roseau - Executive Director, Gender Affairs
Alvin Jarvis - Probation Officer
Joycelyn Maxam - Assistant Director, CFCCG
Lenroy Skepple - Truant Officer, Ministry of Education
Morvel Francis - Welfare Officer
Patricia Bird - Commissioner, Social Improvement
Rosemary Georges - Psychosocial Consultant
Clare Wason - Chief Magistrate
Jacqueline Massiah - Director, Boys Training School, St. Lucia
Josephine Mallalieu - Chief Magistrate, St. Kitts & Nevis
Kervin Lloyd - Probation Officer, St. Kitts & Nevis
Jennifer Astaphan - Project Manager, JLR

GRENADA WORKSHOP PARTICIPANTS
NOVEMBER 25 & 26, 2002
COYABA BEACH RESORT

Oforiwa Augustine - Magistrate
Jacqueline Sealy-Burke - Lawyer/Child Advocate, Grenada Bar Association
Joycelyn Thompson - Child Welfare Authority
Gemma Bain-Thomas - Permanent Secretary, Ministry of Legal Affairs
Vannie Curwin - Prosecution Department, Royal Grenada Police Force
Frank Philbert - Royal Grenada Police Force
Kriss Davies - Grensave/GNCRC
James Rodriguez - Royal Grenada Police Force
Cyril Dickson - Prison Social Worker
Clem Francis - Social Services
Anne Peters - Manager, Legal Aid and Counselling Clinic
Perry Joseph - Prosecutor, Director of Prosecutions, St. Vincent & the Grenadines
Earl Daniel - Prison Welfare Officer, St. Vincent & the Grenadines
Jennifer Astaphan - Project Manager, JLR
Francis Letang - Project Development Officer, JLR

APPENDIX “C”: WORKSHOP MATERIALS

Reference Materials Distributed Prior to the Workshop:

1. Restorative Justice Planning Checklist
2. “Introducing Restorative Justice”, by Daniel Van Ness, Allison Morris and Gabrielle Maxwell
3. Excerpts from “Satisfying Justice”, by the Church Council on Justice and Corrections
4. “Understanding of Justice”, adapted from work by Howard Zehr
5. Building Community Justice Partnerships, by Judge Barry Stuart
6. UN Declaration of Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters
7. “Implementing Restorative Justice: What Works?”, by Allison Morris and Gabrielle Maxwell
8. Frequently Asked Questions about Restorative Justice

Reference Materials Distributed at the Workshop:

1. Restorative Justice Workshop Workbook
2. Restorative Justice Signposts
3. Bibliography
4. List of Restorative Justice Websites
5. Example of Requirements to be considered for Referral to a Restorative Justice Program
6. Overview of Components to be considered in developing a Framework for a Restorative Justice Program
7. JLR Pilot Project Proposal Guide
8. Excerpts from “Restorative Justice: A Vision for Healing and Change” by Susan Sharpe

APPENDIX “D”: WORKSHOP AGENDA

Day 1:

9:00 – 9:30 a.m.	Introductions/Overview of Workshop Objectives
9:30 – 11:30 a.m.	Overview of Restorative Justice
(Note: Break will be 10:30 – 10:50 a.m.)	
11:30 – 12:30 p.m.	Overview of Restorative Justice Programming Options
12:30 – 1:30 p.m.	LUNCH
1:30 – 3:00 p.m.	Scope of Proposed Restorative Justice Program
3:00 – 3:20 p.m.	BREAK
3:20 – 4:15 p.m.	Service Delivery/Staffing/Program Management
4:15 – 4:30 p.m.	Wrap-up/Identification of issues to be addressed on Day 2

Day 2:

9:00 – 10:30 a.m.	Policy and Legislative Implications
10:30 – 10:50 a.m.	BREAK
10:50 – 11:20 a.m.	Links with Support Services/Existing Programs or Services
11:20 – 12:30 a.m.	Education/Training/Communication
12:30 – 1:30 p.m.	LUNCH
1:30 – 2:30 p.m.	Resources
2:30 – 2:50 p.m.	BREAK
2:50 – 4:15 p.m.	Proposal Development/Next Steps
4:15 – 4:30 p.m.	Wrap-up