



## **RJ City: Phase 1 Final Report**

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The Centre for Justice & Reconciliation is the justice reform arm of Prison Fellowship International, an association with members in over 100 nations. The mission of the Centre is to develop and promote restorative justice around the world. Its vision is that one day restorative justice will be the normal way of responding throughout the world.

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## Introduction

This is the Final Report of Phase One of the RJ City Project. The Project is a research and design effort to explore what seems to be a gap between the claims that restorative justice offers an alternative approach to conflict, crime and justice on one hand, and the rather limited use of restorative programmes in most countries on the other.

The project takes what is known about restorative justice and in a disciplined way tests the boundaries of that knowledge. This is forcing discussion of issues not ordinarily addressed, such as whether restorative approaches can respond effectively to high volumes of cases, the social chaos and disintegration in parts of society, and the high value given to individual rights in the Western world.

### Reason for the Project

What is the full potential of restorative justice? To answer that question one would need a demonstration project where the vision and theory of restorative justice could interact with the reality of crime and conflict. Out of that it would be possible to explore creation of a new model – a restorative model – of crime prevention and response.

Why is that important? Briefly, it is because we need new approaches to crime and justice. Criminal justice relies on the threat of punishment to deter crime; punishment means imprisonment – probation and other less severe sanctions are meaningful because their alternative is imprisonment.

Yet, the current use of prisons around the world is both counterproductive and destructive. It fails to adequately respond to the problem of crime, as demonstrated by its high failure rate and in its inability to meet the multiple needs of crime victims and their communities. Furthermore, it is expensive; corrections budgets compete with education, medical care and other basic services governments provide their citizens. Nevertheless, it continues to be the dominant policy response in virtually all countries largely because of a lack of alternative approaches to deal with the reality of crime that are both effective and acceptable to the public.

Restorative justice has been suggested by some as such an alternative approach. In some countries it has served as that, at least for “lightweight crime”: juveniles and minor crimes. In most places, however, it plays an even more limited role, consisting of specific, limited programmes (programmes that bring victims, offenders and others together) surviving precariously on the margins of their criminal justice systems.

These encounter programmes could have a much greater impact if current knowledge about their capabilities was appropriately applied to more serious crimes involving more serious offenders. But it has been argued that restorative justice is much more than encounter programmes; it is a philosophy or theory of justice that could be applied to every aspect of a society’s response to crime and conflict.

There is initial evidence that this would indeed produce better results than current strategies, not only in reduced recidivism rates but also in increased victim and community satisfaction and recovery.

How do we test the full potential of restorative justice? Is it sufficiently robust to deal with the caseload of contemporary criminal justice systems? To answer that question one would need a demonstration project where the vision and theory of restorative justice could interact with the reality of crime and conflict. Out of that it would be possible to explore creation of a new model – a restorative model – of crime prevention and response.

The RJ City project offers an opportunity to investigate how that might be done by creating a virtual city, one that responds as restoratively as possible to all crimes, all victims, and all offenders in a city of one million people.

### **Organization of the Project**

The Project has four phases, the first one of which is completed. Phase One addressed the conceptual issues and structural support that a restorative justice system would require. This paper reports on the conclusions of this work.

Phase Two will focus on building a model by designing component parts of the restorative system. It will draw from actual practice, research, insights from the fields of victimology and criminology, lessons from comparative and historical legal and cultural studies and so forth. This will allow creation of restorative programmes, processes and so forth to put muscle, nerves, and organs on the skeleton created in Phase One.

For example, RJ City would likely have some standard forms of restorative encounters that victims and offenders could choose from. What would those be and how would they operate? Are there criteria that would guide staff in deciding which options to present? Is there information from current practice that would allow an estimate of how frequently each one would be chosen? Similarly, is there information available that would suggest how frequently modifications to these standard encounters would need to be made?

Another example: How would RJ City recruit volunteers and staff to participate in the many parts of its response to crime? How would it train and evaluate them? What would happen over time as attrition takes its toll and new personnel must be recruited and trained?

A third example: How might RJ City respond faithfully to the needs of all victims? Is there a way to estimate the resources needed? How long they would be needed? How they would need to be distributed across the City to meet the need?

There are many such questions. It should be clear that Phase Two will require help from lots of people with different areas of expertise. A website, [www.rjcity.org](http://www.rjcity.org), has been created to make broad collaboration possible.

During the third phase, the model will be quantified (for example: how many volunteer facilitators will be needed, with what qualifications, from what parts of the city?) and revised to overcome duplication and/or redundancy and increase simplicity and efficiency. During that phase the costs related to RJ City's programmes will be calculated and then adjusted so that expenditures for activities of the restorative system do not exceed those of the criminal justice system and related social services currently used. Hard choices will be made concerning which programmes or other expenditures are most critical and which achieve purposes that can be pursued in other ways.

The third phase will conclude with a written model of the "streamlined" restorative process and with simulations demonstrating the feasibility of decisions and assumptions related to human and financial costs of running the system.

In the fourth phase, this streamlined model will be incorporated into a computer simulation game for educational and planning purposes. The educational simulation will use data collected during the third phase and will focus on the process of change from a conventional criminal justice system to a restorative system. Those playing the game will learn about systemic change and about restorative justice.

The planning simulation will allow certain data to be loaded from actual jurisdictions so that policy choices could be tested in terms of their affects. The assumptions related to those policy choices would be based on the RJ City model.

### **Progress to Date**

Phase One is completed. This Report outlines a basic conceptual framework for a restorative justice system. This involved struggling with a number of complex issues:

1. How to define restorative justice in terms that are meaningful to this project
2. How to organize a decentralized structure to allow flexibility and yet provide necessary predictability
3. How to create complementary roles for local communities and governments
4. How to structurally encourage collaboration and cooperation rather than adjudication and coercion

These are unresolved issues in the field of restorative justice, and not everyone will agree with the conclusions in this report. They are offered as working conclusions, meaning that they were reached after lots of thought and debate and are set out as a way to move forward. However, they might need to be revisited as the Project continues and their implications become clearer.

Phase One also saw some initial work identifying key demographic data for RJ City and creating an historical account of how the city embraced restorative justice. Both of those projects need additional work

This paper reports on the conclusions drawn in Phase One of the project. It is organised into three sections and a Glossary. Section One provides an overview of restorative justice and of the Network (the “justice system”) that is used in RJ City to ensure that cases and parties are handled restoratively. Section Two considers how to ensure that the stakeholders in RJ City experience as restorative a response to crime as possible. Section Three describes in more detail the components of the Network. The Glossary provides definitions of terminology used in these papers.

## 1. A History: How RJ City Adopted Restorative Justice

RJ City did not become committed to restorative justice overnight. Nor was the interest in this approach to crime and conflict limited to public officials; there was significant community support as well. In fact, restorative thinking and values now influence all aspects of community life.

### Justice Jurisdiction Legislation

RJ City lies in an area where new legislation was adopted ten years ago permitting the creation of “Justice Jurisdictions” whose borders are contiguous with the boundaries of cities with a population of at least 1,000,000 people. The impetus for this change was a crisis of prison overcrowding due to the number and length of prison sentences in the state. Costs had risen to the point that educational and medical budgets were reduced, with further and more dramatic reductions forecast in succeeding years. These cuts were not popular among the voters, and it was hoped that the new legislation would halt the escalating criminal justice costs associated with crime within large cities.

The legislation creating local Justice Jurisdictions provided several things:

1. Placed strategic and operational control of the city and county criminal justice agencies under control of the City Council for activities within the city.
2. Dedicated budgets of both jurisdictions currently being spent within the city to use as the City Council sees fit.
3. Placed city and county courts under the authority of the City Council, “subject to constitutional provisions related to the independence of the judiciary”.
4. Allocated a specified number of prison beds to each Justice Jurisdiction based on a formula that includes size of the jurisdiction and past sentencing practices. Because of the overcrowding problem, the state had planned to build new facilities and is willing to construct a new prison if requested by the City Council that would house up to the specified number of prison beds. While the City Council is not given control over capital expenditures, it is allowed it does have authority over the operations budget, which means that if it does not use the prison beds allocated to it (for example) it will receive that amount from the State. If it uses more prison beds, it will need to pay an additional amount to the State government.

This meant that all State and County resources dedicated to responding to crime in that city would be placed at the disposal of the City Council. This meant that the proportionate share of resources expended by State and County law enforcement, jails, prisons, probation, parole, prosecution, courts, criminal defence, victim assistance, and so forth would be given to the City. In return, the City agreed to respond to all crime within the City without further State or County assistance. If any such assistance (such as forensic

or investigatory experts, prison or jail space, and so forth) were required at any point in the criminal justice process, the City would be required to pay for it on a cost basis.

Because funds had been allocated already for prison construction, capital funds sufficient to build jails, prisons or other places of confinement were also available to Justice Jurisdictions. The funds provided were sufficient to house the percentage of state and county prisoners from that Justice Jurisdiction on the effective date of the legislation. The funds could be used for any capital project required to respond to crime within the Justice Jurisdiction's boundaries. However, the Justice Jurisdiction then became responsible for all costs related to running those institutions.

Justice Jurisdictions were bound by the State's criminal law, but the City Council is authorised to establish levels of seriousness for each of those laws and to determine how the City would respond to each level. It was possible for the City Council to decline to enforce the least serious crimes, which would effectively decriminalize those offences. Further, the City Council could determine ranges of permissible sentences for each range without being bound by any existing mandatory or presumptive sentencing laws in the State.

RJ City's City Council, following the recommendation of the Mayor, applied for Justice Jurisdiction status. RJ City qualified for such a designation, having a population of just over 1 million people. After community hearings, public debates, consultations, and widespread media coverage, the City Council decided to adopt restorative justice as its philosophy of criminal justice. This was ratified in a public referendum. Over a period of years, it reorganized its criminal justice system until it was hardly recognizable. Whole departments were closed down and others created. Some staff were retrained for new positions, others decided to retire, and those who remained received substantial and, by all accounts, highly effective training on the definition, values and implications of restorative justice. Some funds that had been previously used in the criminal justice system were used instead to contract with local or citywide non-profit organisations.

### **Growth of Restorative Justice**

A few words should be added to explain why restorative justice generated this level of support. Several years prior to the referendum, one elementary school began using restorative interventions in dealing with student discipline. This approach not only reduced the number of students reported to the principal for disciplinary action, it also created a learning environment in which students were able to learn better. After one year's pilot, teachers and staff in all public schools were trained to use restorative processes, and restorative justice became the official approach to student discipline.

On occasion restorative practices were used in dealing with staff-administration conflict as well, and the approach was so successful that it was incorporated into the next teacher's contract. This brought restorative practices to the attention of City officials, who decided after a few years to adopt these approaches in dealing with all disciplinary infractions involving city employees. This brought restorative practices to the attention of

the business community, and several of the largest companies in the city decided to use restorative practices in their disciplinary procedures.

Meanwhile a coalition of non-profit organisations began to promote restorative justice as a better way to deal with offending. Their initial work focused on juvenile offenders and they found considerable support from police and social workers who had seen the benefits of this approach in schools. But the group also launched a city-wide public education campaign to generate public support. This campaign had several key features:<sup>1</sup>

1. The organizers were careful to put together a diverse campaign oversight team, beginning with those groups who were typically underserved by current juvenile justice policies. They looked within these groups for dynamic and charismatic leaders who could present restorative justice in a compelling way.
2. They conducted a survey of resources currently available in RJ City for dealing with juvenile offending.
3. They created resources explaining restorative justice (videos, print materials, FAQ, etc.) and distributed these throughout the city.
4. They identified potential supporters and opponents of restorative justice approaches, and individuals on the campaign team developed personal relationships with these individuals. They found that relationships were extremely important in generating support and in keeping their efforts from being divisive.
5. They began a public education campaign that included presentations to groups, public education announcements on radio and television, stories in the newspapers, and so forth.
6. As interest in this restorative justice grew, they worked with the various players in the juvenile justice system to ensure that changes in policy were effected with comparable changes in funding priorities. This way, the new restorative justice programmes had enough revenues to function well.
7. When changes began to be implemented, the campaign team monitored and evaluated the process and results of those changes. This not only allowed them to publicize positive results, but to identify reasons why the programmes were not as successful in some areas as others. This allowed them to make changes in strategy or in personnel.
8. Once the restorative justice approach gained credibility in the juvenile justice system, it was expanded to the adult system as well, becoming the foundation for criminal justice in RJ City.

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<sup>1</sup> This campaign was organized after consultation with Ann Warner Roberts who had been brought in as a consultant early in the coalition's efforts. The following strategy was based on her recommendations to the coalition.

It should be understood that the citizens of RJ City are normal people. While many have come, over time, to internalise the values of collaborative conflict resolution (and to become adept at resolving disputes restoratively), it should not be assumed that they are uniquely and uniformly committed to making restorative justice work.

Furthermore, the crimes that occur in RJ City are similar to those that take place elsewhere. The offenders, victims, witnesses, even those who run restorative programmes are susceptible to the same range of personalities, emotions, busyness, burnout and dilemmas as they would in any other city.

## 2. The Meaning of Restorative Justice

To develop a restorative response to crime and injustice, it is necessary to have a clear understanding of restorative justice. Following are the definition, principles, values and goals of restorative justice that have been adopted for purposes of this Project.

### Definition and Terminology

“Restorative justice” is sometimes used narrowly to refer to programmes that bring affected parties together to agree on how to respond to crime (this might be called the *encounter* conception of restorative justice). It is used more broadly by others to refer to a theory of reparation and prevention that would influence all criminal justice (the *reparative* conception). Finally, it is used most broadly to refer to a belief that the preferred response to all conflict – indeed to all of life – is peacebuilding through dialogue and agreement of the parties (the *transformative* conception).<sup>2</sup> The following definition was adopted for purposes of the RJ City project:

Restorative justice is a theory of justice that emphasizes repairing the harm caused or revealed by unjust behaviour. Restoration is best accomplished through inclusive and cooperative processes. When this happens, transformation may result.

The following terminology will be used:

1. The circumstances that restorative justice addresses:
  - a. Harm: injury, damage or loss.
  - b. Injustice: the result when someone violates enforceable norms established to govern behaviour among people within a group, community, or society. This includes not only violations of criminal law but of other enforceable regulations such as student conduct codes in schools, workplace rules, and so forth.
2. Approaches to responding to harm:
  - a. Reparation: an approach that seeks to repair the harm caused or revealed by the injustice as fully possible.
  - b. Retaliation: an approach that intentionally imposes harm, sometimes disproportionate harm, on the wrongdoer in return for the harm done to the victim.
3. Approaches to responding to injustice:

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<sup>2</sup> From Johnstone, G and Van Ness, D (2006) ‘The meaning of restorative justice’, in Johnstone, G and Van Ness, D (eds), *Handbook of Restorative Justice* Cullompton: Willan Publishing.

- a. Peacebuilding: an approach that seeks to use respectful dialogue and agreement to identify the injustice and take steps toward making things right.
  - b. Imposition of order: a coercive approach that compels the parties to accept a resolution determined by a third party.
4. Alternative philosophies for responding to harm and injustice:
- a. When imposition of order and retaliation approaches are applied to harm and injustice, the result is traditional, contemporary criminal justice.
  - b. When peacebuilding and reparation approaches are applied to harm and injustice, the result is restorative justice.
    - i. Restorative justice: a response to injustice that emphasizes repairing harm caused (and, as feasible, harm revealed) by the crime, using respectful dialogue and agreement among the parties whenever possible.
    - ii. Restorative justice programmes may find it necessary to use some forms of imposition of order in certain instances when the parties fail to cooperate. However, they do not at any point adopt retaliation in responding to the harm caused by an offence.
5. Elements of a restorative response to injustice:
- a. Restorative process: meetings of parties that take place in the aftermath of an injustice when those parties are willing to use respectful dialogue and agreement to resolve the interests and responsibilities of each. It is preferable for these meetings to involve face-to-face conversations by the parties, but they may also consist of indirect forms of communication through letter, audio- or videotape, or an intermediary.
  - b. Restorative outcome: the agreement that results from a restorative process.
  - c. Reparative order: a decision by a judicial or otherwise official third party that an offender whose matter cannot be resolved using a restorative process must compensate or otherwise offer reparation to the parties who were harmed.

## Principles

The conceptual foundation of the Network is made up of three principles: 1) Identify and take steps to repair harm, 2) Invite all stakeholders, and 3) Seek transformation.

Practices and programmes reflecting restorative purposes respond to crime and other offences by:

1. *Identify and take steps to repair harm.* Three types of harm are typically associated with offences. The first is personal harm: the material, physical, emotional,

psychological, and/or spiritual harm experienced by victims, offenders, and their communities. The second is relational harm: the harm done to the relationships between and surrounding victims and offenders (including to families, friends, neighbours and other members of their “communities of care”). The third is ethical or moral harm: the harms resulting when norm violations lead to losses of trust in fellow citizens and in authorities, causing loss of trust in fellow citizens and in the authorities’ capacity to secure public safety and order.

2. *Invite all stakeholders.* The stakeholders in a society’s response to crime and other offences include those who have been harmed or who have caused harm. These include victims, offenders, their “communities of care” (families and friends), their communities (neighbourhoods and communities of interest), and their governments.
3. *Seek transformation.* Communities and governments are two expressions of a society. They play complementary roles in responding to individual offences, victims, and offenders as well as in working to prevent future crimes. The primary strength of a community in responding to crime and other offences lies in caring networks of relationships characterized by mutual respect and commitment. The primary strength of government lies in its ability to ensure both civil order and orderly procedures, using force when necessary.

## Values

The philosophy of restoration is deeply informed by the peacemaking approach to conflict. This approach values peaceful social life, characterized by respect, solidarity, and active responsibility. These could be called the *normative values* of RJ City (i.e. the way things ought to be). The Network seeks to reflect those values in the context of crime and other offences by pursuing *operational values* listed after each normative value:

1. *Peaceful social life* means more than the absence of open conflict. It includes concepts of harmony, contentment, security, and wellbeing that exist in a community at peace with itself and with its members. Furthermore, when conflict occurs it is addressed in such a way that peaceful social life is restored and strengthened.
  - a. *Resolution:* the issues and people surrounding the offence and its aftermath are addressed as completely as possible
  - b. *Protection:* the physical and emotional safety of affected parties is a primary consideration in all phases
2. *Respect* means regarding all people as worthy of particular consideration, recognition, care and attention simply because they are people.
  - a. *Inclusion:* affected parties are invited to directly shape and engage in restorative processes

- b. *Empowerment*: affected parties are given a genuine opportunity to effectively influence and participate in the response to the offence
3. *Solidarity* means a feeling of agreement, support, and connectedness among members of a group or community. It grows out of shared interests, purposes, sympathies, and responsibilities.
    - a. *Encounter*: affected parties are invited, but not compelled,<sup>3</sup> to participate in person or indirectly in making decisions that affect them in the response to the offence
    - b. *Assistance*: affected parties are helped as needed in becoming contributing members of their communities in the aftermath of the offence
    - c. *Moral education*: community standards are reinforced as the values and norms of the parties, their communities, and their societies are considered in determining how to respond to particular offences
  4. *Active responsibility* means taking responsibility for one's behaviour. It can be contrasted with passive responsibility, which means being held accountable by others for that behaviour. Active responsibility arises from within a person; passive responsibility is imposed from outside the person.
    - a. *Collaboration*: affected parties are invited, but not compelled, to find solutions through mutual, consensual decision-making in the aftermath of the offence
    - b. *Amends*: those responsible for the harm resulting from the offence are also responsible for repairing it to the extent possible.

## Goals

In responding to crime and injustice, RJ City pursues three objectives: resolution, community building, and safety.

Three goals shape a restorative response to crime. In order of decreasing importance they are:

1. *Resolution*: RJ City seeks to repair the harms that result from crime, in ways that meet victims' needs, require offenders to make amends, and help both of them (re)gain full functioning as members of the community.

The process of doing so identifies the injustice that took place and the steps the offender needs to take to make things right (now and in the future). Full restoration may not be possible, but the emphasis is on making progress toward resolution. Even when that proves impossible, at least the harms should not be made worse.

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<sup>3</sup> There are exceptions to this when serious crimes involving significant public interests are involved.

Strategies for accomplishing this goal include providing for party-to-party encounters, providing for encounters between the parties with the assistance of a facilitator and when needed, providing outside authorities to decide on how restoration and resolution can best be sought. The first two strategies are used when the parties choose to engage with each other in response to a crime. The third is limited to those times when an adjudicative component is required, either instead of or in addition to a cooperative process.

Within RJ City, the constellation of programmes, services and institutions that make cooperative and adjudicative processes possible are referred to as the *Resolution Sphere*. If the parties are unwilling or unable to reach mutual agreement using cooperative processes, the matter is referred to adjudicative processes. If necessary, coercion may be used in the adjudicative process to secure the presence of essential parties. However, at all times the parties are invited to initiate or renew efforts at a cooperative resolution. In addition, collaborative processes may take place within an adjudicative process, such as when a judge delays sentencing until the parties and their communities of care have engaged in dialogue about how the victim's needs could best be met.

2. *Community Building*: RJ City seeks to respond to crime in such a way that all parties can be integrated into strong communities as whole, contributing members.

Strategies for accomplishing this goal include allowing the parties and their communities of care to recover from the harm and be integrated into the community on their own and without outside assistance. A second strategy is to provide assistance and active support from outside resources to help the parties and their communities of care to recover and be integrated into their communities. A third strategy is focused on the communities of the parties; here the communities themselves receive assistance in becoming better able to provide a pro-social, constructive and hospitable environment for the parties.

The first strategy can be accomplished by the party and his/her community of care alone. The second strategy requires assistance from community or government resources. The third strategy requires assistance to the community, which could come from within the community, from the government, or from other external sources.

Parties are not coerced into using the available resources or into pursuing recovery or integration. Necessary resources, however, are available for those who choose to use them. This requires the presence of a range of programmes and services, as well as compassionate community members that parties can draw from. These services are available to all members of the community and not simply to those who have caused or suffered harm through criminal activities. Within RJ City, this constellation of programmes and individuals offering such resources and services is referred to as the *Community Building Sphere*.

3. *Safety*: RJ City seeks to prevent crime, or minimise its harmful effects, for the sake of maintaining a safe community where peace, harmony, and fairness are possible.

Strong communities provide environments in which constructive relationships thrive. However, some conflict and crime occur, and can overwhelm even strong communities. In that case the community needs the assistance of governmentally administered intervention that can meet the danger and impose necessary order so as to protect community members. Examples of this range from emergency services in a natural disaster to breaking up, illegal gang activity, drug trafficking, and so forth.

Strategies for accomplishing this goal include adoption of laws and regulations by democratically selected governments, self-enforcement of those laws and regulations by affected community members, and suppression of crime by government authorities.

In RJ City, the programmes and agencies involved in pursuing these strategies are included in the *Order Sphere*. While the pursuit of these strategies involves activities that are similar to police functions and programmes in other jurisdictions (for example, traffic enforcement, police units focusing on illegal business practices, illegal gang activity, drug trafficking, serial crime, and so forth), it differs in important ways as well. First, community participation and responsiveness are emphasized more than they are outside of RJ City. Second, those activities are viewed as temporary necessities that give way to more community-based and cooperative strategies whenever possible.

### 3. Overview of the Restorative Justice Network

RJ City has replaced its criminal justice system with a restorative justice Network. Here is a bird's eye view of the key parts of the Network.

RJ City's response to crime and other offences relies on a number of diverse and dynamic programmes, systems, processes, boards, committees, movements, efforts, organizations, agencies, funds, neighbourhoods, families, individuals, and so forth.

These contributing parts must have sufficient structure, form, and coordination to be predictable, protect the public interest, and be responsive to stakeholder needs. However, there must also be sufficient flexibility for innovation, community leadership and involvement, and adaptation to the preferences of stakeholders.

Some of these contributing parts are permanent, but the whole is, in many ways, changeable and even unpredictable as individual parts and members change, grow, and interact. While those responsible for coordination have a large influence on the parts and members of the whole, the individual parts and members have a large and dynamic influence on those who coordinate. There is coherence, intricacy, and life within the Network.

#### Spheres

The Network can be roughly divided into three general constellations or spheres of contributing parts, each addressing a different response to crime. These spheres are led, connected, and monitored by the Hub.

1. The Resolution Sphere consists of the contributing parts involved in the claims and repairing the many kinds of harm (to direct and indirect victims, to directly and indirectly involved offenders, to their communities of care, and to the community at large) that result from crime. It uses an inquisitorial approach to investigation of crime. It then guides parties into one of two processes for addressing the issues related to the crime. The *cooperative* process is used when the parties agree to work together to address the needs, claims and responsibilities arising out of the offence. This is considered the typical response to individual cases of crime. The *adjudicative* process is used as a safeguard when the parties choose to have an outside authority make decisions about resolving the crime, when the offender or the victim is uncooperative, the offender denies responsibility, or the parties are unable to arrive at an agreement.
2. The Community Building Sphere is made up of the contributing parts that are available to assist victims in their recovery and offenders in their reintegration. It focuses on building respectful interaction within communities and teaching appropriate means of resolving conflicts and participating in difficult dialogues. This

sphere also responds to systemic contributors to crime by calling attention to those and urging City action.

3. The Order Sphere consists of the contributing parts that keep the community functioning smoothly and safely, by providing crisis response and by enforcing its laws.

The Community Building and Order Spheres work together with the Resolution Sphere to provide safety, address needs and responsibilities related to crime, and to prevent crime. Although the Community Building and Order Spheres include programmes not always considered in discussions of restorative justice, they are important to the ability of the Network to accomplish its purposes. They must also conduct their work guided by restorative justice principles, values and goals.

## **The Hub**

The Hub is the Network's coordination centre and guardian of restorative justice principles values and goals. It provides leadership within the Network in several ways. First, it offers strategic oversight of the Network as a whole. Second, it is responsible for operational direction. Third, it refers individual cases and people to the appropriate parts of the Network. Fourth, it ensures that community and government programmes and elements receive training and assistance to perform their work well. Fifth, it monitors the Network to assess and increase, as needed, the restorativeness of the Network as a whole and of its individual components. Finally, it provides administrative coordination within the Hub and the Network.

Community and government representatives make up the bodies that carry out the oversight and operational responsibilities. This assures that both have integral roles in Network leadership and design. Referral mechanisms guide and follow cases from the moment they are reported by citizens, police, or others as they proceed through the appropriate parts of the Network. Training and assistance increases understanding of and participation in the Network. Education efforts raise awareness of restorative justice values and give visibility to the work of the Network with the goal of recruiting new programmes and individuals to take part in the Network. Finally, quality assurance -- based on restorative values, community and programme experience, and legal and human rights standards -- helps maintain the high level of performance of programmes, and gives priority to ongoing improvement in practices.

## **Programmes**

The building blocks of the Network include programmes, systems, processes, boards, committees, movements, efforts, organizations, agencies, funds, individuals, and so forth. The restorativeness of the Network is determined not only by the restorativeness of each individual element, but also on the entire constellation of programmes and elements

as they interact with each other.<sup>4</sup> There is significant diversity among these components. They vary across the following four dimensions.

**Relationship to the Network.** We might think in terms of three categories of programmes based on the degree of permanence that a programme has with the Network.

“Independent” programmes are completely independent of the Network. They contribute to the restorativeness of society, but are typically uninvolved in the Network because they: (1) are too informal, (2) don’t adhere to all restorative standards set by the Network, (3) don’t want to be part of the Network, or (4) don’t routinely deal with criminal problems or disputes. An example of an independent programme is a community self-help coalition addressing problems related to vacant properties in a neighbourhood, which becomes involved for a time in resolving a series of arsons.

“Temporary” programmes are temporarily present in the Network. They may be permanent and well established as programmes or organizations in their own right, but they have only a temporary presence within the Network. An example of a temporary programme is a church that provides reintegration services for an offender who is a member of their community.

“Fixed” programmes have an ongoing presence in the Network. They are established programmes themselves, but also have established an ongoing relationship with the Network. An example of a fixed programme is an NGO that provides halfway house beds for prisoners returning to the community.

Fixed programmes further subdivide into (a) those whose role is specific to criminal justice and thus operate only within the Network (like the halfway house example) and (b) those that routinely operate both inside and outside the Network (such as a drug treatment programme).

**Degree of formality.** Here, “informality” and “formality” refer to the degree of form or structure within a programme. Informal programmes may be completely spontaneous, lacking any chain of command, fixed order, or tradition. Most informal programmes are community-based, although there are exceptions. For example, the government acts informally when police respond to a minor altercation by breaking it up and asking the participants to talk through their difficulties on the spot. Informal programmes may occur in courts when judges work for completely new solutions to unusual situations. Informal programmes may become connected to the Network when they show stability in spite of their informality.

Formal programmes are those with structured accountability, fixed order, and tradition. A programme sufficiently established to have an address in the phone book, an official name, or any kind of advertising is considered more formal than an ad hoc committee of neighbourhood residents, but less formal than the police force.

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<sup>4</sup> Throughout these documents, the terms “programme,” “element,” and “contributing part” will be used interchangeably and with the understanding that they refer to the many types of Network building blocks.

Relationship to community and government. The terms “community-based” and “government-based” refer to the location of the persons who are primarily responsible for running the programme. Most programmes include participation by both government and community members. Resolution, community building, and safety programmes all include a combination of community- and government-based programmes.

Community-based programmes may receive government support, but depend heavily on the community for organization, funding, and staffing.<sup>5</sup> Most cooperative programmes are community-based. Most free (see below) and informal programmes are community-based. While community-based programmes are relatively free from government control, they may be affiliated with government programmes, or supported by the government. Some community-based programmes may originate as government-based and slowly be turned over to the community. The opposite process can also take place.

Government-based programmes depend on the government for organization, funding, and staffing. Most adjudicative programmes are government-based. Government-based programmes should make a concerted effort to be informed by the community. They may also draw heavily upon community support.

Use of coercion. The terms “voluntary” and “coercive” refer to the degree to which the parties must be willing to be involved in a programme, and should be understood as describing ends of a continuum. Resolution, community building, and safety programmes are more or less voluntary or coercive depending on the degree of willingness expected.

Voluntary programmes depend on the willingness of the parties to participate. All cooperative processes are voluntary, and programmes involved in adjudication, crisis response, or enforcement are made as voluntary as possible.

Coercive programmes are those in which participation by one or more party is compelled. Most adjudicative and enforcement processes are coercive, although cooperative elements are introduced when appropriate.

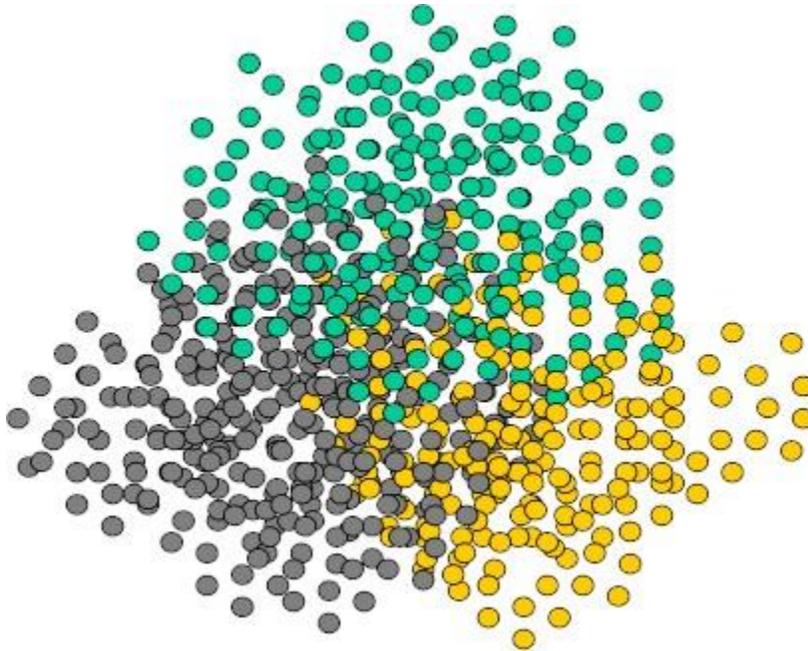
It should be noted that “voluntariness” is an inexact term, and that persons may choose to participate in a cooperative process not because that is their principle desire, but because it is the best of the available alternatives.

## **Illustration**

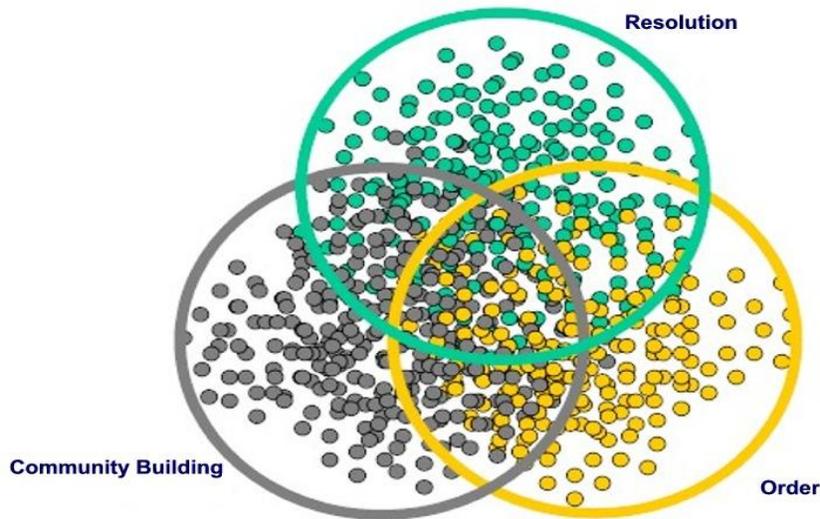
Here are some illustrations of the Network. The programmes, systems, practices and so forth that make up its component parts are spread around the City.

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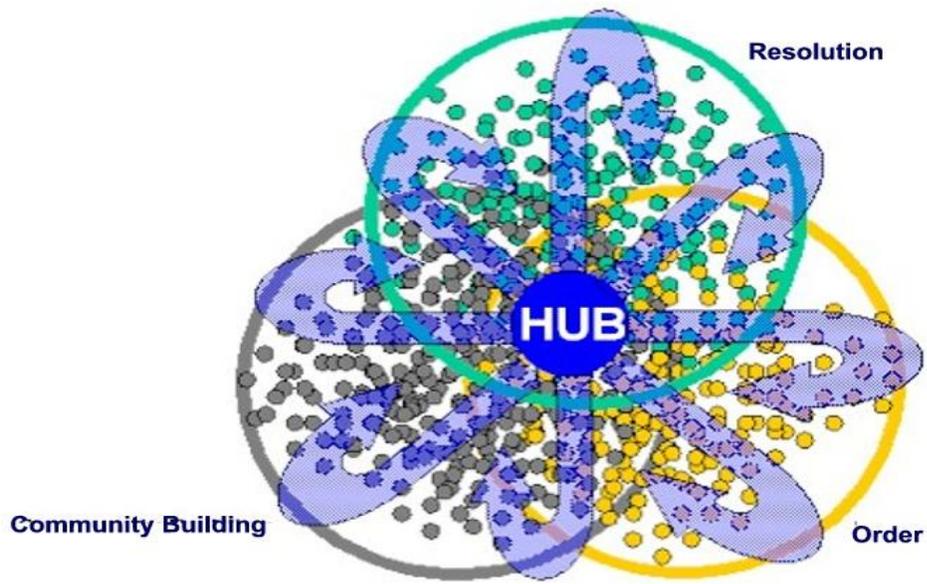
<sup>5</sup> This requires a significant reallocation of resources, including money, as the focus of crime prevention and intervention moves from government dominance to significantly expanded community control.



These component parts pursue one or more of the three goals of resolution, community building, and safety. We might think of spheres of component parts, each consisting of those parts that contribute to particular goals.



The spheres and, through them, all the component parts of the Network are coordinated and monitored by a Hub. The purpose of the Hub is to provide a framework for the dynamic interaction of the Network's component parts.



## 4. Quality Control: Ensuring a Restorative Experience

Section 1 provided a general overview of the framework of the Network. Section 3 will look more closely at particular aspects of the structure of the Network. This section will consider how the Network ensures that those who come into contact with RJ City's response to crime have a restorative experience.

The section begins with how the Network assesses the restorativeness of the Network and its component parts. It then considers the needs and interests of victims, offenders and their communities of care. Finally, it outlines the fair process expectations that victims and offenders may have of the Network.

### Assessing Network Restorativeness

No attempted restorative response or structure like the Network will ever be completely restorative. Furthermore, the component programmes of the Network are assessed for restorativeness based on the role they are expected to play in the Network. For example, victim support programmes are part of a restorative response to crime, but they don't incorporate all aspects of restorative justice practice on their own. The purpose of assessment is to allow continual improvement of the Network to make it and its component parts increasingly aligned with restorative concepts and values.

#### *Using Restorative Principles*

Restorativeness within the Network can be assessed by considering the extent to which its structure, components and outcomes reflect the definition, principles, and values of restorative justice.

1. View of crime and justice. What is the perspective on crime? Is crime understood to harm the community and the victim, or merely to transgress a criminal law? Is the social harmfulness of the offence addressed and not merely the wrongdoing of the offender? Does it focus on the needs created by the offence? While recognizing the danger of crime, does it also focus on the opportunities for growth afforded by the chance to repair harm and find solutions? Does it recognize the relational as well as the public dimensions of crime?
2. Community/State orientation. In a restorative response, state intervention provides a backdrop, or foundation, for extensive community involvement. It serves as a safeguard and a safety net as necessary. What is the Network's community orientation? Does it work to build community, allow community participation in decision-making, empower and enable the community, increase its capacity, and have a bias for responding locally?
3. Processes used. Do the processes, as much as possible, include all parties, offer opportunities for constructive encounter, address the interests of all parties, ensure

their physical, psychological and emotional safety and their voluntary participation, and encourage joint decision-making?

4. Outcomes sought and achieved. When people have gone through the Network, will they have been invited to identify and solve problems, made or received amends, had the opportunity to explain their experiences, learned the perspectives of the other parties, and become integrated back into the community?

#### *Using Restorative Values*

Four normative values (the way the world ought to be) were identified in Section 1: peaceful social life, respect, solidarity and active responsibility. Ten operational values (the way our interventions should work) were identified as key to achieving the normative values: resolution, protection, encounter, empowerment, inclusion, assistance, moral education, amends, collaboration and reparation.

Therefore, one means of assessing restorativeness is to consider the extent to which all of the operational values are present:

1. *Amends:* To what extent are those responsible for the harm resulting from an offence also held accountable for taking steps to repair it?
2. *Assistance:* To what extent do affected parties receive needed aid in becoming contributing members of their communities?
3. *Collaboration:* To what extent are the affected parties offered processes involving mutual, consensual decision-making in the aftermath of the offence? To what extent do they accept the offer?
4. *Empowerment:* To what extent are affected parties able to effectively influence and participate in the response to the offence
5. *Encounter:* To what extent are affected parties invited to participate in person or indirectly in making decisions that affect them? To what extent are they compelled to do so?
6. *Inclusion:* To what extent are affected parties invited to directly shape and engage in restorative processes? To what extent do they accept that invitation?
7. *Moral education:* To what extent are community standards reinforced as the values and norms of the parties, their communities, and their societies are considered in determining how to respond to particular offences?
8. *Protection:* To what extent is the physical, psychological and emotional safety of affected parties a primary consideration?
9. *Reintegration:* To what extent are the parties given the means and opportunity to rejoin their communities as whole, contributing members?

10. *Resolution*: To what extent are the issues and people surrounding the offence and its aftermath are addressed?

### **The Interests and Responsibilities of Victims**

Victims are central to a restorative response to crime. This is because of the emphasis on repairing the harm caused by crime. Victims and their communities of care experience harm in one or more of several ways in the course of a crime and its aftermath.

1. Personal Harms. These are the material, physical, emotional, psychological, and/or spiritual injuries experienced by victims and their communities of care.
2. Relational Harms. These are the injuries to the relationships between and surrounding victims, their communities of care and the surrounding community.
3. Ethical and Moral Harms. These are the harms resulting when norm violations lead to losses of trust in fellow citizens and in authorities.

Government and community responses after crime may compound or relieve the injuries suffered in the course of the crime. A restorative response should relieve the injuries and minimize the likelihood of new injuries. Therefore, victims and their supporters are given a genuine voice in creating and monitoring RJ City processes.

#### *The Interests of Victims*

Victims and their communities of care have interests, or rights, in receiving the following to the fullest extent possible:

1. Resolution. For the victims and their communities of care, resolution takes place as the personal, relational and ethical/moral harms are recognized and addressed. Three major dimensions of resolution are vindication, participation, and reparation.
  - a. *Vindication*. Victims and their communities of care have an interest in having the wrongdoing identified and redressed. Among other things, this means that:
    - i. Victims and their communities of care are given the opportunity to mould a resolution that identifies the wrong that was done to them, the harms that resulted, and the steps to be taken to redress the wrong and repair the injuries.
    - ii. Victims and their communities of care are given the opportunity to discuss the harm done to them and how that harm can be addressed.
    - iii. Victims are given the opportunity to decline to participate in seeking an agreement in a cooperative process.
    - iv. Victims are given the opportunity to present evidence and legal arguments in adjudicative processes that will affect their right to compensation and protection from future harm.

- v. Victims and their communities of care are treated as whole persons, not as being defined by what happened to them. .
  - vi. Victims are always treated with respect and consideration.
- b. *Participation.* Victims and their communities of care have the opportunity to participate to the fullest extent possible in how the crime is dealt with. Among other things, this means that:
- i. Responses to crime give time and opportunity for victims to talk about their experience during and after the crime.
  - ii. Responses to crime give time and opportunity for victims to ask questions and receive answers about the offender's behaviours and intentions before, during, and after the crime.
  - iii. Victims are never coerced into participating in cooperative processes. In adjudicative processes, coercion is used as minimally as necessary and only when the societal need for a resolution is high.
  - iv. Victims and their communities of care are given ample and clear information to allow them to make decisions about their options within resolution processes.
  - v. Responses to crime are structured in order to facilitate victims' participation to the fullest extent possible.
  - vi. To the extent possible, victims are allowed to participate in deciding what steps will be taken in response to the crime they experienced.
  - vii. Victims are allowed to participate fully as parties of interest in the adjudicative processes, including through use of attorneys, to protect and pursue their right to reparation and protection from future harm.
  - viii. Victims are given the opportunity to appeal adverse rulings in adjudicative proceedings involving their cases.
  - ix. Obstacles to participation are addressed by, for example, giving rides, employing a translator, providing legal advice, etc.
  - x. Victims are always treated with respect and consideration.
- c. *Reparation.* Victims' harms and suffering is repaired as much as possible
- i. Victims are entitled to seek amends from the offender to compensate for the harms suffered.
  - ii. Victims and their communities of care may need immediate and/or longer-term assistance from the community, the government, or both. The services and

resources necessary to assist them in recovering from the crime are made available to them.

- iii. Victims are given the opportunity to veto any agreement made in a cooperative processes, and to present evidence and legal arguments in adjudicative processes that will affect their right to compensation and protection from future harm.
  - iv. Victims are allowed to participate fully as parties of interest in the adjudicative processes, including through use of attorneys, to protect and pursue their right to reparation and protection from future harm.
  - v. Victims are always treated with respect and consideration.
2. Reintegration. Reintegration for victims and their communities of care comes when the personal and relational harms have been sufficiently addressed that they are able to serve as contributing members of their communities. Victims and their communities of care have an interest in support and assistance in the aftermath of crime and during the resolution processes that follow it. Among other things, this means that:
- i. Victims and their communities of care may need immediate assistance from the government or community (e.g., crime scene clean-up, sympathetic listeners, emergency financial assistance, etc.). Longer-term needs may include long-term counselling, medical treatment, recovery of stolen property, and vocational training. The services and resources necessary to assist them in recovering from the crime are made available to them.
  - ii. Victims and their communities of care are given information about and referrals to services that will assist them in recovering from the crime
  - iii. Every effort is made to enable victims to participate in resolution processes. Examples include giving rides, providing child care, holding sessions at locations convenient to the victims, offering legal assistance, and so forth.
  - iv. Victims are always treated with respect and consideration.
3. Prevention. Steps may be taken that may increase the safety of victims and their communities of care (e.g., securing a house that has been broken into, information about crime prevention, and police protection when necessary). Victims and their communities of care have an interest in *being safe* in the aftermath of their crime and during the resolution processes that follow it. Among other things, this means that:
- i. Every effort is made to protect victims and their communities of care from further harm.
  - ii. Every effort is made to ensure that victims and their communities of care are physically and emotionally safe while participating in resolution processes.

- iii. Every effort is made to accommodate any safety concerns that victims and their communities of care may have in the aftermath of crime and during the resolution processes.
- iv. Victims and their communities of care are protected from intimidation and from retaliation for participation in resolution processes.
- v. Victims always are treated with respect and consideration.

Because some needs are best met when offenders are willing and able to be directly involved, victims and their communities of care have an interest in being able to participate in restorative encounters during which they can discuss the crime, the harm done by it, and ways to respond to that harm. This allows victims to gather information about the crime and the offender, to express how they have experienced the crime and its aftermath, to determine the harm done, and to establish appropriate responses to that harm. It may also help victims feel safer when offenders express remorse and a commitment to change. Victims may also experience vindication when offenders take responsibility for the crime and commit to repair the harm done.

When offenders are unavailable, unable, or unwilling to participate in a direct or indirect encounter with their victims, or when victims choose not to meet or communicate with their offenders, some of these interests may be pursued using other cooperative processes. Examples include meetings with surrogate offenders, support and assistance by their communities, and assurances by their communities of care, communities, and government of the wrongness of the crime. Further, victims' interests may be pursued in adjudicative processes through invitation to full participation, and through the opportunity to present evidence, to request reparations, to make victim impact statements,, and to appeal adverse rulings.

Many of the harms suffered by victims cannot be remedied by offenders. In those instances, the needs of the victims are addressed in other ways, with costs borne by the government, community, and/or offender to the greatest extent possible.

### *The Responsibilities of Victims*

In addition to their interests, victims and their communities of care also have responsibilities in a restorative process:

1. *Respect.* Victims and their communities of care have the responsibility to treat others with respect and fairness. Respect means regarding all people as worthy of consideration, recognition, care and attention simply because they are people.
2. *Restraint.* Victims and their communities of care have the responsibility to refrain from retaliation or vigilante justice.
3. *Non-hindrance.* Victims and their communities of care have the right to choose not to participate in the search for a constructive solution, but also have the responsibility not to hamper the search by others for such a solution.

## The Interests and Responsibilities of Offenders

Offenders are key parties in a restorative response to crime as well. Resolution processes consider the offender's accountability for the harm to the victim, and seek to find ways in which that harm can be made right. Therefore, offenders and their supporters are given a genuine voice in creating and monitoring RJ City processes. Furthermore, individual offenders also have the opportunity to participate in the processes responding to the harm they have caused.

And it should not be forgotten that in addition to causing harm in committing crimes, offenders may suffer harms and in some instances reveal pre-existing harms as well. As with victims, these harms may be grouped into three categories:

1. Personal Harms. These are the material, physical, emotional, psychological, and/or spiritual injuries experienced by offenders.
2. Relational Harms. These are the injuries to the relationships between and surrounding offenders, their communities of care and the surrounding community.
3. Ethical and Moral Harms. These are the harms resulting when norms of individuals and communities, as well as the criminal laws of governments, are violated.

Government and community responses after crime may compound or relieve these injuries. A restorative response relieves the injuries and minimizes the likelihood of new injuries.

### *The Interests of Offenders*

Offenders and their communities of care have interests, or rights, in receiving the following to the fullest extent possible:

1. Resolution. For offenders and their communities of care, resolution takes place as the personal, relational and ethical/moral harms that offenders have caused and experienced are addressed. Two major dimensions of resolution are responsibility and participation.
  - a. *Responsibility*. Offenders and their communities of care have an interest in fair processes to determine what responsibility they hold for their crimes. Among other things, this means that:
    - i. Offenders are given the opportunity to take ownership of what they have done.
    - ii. Offenders are given the opportunity to acknowledge the wrongdoing and explain why it was wrong.
    - iii. Offenders are treated as being in control of their past and future actions.
    - iv. Offenders are treated as whole persons, not as being defined by their offence. Other aspects of their lives are acknowledged and respected.

- v. Offenders' communities of care are given the opportunity to condemn the wrongdoing of the offender and say why it is wrong as well as the opportunity to speak to the offender's positive characteristics and actions in the past (i.e., the offender's "rightdoings").
  - vi. Offenders are given the opportunity to make amends to their victims. Other obligations imposed or undertaken by offenders at the conclusion of resolution processes do not prevent offenders from making amends in a timely fashion.
  - vii. Offenders are given the opportunity to decline to participate in seeking an agreement in a cooperative process,
  - viii. Offenders are informed of where they may receive any assistance necessary to complete their sentence or agreement.
  - ix. Although restorative processes do not excuse crime, they do strive to increase understanding of the offender's motivations and reasons for committing the crime.
  - x. Offenders are always treated with respect and consideration.
- b. *Participation.* Offenders and their communities of care have the opportunity to participate to the fullest extent possible in the resolution of the crime. Among other things, this means that:
- i. Offenders and their communities of care are invited to participate as fully as possible
  - ii. Resolution processes give time and opportunity for offenders to talk about their experience during and after the crime.
  - iii. Resolution processes give time and opportunity for offenders to hear about the victim's experiences before, during, and after the crime.
  - iv. Resolution processes give time and opportunity for the offender to ask questions and receive answers about the victim's experience during and after the crime.
  - v. Offenders are never coerced into participating in cooperative processes; they must give informed consent and express willingness to participate. In adjudicative processes, coercion is used as minimally as necessary and only when the societal need for safety is high.
  - vi. Offenders and their communities of care are given ample and clear information to allow them to make decisions about their options within resolution processes.

- vii. Responses to crime are structured in order to facilitate and encourage offenders' participation to the fullest extent possible.
  - viii. To the extent possible (that is, without compromising the community's standard for safety and accountability), offenders are allowed to participate in deciding the steps involved in how their crime is dealt with.
  - ix. Obstacles to participation are addressed by, for example, giving rides, providing child care, employing a translator, offering legal advice, etc.
  - x. Offenders are allowed to participate fully as parties of interest in adjudicative processes.
  - xi. Offenders have the opportunity to appeal adverse rulings in the adjudicative process.
  - xii. Offenders are always treated with respect and consideration.
2. Reintegration. Reintegration for offenders and their communities of care comes when they are able to serve as contributing members of their communities. Offenders and their communities of care have an interest in support and assistance in the aftermath of crime, during the resolution processes, and in carrying out decisions reached in those processes. Among other things, this means that:
- i. Services and assistance in reintegration are made available to offenders and their communities of care.
  - ii. Offenders are given information about and referrals to such services and assistance.
  - iii. Offenders are supported in their effort to begin anew when they have completed their sentences or agreements.
  - iv. Offenders and their communities of care are enabled and encouraged to take responsibility for their own recovery and well being.
  - v. Offenders and their communities of care are allowed to refuse any support offered, so long as that support is not required for making amends, as determined either by cooperative agreement or an adjudicative order.
  - vi. Offenders who are incarcerated are given the opportunity to prepare for productive re-entry on completion of their incarceration through convening a restorative dialogue to address needs, responsibilities and resources. They are incarcerated near enough to their communities of care to allow continued relationship. They are given the opportunities to provide for their families, and if they are not able to do so, their families are offered any necessary assistance and services.

- vii. Offenders are always treated with respect and consideration.
3. Prevention. Responses to particular crimes are unlikely to have a significant effect on reducing future crime rates. However, steps may be taken that may increase the safety of offenders and those around them. Offenders and their communities of care have an interest in protection from retaliation, and in assistance in avoiding recidivism. Among other things, this means that:
    - i. Every effort is made to ensure that offenders and their communities of care are physically and emotionally safe participating in either cooperative or adjudicative processes, and in carrying out any obligations arising from those processes.
    - ii. Every effort is made to accommodate any safety concerns raised by offenders and their communities of care in either cooperative or adjudicative processes.
    - iii. Offenders and their communities of care are protected from retaliatory harm in the aftermath of the crime and while decisions are being made about how to address it.
    - iv. Although restorative processes do not excuse crime, they strive to increase understanding of the offender's motivations and reasons for committing the crime, and of the steps necessary to reducing those.
    - v. Offenders are always treated with respect and consideration.

#### *The Responsibilities of Offenders*

In addition to their interests, offenders and their communities of care also have responsibilities in a restorative process:

1. *Reparation.* Offenders have the responsibility to face and take steps to repair the harm caused by their offence.
2. *Reform.* Offenders have the responsibility to take steps to change behaviour so that they no longer harm others because of their offences.
3. *Respect.* Offenders have the responsibility to treat others with respect and fairness in the aftermath of the offence.
4. *Recognition.* Offenders have the responsibility to acknowledge the victims' experience of the offence and its aftermath.
5. *Information.* Offenders have the responsibility to explain the choices and actions that resulted in harm, and to answer questions about them as fully and truthfully as possible.
6. *Acknowledgement.* Offenders have the responsibility to become aware of, to understand, and to recognize the validity of the norms they have violated.

7. *Restraint*. Offenders and their communities of care have the responsibility to refrain from retaliation or vigilante justice.
8. *Compliance*. Offenders have the responsibility to complete the agreement and/or sentence to best of their abilities.
9. *Non-hindrance*. Offenders and their communities of care have the right to refrain from participating in the search for a constructive solution, but they also have the responsibility to not hamper the search by others for such a solution.

### **Ensuring Fair Processes for Victims and Offenders**

Criminal justice systems have well-defined understandings of procedural justice, often expressed in terms of due process or human rights protections (principally of the defendant). Not surprisingly, in light of its broader focus, restorative justice has a more expansive understanding of procedural justice.

First, restorative justice explores not only the protections of defendants and offenders, but also of crime victims. Second, while procedural rights are important in adjudicative processes, restorative approaches anticipate that most cases will be dealt with in cooperative processes in which procedural rights are less useful than best practice standards. Third, restorative justice is concerned not only with the rights and interests of the parties, but also with their duties.

#### *Nomenclature and Practice*

In cooperative processes, the principal way that stakeholders are assured of fair processes is through the use of best practices.<sup>6</sup> These practices, developed over time and based on experience and values, provide guidance to the programme providers. Stakeholder protections are expressed in terms of interests, and their duties are referred to as responsibilities.

In adjudicative processes, the principal way that stakeholders can be assured of fair processes is through the use of due process protections.<sup>7</sup> In this context, stakeholder protections are expressed in terms of rights, and duties are referred to as obligations.

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<sup>6</sup> Best practices are the behavioural norms, skills, ideas, resources, and traditions that have been proven to successfully exhibit restorative justice principles and values.

<sup>7</sup> Due process protections are the established rules and principles for judicial proceedings designed to safeguard the legal rights of the individual.

	Cooperative Process	Adjudicative Process
How fair processes are secured	Best Practices	Due Process
Term for protections of stakeholders	Interests	Rights
Term for duties of stakeholders	Responsibilities	Obligations

*How Fair Process Expectations Are Set*

The expectations within the Network are identified and reviewed annually by those responsible for the cooperative and adjudicative processes. Facilitators consider their experiences in cooperative processes as well as their growing understanding of the restorative values that influence processes and outcomes. They decide on proposals concerning practice changes in the cooperative process to bring it more in line with the values and best practices they have articulated.

Judges from the adjudicative system also meet annually to discuss ways in which restorative values might be further integrated into procedures in the adjudicative process without jeopardizing the due process rights of stakeholders.

*How Fair Process Expectations Are Protected*

The Hub’s Steering Committee appoints a Monitoring Committee to seek feedback from parties about their experiences, review facilitators’ notes and the agreements resulting from cooperative processes, and review the sentences imposed during adjudicative processes. This committee issues a quarterly report and recommends any changes that may be needed to increase:

1. The extent to which parties are able to influence and participate in cooperative processes
2. The extent to which parties are able to influence and participate in adjudicative processes
3. Easy and equal access to cooperative processes as a first option, and adjudicative processes after cooperative processes have failed to meet the interests of the parties
4. The degree to which victims and offenders report that they have been treated with dignity and respect

5. The relative proportionality of cooperative agreements and adjudicative sentences when compared to the crimes from which they stem and the differing circumstances of the victims and offenders
6. How the entire Network might become more restorative in nature

*How Fair Process Expectations Are Additionally Protected In Adjudicative Processes*  
In addition to the Monitoring Committee's oversight, stakeholders participating in adjudicative processes are entitled to legal protections and review.

Victims are allowed to engage a lawyer to represent their interests in the adjudicative process. Their legal interests are to recover restitution for harm resulting from the harm, and to be protected from future harm to themselves. They are entitled to introduce evidence and make arguments concerning these two issues, and to appeal adverse rulings.

Those who have been accused of crimes are provided legal assistance when they cannot afford their attorney. They also have the right to introduce evidence, make arguments, and to appeal adverse rulings.

### **Building and Reinforcing Restorative Values**

One of the Hub's most important responsibilities is to build a kind of "gravitational pull" towards cooperative processes. This work to create a shared vision is developed and maintained through many different methods.

1. Community Discussion and Consensus. In order for a community to truly embrace values, it must discover them for itself. Therefore, RJ City emphasizes the importance of community dialogue. The goal is for people to regularly reflect on the following questions.
  - a. Describe how you want to act when you are at your best in dealing with conflict.
  - b. What would it look like if we had a good process that redressed harm without causing harm?
2. This dialogue is carried on in community meetings, and the results of this dialogue are consolidated as representatives gather together in district and then citywide meetings to discuss their communities' responses and to shape a common understanding within RJ City.
3. Public Education. Once the shared values have been articulated, public education efforts are undertaken to reinforce those values. This is done on a community-wide basis through posters, billboards and newspaper, television, radio and Internet public service advertisements that creatively present the values. Schools offer education in peaceful conflict resolution processes, and then create and implement procedures that demonstrate how they can be carried out. RJ City has negotiated reductions in

insurance rates for homeowners, drivers, business owners, health care patients, and others who take an annual course in conflict resolution.

4. **Network Staff Training and Accountability.** The Hub ensures that Network staff members understand and are able to communicate restorative justice values in responding to crime as well as to conflict. All staff members are required to take introductory training in restorative justice principles and values when they are hired, and must participate in continuing education on innovations and developments in restorative justice. In addition, performance reviews of staff address the implementation of restorative values and programmes, and not simply the activities of staff members. Furthermore, the performance reviews move up and down any hierarchies (e.g., the supervisor and supervisee will review each other).
5. Referral forms used to send a matter to an adjudicative process include a section in which staff members are asked to describe the cooperative measures that have been tried or presented to the parties. Similarly, programme evaluations include questions about the number of matters that are handled cooperatively, and about the cooperative measures that are tried or offered to the parties before a matter is sent to adjudicative processes.
6. **Legislation.** RJ City has found that some legislative support is important because it creates a framework within which restorative programmes and approaches may thrive. One statute expresses an official preference for cooperative processes. Another requires the Network to implement mandatory staff training and accountability processes designed to reinforce restorative values. Aside from these general guidelines, the legislation leaves ample flexibility for how those are to be accomplished.

## 5. The Resolution Sphere

### Overview

The Resolution Sphere is made up of the programmes, services and institutions that make cooperative and adjudicative conflict resolution processes available to stakeholders. When someone reports a crime, RJ City investigates it using an inquisitorial approach rather than an adversarial one. It then guides parties into one of two processes for addressing issues related to the crime. The cooperative process is used when the parties agree to work together in determining the claims and responsibilities arising out of the offence. This is considered the typical response to individual cases of crime. The adjudicative process is used when the parties choose to have an outside authority make the decisions involved in dealing with the crime and its harms.

The Network's primary goal is to ensure comprehensive responses to crime and the harms resulting from it. In the Network's view, a comprehensive response includes reparation, vindication, accountability, and reintegration.

Strategies for accomplishing this goal include providing for party-to-party encounters, providing for encounters between the parties with the assistance of a facilitator, and when needed providing outside authorities to decide on how restoration can best be sought. The first two strategies are used when the parties choose to engage with each other in response to a crime. The third is limited to those times when an adjudicative component is required, either instead of or in addition to a cooperative process. If the parties are unwilling or unable to reach mutual agreement using cooperative processes, the matter is referred to adjudicative processes. In adjudicative processes, and only if necessary, coercion may be used in order to secure the presence of essential parties. However, at all times during an adjudicative process, the parties are free to initiate or renew efforts at a cooperative resolution. In addition, collaborative processes may take place within an adjudicative process, such as when a judge delays sentencing until the parties and their communities of care have engaged in dialogue about how the victim's needs could best be met.

### Investigation

The purposes of the investigative process are to:

1. Identify any necessary steps to protect the parties and community,
2. Find out what took place,
3. Determine the harm that resulted,
4. Find out who was involved,

5. Characterize what took place, [see my question, below]
6. Secure the presence of the accused, and
7. Determine the willingness of the parties to cooperate in a deliberative process.

The investigative process is organized to ensure that the investigation is not conducted from an adversarial posture (e.g., when the purpose of the investigation is to collect enough evidence to charge a suspect). Instead, its purpose is to identify the affected parties, the harm that resulted and the steps to be taken to address that harm. This means that the investigation is more inquisitorial like the inquisitorial process used in some European countries and in coroners' or legislative inquiries.

A highly significant structural difference in RJ City is that the judiciary rather than prosecutors directs those who conduct the investigation. Those responsible for the overall investigation are called magistrates. There is one chief magistrate for each police district. The chief magistrate supervises the magistrates in the district as well as the investigating officers. There is no limit on the number of magistrates that there may be; this is based on need.

The judiciary oversees investigations for the sake of neutrality; it does not serve the objectives of the prosecution in traditional adversary proceedings. The magistrates overseeing the investigation are charged with ensuring that procedures are fair.

Most cases are investigated by investigating officers under guidelines established by the chief magistrate and with only general oversight of a magistrate. For serious or complicated cases, magistrates will exercise more direct oversight and involvement in the investigation. If a suspect or a victim wishes to hire an attorney to participate in the investigation, they may do so. All evidence that these attorneys uncover is to be presented to the magistrate, together with their arguments about the significance of the evidence. This applies as well to private investigators, psychologists, physicians and other experts that suspects or victims choose to hire.

When the case has been fully investigated, the magistrate is responsible for issuing a written report on what took place, who was involved, whether it was a crime, the harm that has resulted, and proposed steps that might be taken to address that harm. They also secure the presence of the accused and take any further steps necessary to protect the parties and the community.

The parties who were identified by the magistrate as victims or suspects have 30 days in which to decide whether to accept or object to the proposed steps. If the victims object, the chief magistrate reviews the case (or another magistrate if the chief magistrate conducted the original investigation). This person may investigate further, change all or portions of the determination, or agree with the previous determination. If the victim is still dissatisfied with the outcome, their recourse is to civil courts for a lawsuit against the accused offender. The victim has no further avenue for appealing the magistrate's determination. If suspects object to the determination, the case is sent to the adjudicative process. If neither party objects, the case is sent to the cooperative process.

## Cooperative Resolution

Most criminal cases in RJ City are addressed by the parties cooperatively.

It is here that one finds all kinds of encounter programmes tailored to meet the needs of all kinds of participants. It includes programmes for cooperative offenders whose victims are uncooperative (and vice versa), and programmes for victims and offenders who are cooperative to a degree, but who do not wish to meet with each other. In other words, although typical encounter programmes are available, other programmes have been created to deal with circumstances in which the usual prerequisites for those encounters are not present.

This flexibility reflects the Network's commitment that all offenders and victims willing to participate in restorative encounters will be given the opportunity to do so. This includes the possibility for the participants to design their own cooperative process using resources available in the Network. Even parties whose cases have entered the adjudicative process may move to a cooperative programme. If the encounter takes place prior to sentencing, that agreement becomes the presumptive sanction and is delivered to the official who referred the matter. If the encounter takes place after sentencing, that agreement is referred to the sentencing judge as a recommended sentence modification. There is a presumption that the judge will accept that modification. The judge or other official who receives the agreement may send it back to the cooperative process with recommendations for changes for reasons of proportionality.

A copy of the agreement is sent to the Monitoring Committee, which enters the details of the crime and the agreement into their database. This database is analyzed on a quarterly basis to consider whether agreements are reasonably proportional to those agreements arising out of other crimes, as well as to sentences imposed by judges at the conclusion of adjudicative proceedings. If there appear to be regional or other disparities, the Monitoring Committee will recommend corrective measures to the Steering Committee.

In the pages that follow are descriptions of the typical and atypical processes available to victims, offenders, and their communities within the Network's cooperative processes.

### *Typical Processes*

The standard processes for resolving criminal cases are restorative dialogue programmes. The decision about which process to use is made jointly by the parties and the magistrate responsible for the investigation or someone to whom that responsibility is delegated.

In general, all cooperative processes include four key elements. The first is advance preparation of all the parties, done by the facilitator(s). The second is communication between the parties about what happened, why it happened, how it affected the parties, what their needs are in the aftermath of the crime, and what the available resources are. Third, this communication concludes with an agreement between the parties about how

the identified needs will be addressed. These agreements may include restitution, apology, community service, participation in reintegration programmes, and/or anything else that the parties feel is necessary and useful. Finally, each of the parties is asked to prepare a confidential evaluation of the process using questionnaires prepared by the Monitoring Committee.

Although these are common elements, the typical processes are used flexibly and adjusted according to the needs and desires of the parties.

### *Customized Processes*

If some parties are willing to participate in cooperative processes, but others are not, the Referral Department refers those who are willing to programmes that offer some of the benefits of the cooperative process, while directing the unwilling parties to adjudicative processes. Following are some typical scenarios and how the cases are handled:

When the victim is willing but the accused person is unwilling. In these circumstances, the accused is referred to adjudicative processes, although it is always possible to return to the cooperative processes if the accused reconsiders. The victim, meanwhile, is offered help in identifying needs and the resources to address them. Among other resources is the option of a healing process with an alternative offender. An *alternative offender* is one who has offended in approximately the same way as the victim's own offender has, but is not the victim's own offender. A *healing process* is one in which all parties are encouraged to share their experiences and hurt, express their sympathies with the other parties, condemn the wrongs done, and recognize the humanity in the other parties.

When the offender is willing but the victim is unwilling. The offender is referred to a cooperative process in which he meets with his community of care and any community or state parties necessary to discuss what should be done. A victim's perspective may be represented in this process in one of several ways. First, the specific victim may appoint a representative to voice his views. Second, an *alternative victim* (similar to the concept of alternative offender) may be invited to represent the perspective of a victim of a similar crime. Finally, a victim advocate not associated with the specific victim may be invited to represent the views of victims in general.

In addition, the victims are offered the option of requesting reparation from the offender, receiving support services through the Network's Community Building Sphere, being notified of developments in the offender's case, and having no further involvement. If an alternative victim is not present in the cooperative process, the offender is offered the option of a healing process with an alternative victim.

### *Facilitators*

The competency of the facilitator is an extremely important factor in the successful resolution of difficult cases. A wise and skilled facilitator can assist the parties in finding solutions to many of the problems seen in cases that are more complex. But even in simple cases, skilled and trustworthy facilitators are critical to the success of the restorative processes. Facilitators in RJ City are drawn from all sections of the

community so that they bring awareness of and sensitivity to cultural, social, economic or other forms of diversity.

All facilitators are trained and certified by the Network. Training is done in different ways. The Hub offers certification classes that offer a thorough but simple, background in the basic principles and practices of restorative justice, the Hub's coordination, and practical instructions on how to lead parties in redressing a simple harm. It also provides on-the-job training by assigning new facilitators to work with experienced facilitators.

Certified facilitators must participate in continuing education in order to renew their certification. At a minimum, come together on a regular basis to discuss the cases they have facilitated, the difficulties they have met, and to share possible solutions, based on restorative justice principles. In addition, facilitators may choose to participate in continuing or advanced training. This option allows facilitators to improve their skills in specific areas, such as situations with power imbalances, intimate crimes, domestic violence, drug-related crimes, large-group conferences, and any other complex subject.

The participants evaluate facilitators in every case. In general, these evaluations are used to help facilitators grow in their facilitation skills. However, if a significant number of the evaluations reveal a problem area in the facilitation, the facilitator may be asked to participate in remedial training or co-mediation. If a facilitator consistently receives poor evaluations and refuses to improve, that facilitator will lose his or her certification.

While the Hub will refer cases only to certified facilitators (or to programmes that use certified facilitators), un-certified facilitators may mediate cases that come directly to them. These un-certified facilitators, however, must follow the same guidelines in reporting cases to the Hub as those who are certified.

The Hub refers particular cases to facilitators based on several factors: the physical proximity of the crime and parties to the facilitator, the facilitator's specialization or lack thereof, and the facilitator's availability or schedule.

The facilitator's responsibilities in a case include monitoring the evaluation by the parties of the seriousness of the particular crime in comparison to the official declaration on its seriousness. If the two are different, the facilitator modifies the official declaration and invites different participants according to the needs of this particular case. The facilitator is also responsible for finding all the necessary participants, watching for power imbalances between participants and taking steps to correct them, making sure that the encounter is safe for all parties, writing the agreement, and following up if offenders default in fulfilling the agreement.

Some facilitators are community volunteers who give approximately three hours a week with a commitment of at least a year. Others are employed on a full or part time basis by the Hub or by a community programme. In general, every effort is made to encourage volunteer and community participation in facilitating encounters. However, when a community lacks the resources (financial, professional, or volunteer) to provide adequately for itself, the Hub steps in and, as a last resort, employs its own facilitators to

work in that area. Before the Hub employs its own facilitators and/or programmes, it does all in its power to build and encourage community participation.

### *Record Keeping*

In general, all infractions that are categorized as criminal are reported to the Hub, along with the records from the cooperative programme through which the crime is processed.

School-based resolution centres use their discretion in reporting less-serious actions that rise to the level of crimes, as long as the offenders are cooperative and complete the terms of their agreements on time.

Cooperative programmes keep extensive records of the proceedings of every case. These records are considered confidential: only administrators of programmes and facilitators working with the parties included in those records may access the files. These records include the following information:

1. The basic facts of the case as agreed upon by the parties. If the parties disagree on the basic facts, then each of their perspectives should be fairly represented. The facts include the personal, relational and ethical and moral harms, and the resulting needs as experienced by the parties.
2. Any changes made to the level of seriousness and an explanation of why that change was made.
3. A list of all participants in the process.
4. A general outline of the meetings. (e.g. Number of meetings, dates, times, and places.)
5. Any notes taken by the facilitator.
6. A copy of the signed agreement.
7. Any follow-up actions needed.
8. A certificate of completion of the process signed by the victim(s), the offender(s), the facilitator(s), and any other parties made necessary to the process by the seriousness of the crime.
9. Either a copy of participants' written evaluations of the process, the evaluator's notes on participants' oral evaluations of the process, or a tape or video recording of the same.

Less extensive records of each case are sent from cooperative programmes to the Hub. These records should include everything the programme keeps except the facilitator's notes and the parties' evaluations. For each case, the Hub should receive

1. A summary of the facts of the case as agreed upon by the parties. If the parties disagree on the basic facts, then each of their perspectives should be fairly represented.
2. Any changes made to the level of seriousness and an explanation of those.
3. A list of all participants in the process.
4. A general outline of the meetings (e.g. number of meetings, dates, times, and places).
5. A copy of the signed agreement.
6. Any follow-up actions needed.
7. A certificate of completion of the process signed by the victim(s), the offender(s), the facilitator(s), and any other parties made necessary to the process by the seriousness of the crime.

Some records in cases involving adults are made available to the general public on request. These include the substance of everything that is given to the Hub, although participants other than the offender and facilitator may request that their names be removed from the list of participants and changed whenever mentioned in the other records. The terms of the agreement and an indication about the presence of a certificate of completion is made available instead of the actual documents.

### **Adjudicated Resolution**

Cases are adjudicatively resolved when the accused denies responsibility, the victim or accused choose not to participate cooperatively, the offender has repeatedly failed to follow through on agreements reached in cooperative processes, or the parties are not able to agree on all matters (e.g., the amount of restitution) in the cooperative process.

The adjudicative process is for cases that are not dealt with through cooperative processes. There are several reasons why this may happen. The accused offender may deny responsibility; the victim or offender may choose not to take part in any cooperative processes; the offender may have repeatedly failed to follow through on the reparative part of an agreement made in a cooperative process; or the parties may not have been able to agree on a matter (e.g., restitution) in the cooperative process. On rare occasions, the offender may be referred to an incapacitating programme of the adjudicative process by virtue of an agreement made in a cooperative process. However, in those instances a judge will need to review the agreement and approve the use of the incapacitation measures.

Victims are required to participate as witnesses in the adjudicative process only when their testimony is necessary to reach a final conclusion in a case in which such a final conclusion is important for the public interest. However, offenders and victims may choose to use adjudicative processes “cooperatively” (such as when they decide to have a judge make a determination about the legal significance of certain facts.)

### *The Victims' Role*

The adjudicative process is adversarial in nature. In many respects, it is similar to contemporary criminal courts used outside of RJ City. However, there is one significant difference, and that is that victims are recognized as having “legal standing” to appear in the proceedings not simply as witnesses for the prosecution, but as distinct, third parties. The reason for this is that in RJ City, the adjudicative process deals not simply with the question of the criminal liability of the offender but when criminal liability is found, the judge is permitted to address questions of limited civil liability in imposing a sentence. In fact, if judges impose sentences that make it difficult for offenders to satisfy the limited civil liability judgment, they must explain in writing the reason for overriding the presumption that such judgments should be paid in a reasonable time.

This means that in the courts of the Network, victims are allowed to retain an attorney to represent them at all phases of the adjudicative process. The legal interest they have is to obtain reparation for the harm they suffered in the crime, and to ensure there are reasonable protections against likely future harm. Therefore, they may offer evidence and make arguments in proceedings concerning bail (e.g., to argue for conditions that allow the accused to keep her job, which will make eventual restitution payments more likely, or to argue that the accused should not be released because he poses an imminent threat to cause the victim harm). They may offer evidence and make arguments during sentencing to show that the harm suffered was directly caused by the criminal acts, and to prove the amount of damages. If the accused is acquitted, the victim may argue that the damages resulted from the facts presented during the trial, and that those facts prove a violation of civil law by a preponderance of the evidence.

Victims are not required to enter the criminal proceeding to present these claims for restitution. They are given notice of the charges and have 30 days in which to file as parties in the case. Victims are permitted to hire attorneys to represent them.

### *Judgment*

If the suspect is not found guilty, the government must provide compensation for any damages caused by the suspect's participation in the court process. Cooperative processes should be used as a first option to determine compensation. If the suspect is found guilty beyond a reasonable doubt, the suspect may choose whether to proceed with cooperative sentencing or adjudicative sentencing.

Adjudicative sentencing is viewed as a last resort. Participation in the cooperative process is encouraged, and sentencing is used only when arbitration, negotiated settlement, shuttle diplomacy and every other form of agreement is either refused or unproductive. Throughout the sentencing process, the judge seeks input from all parties involved in the crime and repeatedly invites the parties to reconsider participation in the cooperative process.

Sentencing focuses on identifying the injustice that took place, repairing the harm done, and clarifying future intentions. However, reparation is the only one of those three that can be a coerced part of the sentence.

The sentencing judge also takes the context of the crime into consideration. Specifically, this involves considering the background and circumstances of the offender insofar as those are helpful in determining the nature and length of the sentence. It also means considering the background and circumstances of the victim insofar as those are helpful in determining the amount and nature of reparation.

Adjudicative sentencing is reparative in focus. Judges are given latitude in imposing sentences, although they are instructed to consider three factors in imposing reparative sentences:

1. Amount of harm done (to determine amount of reparation), and
2. Risk posed by the offender (to determine the form of incapacitative or reintegrative measures, if any).

If the victim has presented evidence of harm in requesting reparation, the judge uses that evidence in determining the amount of reparation to order. If the victim has not presented such evidence, the judge uses a schedule that translates average losses to victims of particular crimes into the number of days of an average wage earner's income that would be needed to pay for those losses. The judge orders reparation in an amount equal to the defendant's daily income multiplied by the number of days in the schedule regardless of the victims' actual losses. Defendants' reparation is then paid into a reparation fund, from which victims can receive money for actual losses upon a proof of those losses.

If defendants are unemployed and unable to obtain a job, they are ordered to work at community service assignments for the number of days provided in the reparation schedule. The agencies receiving the services pay an amount established by the Steering Committee into the reparation fund.

## **Miscellaneous Matters**

### *Categories of Crime*

RJ City has a criminal code that proscribes intentional acts that cause or threaten harm to victims and/or communities. While it is impossible to predict how harmful a particular crime might be to various victims, crimes are categorized by their seriousness. Seriousness reflects the amount and the extent of the harm typically caused by such behaviour in three areas: personal harms, relational harms, and ethical and moral harms.

The *amount* of the harm increases for crimes that typically result in increased:

1. Numbers of victims,
2. Lengths of time during which victims are affected by the crime,
3. Degrees to which victims' livelihoods or their quality of life are affected, and
4. Degrees to which the life of the community as a whole is affected.

The *extent* of the harm increases as the typical physical, material, and emotional harm to victims intensify. For example, the extent of harm is likely to be great if the crime causes high fear of physical harm. A crime in which a weapon is used is presumed to result in extensive harm.

The City Council of RJ City has reviewed the criminal code of its State, and assigned a level of seriousness to each offence in the code.

1. Category 1: Conduct proscribed by the criminal code but not enforced in RJ City. These represent codified values of the community and a frame of reference for parties and community members to use in resolving conflicts. Examples would include certain kinds of disturbing the peace offences or of altercations between neighbours.
2. Category 2: Crimes that are least serious,
3. Category 3: Crimes that are moderately serious, and
4. Category 4: Crimes that are most serious.

One purpose for establishing levels of seriousness is to provide for what might be called “procedural proportionality” in responding to crime. As a starting point, it is presumed that Category 4 offences (most serious) cannot be adequately addressed without the participation of community and government representatives in addition to the victim and offender. In other words, the victim and offender should not attempt to deal with those offences alone. A Category 3 offence (moderately serious) must have the victim, offender and a community representative participating, while government representatives may elect to not participate. Finally, the victim and offender may deal with Category 2 offences on their own, if community or government representatives choose not to participate.

*Note:* All parties may participate in responses to any category of crime; level of seriousness is not used to exclude parties, but only to require increasing numbers of participants as seriousness increases.

### *Programme Evaluation*

At the conclusion of either cooperative or adjudicative resolution processes, all parties are asked about their experience in order to ensure quality, fairness, and a restorative atmosphere. Questions are asked about the process and the outcome.

1. Questions about the process include:
  - a. Did all parties involved participate?
  - b. Was there a wide enough array of interests represented?
  - c. Did it feel safe?

- d. Did you feel that any voices were missing?
  - e. Were the violation and harm recognized?
  - f. Did the process identify the value that the law was written to protect?
  - g. Were issues of public safety and harmony addressed?
  - h. Was the process transparent?
  - i. Were people able to be honest?
  - j. Were people's rights respected?
  - k. Did all parties feel they were part of the decision-making?
2. Questions about the outcome include:
- a. Are forms of reparation included in the agreement?
  - b. Does the agreement pay attention to the underlying cause?
  - c. Is it practically feasible?
  - d. Does it help people hone in on what is most important?
  - e. Does it restore the parties as much as possible?
  - f. Does it address the future to make a better future for all parties?
  - g. Does it address the need of the victim and the offender?
  - h. Does it move people toward healing?
  - i. Does it support the development of internal rather than external controls in the offender?
  - j. Do all parties feel that the outcome is reasonable and respectful to all parties?
  - k. Do all parties think that the resolution works toward restoration?
  - l. Does the solution increase safety for the parties and their communities?
  - m. Will the intervention leave the community stronger than before?
  - n. Are all parties strengthened?

## 6. The Community Building Sphere

The Community Building sphere is made up of programmes, services and institutions that assist victims and offenders, serve communities affected by crime, and strengthen the capacity of citizens to build harmonious communities.

The purpose of the Community Building Sphere is to help create strong communities and to help victims, offenders and their communities of care to re-enter as whole, participating members.

Therefore, the Community Building Sphere works with three groups of people:

1. Those who have been touched by crime as a victim, offender, witness, or community of care.
2. Staff, volunteers, and others who are involved in the Network.
3. The general public.

The Community Building Sphere acts as a clearinghouse for available support resources in RJ City. It collects information about, maintains contact with, and recommends appropriate persons to every programme that offers services useful to Community Building Sphere clients.

The Sphere staff members also perform a triage function in identifying, diagnosing, and responding to the different needs of the parties it is serving. It conserves Network resources by identifying resources from which the parties choose, or by referring them to immediate and long-term assistance.

Finally, the Community Building Sphere provides some support programmes and services of its own. In general, these services are educational and are directed toward Network staff and volunteers. If there is a shortage in an area of needed support, however, staff members of the Community Building Sphere provide that support until community programmes can be initiated, strengthened or expanded.

### **Victim Support and Assistance**

The needs of victims are of highest importance from the moment the crime occurs. Support and assistance are offered because the victim seeks them, regardless of whether the offender has been apprehended or convicted.

As soon as any member of the Network becomes aware of a crime victim, a local victim support person is called. These victim support persons are able to provide immediate support, advice, and care to the victim if desired. They are well versed in Network procedures and are able to answer questions about the processes used by police or

investigators. They are also available to intervene with police and investigators to assist them in avoiding “revictimization.”

If victims are in need of medical care, support persons are available to accompany victims to the hospital or meet them there if the victim wishes. If there is damage to victims’ homes or other properties, victim support people are available to assist in crime scene clean up if the victim wishes it. This may include helping make a victim’s home more secure.

Finally, victim support persons are responsible for recommending a victim advocate (see below) to the victim for help throughout the process of addressing the crime and its consequences. If necessary, they will assist the victim in contacting the victim advocate and provide that advocate with as much information about the case as possible.

At any point in time, if the victim does not want assistance, the support person will not attempt to provide it. If no assistance is desired, victims are offered a brochure outlining assistance options and left alone. At any point until their case is closed, victims may request appropriate assistance again.

The kinds of assistance that are offered to crime victims include the following:

1. **Material Care.** Community groups in many parts of RJ City have been organised to repair damage to homes and property. Special arrangements have been made with hardware stores to provide, at their cost, locks, glass and other equipment needed for emergencies.
2. **Physical Care.** Medical clinics throughout RJ City have agreed to provide medical services to victims who have suffered physical injury as a result of crime. If insurance or other payment is not available, the medical clinics are paid for up to six months’ treatment by the Network.
3. **Restoration Care.** Victim advocates are available to guide victims through the process of dealing with the crime and its consequences. The victim advocate is available to listen to the victim’s story, help the victim examine the options available (through cooperative as well as adjudicative processes), provide names of attorneys who could represent the victim in an adjudicative process, and accompany the victim to any proceeding. Victim advocates are fully trained in restorative justice principles, values, goals and processes.
4. **Emotional and Spiritual Care.** All primary victims are entitled to one session with a professional counsellor to discuss the effects of crime on their lives. Victims may also request a referral to a community support group or a community counselling service. When the victim advocate, counsellor from the initial session, and the facilitator or judge agree, longer-term counselling services are provided. In addition, the parties in the adjudicative or cooperative process may agree that the victim should receive additional counselling as part of the offender’s amends. In this situation, the offender or other participating parties, not the Network, pays for the counselling.

Victims may request referral to a surrogate victim programme in which they might meet with an offender who has committed similar crimes as their own offender. These meetings give unrelated victims and offenders the opportunity to tell their stories, discuss the crime's effects, and receive comfort and validation from those who were also affected by the crime.

The victim support person will ask the victim if they would like their religious leader contacted on the victim's behalf. If the victim does not have a religious leader but seeks such counsel, the victim support person puts the victim in touch with religious and or spiritual resources of the victim's choosing.

5. Family Care. The victim's family may also need care. The victim support person can put them in touch with victim family support groups and other available services. These services are offered to the family regardless of whether the victim makes use of the support offered.

If desired, the Community-building Sphere will put the victim's family in touch with religious and/or spiritual resources of the family's choosing.

The Community-Building Sphere provides victims with Safe Houses throughout RJ City. This is a place of refuge for crime victims who are in danger or who need support in recovering from trauma. The support ranges from rest and referrals to counselling, support groups, or other kinds of physical or psychological therapy. Some victims participate only in day programs; others may reside there for a period of days or weeks as they actively work on their own recovery. Police and other investigators may question residents of a Victims' Safe House, but other enforcement and resolution activities affecting a victim (such as being compelled to testify) are suspended while that person takes refuge.

### **Offender Support and Assistance**

From the time a person is accused of a crime and continuing to completion of the resolution process, that person is entitled to support and assistance.

When any person becomes identified as a suspect, an offender support person is called. These offender support persons offer assistance in finding immediate support, advice, and care if desired. They are well versed in the restorative justice principles, values, and goals, and are able to explain the investigation and resolution processes.

If suspects/offenders are in need of medical care, the offender support person will refer them to medical clinics or other assistance.

In the absence of an attorney for the suspect, support persons are responsible for making sure that suspects are given a fair and un-coerced opportunity to confess or tell their stories during the police or investigator's interviews. Furthermore, offender support people refer suspects without legal counsel to an offender advocate. An offender advocate is someone who, although not an attorney, is trained to explain legal processes and alternatives to the suspect, to advise the suspect of their legal rights, and to explain

their options. Offender advocates are fully trained in restorative justice principles, values, goals and processes.

At any point in time, if the suspect/offender does not want assistance, the support person will stop providing the unwanted assistance. If no assistance is desired, offenders are offered a brochure outlining assistance options. At any point until their case is closed, offenders may request appropriate assistance.

The kinds of assistance that are offered to offenders include the following:

1. **Physical Care.** Offenders are responsible for their own physical care unless they have been taken into government custody or have been injured by law enforcement officers.
2. **Restoration Care.** Offenders are offered an offender advocate to guide them through the process of dealing with the crime and its consequences. The offender advocate is available to listen to the offender's story, help the offender examine the options available (e.g., cooperative or adjudicative processes, etc.), provide names of attorneys who could represent the victim in an adjudicative process, and accompany the offender to any proceeding.

Offenders are also entitled to legal counsel. If they are not able to afford their own, one is appointed to assist them. The offenders in RJ City have not had their rights to an attorney limited or reduced in any way over the rights of suspects outside of RJ City.

3. ***Emotional and Spiritual Care.*** If desired, the offender support person will refer the offender to religious and or spiritual resources of the offender's choosing.
4. ***Family Care.*** The offender's family may also need care. If so, the offender support people will refer them to places where they may obtain such assistance. These services are offered to the family regardless of whether the offender makes use of the support offered.
5. ***Sentence Support.*** The Community Building Sphere will provide the resources needed by an offender to complete his or her sentence. For example, staff of the Community Building Sphere will connect offenders with drug rehabilitation centres, community service organizations, employment opportunities, etc.

The Community-Building Sphere also maintains Houses of Refuge to which people who have committed an offence or who fear being arrested for an offence may go. Modelled on the medieval tradition of sanctuary, these are residential facilities where a person is given asylum for up to two weeks while considering how to address the offence or the charges. Time in the House of Refuge can be used for the offender to learn about and consider options, consult a lawyer or legal advocate, and to talk with House of Refuge staff and others about taking responsibility for the offence. When someone leaves the House of Refuge, that person typically is ready to participate in a cooperative process. If not, then the case will proceed through the adjudicative process and the magistrate

supervising the case may order some form of incapacitation if necessary to ensure the person's appearance at trial.

### **Community Support and Assistance**

Citizens are supported and assisted as they seek to build harmonious communities.

The Community Building Sphere provides education for the general public on restorative justice principles, values, goals and practices. It also provides restorative dialogue processes for community members to use in the aftermath of a crime that attracts broad community attention and concern. Finally, it provides education for the general public on the activities and services it offers.

If patterns of crime, or the experiences of Network staff and volunteers, indicate broader social conditions that contribute to criminal activity, the Community Building Sphere conducts inquiries into those conditions. Members of the public may make presentations, as may pertinent government representatives and any persons the inquiry may call. At the conclusion of the inquiry, the Community Building Sphere makes recommendations to the appropriate governmental or community entities.

### **Network Members Support and Assistance**

Those who work closely with crime because of their career, volunteer work, or for other reasons may find themselves in need of support and assistance.

The Community Building Sphere also serves staff, volunteers, and others who are involved in the Network. It offers preventive care by providing training for those who work with parties to crime. This training includes anticipating and recognizing the indirect harm of crime on themselves. It also provides opportunities for role changes within the Community Building Sphere, and sabbaticals on regular bases.

The Community Building Sphere also provides assistance to staff members needing it. For example, support staff working with parties involved in a severely traumatic event will have access to other support staff for debriefing and reflection. In the event that staff members suffer physical harm while they were working, volunteering, or interning for the Hub, medical care is provided. If staff members need psychological care because of their working, volunteering, or interning for the Hub, such assistance is provided. Those staff members who seek religious or moral care because of an event that happened while they were working or volunteering for the Hub are provided it.

## 7. The Order Sphere

This section deals with the Order Sphere. However, it is very important to note that *public safety* is as much a result of work of the Community-Building Sphere as it is of the Order Sphere. Maintaining community safety is a joint responsibility, shared by individual community members and the collectives they form, including the informal friendships at the neighbourhood level and official agencies, institutions, and governments. Behavioural norms are identified at every level, ranging from informal expectations to formalized regulations such as legislation.

At each level of community, members choose whether to live within those norms. The character of these choices might be plotted on a continuum ranging from entirely voluntary to entirely coerced. A voluntary choice is one motivated by personal beliefs and values. A coerced choice is one that a person would not make except for another person's threat or promise. Between these two lie a host of considerations, incentives, inducements, pressures threats, and similar factors by others to influence a person's choice. Examples include peer pressure (as when a teenager engages in certain behaviour in order to fit in), the threat of public exposure (as when professional associations publish the names of members appearing before the disciplinary committees), and incentives for good behaviour (as when insurance rates go down for good drivers). Most choices are motivated by a combination of internal values and external norms reflected in customs, policies, laws or regulations.

In RJ City, public safety is understood to be achieved through a mixture of community peace and governmentally-imposed order. In a sense, the strategy for achieving safety in the City is analogous to that which induces individuals to live within community norms. If all of a community's members accept and practice those norms, there is no need for imposed order to enforce them. If a significant proportion of a community does not accept the norms reflected in criminal laws, order may need to be restored through the use of force. (Or, of course, the decision to criminalize that behavior must be reconsidered.)

In RJ City, when order is increasingly relied upon to secure safety, renewed attention is given to strengthening the health of its communities. Increased reliance on imposed order to assure safety is viewed as a sign that something is wrong with the quality of community life in the City.

### **Enforcement**

Some norms related to safety and fairness are deemed important enough to be formalized as laws. Communities may create a social context that guides people toward living within community laws and standards. However, when these laws are not kept voluntarily in RJ City, the municipal government is responsible for compelling obedience or subduing lawbreakers in order to uphold community peace, fairness, and safety. The

persons, agencies and institutions authorized to do so, and the mechanisms available to them, are incorporated into the Order Sphere.

### *Monitoring*

While voluntary compliance is the strongest foundation for community safety, monitoring also encourages compliance. Therefore, Order Sphere activities include various mechanisms for periodic observation of public behaviour. Examples include the use of radar and check stops to watch for traffic violations, and routine patrols that identify potential problems and watch them over time (such as abandoned homes that could become crack houses).

The Order Sphere also monitors progress toward the completion of agreements resulting from cooperative processes in the Resolution or Community-Building Spheres. Agreements are monitored by the office of the Magistrate who investigated the case, conducted the inquest, or supervised the formal inquiry. When someone does not fulfil their part of an agreement, the Magistrate's office makes an effort to a) determine the reason for this failure, b) help the person find alternative approaches to completing it, if necessary, and/or c) help the parties renegotiate their agreement, if that will resolve the problem. If supportive approaches fail and the agreement still is not completed, then any other party to the agreement may sue for enforcement through the civil courts.

Finally, the Order Sphere also monitors the activities of those authorized to use force against the principle that the least amount of coercive force necessary be used. It uses training in best practices and interventions with particular individuals to help those people do their jobs effectively within that principle.

### *Investigation*

As described in the description of the Resolution Sphere, criminal investigations are carried out by personnel working under the supervision of Magistrates. The investigation is driven not only by a search for evidence that could convict an accused person at trial, but also by an intention to enhance the potential for cooperative resolution and community building. This effort involves gathering as complete as possible a picture of the harm done, the needs created, and who may be responsible for addressing those needs.

Investigations are carried out primarily by police officers trained in gathering information and handling evidence. However, the investigation team is accompanied by a victim supporter from the Community-Building Sphere if there are identifiable victims. The victim supporter may provide immediate tangible assistance, such as replacement of locks, as well as information about the investigation process. If necessary, the supporter can serve as an advocate for the victim to prevent further trauma during the investigation process. The supporter also helps the victim gather and preserve information about the extent of the damage done.

When a suspect is identified, an offender support person is appointed from the Community-Building Sphere. Immediate support may include providing information about

the investigation process, the options the suspect has for involvement, the availability of legal counsel, and so on, as well as making appropriate referrals to community and social service support for the accused person or others in that person's life who are also affected. If the suspect decides not to have an attorney, support persons are responsible for making sure that any decision to tell their stories or confess to police or investigators is made without coercion.

### *Use of Force*

While public safety sometimes requires the use of force (always guided by the minimum force principle), authority to use it is significantly limited in RJ City. The Hub's Monitoring Committee has established policies restricting who may use force and under what circumstances.<sup>8</sup> These policies identify four degrees of force: intervention, coercion, physical force, and deadly force.

### *Intervention*

Intervention means interrupting or redirecting someone's behaviour using words, physical barriers and so forth for the purpose of preventing or minimizing harm. People authorized to use intervention in RJ City include police officers and the staff of Confinement Facilities (which are explained below) as well as civilians with authority over others (for example, teachers, park rangers, and lifeguards concerning the behaviour of persons in the schools, parks, or swimming pools). Examples of police intervention include directing traffic around a hazard, dispersing a crowd, or arresting someone involved in illegal activity.

### *Coercion*

Coercion means using threats or promises to influence someone to make a choice they would not otherwise make or to behave in a way they would not otherwise behave. Coercion may be used only by police officers, Confinement Facility officials, court officials, and others permitted by law to make such threats or promises. Examples of coercive actions include threatening a woman with arrest in order to get her to move away from a crime scene, ordering an abusive husband to stay away from his spouse or be arrested, or threatening to forcibly remove someone who refuses to evacuate a condemned building.

### *Physical Force*

Physical force means controlling a person's movement or behaviour through the use or threat of physical pressure. Police officers and Confinement Facility officials may use physical force, but only when necessary to carry out a lawful duty. Examples of such use include pulling a drunk driver out of his car, applying physical constraints such as handcuffs or shackles, or using pepper spray or a stun gun to subdue an armed suspect.

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<sup>8</sup> These methods are not unique to the Order Sphere; they may be used by other authority figures as well, such as parents, teachers, or military officers. Any of these methods can be used for unhealthy or harmful purposes, but all of them have legitimate roles as well.

### *Deadly Force*

Deadly force means using weapons or tactics that are likely to result in death or great bodily harm. Police officers and Confinement Facility officials may use deadly force, but only when it is necessary to prevent imminent death or great bodily harm. An example of this usage is shooting a firearm at a person who is firing a weapon at others. Because of the minimum use of force principle, Order Sphere personnel pay close attention to, and encourage, technological developments that would allow application of physical force instead of deadly force.

### *Training*

Network personnel authorized to use force must be knowledgeable of and supportive of restorative values, skilled in the use of restorative practices, and skilful in working cooperatively with people. They receive initial and ongoing training in:

1. The philosophy and merits of voluntary cooperation and the long term costs of coercion and force;
2. Restorative practices, so they are skilled at dealing with conflict without resorting to force;
3. Use of non-lethal force, so that they are skilled at using the minimum force;
4. The four degrees of force, when each is permitted and to what extent, and how to respond if they see other persons using them inappropriately; and
5. The kinds of cooperative options available and how to make appropriate referrals.

Any use of force must meet four criteria:

1. Force must result in minimal interference, increasing (if necessary) only incrementally.
2. The force must cause no more harm than is necessary under the circumstance.
3. The use of force must respect due process and human rights.
4. The use and nature of force must be culturally appropriate.

The RJ Network's policies also require that before and during the use of force, the persons using it must also make every effort to prevent or de-escalate the conflict or threat by conveying respect, reducing emotional arousal, creating an environment in which the individual can choose cooperative behaviours, offering alternatives, and linking cooperation to the individual's own interests.

### *Review*

There is an automatic review process whenever deadly force is used by Order Sphere personnel. Like inquests and formal inquiries, these reviews are coordinated by magistrates and are conducted through circle dialogue that includes the officer who used deadly force, the person subjected to that force, others who were present at the time, and supporters requested by those participants. While disciplinary or criminal charges can be filed in egregious cases, this process is designed to be cooperative rather than accusatory. The aim is to get as complete as possible a picture of what happened and explore whether or how the situation might have been handled differently.

The same review process is used in two other situations to help ensure that force is used as seldom as possible and causes as little damage as possible. In addition to the automatic review of deadly force, the Network also reviews a) a random sampling of incidents in which physical force is used, and b) any incident if a community member or Network official requests it.

### *Incapacitation and Confinement*

Incapacitation is defined as steps taken to limit an individual's physical freedom. Examples include curfews, restraining orders, bail conditions, orders to attend treatment programs, probation orders, and suspension of driver's licenses or other privileges. The most restrictive form of incapacitation is confinement, defined as physical restriction of a person to a clearly defined area from which he or she is lawfully forbidden to depart. Examples include house arrest and restriction to a Confinement Facility.

Incapacitation may be used only for the following purposes and only if other lesser measures are ineffective:

1. Restraint. To restrain persons who pose an imminent danger of harming others, themselves or property.
2. Protection. To protect offenders or suspects from suffering imminent harm if no other form of protection is adequate. This use is understood to be short-term in duration.
3. Participation. To ensure a person's participation in a resolution process if there is a significant risk of flight and the severity of the crime impacts the public interest to such a degree that failure to participate could lead to significant harm.
4. Enforcement. To ensure that agreements and dispositions are accomplished when all efforts to secure voluntary compliance have failed.

A police officer making an arrest has discretion to release or confine the person until a magistrate can review the arrest and either releases the person, sets bail conditions, or orders continued confinement. Any form of incapacitation or confinement must be used with caution and restraint, must be no more severe than absolutely necessary, and the conditions imposed must be adjustable so that restorative processes and outcomes may be used to the fullest extent possible.

### *Confinement Facilities*

Confinement Facilities must be operated in a humane manner and in keeping with international and national standards. There are three kinds of Confinement Facilities in RJ City: holding cells, used for no more than 3 days while the decision about a suspect's detention or release prior to trial is made, closed workshops, where suspects and convicted offenders may be held, and secure facilities in which people are placed who pose a significant risk of escape or of endangering others.

#### Holding Cells

RJ City has a number of holding cells, located in the Justice Houses distributed across the city. These are used for short term stays (to a maximum of three days), when confinement is deemed necessary while a relevant assessment is being made. This is where police take suspects to be held until a Magistrate orders the person to be released, to post bond, or to be confined until trial or until a cooperative agreement is worked out. When a judge orders confinement as part of a sentence, the person may be taken to a holding cell until the appropriate longer term placement is arranged.

#### Closed Workshops

The second type of Confinement Facility holds people who cannot safely be released into the community, even with substantial monitoring and incapacitation (e.g., intensive supervision, house arrest, electronic monitoring, etc.), because they pose a serious risk of either a) fleeing custody and therefore evading their responsibility to their victims or b) causing further harm to people or to property. This may include people who are awaiting trial or people who have completed the resolution process, although the two groups are housed in separate facilities.

Closed Workshops are residential facilities with varying degrees of security, where residents can earn money at market rates.<sup>9</sup> Closed Workshops specialize in various kinds of production and service work (e.g., woodworking, electronics repair, graphic design), and residents may request transfers for the sake of learning different trades or gaining particular kinds of work experience. Residents who already have jobs or who are seeking jobs in preparation for release may be allowed to leave during the day under appropriate conditions of incapacitation (personal supervision, electronic monitoring, etc.). While these are secure facilities, residents earn increasing autonomy as they demonstrate appropriate self-discipline and prepare for release.

#### Secure Facilities

The third type of confinement occurs in Secure Facilities, which (separately) house pre-trial detainees or sentenced offenders who pose a substantial risk of a) fleeing custody and of b) causing further harm to persons or property, and who therefore need higher security than Closed Workshops can maintain. Despite their increased levels of security, Secure Facilities are operated in ways that treat residents with respect and, to the

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<sup>9</sup> Each Closed Workshop is run as a not-for-profit business, with an advisory council to help it maintain healthy competition with comparable RJ City businesses. A Closed Workshop is disadvantaged by not being able to recruit and hire the most skilled people available, but is advantaged by having artificially low overhead; the advisory council helps the Workshop operate in ways that, as far as possible, treat workers like comparable employees elsewhere and that do not compete unfairly with other businesses.

greatest extent possible, foster healthy relationships, productive work, and appropriate preparation for eventual release.

### *Confinement Facility Priorities*

Because of the high value given to cooperation in RJ City, residents of Confinement Facilities are given maximum opportunities to cooperate in small and large ways throughout their stay. Staff members and residents are given training in restorative justice practices and values, and encouraged to make their relationships consistent with restorative justice values. Conflict resolution mechanisms are available for dealing with conflicts between residents, between staff members, and between residents and staff. Disciplinary procedures give preference to cooperative resolution over adjudicatory resolution.

The high value given to making reparations is the reason that residents have opportunities for meaningful work at prevailing wages. A portion of an offender's wages is put toward any court-ordered or voluntary reparation, toward support of the offender's family, or both. In addition, victim awareness programs are provided to all, and opportunities for encounters (direct, indirect, and surrogate) are readily available.

Because of the high value given to reintegration, Confinement Facilities are structured so as to give residents ample opportunities to participate in programs that help them:

1. Address problems that contributed to their criminal decisions (e.g., drug treatment, sexual abuse counselling, etc.)
2. Increase their literacy and numeracy levels, complete their high school equivalency, or earn college credits
3. Develop pro-social values and skills (e.g., spiritual or faith-based programs, cognitive behaviour programs, anger management, ethics classes, leadership classes, etc.)
4. Integrate into non-criminal communities (e.g., work readiness programs, civic organizations, volunteer programs, etc.)
5. Establish healthier relationships with their families (e.g., parenting classes, marriage enhancement programs)
6. Transition into the community at the conclusion of their sentences, including restorative dialogue processes to plan for successful transitions, often with the help and support of programmes such as Circles of Support and Accountability.

Residents may be required to attend certain baseline programs (such as to build literacy and numeracy). They are encouraged to take advantage of other programs too, but that participation is generally voluntary. Residents may request placement in a Workshop or Secure facility that is organized around a particular focus such as education, addiction recovery, spirituality, etc.

## **System Accountability**

Many of the provisions above are similar to stated rules and limitations in other jurisdictions. Where RJ City is unique is that it has established accountability structures to increase the likelihood that cooperation and voluntarism will be emphasized rather than force and incapacitation.

### *Judicial Decisions*

When a Magistrate or judge determines that a suspect or convicted offender must be placed in a Confinement Facility, he or she is required to explain the reasons for this decision along with a description of the alternatives that were considered and rejected. This determination can be appealed.

### *Allocation of Confinement Spaces*

Based on crime rates, previous experiences, and assessment of the differing needs for confinement throughout the City, each judge and Magistrate is allocated a portion of the beds available in Confinement Facilities. The allocation is made on the basis of the percentage of violent crimes taking place within the jurisdiction of the judge and Magistrate, and the total allocated beds does not exceed 90% of the available beds. If the Magistrate or judge uses more than their allotment at any time, the Hub launches an inquiry, which investigates the rationale used by the judge or magistrate in confining individuals, considers whether other less restrictive measures could have been used instead, makes or reviews proposals for creation of new less restrictive measures, and issues a report.

This inquiry includes the judge or magistrate, prosecutors, investigators, defence counsel, community representatives, victim support and offender support personnel and any other individuals or representatives deemed to have a useful perspective. The procedures are similar to those set forth in *Automatic Reviews of Use of Force*, below.

### *Reviews of Use of Force*

As noted previously, when deadly force is used there is an automatic review of that use of force. Furthermore, regular reviews are conducted on a random sampling of situations in which less than deadly force was used. Finally, the use of force is reviewed whenever Network staff or a community member requests it for a particular incident.

Inquests are convened and supervised by magistrates. Factual evidence may be gathered or presented, but is interpreted and weighed through dialogue that includes the parties affected and/or interested stakeholders. Decisions are reached by consensus. In each case the aim is to develop as complete as possible an understanding of what has occurred and why, whether steps can be taken to prevent a reoccurrence, and whether amends should be made in the matter. Outcomes could be to:

1. Exonerate the person who used force
2. Support the use of force, but recommend related changes

3. Censure the use of force and provide training, mentoring, or other support in order to improve related performance in the future
4. Censure the use of force and reassign the person who used it
5. Censure the use of force and remove the person from employment in the Order sphere
6. Censure the use of force, recommend that criminal charges be filed, and refer the matter to the Resolution Sphere

The City assumes responsibility for addressing the consequences of major failures on the part of its personnel. It has committed to assuring that meaningful amends are made by the City, the employee in question, or both, whenever there is a conclusion that someone employed in the Order Sphere was responsible for preventable harm to another person or property.

### **Crisis Response**

The Order Sphere is also charged with responding to crisis situations that involve harm or the threat of imminent harm to persons or property. Such crises include crimes in progress, psychotic episodes, hostage takings, impending suicides, etc. The situation might require protecting someone in imminent danger from another person, restraining and protecting a person who is endangering others, protecting the community by preventing additional victimization, or any combination. The crisis responders are responsible to contain the harm, stabilize the situation, and link affected parties with the assistance or support they might need.

Another kind of crisis arises in situations in which the city's structures and infrastructures are overwhelmed. Examples include traffic lights failing, large numbers of fans leaving major sporting events or concerts, natural disasters, civil unrest, and so forth. When self-regulation and cooperation fail to meet the challenge, the Order Sphere takes appropriate action to minimize danger to community members by, for example, directing traffic, providing crowd control, helping public utilities restore power, imposing curfews, and so forth.

## 8. The Hub

The Hub is the Network's coordination centre. It provides oversight and leadership within the Network in several ways.

First, it offers strategic oversight of the Network as a whole. Second, it is responsible for operational leadership. Third, it refers individual cases and people to the appropriate parts of the Network. Fourth, it ensures that community and government programmes and elements receive training and assistance to perform their work well. Fifth, it monitors the Network to assess and increases, as needed, the restorativeness of the Network as a whole and of its individual components. Finally, it provides administrative coordination within the Hub and the Network.

Community and government representatives make up the bodies that carry out the oversight and operational responsibilities. This assures that both have integral roles in Network leadership and design. The Hub's referral mechanisms guide and follow cases from the moment they are reported by citizens, police, or others as they proceed through the appropriate parts of the Network. The Hub's training and assistance activities aim to increase understanding of and participation in the Network. It raises awareness of restorative justice values and gives visibility to the work of the Network with the goal of recruiting new programmes and individuals to take part in the Network. Finally, the Hub facilitates development of best practices based on community and programme experience as well as on broader legal and human rights standards. It uses those best practices to certify or register programmes as part of the Network, and to carry out evaluations to improve practices.

### The Structure of the Hub

The Steering Committee and Executive Committee are composed of community and government members in order to give both an integral role in Network leadership and design. The Steering Committee provides strategic leadership to the rest of the Hub, overseeing the overall effectiveness of the Network.

The Executive Committee is responsible for operational leadership of the Network. It is composed of leaders from the Resolution, Community Building, and Order Spheres of the Network. It receives overall direction from the Steering Committee, and is responsible for implementing changes in the Network and communicating information from its various sectors to the Steering Committee.

The Referral Department of the Hub receives cases from citizens, schools, police, and so forth. It also refers cases and delegates responsibilities to the appropriate part or parts of the Network. This department is also responsible for public education, training, and assistance activities and for recruiting new programmes and individuals to participate in the Network.

The Monitoring Committee elicits community input for Network standards by comparing human rights standards with community standards. It certifies and registers programmes associated with the Network. It also assesses actual practices within the Network in relation to the best practices and legal rights established within the Network. Three specific issues that are monitored are: (a) whether the agreement was kept, (b) whether the agreement was reasonable, and (c) whether there are patterns in the agreements that indicate unwarranted disparity based on race, gender, class, etc.

Finally, an Administrative staff provides administrative assistance for each of these bodies. The Administrative staff also coordinates the activities of restorative justice experts who contract with the Network to offer specialized expertise, training, and programme development

### *Steering Committee*

The Steering Committee is made up of community members and Network leadership and staff. Committee members are elected to six-year terms, with terms staggered so that five members are elected every two years. Qualifications to serve include active volunteer participation in the Network and a good knowledge of and commitment to restorative theories, practices, principles, and skills.

Committee members other than those elected at-large will be nominated by different constituencies in RJ City as noted below. The City Council will either appoint the nominees or request a new nomination in those instances in which the nominee is deemed unqualified. Nominations to the 15-person Committee shall be made as follows:

- One business leader nominated by the RJ City Business Association
- One faith community leader nominated by the RJ City Interfaith Council
- One victim representative nominated by the Network programmes providing assistance to crime victims
- One ex-offender representative nominated by the Network programmes providing assistance to ex-offenders
- One representative nominated by the private criminal defense bar
- One representative nominated by private attorneys who represent crime victims
- One representative nominated by K-12 teachers (public and private)
- One representative nominated by higher education professors
- One representative nominated by facilitators from the Resolution Sphere
- One representative nominated by judges from the Resolution Sphere
- One representative nominated from the Community Building Sphere

- One representative nominated from the Order Sphere
- Three at-large members nominated in city-wide elections

The Steering Committee's specific duties include the following:

1. Establish strategic plans to accomplish the restorative vision for RJ City.
2. Ensure that the Monitoring Committee annually evaluates the Network and its component parts in light of restorative principles, values and goals.
  - a. It considers what follow up action should be taken in light of these evaluations.
  - b. Follow-up action can include more in-depth research into particular parts of the Network.
  - c. The purpose of this review and follow-up activity is to increase the restorativeness of the Network as a whole and of its component parts.
  - d. Any intervention required as a result of the evaluation will be conducted consistently with restorative principles, values and goals.
3. Ensure that leaders and staff in the Network are familiar with and supportive of the principles of restorative justice.
4. Review reports from the Monitoring, Referring, and Administrative bodies of the Hub.
5. Review the efficiency and/or cost-effectiveness of the Network and its component parts and make recommendations to the Executive Committee.

The Committee has a staff with expertise in restorative practices and in innovations in restorative justice and with expertise in budgetary and administrative coordination.

The Steering Committee meets as frequently as is needed, but not less frequently than once a quarter. The Committee operates by consensus.

#### *Executive Committee*

The Executive Committee is made up of 9 people. The Coordinators of the three Spheres are automatically members. The other six Committee members are elected by the Steering Committee to three-year terms, staggered so that two members are elected each year. Members are selected as follows:

1. The Coordinator of the Resolution Sphere as well as one professional and one volunteer from the Resolution Sphere nominated by the Coordinator
2. The Coordinator of the Community Building Sphere as well as one professional and one volunteer from the Community Building Sphere nominated by the Coordinator
3. The Coordinator of the Order Sphere as well as one professional and one volunteer from the Order Sphere nominated by the Coordinator

If any of the nominees fails to be ratified by the Steering Committee, the affected Coordinator nominates another candidate.

The Executive Committee's specific responsibilities include:

1. Developing and implementing operational plans to carry out the strategic plans set by the Steering Committee
2. Ensuring that the various component parts of the Network are working together effectively.
3. Ensuring that the principles of restorative justice permeate all departments of the Network.

The Executive Committee meets as frequently as needed, but not less frequently than every two weeks.

### **Referral, Monitoring and Administration**

The Referral Department works operationally with the Executive Committee and strategically with the Steering Committee. It is the agency that receives all criminal cases entering the Network and refers them to programmes within the Resolution Sphere for resolution (or elsewhere, according to guidelines the Referral Department has prepared). It is responsible for informing the parties in each case about their options so that they can make informed choices and for keeping them updated on the status of their case. It is also responsible for public education, training, and assistance activities and for recruiting new programmes and individuals to participate in the Network

The Monitoring Committee is responsible for observing and evaluating the workings of the Network. They conduct evaluation studies on the component parts of the Network to ensure that they are working as restoratively and effectively as possible. They assess sentences and agreements in terms of their restorativeness and fairness. The Monitoring Committee identifies systemic problems and makes suggestions for changes that could address those problems. It works operationally with the Executive Committee and strategically with the Steering Committee.

The Administrative Staff of the Hub assists members of the Steering and Executive Committees, as well as the Referral Department and Monitoring Committee. In addition, some restorative justice experts are employed to perform special tasks or to provide professional input to the Steering or Executive Committees. For example, they review developments in restorative justice and report to the committees and departments in order to keep them up to date in restorative theory and practice.

### **Using Technology**

In RJ City, every change in technology and culture is used to the Network's advantage. For example, an internet-based, technologically advanced data processing system is used to keep track of cases as they pass through the Network. Access to these

databases is very limited in order to preserve privacy. Several web sites are available to the general populace and additional sites are available to the programmes affiliated with the Network. These websites provide user-friendly information on every aspect of the Network. They also feature a search engine that quickly and easily brings up a list of programmes that can deal with particular kinds of cases. The private websites provide an opportunity for programmes to interact and connect with each other on individual cases and patterns of cases. Network staff and affiliates are provided with, and are expected to use, equipment, and access to a common internet-based data management system.

For people who are unable or unwilling to access or understand online information, RJ City also provides information at local libraries and other community meeting places.

## Conclusion

What would an entirely restorative justice system look like, one that responded to every crime, offender and victim in the most restorative way possible? This question has been touched on before, but never fully addressed. The possibility of establishing a restorative system has seemed so remote that work to date has been conceptual or speculative in nature.

The RJ City project has been exploring that question. This document summarizes conclusions we have drawn after five years' work. Many early ideas have been discarded along the way in favour of new and more dynamic approaches. Even now we continue to reconsider and thereby more deeply understand underlying principles and values of restorative justice as they might play out into a new paradigm of criminal justice. The conclusions presented here are necessarily tentative.

That this is the final draft to Phase 1 makes clear that the work is continuing. As described in the Introduction, we now move to the second phase in which we will be describing component programs and system in sufficient detail to be able to move to Phase 3 (cost analysis). Phase 4, a computer simulation, will follow.

In the meantime, work continues in local and national programmes around the world. As thoughtful people reflect on that work, new possibilities and issues emerge. Knowledge grows, and with it grows the hope that people of good will, clear minds and open hearts may yet find a better way to resolve conflict and repair harm.

## Appendix: Background Information about RJ City

### Statistical Profile

General information about the City.

Population: 900,000

Land area: 243 sq miles

Altitude: Highest, 2,504 ft.; lowest, 1,987 ft.

Avg. daily temp: Jan., 57.4° F; July, 93° F.

Churches: Roman Catholic, 31; Jewish, 6; Protestant, 252; Eastern Orthodox, 5; other, 15

Recreation Centres: 39

Land Use:

Residential: 37%

Public/Semi-Public: 27%

Commercial/Industrial: 24%

Agricultural: 6%

Vacant: 6%

Number of Libraries: 25

Radio Stations: AM, 10; FM, 22

Television Stations: 5

Civilian Labour Force: 474,951

Unemployed: 29,922 (6.3%)

Per capita personal income (MSA) 2000: \$26,457

Median Age: 32.5

## **Overview**

RJ City has 1,000,000 residents. It is the second-largest city in its state, located in the American Southwest.

It was the site of a Roman Catholic Mission established in the 18<sup>th</sup> Century that became a convenient stopping point for wagon trains and other travellers. Over the years, it grew as settlers decided to stay. It was incorporated as a city in 1850, shortly after its State joined the Union.

RJ City residents are surrounded by mountains, the desert and lakes, all within a three-hour drive from the City. Outdoor activities such as biking, golfing and hiking can be enjoyed year around.

RJ City University is a relatively new university with particular distinction in science, technology and environmental studies. Its football team has enjoyed a winning record every year, and is attracting attention to the City and within the City to the school.

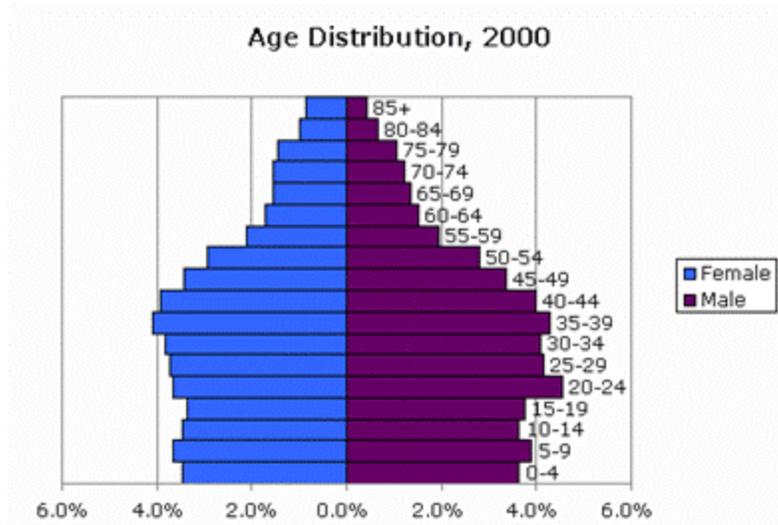
RJ City has competitive average prices for single-family homes, with an average cost of \$172,100. More than 30% of the housing stock has been built in the past ten years. It was rated one of the best places in the United States to be a first time homebuyer, according to a national news magazine.

Highways connect RJ City to all the major cities in the West and Southwest. It is also a Hub for a regional airline, and connections for national and international travel are convenient through Denver, Los Angeles, San Francisco and Dallas. Increasing numbers of businesses are moving to the state, thanks to favourable tax rates and government incentives, and RJ City has attracted its share. RJ City is in a right-to-work state, and only 4% of its manufacturing employees are unionized.

Because of its natural resources, temperate weather and a new convention centre, RJ City is becoming the site of increasing numbers of conferences and conventions. This is increasing the number of tourists visiting the City, and has boosted the tourism industry.

## **Demographics**

Just over half the residents of RJ City (55%) are White, and one quarter (26%) are Hispanic. Nine percent are Black, five percent Asian, and four percent American Indian. The number of males and females is divided almost evenly, and the age distribution is similar to that of the United States as a whole.



Education levels are also similar to those of the United States generally. Eight percent of residents over 25 have less than a 9<sup>th</sup> grade education; an additional 9.5% attended but did not graduate from high school. Nearly 30% have at least a college degree.

Of the total number of households, half consist of married couples (half of whom have children living with them, and half of whom do not). Nine percent of all households are made up of a single adult with children.

## Economy

Although current economic trends have been positive, one-fifth of children in the City live in poverty.

RJ City has made tremendous progress over the past five years, moving from the brink of financial disaster to financial solvency. The budget is balanced so that ongoing expenditures are matched with ongoing revenues, and one-time revenues and spent on one-time projects. This is the result of sound policies and decisions by the Mayor and City Council, strict fiscal discipline on the part of all City staff members, and a growing economy. There is concern that a recession could undermine this economic success.

Although current economic trends have been positive, one-fifth of children in the City live in poverty. There are gaps between what children learn in school and what they need to know to succeed, which has led to a call for public education reform efforts in RJ City. An inadequate supply of affordable child-care providers, unmitigated transportation gaps and rising housing costs have had a direct impact, not only on the regional economy, but also on individual efforts to gain and maintain employment. The total number of children in the City's foster care system continues to increase, and many suffer from serious behavioural and emotional problems linked to parental abuse. These children are at risk, particularly if their stays are length, for a number of problems later in life, including welfare dependency. Finally, the elderly and disabled populations are growing at a faster pace than the total population, requiring more services available in their homes. The over-75 population, which requires the most extensive and expensive services due to

increasing disabilities and chronic conditions, grew 40% between 1990 and 2000, twice the rate of the total County population and this trend is expected to continue.

## Crime Rates

RJ City has enjoyed a slight reduction in major crimes over the past ten years. In a trend that is consistent with the US as a whole, the numbers of both violent and property crimes have declined, as have the crime rates.

	<b>Reported to Police</b>	<b>Rate per 1,000</b>
Murder	38	0.04
Rape	257	0.27
Robbery	1,297	1.35
Aggravated Assault	3,963	4.14
<b>Total Violent</b>	<b>5,555</b>	<b>5.80</b>
Residential Burglary	3,329	3.47
Commercial Burglary	2,086	2.18
Theft	18,788	19.61
Vehicle Theft	8,078	8.43
<b>Total Property</b>	<b>32,279</b>	<b>33.70</b>

Even though the general crime rate has been reduced, the number of arrests for specific juvenile offences is increasing. This trend is likely to continue as the juvenile population is expected to increase 29% by the year 2020. The growing number of juveniles between the ages of 10 and 18 will require additional probation and other crime prevention services for at-risk youth. In addition, the crime prevention services need to be responsive to the growing elderly population in the City, because seniors are too often the victims of crime. These services will also need to respond to an increasingly diverse community culturally and ethnically, which is impacted by crime in different ways.

In 2001, 41 people were killed in RJ City in alcohol-related traffic collisions and 1,017 people were injured. These statistics represent a 47% increase from the 28 persons who were killed in 2000 and a 5% increase from the 964 who were injured in 2000. 1997 represented the lowest number of DUI deaths reported in the City - 25. The peak year for alcohol-related crashes was 1987 when 70 people were killed in impaired driving

collisions and 1,772 were injured. In the decade since, drunken driving deaths and injuries have decreased approximately 40%.

Victims of crime may receive information and support from Victim Advocates in both the City Attorney's Office (particularly in regard to domestic violence) and the District Attorney's Office. There is an active chapter of Mothers Against Drunk Driving (MADD) that provides a number of services including a 24-hour crisis phone line, resources on grief and recovery, and guidance through the court processes. Trauma Intervention Programmes (TIP) is a non-profit, volunteer organization of specially trained citizen volunteers who provide immediate emotional and practical support to victims and their families in the first few hours following a tragedy. The Episcopal Community Services network offers counselling to crime victims, a 24 hour crisis hotline, and in-depth rehabilitation and treatment services for victims of domestic violence.

## Glossary

### Adjudicative Process

- The system within RJ City where parties use an outside authority to make the decision about a case. The parties have no power to decide the dispute; they invest all power of decision making to the outside authority. Examples of adjudication include courts and arbitration.

### Agreement

- An arrangement between parties regarding a course of action; a covenant; the expected outcome of a cooperative process.

### Arbitration

- A private judicial proceeding in which the disputants bring in a third party, usually neutral, to decide the dispute based on evidence presented. Rules of evidence and procedure may or may not apply. Arbitration may be adversarial or cooperative.

### Best Practices

- The behavioural norms, skills, ideas, resources, and traditions that have been proven to successfully exhibit restorative justice principles and values. Within the cooperative process their use is the principal way that stakeholders are assured of fair processes.

### Capacity Building

- Capacity building concerns a community's human, scientific, technological, organizational, institutional, and resource capabilities. It concerns efforts to enhance the community's ability to evaluate and address crucial questions based on an understanding of potentials and limits and of needs perceived by the people of the community concerned.
- In RJ City usage, it refers to empowering the community to build a just peace and take increased responsibility for its members. This requires building a solid contingent of volunteers, professionals, and general citizens to support the Network by developing strong restorative programmes, solving their own differences restoratively, and assisting others in doing the same.

### Care

- The spontaneous, non-programme-related, private, non-permanent response of a community of care to a need. Most often arises in response to a specific incident.

## Circle

- A format for facilitated dialogue. Circles include any combination of victims, offenders, communities of care, judges and/or court personnel, prosecutors, defence counsel, police, as well as interested community members. The circle is convened by a “keeper of the circle” whose role is principally to oversee the process. Circles are used for different purposes; common types are sentencing circles (to agree on a sentence), healing circles (to provide care and support for victims or offenders) and peacemaking circles (to address conflicts that have not risen to the level of a criminal offence).

## Coercion

- Coercion means influencing a person through threat or guile to make a choice that he or she would not otherwise have made. A balanced presentation of options facing the person is not coercion.

## Community

- A group of people bound together by a common interest and willing to work together for that interest.
  - *Local community* - The entire group of private citizens living in a given location. For example, RJ City, or a neighbourhood within RJ City.
  - *Neighbourhood*: A group of individuals who live in close proximity to one another. Usually neighbourhoods include a couple blocks of houses, although they can be smaller or bigger. Usually self-defined by those living in the neighbourhood, the neighbourhood boundaries may grow or shrink depending on the context.
  - *Community of interest* – A group of individuals who gather together around a particular special interest or activity. Examples include those gathered by their faith, their job/vocation, sports, a particular life experience or problem, etc.
  - *Community of care* – The group of people who are committed to care for, protect, support, and encourage an individual. Frequently includes family members, faith community members, counsellors, teachers, and/or friends. Some individuals do not have a strong or beneficial community of care, so these people may need help in recruiting a new one.
  - *Relational neighbourhood* – The group of people with which an individual interacts frequently, to whom an individual feels connected, or to whom the individual would go for help. Often includes families, friends, co-workers, and neighbours, as well as faith or school community leaders.

- Within RJ City, when “community” is used in contrast to “state” or “government”, it refers to the group of individuals acting in their private capacity.

### **Community Building Sphere**

- The elements within RJ City that work together to assist victims in their recovery and offenders in their reintegration. It focuses on building respectful interaction within communities and teaching appropriate means of conflict resolution. It responds to systemic causes of crime.

### **Conference**

- A format for facilitated dialogue. Conferencing involves the community of people most affected by the crime—the victim, the offender, and the community of care of both—in deciding the resolution of a criminal or delinquent incident. The affected parties are brought together by a trained facilitator to discuss how they and others have been harmed by the offence and how that harm might be repaired.

### **Confinement**

- Physical restriction of a person to a clearly defined area from which he or she is lawfully forbidden to depart. Departure is often constrained by architectural barriers and/or guards or other custodians. A subset of incapacitation.

### **Cooperative Process**

- In RJ City, the group of programmes and practices that respond to crime by enabling parties to work together cooperatively in resolving the claims and responsibilities growing out of the offence. See *negotiation, mediation, conference* and *circle*.

### **Dangerousness**

- The generally non-scientific assessment of the likelihood that a given individual will later harm society or others and of the relative severity of that harm. It requires consideration of the likelihood of new offences (risk), the nature of the expected harm if new offences are committed (stakes), and the calculated combination of risks and stakes.

### **Due Process**

- Established rules and principles for judicial proceedings designed to safeguard the legal rights of the individual and make him aware of his obligations within the adjudicative process.

## Element

- The components or building blocks of the Network. They include programmes, systems, processes, boards, committees, movements, efforts, organizations, agencies, funds, etc. (“Programme” and “element” are used interchangeably.)

## Encounter

- A face-to-face or indirect meeting of parties to discuss what took place, consider the impact of the offence on the parties, and agree on how to make things right. An encounter may be facilitated or conducted by the parties alone; planned or spontaneous; large or small. See *mediation*, *conference* and *circle*.

## Family

- A group of people related by blood or law. Can also be extended to include the group with whom an individual lives or those with whom one feels intimately connected and committed for life.

## Fixed/Fluid/Free

- Refers to the degree and reliability of presence that a programme has in the Network. Free programmes are completely separate from the Network; fluid programmes have an occasional or short-lived presence, and fixed programmes are permanent parts of the Network.

## Force

- Applying physical pressure or violence, or threatening to do so.

## Formal

- Refers to the degree of form within a programme. Formal programmes are those with structured accountability, fixed order, and tradition. If a programme is established enough to have an address in the phone book, an official name, or any kind of advertising, it may be considered formal. See *informal*.

## Government

- The body of persons responsible for establishing and implementing the policies, actions and affairs of a political jurisdiction. Also refers to persons employed or contracted by the State to carry out its programmes. In RJ City, the government is responsible for assuring fairness, protection, accountability and support for restorative programmes and processes belonging to the Network.

## Harm

- Injury, damage or loss. The negative impact of an offence upon a person, group, or community. Direct harm includes property loss, damage or destruction; physical and psychological injury; and death. Indirect harm includes rising fear in a neighbourhood or a growing general sense of lawlessness.

## Hub

- A centre of activity or interest. A place or structure where a range of activities are coordinated.

## Incapacitation

- Steps or precautions to limit an individual's physical freedom. Examples include restrictions such as a curfew, probation, suspension of driver's license or other privileges, time spent in a treatment facility, house arrest, or imprisonment.

## Informal

- Informality refers to the degree of form within a programme. Informal programmes may be completely spontaneous, lacking any chain of command, fixed order, or tradition. Most informal programmes are community-based, within the cooperative process. There may, however, be exceptions. See *formal*.

## Injustice

- The act of violating enforceable norms established to govern behaviour among people within a group, community, or society. This includes not only violations of criminal law (which are called crimes) but of other enforceable regulations such as student conduct codes in schools, workplace rules, and so forth.

## Integration

- The process of being knit into a healthy community. Both victims and offenders may need help with this, either because they have been estranged by their experience of crime (and the justice process, in some cases) and others' reactions to that experience, or because they were never a part of a healthy community in the first place. See *reintegration*.

## Interests

- The term used for the protections owed a stakeholder within the cooperative process.

## Mediation

- A format for facilitated dialogue. Also known as victim offender mediation, the process involves a neutral third person called a mediator or facilitator who assists the

victim and offender in reaching a mutually acceptable and voluntary agreement. Decision making authority rests with the parties.

### **Needs**

- Those things (material, physical, emotional, spiritual, and/or relational) that are required in order to recover from the effects of experiencing or causing harm.

### **Negotiation**

- The process of creating an agreement between parties concerning how to resolve matters related to the offence. The negotiation may be conducted by the parties alone, with the assistance of a facilitator, or by an intermediary working between the parties.

### **Network**

- In RJ City, the entire constellation of elements associated together to deal with crime in as restorative a manner as possible. Includes the Resolution Sphere, the Community-building Sphere, the Order Sphere, and the Hub.

### **Obligations**

- The term used to refer to the duties of stakeholders within the adjudicative process.

### **Offender**

- A person who has admitted, taken responsibility for or been convicted of an offence.

### **Order**

- Conformity or obedience to law or established authority.
- *Imposition of order* means compelling parties, using coercion if necessary, to accept a resolution determined by a third party.

### **Order Sphere**

- The elements within RJ City that work together to suppress crime when its causes have not been adequately identified and corrected.

### **Peacebuilding**

- An approach to public safety that focuses on community solidarity and justice.

### **Prevention**

- The active process of creating conditions or individual attributes with an end result that the likelihood of criminal behaviour decreases. “Global” prevention approaches

are directed toward a general population. "Selective" prevention approaches target groups at greater risk of developing or continuing negative behaviours. "Individual" prevention approaches target individuals who have known, identified risks for developing negative behaviours.

### **Proportionality**

- A sentencing principle that holds that the severity of sanctions should bear a direct relationship to the seriousness of the crime committed.

### **Public Harm**

- That harm that is done to the community by a crime. Public harm is often due more to the collective influence of many crimes than to the influence of a single offence. Harm includes increased fear, distrust of the justice system and other state authorities, fragmentation of the community, and the consumption of resources needed for other priorities.

### **Public Interest**

- The interest of the community in its own welfare. This includes the need for safety, justice, and confidence in the government.

### **Punishment**

- A penalty imposed for wrongdoing.

### **Punitive**

- Inflicting or aiming to inflict pain in reaction to an offence.

### **Rehabilitation**

- The process, programmes, and support systems used to restore someone to a more healthy and useful place in society and life.

### **Reintegration**

- Re-establishment of people's practical and meaningful ties and relationships to their community of origin. See *integration*.

### **Reparation**

- The act of trying to repair the harm caused or revealed by an injustice as fully as possible. It may take many forms, such as payment of money to the victim or, if the victim wishes, to a charitable organization. It may involve work for the victim or, if the victim wishes, community service. For some victims the preferred form of reparation is that the offender will co-operate with whatever type of programme he or she needs

to help avoid offending in future, such as completing his or her education, acquiring skills, or attending treatment for addiction.

- Compensation (given or received) for an injury or insult.

### **Resolution Sphere**

- The elements within RJ City that work together in responding to the harms resulting from crime. Includes the cooperative and adjudicative processes, as well as the Investigative Process.

### **Respect**

- Regarding all people as worthy of particular consideration, recognition, care and attention simply because they are people.

### **Responsibility**

- Something one has a duty to do
- The term used to describe the duties of a stakeholder in the cooperative process.

### **Restitution**

- Monetary reimbursement of costs compensating victims for loss of or damage to property.
- Refers to the responsibility that offenders bear to their victims. Four restitution arrangements are possible:
  1. Payments by the offender to the actual victim, perhaps through an intermediary
  2. Earnings shared with some community agency or group serving as a substitute victim
  3. Personal services performed by the offender to benefit the victim
  4. Labour donated by the offender for the good of the community.

### **Restorative Justice**

- This term is sometimes used narrowly to refer to programmes that bring affected parties together to agree on how to respond to crime (this might be called the *encounter* conception of restorative justice). It is used more broadly by others to refer to a theory of reparation and prevention that would influence all criminal justice (the *reparative* conception). Finally, it is used most broadly to refer to a belief that the preferred response to all conflict – indeed to all of life – is peacebuilding through dialogue and agreement of the parties (the *transformative* conception).

- The following definition was adopted for use in RJ City: ‘Restorative justice is a theory of justice that emphasizes repairing the harm caused or revealed by unjust behaviour. Restoration is best accomplished through inclusive and cooperative processes.’”

### **Restorative Order**

- A decision by a judicial or otherwise-official third party that an offender must compensate or otherwise provide reparation to the parties who were harmed by the offence.

### **Restorative Outcome**

- The agreement that results from a restorative process. See *restorative process*.

### **Restorative Process**

- Voluntary meeting of parties in the aftermath of an injustice when those parties are willing to use respectful dialogue and agreement to resolve the interests and responsibilities of each. It is preferable for these meetings to involve face-to-face conversations by the parties, but they may also consist of indirect forms of communication through letter, audio- or videotape, or through an intermediary.

### **Retaliation**

- Intentionally imposing harm, usually with little regard to proportionality, on the wrongdoer in return for the harm done to the victim.

### **Retribution**

- The philosophy that a proportionate penalty should be imposed in response to the violation of a law.

### **Rights**

- The term used to describe the protections owed to a stakeholder within the adjudicative process
- Standards of freedom, dignity, and respect to which every person is legally entitled in a certain situation.

### **Risk**

- The likelihood that a person or action will be a source of danger.
- *Risk factors*: Characteristics or attributes of a person, their family, their peers, their environment, their school, etc., that increase the chance for behaviour problems. Typical risk factors include living where drugs and firearms are available in the community, school failure, family conflict, and friends who engage in problem

behaviours. These risk factors fall within four categories or domains: community, family, school, and individual/peer.

### **Sanctions**

- A penalty, specified or in the form of moral pressure, that acts to ensure compliance or conformity.

### **Sentence**

- An order for what an offender should do make amends for the harm done by his crime. Should take into account the amount of personal and public harm done, the seriousness of the offence, and the amount of pain caused the offender by the sentence. The consideration of the amount of pain is used as an argument to diminish the sentence, but never to increase it.

### **Seriousness of an Offence**

- The degree of harm caused or threatened by an offence. Can be determined by looking at the effects of the harmful behaviour (lasting impact, number of people affected, intrusiveness of crime into the lives of the victims, etc.).

### **Services**

- The care that victims and offenders need to receive in order to integrate into healthy communities. Services are offered to the community at large and drawn from by the Network as needed. They can be community-based or government-based.

### **Shalom**

- A Hebrew word that signifies welfare of every kind: security, contentment, sound health, prosperity, friendship, peace of mind and heart, as opposed to the dissatisfaction and unrest caused by evil.

### **Standards**

- A level of requirement, excellence, or attainment. An acknowledged measure of comparison for quantitative or qualitative value; a criterion.
- Those practices among RJ City's "best practices" that are used to assess the capability of cooperative processes to serve the interests of victims, offenders, communities and governments.

### **Systemic Reform**

- The process of reform on a systemic level. May mean actual change to the structure of the system, or may mean programmes and practices to produce or encourage wide-spread change for the better.

## **Victim (of Crime)**

- A person who suffers from a destructive or injurious action or agency.
  - *Direct victim (primary victim)* – people or groups or impersonal entities who experience the crime or its consequences firsthand.
  - *Indirect victim (secondary victim)* – people or groups or impersonal entities who also suffer emotionally or financially but are not immediately involved or injured.