

## Restorative Justice in Prisons

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*Restorative justice in prisons: An evolution from Victim Offender Mediation in 1998, to a restorative prison wing in 2001, to a holistic, multi-sector project in 2004*

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The three projects that are highlighted in this presentation were selected because they represent a very broad spectrum of restorative approaches applied to the prison environment. Each of these 3 projects is in a different phase of implementation. The first project is the oldest (1998), and provides a lot of evaluative data; the second project has been operating for 4 years and is currently undergoing its first evaluation; the third project is the newest, and not all aspects of its programs have been implemented yet.

### Collaborative Justice Project:

The first and oldest of these programs is called the Collaborative Justice Project, based in Ottawa, Canada's national capital. Established in 1998, the Collaborative Justice Project (CJP) aims to demonstrate a comprehensive restorative approach in cases of serious crime. Cases can be referred to CJP by judges, prosecuting or defense attorneys, or by the accused him/herself. The crime must be serious, the victim must be interested in participating, and the accused must accept responsibility and want to repair the harm. The CJP process takes place after a guilty plea in court, and before sentencing, at times while the accused is incarcerated.

To quickly gain an understanding of how this program operates let us look at the summary of a specific case that was processed by CJP.

The accused, Robert (names have been changed), was driving the wrong way on a multi-lane, divided highway, having entered by the off ramp. After traveling 2 km in the wrong direction, narrowly missing several vehicles, he collided with the victim's car, killing a 60 year old man and slightly injuring his wife. Robert had close to 3 times the legal limit of alcohol in his blood, and was charged with impaired driving causing death, and criminal negligence causing death.

A CJP caseworker met first with Robert to assess his interest and the appropriateness of the case. Robert was willing to take responsibility for the offence, and to work towards some form of reparation. He was 50 years of age, had a good job, and had for years been using alcohol to relieve stress. He himself almost died in the collision, and had been in hospital for months. It was not certain whether he would ever walk again. Robert was willing to meet the victim's family if it would help them.

Satisfied that Robert met the CJP criteria, the caseworker then met with Phillip, the adult son of the victim, and his mother Claire. Phillip wanted something good to come out of the tragedy. He thought Robert might speak to people about drinking and driving, or even better, go with Phillip to speak to groups, but not knowing if Robert would be willing, he didn't expect this to happen. Phillip wanted to meet Robert, to learn who Robert was, and whether he would be likely to drink

and drive again. Phillip's mother didn't wish to meet Robert, but wanted more information about the accident in order to move on with her grieving process.

The caseworker obtained and forwarded the information Claire needed. The caseworker also met with Robert regularly over the next 6 months to discuss how he had ended up in this situation, his alcohol problem, how he had harmed, and what he might do to assist with a healing process. He was receiving ongoing psychological and addiction counselling. Similarly, the caseworker regularly met with Phillip to support him and his family, to explore what he needed from the process, and prepare for a possible meeting with Robert. The caseworker conveyed information between Robert and Phillip to help each get a better understanding of the other's situation and needs.

Six months later, Phillip and Robert met for a mediation session. They talked to each other in a supportive manner about the impact of the incident on them and their families, and about what they would like to see happen. While Robert had previously indicated that he felt unable to speak publicly about what had occurred, after meeting with Phillip he agreed to do so with him. Robert and Phillip met on four further occasions and together addressed a high school class where students were deeply moved by their presentation.

In court after the mediation, Robert received a sentence of 2 years less a day. The prosecutor's original position of 3 to 5 years was mitigated in light of the work done by the accused and the victim's son, and their interest in continuing such work. During the following 7 months there was continuing contact with Robert and Phillip, and while he was serving his sentence, Robert was sometimes allowed out of prison for a day at a time in order to speak publicly with Phillip about impaired driving and its consequences.

Since 1998 over 149 cases have been completed. These involved 149 offenders and more than 300 victims.

66 cases resulted in a face-to-face meeting.

112 cases resulted in an apology to the victim.

107 cases resulted in a submission to the court.

43% of offences were assault, assault causing bodily harm, or assault with a weapon

26% robbery

22% other property crimes

9% dangerous driving or impaired driving causing harm or death

15% of cases resulted in a prison sentence

82% in probation

52% in community service

46% in conditional sentences

35% in restitution to the victim

11% in suspended sentence

The latest evaluation of the program shows that:

55% of cases resulted in a meeting between victim and offender

90% of cases resulted in an apology

Only 4% of victims and 5% of offenders thought the outcome would have been more satisfying if they had pursued the case solely in the traditional justice system.

96% of victims and 95% of offenders would recommend CJP to others

91% of victims were satisfied with the apology they received from the offender(s)

63% of victims identified needs; of these 90% felt these needs were met while participating in CJP

Some of the commonly identified victim needs which were met by CJP include (in order of frequency, starting with the most commonly identified):

- obtaining information
- opportunity to tell offender the impact the crime had on them
- address rehabilitation of the offender, and the opportunity to help
- obtain an apology, or have offender make reparations
- obtain financial compensation
- obtain support for themselves, as victims
- feelings of closure

46% of offenders identified needs; of these 88% felt these needs were met while participating in CJP

Some of the commonly identified offender needs which were met by CJP include (in order of frequency, starting with the most commonly identified):

- opportunity to apologize
- opportunity to provide an explanation
- opportunity to attempt to repair harm caused
- opportunity for rehabilitation
- opportunity for reduced jail time

The evaluation of the program concluded the following:

Levels of satisfaction with CJP are high among both victims and offenders; both groups are having their needs addressed. Offenders are accepting responsibility and are provided with the opportunity to repair the harm caused. Although the majority of offenders have committed serious crimes, they are at a low risk to re-offend.

Restorative Unit at Grande Cache Institution:

In year 2000 I was part of team which gave a series of 2-day workshops in correctional institutions operated by the Correctional Service of Canada. The purpose of these workshops was to introduce correctional staff to restorative justice. Participants included administrators, correctional officers, program officers, parole officers, and chaplains. At Grande Cache Institution, in the eastern foothills of the Rocky Mountains, a number of staff became highly enthusiastic and

asked for follow up sessions. Once prisoners were invited to get involved, a novel and innovative concept began to take shape.

In 2001 a "Restorative Unit" was established, with prisoners and staff who had all participated in restorative justice trainings. The RJ Unit operates restorative principles, and any incident, dispute or disagreement, whether involving prisoners only, prisoners and staff, or staff only, is resolved using a restorative process. Workshops, trainings, seminars, study groups and literature on RJ are made available on an ongoing basis. Prisoners are also encouraged to look at their offences from a restorative perspective, exploring the possible impact their actions may have had on the victims. The possibility of mediation with their victims is also offered in some cases.

At first some administrators and staff at the institution were opposed to the establishment of the RJ Unit, mostly because of security concerns, but the pilot project has proven to be trouble-free from a security standpoint.

The RJ Unit houses 20 prisoners on average, and since 2001 more than 115 prisoners have lived in the RJ Unit.

An evaluation of the project is currently under way, and the preliminary results are encouraging. Overall the goals of the project seem to be achieved. The RJ Unit does seem to be offering an environment where the prisoners can look at their crimes from a restorative perspective. There is still some resistance to the project, primarily because its philosophy is in such opposition to the current prison culture. The absence of a control group (a very complex proposition in this case) can make the evaluation of the project somewhat subjective.

The most glaring problem identified so far is the lack of restorative-based post-release support in the community. Prisoners who have been released from the RJ Unit have felt isolated and lost when they returned to the outside world. A number of men currently in the RJ Unit have expressed some fear of being released into a non-restorative environment without any kind of follow up or support to help them create a somewhat restorative environment after their release.

Once the current evaluation of the RJ Unit is complete the result will be available from the Correctional Service of Canada.

## Phoenix Zululand

Phoenix Zululand (PZ) is a new restorative justice program operating in the central Zululand region of the province of Kwa-Zulu-Natal in eastern South Africa. The project was conceived and developed with active support from Quakers (Friends) in nearby Durban, and later on with support from British and Canadian Friends.

Phoenix Zululand is a registered non-profit organization in South Africa.

The primary objective of PZ is to contribute to bringing down levels of crime, and changing public attitudes to crime in the Zululand region by serving offenders, youth at risk, and various community groups in the following five priority areas:

- 1- Develop program work to promote attitudes conducive to rehabilitation and re-integration among prisoners in 9 Zululand prisons
- 2- Develop victim-offender mediation (VOM) in all associated areas
- 3- Challenge the public discourse relating to crime to promote a deeper understanding of how crime is a social phenomenon
- 4- Continue to build a program for youth at risk consistent with the Child Justice legislation

## 5- Develop professional support programs for members of the Department of Correctional Services (DCS)

This comprehensive RJ program is being implemented within a correctional environment that has officially adopted RJ values and principles. The DCS in the South African government has embraced the idea of restorative justice, and has enshrined RJ principles in a formal policy code. This code requires that the DCS make use of and work alongside non-governmental organizations, churches and other instruments of civil society to promote the aims of RJ in its drive to reform the prison system inherited from the days of apartheid rule.

While the pilot project has been operating in one local prison, PZ plans to introduce its programs to all 9 prisons in the region.

PZ has recently completed an intensive year-long pilot at Eshowe prison. This has involved research, consultation with DCS and other governmental and non-governmental organizations, as well as running a variety of classes and programs for incarcerated adults and young offenders. So far over 8% of prisoners at Eshowe have participated in these programs.

Funding for this pilot project has come from the Solon Foundation in Switzerland, and the Leggatt Trust in the UK. More recently a corporate contribution has been received from BHP Billiton to help the program along over the next 3 years.

### Prison Programs (Priority Area 1)

Currently several programs are in place inside prisons, and up to a dozen Zulu speaking facilitators will be trained shortly. PZ is committed to employing ex-prisoners whenever appropriate. These prison programs include basic life skills, mediation skills, counselling, group therapy, and Alternatives to Violence Project.

### Victim Offender Mediation (Priority Area 2)

There have already been requests for PZ to arrange for Victim-Offender Mediation. PZ is currently bringing together people from the faith community, the educational system, the business community, and other professionals for trainings in victim-offender mediation. In this endeavour PZ is working closely with Restorative Justice Initiative, a national RJ organization based in Pretoria.

### Challenging the Public Discourse about Crime (Priority Area 3)

A preliminary assessment of print and broadcast media in the region has begun defining the problem. Strategies are being developed for promoting the idea of restorative justice in society at large. Working with a community radio station in Eshowe, PZ is promoting public awareness of the transforming power of RJ, and understanding of what reintegration entails for an ex-prisoner.

### Program for Youth At Risk (Priority Area 4)

In the preliminary consultative and start-up phases PZ received impassioned requests from police and magistrates to make available programs for young offenders awaiting trial. The need here is for work with youth outside institutions, to help them stay out of these institutions. This work involves recruiting former prisoners for training and facilitation of youth programs in local communities and establishing youth leadership development programs. Rather than reinventing the wheel, close collaboration has been established with other South African organizations that have had success with similar programs.

### DCS Professional Development (Priority Area 5)

During the start up (pilot) period PZ has developed team building activities and workshops that help participants develop positive and mutually supportive staff relationships. Further research is

being conducted to assess the particular strains and stresses experienced by local prison staff. A relationship has been established with local DCS members, and efforts are being made to build a greater level of confidence in the PZ project. New skills development programs are also being developed, and with the support of DCS PZ hopes to offer these programs to DCS staff province-wide.

PZ does not plan to conduct this project in isolation; a network has been established with organizations such as the Centre for the Study of Violence and Reconciliation, the Institution for Security Studies, the Centre for Restorative Justice, the Institute for Race Relations, the University of Zululand, and the Alternatives to Violence Project. In addition, relations are being maintained with individuals working in RJ in the UK and Canada.

Even though still in the early stages of implementation, PZ is developing an evaluation scheme, working closely with the DCS, the University of Zululand and the Durban Quakers.

We have looked at 3 restorative projects that cover a broad range of approaches, target a variety of audiences, and employ a number of different strategies to provide restorative services in the prison environment. Such programs indicate that even though RJ programs do not usually concern themselves with punishment, it is possible, and perhaps necessary at this point, to implement restorative programs in the current punitive correctional environment.

Additional information on all 3 programs highlighted is available. Please contact me if interested.