

Restorative Justice in Canada
A Discussion Paper on the Potential Development of a
Canadian Restorative Justice Consortium

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By

The Steering Committee for the Canadian Restorative Justice Consortium

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A Discussion Paper on the Potential Development of a Canadian Restorative Justice Consortium

This document has been developed by the Steering Committee for what we have provisionally referred to as the “Canadian Restorative Justice Consortium” to engage practitioners of restorative justice and other interested individuals and organizations in a discussion about whether to establish a restorative justice consortium in Canada. We are interested in knowing your views about whether there is a need for a restorative justice organization in Canada, the mandate it might have, how it could be structured, and the activities it might undertake.

How this Dialogue Came About

The National Restorative Justice Symposium in Ottawa on November 19, 2005 included a one-hour discussion about the potential development of a Canadian restorative justice organization. The National Restorative Justice Symposium was open to all Canadians, and participants were invited to join an ongoing dialogue on this topic. Several individuals signed up to participate in these discussions, which occurred through eighteen months of teleconferences.

On September 7-8, 2007, these individuals met at a retreat centre located in Arnprior, Ontario to discuss the past development of restorative justice in

Canada, the challenges currently facing restorative programs, and how to support the growth and development of restorative justice in the future. The meeting resulted in consensus about the importance of a dialogue with restorative justice practitioners about whether there is a need to form a national organization. The individuals who participated in the face-to-face meeting formed the Steering Committee for the Canadian Restorative Justice Consortium (CRJC). Its members include the following individuals¹:

- David Daubney, Ottawa
- Barbara Erb, Ontario
- Danny Graham, Nova Scotia
- Carol-Anne Grenier, Ottawa
- Scott Harris, Ottawa
- Jennifer Haslett, Alberta
- James Loewen, British Columbia
- Jane Miller-Ashton, British Columbia
- Andrew McWhinnie, British Columbia
- Barbara Tomporowski, Saskatchewan

The Steering Committee is keenly aware of the need to be inclusive and ensure that other perspectives are involved in the Steering Committee. We do not assume that we can adequately represent the vision, wisdom or experience of Canada's restorative justice practitioners. Therefore, our first task was to record those absent voices so we could approach them to participate on the Steering Committee or join the future dialogue. We are particularly interested in ensuring that we hear from victims groups, Aboriginal people, the justice sector

¹ It should be noted that the opinions expressed in this document are solely those of the authors. They do not necessarily reflect the views of the any departments and or other organizations to which these individuals belong.

and restorative practitioners from across Canada and from all regions within Canada.

As Restorative Justice and Dispute Resolution Division of the Correctional Service of Canada had organized the teleconferences and face-to-face meeting, the Steering Committee requested that the Correctional Service of Canada continue to assist with holding discussions about the potential development of a Canadian Restorative Justice Consortium.

Purpose and Role of the Steering Committee

The purpose of the Steering Committee is to determine whether there is interest in developing a CRJC, and to do some of the groundwork that would be necessary for such an organization. The role of the Steering Committee is to:

- Consult with restorative justice agencies, faith organizations, government departments, victims groups, Aboriginal organizations, and other partners to determine whether there is interest in developing a Canadian organization on restorative justice.
- Make suggestions about models for such an organization.
- Develop partnerships to support this initiative.

To fulfill this role, the Steering Committee has three subcommittees:

- Voices and Partnerships – to discuss what other partners and voices should be included in the Steering Committee and the consultations, such as Aboriginal peoples, victims' organizations, and the police.
- Consultation – to develop a consultation document and consultation plan for the consultation process.
- Funding – to consider potential sources of funding for the consultation process and any resulting organization.

The Steering Committee also agreed to a timeline for their work as follows:

- Fall 2007 and Winter 2008: consultations begin.

- November 2008. Steering Committee reports on the results of the consultations at the 2008 National Restorative Justice Symposium.
- January 2008. Tentative date for any resulting organization to be launched.

Is there a Need for the CRJC?

At the face-to-face meeting in Arnprior, the Steering Committee considered three questions about the state of restorative justice and restorative practice in Canada: “how did we get here; what do we need now, and what can be done?” The following text describes some considerations that led the Steering Committee to suggest that there is a need to consider a Canadian organization on restorative justice. We are interested in knowing whether others share this view.

How did we get here?

We came together in Arnprior with a collective sense that the energy that invigorated the pioneers of restorative justice in Canada may be depleted by systemic and cultural resistance. This resistance may be related to the “law and order” approach to crime control that has become increasingly dominant in western nations since the 1980s. This approach may have been heightened by a post-911 shift toward an increased focus on public safety and security measures that emphasize surveillance, investigation, capture and detention. These factors affect the attitudes of the public and justice sector officials toward restorative justice.

Restorative justice in Canada can be described as having developed in two phases. In the first phase, the early pioneers of restorative justice were a visionary group of dedicated individuals and organizations who saw the promise of restorative justice as a way to transform the criminal justice system. They challenged the *status quo*, insisted on an opportunity to demonstrate a better way – what some have called “The Third Way” - of achieving a more satisfying justice for victims, offenders, communities and families, and attempted to create a paradigm shift in the practice of justice. The vision of these early pioneers of restorative practices bore fruit, particularly in the area of victim-offender mediation, offender re-integration and within the youth criminal justice system, and some well-known restorative justice programs in Canada developed during this period. At the same time, with these early experiments and successes came missteps, false starts and failures. Some ideas may have been ill conceived or poorly executed, while others showed great promise yet failed to gain financial and systemic support.

The Steering Committee believes that Canada has entered a second phase of restorative justice. Contemporary restorative practitioners have learned from the successes and challenges of the past. Restorative programs have developed in many places in Canada, and restorative practices are on the rise within the public education system to address serious issues related to classroom behaviours, school yard bullying and playground violence. Yet restorative programs are also facing challenges in making further inroads into the justice system and achieving broad acceptance and support. As previously discussed,

this may be due to a tectonic shift in policy-making around human justice issues related to concerns about terrorism and “get tough” approaches to crime. For example, community justice forums (CJF’s) have enjoyed strong growth, but are now less likely to be established because of “shifting strategies of national governance” and the “deprioritization” of similar programming (Deukmedjian, 2008, p.1).

Why should we consider a CRJC?

Restorative practitioners seem to have difficulty speaking out about how restorative justice can provide an effective way to respond to crime that supports empowerment, accountability, healing and peace. There is little public dialogue about the lack of evidence to demonstrate that punitive approaches enhance public safety and security. Neither does there seem to be a strong, unified voice capable of making the case for sustainable funding for restorative programs.

We are proud of what has been accomplished in restorative justice in Canada. Yet we also concerned that the vision of restorative justice as a paradigm shift is in danger if it is relegated to the margins of the criminal justice system, co-opted by the values and practices of the justice system, or used simply as a diversionary tool for low-level, first-time offences. These are critical times for restorative justice in Canada, and we feel there is a need to discuss how we can continue moving forward with a renewed sense of mission and vision.

There may be wider public support for the goals of restorative justice than is commonly assumed. Polling research released in a January 2007 article in *The Canadian Journal of Criminology and Criminal Justice* entitled, "Public Attitudes to Sentencing in Canada" indicates that Canadians endorse criminal justice approaches that emphasize the needs of victims, hold offenders accountable, support rehabilitation, and repair harm where possible by creating opportunities for restitution and peace-making. Yet there does not seem to be widespread public awareness of restorative justice, perhaps because of a lack of public education and media engagement.

Detractors, skeptics and critics of restorative justice often cite concerns about whether restorative justice can hold offenders accountable. Others have worried that restorative practices may undermine the principles of sentencing fundamental to our legal system (Roberts, 2002), or contribute to a "widening" of the reach of the justice system to include individuals who may not otherwise have come under its jurisdiction. Others raise important questions about whether restorative justice can address power and control issues, gender imbalances and safety issues, especially in dealing with crimes like sexual assault and domestic violence (see Cameron 2005 for an extensive literature review).² These are all important questions that deserve careful consideration.

² For comparative critiques of restorative justice, see Acorn, A. (2004). "Compulsory Compassion: A Critique of Restorative Justice." University of British Columbia Press. Vancouver, CA., and McLaughlin, E. (2004). *Restorative Justice: Critical Issues*. Sage Publications Inc.

At the same time, there is a growing body of empirical evidence from the United Kingdom, New Zealand, Australia and the United States that supports the use of restorative justice. Unfortunately, little such empirical research has been produced in Canada (although there have been some notable exceptions, such as Bonta, Wallace-Capretta & Rooney, 1998; Latimer, Dowden & Muise, 2001; Cormier, 2002; Ruggie, Bonta & Wallace-Capretta, 2005). There are also a few program evaluations and ample anecdotal and experiential evidence for the success of restorative approaches. Increasing public, political and justice sector support for restorative justice may depend in part on educating the public and the justice sector about the research results and increasing the amount of Canadian research into restorative justice. Few potential funders, in this age of “evidence-based practice”, will support restorative approaches without empirical evidence to say that restorative justice “works.” How it “works” is up to us to define and demonstrate. In doing this, we cannot ignore the power of stories to humanize our work and add balance to the empirical record in ways that fully express the power of restorative justice.

For empirical evidence to be useful and to reflect restorative approaches and values, it is vital that restorative practitioners participate in the production of the evidence base and are knowledgeable of the types of research and its results. Research is also our best insurance against poor practice, and it can lead to the development of “best practices” that would enhance our work. The Nova Scotia Research Project Community-University Research Alliance, funded by the Social Sciences and Humanities Research Council (SSHRC) is promising,

as it will involve 16 research projects over five years on topics such as restorative principles in practice, diversity and equity, and program operations. We hope that future initiatives such as the Nova Scotia Research Project will help to build an evidence base about restorative practice.

In addition to increased research on restorative justice in Canada and expanded awareness of existing research, practitioners of restorative justice might also benefit from safe places where they can talk about the challenges that face them in their practice and share their considerable experience and knowledge. A CRJC might provide a way to gather and disseminate research, assist practitioners with linking to their colleagues across the country and internationally, advocate for the use of restorative justice, and assist restorative practitioners in engaging the media.

While there may be a need for a restorative justice organization in Canada, we are aware that local community groups and restorative justice programs are understandably cautious about their local autonomy. The idea of developing a CRJC is envisioned as supporting restorative programs and advocating for restorative justice, rather than monitoring local practice or service delivery. There are also concerns about the standardization of restorative practice, and of the challenges in building an inclusive organization that reflects all the voices and perspectives that must be heard. Finally, there could be concerns about whether the CRJC would compete with local restorative programs for funding. These and other issues must be considered before any action occurs.

Ideas for the CRJC

If there is interest in developing a CRJC, it will also be necessary to think about how it would be structured. For the purpose of discussion, we are putting forward “Canadian Restorative Justice Consortium” as a provisional name, and we wonder if it might be best structured as a non-profit corporation. We recognize that the founding members of any such organization would determine its name, mandate, membership and other features. Accordingly, the following suggestions should be viewed as ideas to help start the dialogue.

The potential goals of the CRJC might include:

- Address relationship and information gaps that affect the development and use of restorative justice.
- Promote dialogue and public education on restorative justice.
- Conduct or facilitate research on restorative justice.
- Facilitate skills transfer between restorative justice practitioners/programs. Among other things, this might include circulating leading-edge research and information on best practices.
- Advocacy.

Some of the activities that the CRJC might undertake include:

- Develop a website and research journal.
- Hold conferences.
- Undertake research projects.
- Organize a Canadian dialogue about how Canadians view justice, their personal experience with crime, and effective responses to crime.
- Assemble a panel of “Eminent Canadians” (such as recipients of the Order of Canada) to participate in a nationally televised discussion about the nature of justice in our society.
- Engage organizations such as the John Howard Society, Elizabeth Fry Society, the Church Council on Justice and Corrections, the Mennonite Central Committee of Canada, the Canadian Conference of Catholic Bishops, the Canadian Association of Chiefs of Police, the Federation of Canadian Municipalities, Victim’s/Victim’s Advocates and others in nationally televised discussions.

Discussion Questions

Is this the time to develop an organization that would provide a unified voice for restorative programs and practitioners? What challenges and issues would establishing a CRJC raise, and how could those challenges be addressed? How would such an organization be structured, and what its mandate, membership and activities be? The Steering Committee has shared these thoughts with you to begin a dialogue about these questions. We hope that this dialogue will draw on our collective energy and deep experience.

We invite you to make your views known to the Steering Committee, and indicate if you are interested in participating in the ongoing dialogue. Please send any comments to:

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References

- Cameron, A. (2005). Restorative Justice: A Literature Review. The British Columbia Institute Against Family Violence. Vancouver, B.C. Canada.
- Correctional Service of Canada (2003). Satisfying Justice: A compendium of initiatives, programs and legislative measures. Accessed November 03 2007 at http://www.csc-scc.gc.ca/text/pblct/satisfy/index_e.shtml
- Bonta, J., Wallace-Capretta, S. and Rooney, J. (1998). *Restorative Justice: An Evaluation of the Restorative Resolutions Project*. Ottawa: Solicitor General Canada (now Public Safety Canada).
- Cormier, R.B. (2002-02). Restorative Justice: Directions and Principles - Developments in Canada. Department of The Solicitor General Canada (now Public Safety Canada).
- Deurkmedjian, J.E. (forthcoming, 2008). "The Rise and Fall of RCMP Community Justice Forums: Restorative Justice and Public Safety Interoperability in Canada." Forthcoming 2008 in the *Canadian Journal of Criminology and Criminal Justice*. Accessed November 03, 2007 at: [http://www.uwindsor.ca/users/j/johndeuk/main.nsf/9d019077a3c4f6768525698a00593654/255e75720be1221985256bcf00508f4d/\\$FILE/Deukmedjian-RCMPRestorativeJustice-AdvanceCopy.pdf](http://www.uwindsor.ca/users/j/johndeuk/main.nsf/9d019077a3c4f6768525698a00593654/255e75720be1221985256bcf00508f4d/$FILE/Deukmedjian-RCMPRestorativeJustice-AdvanceCopy.pdf)
- Hanson, R.K. (2001). *Age and Sexual Recidivism: A Comparison of Rapists and Child Molesters*. Ottawa: Solicitor General Canada.
- LaPrairie, C. (1992) Aboriginal crime and justice: Explaining the present, exploring the future. *Canadian Journal of Criminology*, 34, 281-297.
- Latimer, J., Dowden, C., and Muise, D. (2001). *The Effectiveness of Restorative Justice Practices: A Meta-Analysis*. Ottawa: Department of Justice, Canada.
- Pate, K. (1990) "Victim-Young Offender Reconciliation as Alternative Measures Programs in Canada," in Galaway, B. and J. Hudson eds. *Criminal Justice Restitution and Reconciliation*. Monsey, New York: Criminal Justice Press: 135-144.
- Roberts, J.V. (2002). Restorative justice: Some Caveats. *Justice Report (Canadian Criminal Justice Association)*, 17, 1-3.

Rugge, T., Bonta, J. & Wallace-Capretta, S., (2005). Evaluation of the collaborative justice project: A restorative justice program for serious crime. Ottawa: Public Safety and Emergency Preparedness Canada.

Zehr, H. (1985) "Retributive Justice, Restorative Justice," in *New Perspectives on Crime and Justice: Occasional Papers*, Akron, PA: Mennonite Central Committee, Issue 4.

Zehr, H. (2005) *Changing Lenses: A New Focus for Crime and Justice*. Waterloo, Ontario: Herald Press