



VANCOUVER POLICE DEPARTMENT PLANNING, RESEARCH & AUDIT SECTION

ADMINISTRATIVE REPORT

REPORT DATE: September 4, 2012
BOARD MEETING: September 12, 2012
BOARD REPORT # 1275

Regular

TO: Vancouver Police Board
FROM: Jim Chu, Chief Constable
SUBJECT: Restorative Justice and its Use at the Vancouver Police Department

RECOMMENDATION(S):

It is recommended that:

The Vancouver Police Board receives this report for their information.

PURPOSE:

To provide a brief summary of restorative justice and its principles and to what extent the Vancouver Police Department (VPD) participates in restorative justice programs.

BACKGROUND:

Restorative justice can be a difficult concept and practice to articulate because it can take many forms. Generally speaking it is a response to crime that “focuses on healing relationships and repairing the damage crime causes to individuals and communities” (Department of Justice, 2000). To do this, restorative justice programs attempt to address the needs of the victim(s), community, and offender(s) to repair the harm done. Crime then is seen not as a matter of law breaking per se, but rather one of injury to a person or persons. As a result, the process is more focused on how to heal that injury, materially or emotionally/symbolically, rather than on punishment.

Many programs include traditions and customs that are a part of aboriginal culture as well. Restorative justice is meant to “provide support and opportunities for voluntary participation and communication between those affected ... to encourage **accountability, reparation, and movement towards understanding, feelings of satisfaction, healing and closure**” (Correctional Service of Canada, 2012, emphasis in original).

DISCUSSION:

One of the primary differences between restorative justice and the traditional justice system in Canada is the role of the victims and offenders in the process. In the traditional system, both

are generally left out as lawyers and legal process are at the forefront of ensuring justice is done. In restorative justice however, victims and offenders, as well as the community, are able to speak for themselves and articulate their own reasons, justifications and feelings with a goal of restoring harmony and peace in the community.

Some argue that restorative justice is an easy out for offenders while others maintain the process “increases offender accountability, [and] offers a level of vindication and restitution for the victim” (Correctional Service of Canada, 2012). Many offenders report that the process of facing their victim(s) and being accountable by acknowledging their crimes is much harder than the punishments given by the justice system. It is not meant to replace the criminal justice system, but instead is another process that can be used with a range of responses to crime and conflict (Department of Justice, 2000).

Restorative justice is used all over the world including every province and territory in Canada. There are several points at which a restorative process can be applied. The Department of Justice (2000) provides the following list as examples of when and how restorative justice principles can be used:

- Restorative justice programs may prevent crime through public education, crime prevention, and encouraging community members to use mediation to resolve conflicts before they become serious.
- Police officers may refer matters to alternative measures or other diversion programs before they lay charges. Alternative measures are programs that offer offenders a way to take responsibility for their behavior and to address the harm that they have committed. These programs, which are legislated under the *Criminal Code* and the *Youth Criminal Justice Act* (YCJA), are developed within provincial guidelines. Diversion programs typically involve sending an offender to programs that may help with the underlying causes of the offending behavior, such as substance abuse or anger management.¹
- After the accused has been charged, matters may be referred to alternative measures programs or community justice committees. If the matter is successfully resolved at this stage, the charges may be suspended.
- At the sentencing stage, sentencing circles may assist a judge in determining a fit sentence. Judges may be able to order more restitution to victims, and circles may involve the community in helping the offender.
- After the offender has been sentenced, Victim-Offender Reconciliation Panels, circles of support, and reintegration circles can help to meet the emotional needs of victims and offenders. Restorative measures may also include efforts to create safer prison environments and to rehabilitate offenders.

There are a number of forms that a restorative justice process can take. Most programs are built from one of three core models: victim-offender mediation; family group conferencing; sentencing circles; and healing circles and community assisted hearings. Victim-offender mediation originated in Kitchener, Ontario in 1974 and brings victims and accused persons

¹ Though this quote references the Young Offenders Act, these principles of diversion and alternative measures have been enshrined and further entrenched within the Youth Criminal Justice Act which aims to keep youth out of custody where possible.

together with a mediator to discuss the incident and create an agreement about how to resolve it. This is a very common type of alternative measures program. Family conferencing is based on Maori and Samoan traditions that involve extended families in resolving conflicts and in Canada gathers the offender and the victim as well as their families to meet with supporters, police and others with the help of a mediator or facilitator to discuss the incident. Sentencing circles and the like are based on Aboriginal tradition and bring communities (including families, elders) in conflict together to resolve an issue. Participants are usually in a circle and use some type of "talking piece" which indicates the speaker. Other Aboriginal traditions may also be included.

Restorative justice programs are not typically the domain of police, they are generally provided by the government, corrections or community organizations. Restorative justice generally is used after police involvement and with offenders who admit to their guilt. Youth diversion programs are one exception; police often utilize this type of program for youth in trouble. However, it is only one type of program that is possible for diversion and is not currently available in Vancouver.

Nonetheless the VPD has incorporated restorative justice principles into a number of programs such as RestART. RestART is a program that was developed by the VPD in the early 2000s by two detective constables. Its purpose was to engage youth who were involved in illegal graffiti in restorative justice art projects to reduce the negative impact of defacing property, improve a sense of safety, and support healthy lifestyles. The youth work in partnership with each other, community members, police and legal graffiti artists to build positive relationships and move away from the risk of further criminal activity. Through a series of workshops over four days, the youth complete the program through a community mural that all participants take part in creating. The program has been very successful with a large majority of participants leaving the graffiti lifestyle and saving the City of Vancouver millions of dollars in repair costs. The Grandview Woodlands Community Policing Centre has taken over the RestART program but funding has been difficult to secure so the program is not provided on a regular basis. However, a session is planned for September 2012.

The VPD's Youth Referral Coordinator also incorporates elements of restorative justice into the work they do with young offenders. The Youth Referral Coordinator position was created by the VPD in 2003 in response to the new YCJA. The YCJA authorizes the use of extrajudicial measures for young offenders thereby providing opportunities for a restorative response. The YCJA aims to keep youth out of custody where possible by providing the opportunity for alternative measures where appropriate.

To illustrate, the Youth Referral Coordinator submitted an application in 2010 to the Vancouver Police Foundation (VPF) for funding to facilitate a program called Retail Theft Circles (RTC). RTC is a program that was originally developed by restorative justice workers from North Vancouver, Burnaby and Richmond that addressed retail theft by youth. RTC is a two hour workshop which seeks to address the issue from a place of restorative values. During the workshop, youth come together with youth referral coordinators, facilitators, loss prevention officers, police officers and community members, to have a dialogue about shoplifting. The workshop encourages youth to gain a better understanding of the effects of their shoplifting, as well as build positive relationships between the youth, the loss prevention officers, and the police. After the success of the North Vancouver, Burnaby and Richmond programs, the VPD submitted their application to the VPF and was successfully granted the funding to facilitate an RTC.

After the funding was acquired, the VPD's Youth Referral Coordinator created an RTC program for the VPD; however, the program unfortunately was unsuccessful as no referrals were made to the Coordinator. Despite advertising the program to members and creating a training bulletin for Patrol, the Coordinator did not receive any referrals for the RTC program. The program has yet to be re-visited; nevertheless, the support for restorative justice responses and alternative measures has been incorporated and is used by the Coordinator whenever possible.

The Youth Services Section reports that it would like to see more programs in the community to refer youth to as a diversionary measure. In the past, there were programs run by the John Howard Society and the Aboriginal Transformative Justice Services Society but both have lost funding and are no longer available. The Youth Services Section also attempted to create a pilot project in partnership with the Vancouver School District and North Shore Restorative Justice Society in 2011 but was unable to secure funding despite the project being supported internally.

The Hastings-Sunrise Community Policing Centre also developed a program in 2009 that was based on restorative justice principles and Peacekeeping Circles. The Thunderbird Restorative Justice program was developed in partnership with a number of different community groups; however, the lack of funding prevented the program from becoming operational.

2011 Stanley Cup Riot

Recommendations were made by Mr. Doug Keefe and Mr. John Furlong in their Independent Review of the 2011 Stanley Cup Riot to create a process that could offer an alternative process to prosecute rioters which incorporated community experts as well as affected businesses and residents. Although these recommendations were made for the provincial government to initiate, Crown Counsel felt that the severity of the events on the night of the riot and the subsequent harm caused by the individuals involved was not suitable for a restorative response. This was supported by the VPD. The objective from the beginning of the riot investigations was to conduct thorough investigations and, where appropriate, request criminal charges. The public was outraged as to what occurred that night and expected the rioters to be held accountable for their actions.

The North Shore Restorative Justice Society (NSRJS) and the RCMP's Restorative Justice "E" Division

Other police departments across Metro Vancouver do participate in restorative justice programs. An example of a restorative justice program is the North Shore Restorative Justice Society (NSRJS). NSRJS was incorporated in 1997 to develop a community-based program for dealing with the impacts of crime in the community which follow the guiding principles of restorative justice. The Society applied to the Ministry of the Attorney General, under its Community Accountability Program (CAP), for start-up funding which it received in February, 1998. The CAP has been core funded jointly by both the City and the District of North Vancouver since 1998 and, in 2007 the District of West Vancouver became the third municipality to fund the work of the Society. The Society runs four programs including the Restorative Response Program, the Restorative Awareness Dialogue Program, Restorative Responses to Adult Abuse and Neglect Program and Restorative Approaches in Schools.

NSRJS receives youth and adult referrals from the RCMP, the West Vancouver Police Department, and community agencies such as schools, municipalities, and non-profit groups. The North Vancouver RCMP and West Vancouver Police Department work with the North Shore Restorative Justice Society to offer an alternative to the criminal justice system. If the police agency feels an offender would be suitable for restorative justice and the offender assumes responsibility of the offence, the officer can make a referral to the Society. Referrals to the Society can be made pre-charge or post-charge depending on the circumstances of the offence (although the majority of restorative justice referrals are pre-charge). If the referral was made prior to the charge being laid, the officer would not be required to submit a Report to Crown Counsel. The Society will subsequently contact all parties affected by the offender's actions and meet with them to discuss the circumstances of the offence and design a restorative response. A restorative response might be a face-to-face meeting (like a mediation, conference or circle) or explore how else the harm might be addressed in a meaningful way.

The majority of referrals made to NSRJS are for young offenders, however; adult programs are also available including Restorative Responses to Adults at Risk of Abuse and Neglect. This program provides a restorative response to dealing with family conflict including emotional, financial and physical abuse and neglect of older adults. NSRJS works with the Adults at Risk of Abuse and Neglect Network, Vancouver Coastal Health and other agencies to find meaningful and healing approaches to these complex referrals.

The RCMP's "E" Division also participates in restorative justice programs in BC and across Metro Vancouver. For example, in addition to the North Vancouver RCMP, Burnaby RCMP, Richmond RCMP, Surrey RCMP, Coquitlam RCMP, and Chilliwack RCMP also support restorative justice programs. Restorative Justice "E" Division provides a three day "Community Justice Forum" facilitator training program for government agencies, communities and schools in the province. Trainers travel throughout BC and outside, to provide training and also look after any matters for restorative justice that may come up regarding police, community, or government. This unit also provides restorative justice education and awareness presentation to communities and other government agencies and is the policy centre for restorative justice for the RCMP in BC. Trainers also provide assistance to communities and agencies in restorative justice program development and in facilitating Community Justice Forums and Healing Circles for complex incidents.

CONCLUSION:

Though restorative justice has a degree of support in the general community and the criminal justice system, funding for programs has been notoriously difficult to cultivate and maintain. It appears that such programs are geared towards youth referrals and particularly in small communities.

Under the YCJA the VPD is required to consider the use of an alternate measure, such as restorative justice, prior to involving a youth in the formal criminal justice process. At the recommendation of Crown Counsel, and with the appropriate type of offense and offender, the VPD would be receptive to cases being referred to a restorative justice process. If more restorative justice programs for youth were available, the VPD would welcome such a development.

In general, the VPD's current practice for adults is to send cases to Crown Counsel who will make the decision whether the case is suitable for restorative justice or another type of

alternative measure or diversion. Crown Counsel has a policy on this and if the offender reneges on conditions or restitution, or recants, Crown still has the option to proceed with charges. Conversely if the police recommend the offender to a pre-charge restorative justice program and the offender recants, then trying to re-assemble a prosecutable case months or years after the fact would be very difficult.

The Executive Committee of the Vancouver Police Department has approved this report.

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Submitting Executive Member (signature):

Warren Lemcke, Deputy Chief Constable Date: 2012-09-04

This report has been prepared in consultation with the sections/divisions listed below, and they concur with its contents.

Concurring:

_____ Date: _____
_____ Date: _____
_____ Date: _____