

Restorative Justice: What are we talking about?!

'Restorative justice' is the popular name given to a wide range of emerging justice approaches that aim for more healing and satisfying responses to crime. While each approach is different, these processes try to give active participation to those directly involved or affected. Everyone hears each other's experiences, feelings and questions. Together they sort out matters of accountability, safety, and the need for a fair and meaningful course of action. For many Canadians, 'restorative justice' echoes the ancient teachings of spiritual traditions. Indeed, the growing interest in 'restorative justice' in Canada is an opportunity for people to reflect on their own ideas and experiences

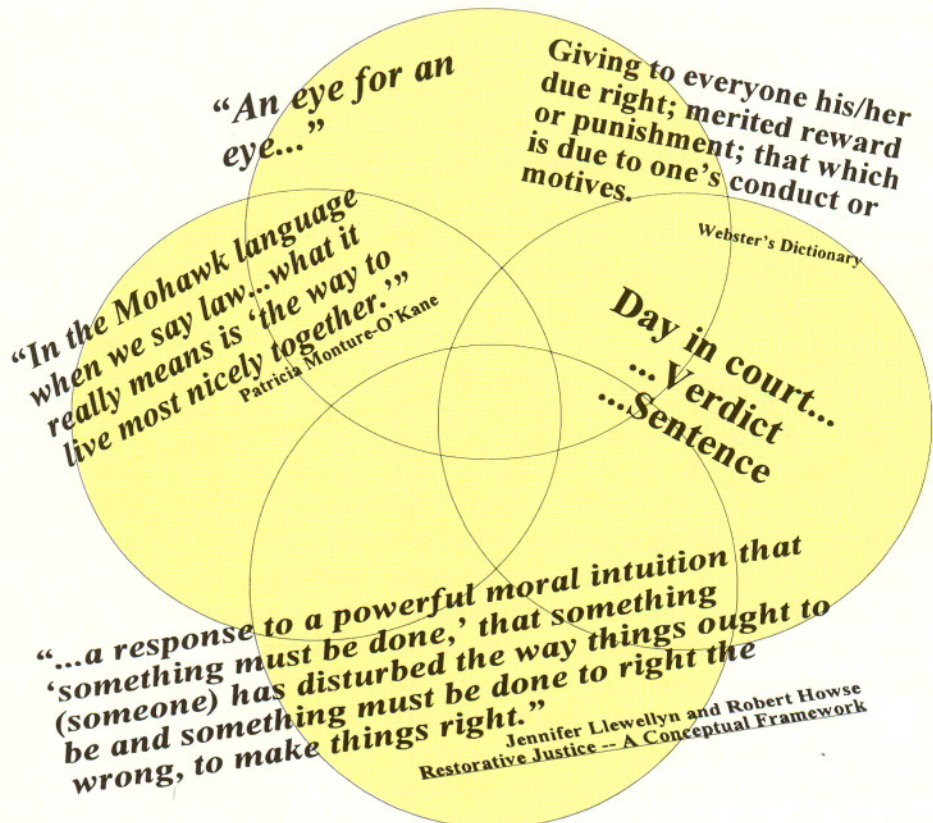
of justice. Fundamentally, 'restorative justice' becomes a window to core concerns of how we want to be with one another, and live with one another. Do we care to look at the questions of injustice and power imbalances in our community that often lead to the harm done to one another? This reflection sheet, prepared by The Church Council on Justice and Corrections, introduces Canadians to the orientation, values and challenges of 'restorative justice'. At the same time, we hope to foster more dialogue on the kind of justice we want, as we deal with harm done to one another and face the never-ending task of building healthy communities.

What is Justice?

As a society, we react strongly to crime. Calls for "justice" can constantly be heard. But, what is "justice"?

Does justice
have to mean
harsh
punishment?

What if justice
could mean
other
responses?



What kind of justice do we want...

Justice Today...

“Crime involves much more than breaking rules. Crime involves real actions that hurt real people with real and lasting consequences. A justice system bent on catching and punishing criminals has little to offer victims of the crime.”

--Susan Sharpe

The Canadian justice system tries to ensure fairness. However, despite good intentions and good people, it fails too often to respond meaningfully to the harm that occurs as a result of crime as well as to address the root causes of criminal behaviour. There is concern that:

- the justice system is remote from the lives of real people,
- it is unable to keep communities safe,
- it provides an inadequate and unsatisfying role for victims,
- it is overburdened—“too many cases, no time to prepare...”
- it gives sentences with minimal relevance for all sides.

◆We need to go beyond the narrowly defined legal issues to address the full range of needs that arise for people when their lives are affected by crime.◆

A History of Justice

In earlier times, many societies dealt with justice issues within the community — involving all of those persons affected. It was only in the 11th and 12th centuries that English courts began to take up the role of defending the crown. Justice as the work of these courts came to mean applying the rules, then establishing guilt and coming up with the proper penalty.



Justice: A Different Kind of Story...

Ed is a 61-year-old widower who lives alone. One night, he discovers an intruder in his home who panics and punches Ed, causing his nose to bleed. The assailant flees but is arrested later that night and confesses to police. Ed needs treatment at the hospital and also has to answer police questions. He phones his son, who lives on the other side of town, to come and drive him home. In the days and weeks that follow, he has trouble sleeping, angry at this awful intrusion and fearful that “the guy will come back and get me.” News about the crime spreads. Many residents feel vulnerable and unsafe. Kids are kept inside. Fewer people venture out after dark.

It gets reported that Al, 23, known to police, is charged with breaking and entering and assault causing bodily harm. His confession is thrown out on legal grounds. As a result of discussions between the Crown and Defence, Al pleads guilty to the breaking and entering charge and the lesser offence of assault. The charge of assault causing bodily harm is dropped. All the facts are presented to the Court. Sentencing is adjourned and the case is referred to a new justice program that tries to actively and sensitively include those harmed, those charged with causing the harm and others in the community. Ed is wary but wants answers to his questions. Al wishes the whole thing would just go away. But all eventually agree to a community justice meeting. In attendance are Ed, his son, Al, his parents and girlfriend, community reps, Al’s former alternative school principal, a corner store owner, the arresting police officer, crown, defence attorney and others interested.

Over the course of three hours, a trained volunteer gives people the chance to share their experiences, feelings and questions about the incident. Gradually, they hear more about Ed’s pain and fears as well as what led to Al’s actions — a drug problem and no cash for a “fix”. Al learns about the extent of Ed’s injuries and trauma. He realizes how his actions affected many people. Ed senses Al feels sorry about hitting him but has trouble showing it; Al awkwardly apologizes, “I didn’t want to hurt you. I only wanted the fix.” There is other, unexpected sharing - Ed’s son feels guilty about ignoring him; Al’s parents feel ashamed and helpless; the principal says good things about Al. Others still have worries: how can they know if Al is sincere, if he can change, if they can trust him again?

Together they develop a course of action, as well as suggestions that they would all like to recommend to the sentencing judge. They decide that jail is not useful in this case. Al gets two years probation and must attend programs for addictions, life skills, work training and regular check-ins with probation and the community. Al will make repairs to Ed’s house under the supervision of a community worker and help out at a new victims’ services office. Ed was given the opportunity to see a counsellor, paid by a new public victims’ fund. The neighbourhood later called a community safety meeting; a support group was initiated to keep an eye on those who live alone, including Ed, who became an active member helping others. People also spoke candidly about concerns about alcohol and drug use in their neighbourhood. Life is far from perfect, but residents report feeling more connected, and safer.

Justice: The Human Face

We are learning that the system's questions are not the same as the questions of the people. What can we do to help the people to:

- ◆ **get information and express what often are painful feelings**
- ◆ **make links to the underlying problems and broader social causes**
- ◆ **see what the problems are**
- ◆ **share their point-of-view**
- ◆ **have a say in what can be done**
- ◆ **make sure their worries and concerns are addressed**
- ◆ **develop an understanding of what happened**
- ◆ **arrive at an agreement.**

"When a crime is committed, it is like a stone dropping in a pond. The ripples go out and out and they never seem to stop."

Mother of youth
in trouble with the law

Telling everyone's story first builds a larger perspective, so everyone present can see more than they did at the outset. No court trial would have paid attention to Ed's fear and questions, the parents' shame and helplessness, the underlying social conditions in the neighbourhood. Al never would have been affirmed by the principal or supported so much, at the same time as his behaviour was denounced and meaningful consequences determined. It was the hardest thing Al ever had to do, facing his victim and hearing how he hurt so many, including his supporters. Ed is able to move on, feeling safer, although he never forgets what happened. The community is looking at important problems.

The Restorative Justice Vision

"... and it is during that process of talking, feeling and listening that the space, for healing to start, is found."

Judge Bria Huculak, Saskatchewan

Some Examples...

***Community Circles** have roots in aboriginal cultures. People meet in a circle that promotes equality, respect and listening in order to deal with the harm done and related social problems. The circle process often secures the commitment to help all sides. Circles are being adapted and tried in urban and non-native settings, with their own set of challenges.

***Victim-Offender Mediation** offers many of the benefits of restorative justice by allowing both sides to meet face-to-face with a trained mediator. Some programs involve the community. The parties talk about the crime, express feelings and concerns, try to get answers and negotiate a resolution. Many appreciate the experience but participation needs to be voluntary and properly prepared.

***Family Group/Accountability Conferences** provide a trained facilitator to help people through a process to deal directly with their conflict. They express painful emotions. The offending behaviour is rejected, not the person. Those hurt have a chance to deal with resentment and anger. Restitution is considered and many community resources surface.

Restorative Justice reflects the belief that justice should, to the greatest degree possible, do five things*:

◆ **Invite full participation and agreement:** This means making room within the justice process for the full, free, personal involvement of all sides, their families and communities.

◆ **Heal what has been broken:** Who are the victims? What do they need? What will help heal the trauma, recoup the loss, restore a sense of safety? What does the accused need? The community?

◆ **Seek full and direct accountability:** The accused persons face the people they have hurt, explain their behaviour and their motivation, and are given the opportunity to help the victim and the community make some sense of it.

◆ **Reunite what has been divided:** Criminal charges tend to divide community into an "us-them" mentality. Restorative justice helps to knit those halves back together so that the "us" and "them" are connected within a healthy community.

◆ **Strengthen the community to prevent further harm:** Restorative justice focuses largely on what needs to be done to reduce the chance of people being harmed this way again by building relationships and addressing the underlying social problems that create crime in the first place.

*See Susan Sharpe, Restorative Justice: A Vision for Healing and Change

Restorative Justice— Sounds Good But What About...?

Restorative justice is not simply a new program or alternative sentence. It is an approach that redefines the meaning of justice and our expectation of the criminal justice system.

But there are some tough questions that need answers:

- **Is Restorative Justice “soft” on crime?**

Our over-use of prison can lead people to think that anything else is a lighter sentence. We need to end the “tough-soft” debate on crime and discuss options for serious and meaningful interventions for each situation.

- **How will we know restorative justice works?**

Defining what “works” depends on what we’re trying to achieve: what kind of justice do we want? We will need evaluation of restorative justice using new benchmarks that look at human needs as well as legal rights. We will need to pay attention to people’s different experiences and compare them to court and trials, not to utopia.

- **What about the victim in all of this?**

Restorative justice emphasizes that victims’ needs must be a central concern of justice. However, it is essential that they be helped for their own sake, not used for other agendas. Participation should be voluntary, never coerced.

- **Some final thoughts:**

Restorative justice begs the question - restoration to what. Restoration is not good enough if it assumes that the community was in good health before crime occurred. We need a justice that also works on transforming social conditions that contribute to harmful behaviour. Justice will never happen simply by putting people in a circle. We could get “mob justice” and more harmful outcomes. We risk re-victimizing people and creating more outcasts. Given the inequalities in our community (race, class, gender, etc.), how will everyone have an equal opportunity in restorative approaches and be safe and supported before, during and especially after participation in the process?

**Restorative justice must foster truth-telling, healing and safety,
with the utmost respect for all.**

How can YOU get involved???

Restorative justice is for everyone. Here are a few suggestions on how you can learn more and get involved....

- **Question what you hear/read:** We hear about crime everyday from the media. But, do we always have the right information, all sides of the story? Spend a day in court watching “legal justice.” Ask yourself, “What are the human needs here?”; “Is punishment and/or jail the only tool we have?”
- **Talk about restorative justice with friends or family members:** Just by thinking and talking about more restorative ways of dealing with harm done begins the process of questioning whether our current system is really addressing the problems. Consider asking for restorative measures when you or loved ones are affected by crime.
- **Consider taking up some restorative justice issues** with a community group, service club, church, school (eg. speakers, study group, etc.), or volunteer with a related organization.
- **Get more information:** If you are interested in reading more about restorative justice, please contact the Church Council on Justice and Corrections, 507 Bank St., Ottawa, Ontario, K2P 1Z5, 613-563-1688, ccjc@web.net.

When citizens participate in justice, the health of the community improves – the quality of life, a collective sense of caring, respect for diverse values, a sense of belonging. It increases a community’s natural capacity to prevent crime, redress the underlying causes, rebuild the broken lives and relationships. The symbol of overlapping circles expresses this concept of healing. The space of “overlap” is the most reliable grounding for community safety. We need to strengthen this place of connectedness.

Also available from The Church Council is a supplementary reflection sheet for church communities. **We wish to thank our funders for this project: Department of Justice Canada and Correctional Service of Canada, Prairie Region.**
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