Restorative Justice in Canada

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Canada: A Country Of...

- Vast size (9,984,670 km$^2$ – slightly smaller than Europe)
- Population only 36 million
- Tremendous cultural diversity
- Significant differences between urban, rural, northern and Aboriginal communities
- Significant access to justice issues in many communities
For example, my Province of Saskatchewan:

- Geographic size: 651,036 km² – larger than France (551,695 km²)
- Population: 1.1 million (about 1/60th of France)
- 72 First Nations with several cultural & linguistic groups
- All but 40,000 people live in the southern half of the province
What is Restorative Justice (in the Canadian Criminal Justice Sector)?

• “An approach to justice that focuses on addressing the harm caused by crime while holding the offender responsible for his or her actions, by providing an opportunity for the parties directly affected by crime – victim(s), offender and community – to identify and address their needs in the aftermath of a crime.”

• Federal-Provincial-Territorial Working Group on Restorative Justice, adapted from Bob Cormier.
“Restorative justice (RJ) is primarily about establishing and maintaining a proper and peaceful relationship.”
- Justice Murray Sinclair, 2012 National RJ Symposium

RJ supports healing, prevention, reintegration, and reparation to the extent possible given the circumstances & harm done.
# Why Participate?

(Permission Courtesy of Correctional Service of Canada RJ Division)

<table>
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<tr>
<th>For Victims</th>
<th>For Offenders</th>
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<td>• Tell the story of their experience;</td>
<td>• Tell their story;</td>
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<td>• Be certain offender understands the impact of the crime;</td>
<td>• Accept responsibility for their actions;</td>
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<td>• Find answers to questions that are important to them;</td>
<td>• Acknowledge the harm caused;</td>
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<td>• Hold the offender accountable for the harm done;</td>
<td>• Hear firsthand how their behaviour affected others;</td>
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<td>• Identify what can be done to repair the harm, if possible.</td>
<td>• Participate in determining how to repair the harm caused and take action to repair the harm, if possible.</td>
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Why Use RJ?

- Enables victims, offenders, families and community members to have input into resolving the crime.
- Addresses the needs of victims and offenders by linking them to services and supports.
- Supports access to justice, especially in rural, remote, northern and Aboriginal communities.
- Holds offenders accountable in meaningful ways.
History of RJ in Canada

- Used by community groups for about 40 years, and in the criminal justice system for over 30 years.
- The Elmira, Ontario case in 1974 led to the development of victim-offender mediation.
• The Young Offenders Act (1984) and the Criminal Code amendments (1996) were vital to increasing RJ.

• The Satisfying Justice conference in 1997 was an important national event that brought RJ practitioners, governments and academics together.

• 1999: First national Ron Wiebe RJ Award.

Legislation Supporting RJ:

- **Youth Criminal Justice Act** (youth): Extrajudicial sanctions, conferences and youth justice committees
- **Criminal Code** (adult): Alternative measures and sentencing principles
- **Victims Bill of Rights** (youth and adult): Right to information on available services, including RJ
- **Corrections and Conditional Release Act** (adult): Aboriginal communities may be involved in developing reintegration plans and supervising offenders
- **Manitoba: The RJ Act** (youth and adult)
Overview of RJ in the Criminal Justice System

- RJ is supported by several federal government departments and used to some extent in every province and territory, although the level of programming varies.

- Adult alternative measures/youth extrajudicial sanctions account for most RJ referrals. These kinds of referrals must be authorized by provinces & territories.

- Some FPT jurisdictions support RJ with adult cases, including extremely serious violent crimes.
JUSTICE SYSTEM PROCESSES

POLICE DISCRETION
- PROSECUTORIAL DISCRETION
- DIVERSION TO HUMAN SERVICES

COURT APPEARANCE
- VICTIM-OFFENDER MEDIATION
- CONFERENCING/JUSTICE CIRCLES

INCARCERATION
- ALTERNATIVE MEASURES/EXTRAJUDICIAL SANCTIONS

POST-RELEASE
- POST-SENTENCING RESTORATIVE PROGRAMS
- CIRCLES OF SUPPORT/REINTEGRATION

RESTORATIVE JUSTICE OPPORTUNITIES
How is RJ Embedded in the Youth Justice System?

- Primarily through extrajudicial sanctions referrals.
- Youth justice committees are widespread.
- Services are usually offered by community-based agencies.
- Some jurisdictions have government staff who work specifically in RJ, and youth workers often play a role.
Recent Developments

- More FPT jurisdictions are using or considering RJ with adult cases and more serious crimes.
- RJ networks and associations are being developed.
- RJ is being used with a wider range of client groups.
Practitioners are discussing the need for common definitions and guidelines.

RJ is expanding into other areas: environmental & conservation cases, education, human rights, child protection.
Strengths of RJ in Canada

- Extensive experience.

- Support and leadership from communities, governments, universities, faith organizations and justice agencies.

- A variety of community-based models and approaches that meet local needs.
Challenges for RJ in Canada

- Expanding throughout the criminal justice system and increasing the number of cases handled with RJ.
  - Raising awareness
  - Increasing buy in and support
  - The importance of stable programs with trained, experienced staff

- Continuing to improve service delivery to provide the highest possible quality of service.

- Supporting research, evaluation and data collection.
Canadian Research & Evaluation


- Victims and offenders who participate in RJ processes report high levels of satisfaction.
- Victims are significantly more likely to receive restitution.
- RJ results in statistically significant decreases in recidivism.
2011 Evaluation of the Federal Aboriginal Justice Strategy (AJS)

• The AJS is essential to the delivery of Aboriginal justice (and RJ) in Canada.
• These programs increase community involvement in the local administration of justice & have positive impacts on offenders and communities.
• Offenders who participate have significantly lower rates of reoffending.
  • For example, after 3 years, 24% of youth had reoffended compared to 33% of the comparison group.
Alberta Conflict Transformation Society uses RJ with youth who have committed a crime.

The evaluation involved 25 community conferences over 3 years with 217 participants, including 50 offenders and 38 victims.

Every dollar invested in the program resulted in a social return of $1.63.

The evaluation focused on costs avoided by addressing the crime through the formal justice system.
Saskatchewan Evaluation Data – 2013/14

- 2,682 adult & 1,407 youth referrals
- 32% of offenders were 17 or younger; another 33% were 18-24
- Top 3 referrals: Theft under $5,000; mischief under $5,000; assault
- Most common RJ processes in youth cases: accountability hearings, victim-offender mediation, family group conferences/community justice forums
- 81% of youth cases reached an agreement; 95% of agreements were fully or partially completed
- $67,500 in restitution & 10,700 hours of community service
Federal-Provincial-Territorial Working Group on RJ

- Under the Constitution Act:
  - The federal government is responsible for enacting criminal law
  - The provinces/territories are responsible for the administration of justice.

- FPT Working Groups provide a way for the federal and provincial/territorial governments to discuss areas of shared jurisdiction, issues and developments.
The Working Group’s Mandate

- To consider and coordinate discussion on administrative, policy and evaluation issues that emerge from the implementation of restorative justice and related alternative criminal justice programs.
Anticipated Future Directions for RJ

- The importance of guidelines on the use of RJ in criminal matters.

- Enhanced sensitivity to the needs of victims, and improved links between RJ programs & victim services.

- Increased public and justice system awareness of the value of restorative approaches, even in a ‘tough on crime’ environment.

- More systematic data collection and research on RJ in Canada.
Key Messages on RJ

- A set of succinct messages for:
  - RJ agencies – to inform others about their work.
  - Justice officials – to provide information about what RJ is and how it can work with the criminal justice system.
  - The public – to support greater awareness about RJ, its effectiveness and why it can be beneficial in appropriate cases.
Collaborative Relationships between Communities & Government in RJ

- Informational documents that discuss:
  - Why collaborative relationships are beneficial for governments and communities.
  - Principles that support the development of collaborative relationships.
  - The skills needed to develop and maintain collaborative relationships.
The Collaborative Assessment Guide

- An innovative tool that describes the characteristics of collaborative relationships.

- Intended to assist groups in reflecting on the level of collaboration within relationships, processes, and initiatives, and to spark ideas about how to increase the level of collaboration when that is appropriate and they desire to do so.
Consultation on Revised Values and Guidelines for RJ in the Canadian Criminal Justice System

- In 2002, the United Nations passed a resolution on “Basic principles regarding the use of RJ programmes in criminal matters”.

- Justice Canada drafted Canadian “Values and Principles of RJ in Criminal Matters” and “RJ Program Guidelines for Criminal Matters.”
In 2004, the Canadian RJ documents were finalized following considerable national consultation.

2014 – 2015: The FPT Working Group on RJ revised the drafts with input from RJ, Aboriginal justice and victims services officials.

The consultation will be launched on November 16th at the National RJ Symposium.
Questions? Further Thoughts?

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