

Recommended Principles and Standards for Restorative Justice Providers in Criminal Matters

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Introduction:

This document is intended as a guiding resource for those involved in restorative justice service delivery in incidents of crime in British Columbia. The following pages are divided into three sections for ease of reference. The first section, “Preliminary Observations,” seeks to situate the reader to the document and provide context for the ensuing sections. The second section, “Guiding Principles,” describes the foundation on which the Practice Standards are based. The third section is devoted to guiding ethical, competent and accountable restorative justice practice through the expression of “Practice Standards”.

Preliminary Observations

1. For the purposes of this document, restorative justice is defined as:

“a process to involve, to the extent possible, those with a stake in a specific offence, and to collectively identify and address harms, needs and obligations, in order to heal and put things as right as possible” (Zehr, 2002)¹

Restorative justice processes can occur at all stages of the criminal justice system, from pre-charge diversion through to post-sentencing and post-release from custody in appropriate cases.

2. The following Guiding Principles and Practice Standards are not intended to describe in detail a model system for restorative justice service providers. Instead they outline recommended minimum standards which, when combined with appropriate practitioner training and experience, can help to provide a reference for the ethical practice of restorative justice. It is the community leaders and restorative justice practitioners in a given community who must

¹ Zehr, Howard. *The Little Book of Restorative Justice* (Intercourse, Pennsylvania: Good Books, 2002)

hold responsibility for building a restorative justice program that will lead to safe and caring communities.

3. The Standards outlined in this document cover a field in which thought is constantly developing. They are not intended to preclude experiment and creative practices, provided these are in harmony with the Principles and seek to further the purposes that derive from the text of the Standards as a whole.
4. These Principles and Standards represent an attempt to meet the minimum conditions of human rights as articulated by the United Nations and legalities that pertain to assisting people who have been involved in a criminal harm. They are informed in part by the Criminal Code, the Youth Criminal Justice Act, the Victims Bill of Rights Act, the Corrections and Conditional Release Act, RCMP 'E' Division Policy, and the [Community Accountability Programs Information Package](#).
5. Adoption of these practice standards is voluntary. Any restorative justice practitioner, program and/or project interested in reflective practice and ongoing service improvement is encouraged to adopt these practice standards. In addition, referral sources to restorative justice service providers may also want to familiarize themselves with these practice standards so as to make informed decisions regarding referrals.
6. For the purposes of this document, "policy" is defined as a written protocol that is clearly communicated to staff, volunteers and any other relevant stakeholders.

Guiding Principles

Section One: Restorative justice approaches seek to:

1. Address the harms done to victims and communities by holding offenders meaningfully accountable for their offences
2. Invite the involvement of all affected stakeholders
3. Provide opportunities for participatory decision making and, where appropriate, facilitate dialogue between those involved.
4. Strive for victim and offender reintegration into their communities, where necessary
5. Strengthen communities and individuals to prevent future crimes

Section Two: Restorative justice practitioners and advocates (staff, volunteers, mentors, facilitators and board members), endeavor to:

1. Do no further harm
2. Treat all parties with respect
3. Engage in ethical and reflective practice
4. Attend to the emotional, physical, legal, and psychological safety and well-being of those involved
5. Maintain a practical commitment to personal wellness and self-care
6. Conduct processes that are sensitive to power imbalances between the parties regarding matters such as victimization, age, maturity, cultural background, gender, religious or spiritual views, intellectual capacity, position in the community, sexual orientation or other factors
7. Ensure careful preparation with victims, offenders, and any family or community members who will be involved in face to face meetings
8. Explore creative and tailored processes and outcomes
9. Encourage and educate all participants in restorative justice processes with a view to supporting their active participation in decision-making
10. Become educated on the physical and/or mental health issues and barriers that participants may face, and strive to respond to their needs to the extent possible within the service and/or through other appropriate resources
11. Provide participants with up to date and relevant information about the justice system, victim services, community resources and related legislation and services.

12. Understand and incorporate the cultural identity, rituals and values of the participants who are engaged in the process
13. Become familiar with Indigenous peoples' history in the territory the service is offered, and the historical context of the relationship between Canada and Indigenous peoples across the country.²

² This principle intends to reflect the spirit of *Truth and Reconciliation of Canada: Calls to Action*, particularly provisions 1 (iii, iv), 22, 27 and 28. (http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Calls_to_Action_English2.pdf)

Practice Standards

The following Standards shall be applied impartially. There shall be no discrimination on grounds of race, sexual orientation, colour, gender, language, religion, political or other opinion, national or social origin, property, birth or other status.

1. Contacting victims

In any case referred to a restorative justice service provider, there shall be a policy to ensure the victim is informed of the service unless:

- a) The victim cannot be located
- b) The service provider has a substantiated reason to believe the victim does not wish to be contacted
- c) The referral is deemed inappropriate for restorative justice

Where victim contact has not occurred, the reason shall be documented in the file.

2. Referral Acceptance Criteria

The service provider has a policy which defines referral acceptance and rejection criteria that are consistent with the provisions of Canadian law.

3. Complaints

The service provider shall have a transparent and accessible complaint process that allows all participants to express their concerns to an identified party. Consistent with the Victim's Bill of Rights, this should be done in a manner that preserves the participant's anonymity and confidentiality, should that be their preference. The complaint process shall be one that has the support of local victim services and justice system personnel, where possible.

4. Staff and volunteer accountability

The service provider shall have a policy concerning staff and volunteer accountability for quality practice and professional development, and a defined review process to be followed in the event of errors and/or harmful practice.

5. Confidentiality

Every service provider shall have a system for maintaining hardcopy and/or written notes and records and for upholding the confidentiality of these records, and shall ensure that staff and volunteers are aware of the system and accountable for following it. The policy will define who may have access to the records and for what reasons.

6. Reporting/Case completion

In accordance with confidentiality, the service provider shall have a policy that outlines reporting requirements. This will include reporting procedures to restorative justice participants and referral sources. The policy shall be clearly communicated to all participants.

7. Information Sharing

Each service provider shall have a procedure, in compliance with the law, that outlines the sharing of information by the service provider, and the procedure shall be clearly communicated to all participants.

8. File management

The service provider shall have a policy outlining procedures and timelines for the collection, retention and destruction of all data and case file information, in accordance with the law.

9. Evaluation

The service provider shall have a process that provides the opportunity for participants to give their feedback on the service they receive. This shall be done in a manner that preserves their anonymity and confidentiality should that be their preference.

10. Information/Preparation meetings

The service provider shall afford all the parties in a restorative justice process the opportunity to meet with the service provider prior to any facilitated dialogue. For victims and accused persons, a minimum of one such meeting shall be conducted in person.

11. Meeting locations

The service provider shall have a policy of asking primary participants for their input in selecting a physical setting for any upcoming preparation meeting or dialogue with other affected parties.

12. Training

The service provider shall have a policy that outlines minimum requirements for initial and ongoing training of staff and volunteers. The training may be formal and/or informal. The training required shall be such that it will maintain and enhance the knowledge and ethical practice of restorative justice.

13. Impartial Facilitation

The service provider shall instruct facilitators to withdraw from any case in which the facilitator has biases or emotional triggers concerning a participant and/or specific crime that would affect their service. Facilitators also shall be instructed that any prior association with one or more participants should be disclosed to other participants, with an offer to withdraw from the case if that history creates a concern about bias.

14. Informed consent

The service provider shall have a policy to ensure that all parties will participate on the basis of informed consent. All participants shall be made aware of the right to seek legal information at any time while engaged in restorative justice services.

15. Non-Mandatory/Voluntary Participation

The service provider shall have a policy to ensure that each participant understands that participation is voluntary. It shall state clearly that any participant has the option to withdraw from the process at any time, and that participants be given information about the implications of withdrawal.

16. Service Provider/Participant Withdrawal

In the instance of either participant or service provider withdrawal from a restorative justice process, the service provider shall have a policy of communicating its next steps to all participants.

17. Follow up

The service provider shall have a policy to conduct follow-up meetings with primary participants after a facilitated dialogue.

18. Restitution and Reparation

The service provider shall have a written procedure regarding its involvement in the collection and disbursement of restitution payments, and in supporting and monitoring reparation agreements.

19. Flexible service

The service provider shall have a policy of adapting its services to the cultural and individual needs of participants, and outlining a range of options for participation by victims.

20. Reasonable agreements

The service provider shall have a policy that all restorative justice agreements are reasonable and maintain all participants' safety, rights and dignity, and shall instruct facilitators to uphold these criteria.

21. Information on Other Services

The service provider shall have a policy ensuring that current information on community agencies and support services, including victim services, is shared with participants.

22. Communication timeframes

The restorative justice provider shall have a policy to outline timeframes for communication with all participants, referral sources and other stakeholders throughout all stages of the restorative justice process.