



***New directions***  
*for community safety*

MANITOBA'S STRATEGY FOR  
**VICTIM-CENTRED  
RESTORATIVE  
JUSTICE**



Manitoba Justice Victim Services Branch delivers a wide range of services to victims throughout Manitoba, including child victims, victims of domestic violence and of the most serious crimes as outlined under The Victims' Bill of Rights (VBR). These important services are provided to victims of criminal matters as their cases proceed through the court process.

Despite changes to legislation recognizing the important part that victims play in the criminal justice system, some victims still feel that they are not fully considered in the court process. This may be because, in the traditional court system, a victim's primary function is to provide information to the court through oral testimony related to the event that occurred, or through victim impact statements that outline how the victim was affected by

the crime. While victims are integral to the process, the traditional court system doesn't allow them to be involved in important decisions about the case. That function is left to the lawyers, the judge and the accused.

For appropriate cases, restorative justice can be an alternative to the traditional court system and may give victims greater satisfaction by encouraging victim participation in helping to bring a case to resolution. Restorative justice not only actively involves the victim in crafting options and ideas for resolution but also seeks the victim's opinion on which resolution will work best in the particular circumstances. Ensuring the victim is at the centre of the process may help him or her feel in control of the situation, gain closure and guarantee that appropriate reparations are part of the case outcome.



# WHAT IS RESTORATIVE JUSTICE?

Restorative justice is not a new concept. It has connections to Indigenous and many other cultural traditions, which historically used forms of restorative justice to resolve community issues. What we now consider a criminal act was dealt with as a violation of people, relationships and the peace of the community as a whole. In this approach, the community considered healing, reintegration and preventing future harm to resolve the issue.

Restorative justice can help address the root problems that led to a person becoming involved in criminal behaviour, with the goal

of preventing future offences. The Truth and Reconciliation Commission of Canada (TRC) recently highlighted that offenders may themselves be victims of historical wrongs stemming from residential schools or the Sixties Scoop. In fact, the TRC has recently charged governments across the country to find ways to reduce over-representation of Indigenous people in the justice system, as offenders and as victims. Increasing the use of restorative justice is one way to help reduce Indigenous over-representation.

Restorative justice can be any program, approach or policy that helps to deal with criminal activities outside of the traditional court process. Restorative justice could include measures such as:

- an opportunity for the offender, victim and/or the community to find a resolution that repairs the harm and allows the offender to make amends, or
- requiring the offender to obtain treatment or counseling to deal with any underlying issues such as mental illness or addictions, or
- restoring victims to a feeling of safety and security in their community, or
- ensuring, where possible, victims receive restitution for any losses that they suffer as a result of the criminal event.

## The consultations

In anticipation of the proclamation of *The Restorative Justice Act*, Manitoba conducted consultations in Winnipeg, Brandon and Thompson with the Provincial Court, police agencies, representatives from restorative justice agencies, members of justice committees, and community program providers, asking them to consider four questions:

- 1 When we speak of restorative justice as a holistic approach, what does that mean and how should we make that happen?
- 2 How should restorative justice be delivered throughout the province?
- 3 What role should restorative justice play in supporting victims, offenders and the community? How do you see the restorative justice system being able to assume that role?
- 4 How can we work together to strengthen the delivery of restorative justice in Manitoba?

The consultations provided a number of recommendations on how to implement the act. This plan reflects the high-level feedback that came from the consultations. More detailed recommendations will be reviewed by Manitoba Justice as part of the implementation process.

## The benefits of restorative justice

While restorative justice may not be appropriate for all cases, there are definite advantages that make it a better alternative to the court process:

**Swifter justice:** The restorative justice process can start more quickly than the traditional court process. This allows for a stronger learning experience as the behaviour and issues underlying the criminal conduct are directly and openly discussed making consequences occur quickly following the event.

**Meaningful consequences:** When the offender, the victim and the community participate in a restorative process together, it allows the offender to hear and fully understand how their behaviour impacted others. These kinds of open discussions can provide positive outcomes for both the victim and the offender. Having the offender either pay restitution or make reparations to the victim and community reveals the harm caused and provides the opportunity to commit to make amends.

**Creates victim satisfaction:** Since the restorative justice process gives victims an opportunity for direct involvement including input into how matters are resolved, it can result in greater satisfaction in the process and the result.

**Increases public safety:** Restorative justice can help address root issues underlying why a person became involved in criminal behaviour thereby preventing future offending.



# HOW THE RESTORATIVE JUSTICE PROCESS WORKS

## For the victim and the community

Not all cases referred to a restorative justice process have victim involvement but, where victims choose to participate, they generally find the process to be positive. Victims will be able to address offenders in safe and controlled environments, and tell them of the harm the

*“Assist with reintegration back into the community.  
Help individuals find a positive path by looking at  
the whole person and the whole situation.”*

– Comment from consultation participant

offence has caused. Studies show that there is a higher satisfaction rate and substantially reduced post-traumatic stress issues for victims who have used the restorative justice approach. There is also a much higher collection rate for restitution paid to victims in a restorative process.

But it should be noted that one important aspect of restorative justice is about restoring victims to a feeling of safety and security they had before the crime occurred independent of any process that involves the offender. If the victim wants, at some future point, to engage with the offender, this can be facilitated but it will never be forced.

For the community, there is a sense of control over the resolution of the case and the potential to recover damages, if applicable. In the longer term, the community benefits through repairing the harm to the victim and the reduced risk of the offender becoming involved in criminal activity again.

## For the offender

In order to participate in a restorative justice process, offenders must personally accept responsibility for their actions and be prepared to hear face-to-face from victims about the hurt their behaviour has caused. Studies have shown using restorative justice is more likely to reduce recidivism (the likelihood to reoffend) than using the traditional justice system. Successfully completing a restorative justice process may also prevent an offender from obtaining a criminal conviction, allowing him or her an opportunity to move forward without the stigma of a criminal record. This can be very beneficial for the offender as a criminal record can be a significant impediment to employment, access to housing and other programs.

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# MANITOBA'S PROPOSED FIVE- YEAR STRATEGY

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Manitoba is proposing the following five-year strategy to build on the existing restorative justice programs and policies across the province. It recognizes that in some circumstances, restorative justice programs are a more appropriate resolution than the traditional court system.



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## IMMEDIATE ACTION

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### INTENSIVE CASE ASSESSMENT PROCESS (ICAP)

Recently, Manitoba Prosecution Services created a unit called the Intensive Case Assessment Process (ICAP). This team of dedicated Crown attorneys will be responsible for reviewing all alleged cases of criminal involvement at the earliest possible point in the criminal justice system. They will also refer appropriate cases, as early as possible, to a restorative justice process for resolution in the community.



## SUPPORTING PROCESS IN PLACE

Manitoba is already operating several restorative justice programs throughout the province. Manitoba provides in excess of \$1.8 million to restorative justice programs and Canada, which cost shares on some of the programs, provides in excess of \$1.2 million.

### **In Winnipeg, Manitoba Justice works with three organizations that deliver restorative justice programming:**

- Mediation Services specializes in victim-offender mediation, particularly large and complex mediations. They also provide a victim-offender mediation option in the communities of Portage la Prairie, Morden and surrounding areas. They have connections in the social services community to co-ordinate programs needed to resolve cases.
- Onashowewin provides culturally appropriate programming for Indigenous youth and adults who have come into conflict with the law. With the support of a community justice worker, participants explore healthy decision making as well as Indigenous culture. Offenders who require additional supports can also access counseling, mentorships, healing circles and additional mediation services.
- The Salvation Army administers four programs related to anger management, domestic violence, prostitution-related charges and property offences including shoplifting. They also offer other community work programs that may be completed as an alternative to paying fines.

Manitoba Justice also operates a probation office in partnership with the John Howard Society of Manitoba, called Restorative Resolutions. Cases are referred through the criminal justice system, for matters where the offender is facing a period of incarceration as part of their sentence. Offenders must enter a guilty plea, express remorse and genuinely want to repair harm caused to the victim, the community, and themselves to be accepted into Restorative Resolutions. Once accepted into this program, the offender meets with staff on a weekly basis to prepare a community-based plan as an alternative to jail. The clients are then supervised in the community.

### **A number of other programs are available throughout Manitoba:**

- There are 45 justice committees across the province, each made up of community volunteers to hear cases that have been diverted from the formal court process. The committee members look for appropriate resolutions by considering the impact of the criminal activity on the victim and the community.
- In Brandon, Westman Mediation provides services similar to those provided by Mediation Services in Winnipeg. They also provide support to seven justice committees in the Westman region.
- The Métis Justice Institute, a program of the Manitoba Métis Federation (MMF), provides a justice alternative for Thompson and the surrounding communities. The program focuses on building relationships within the community to deliver culturally appropriate programs.



- The MMF also offers the Métis Community Justice Program, which includes restorative justice programs and supports to victims and offenders, in Interlake, The Pas and Northwest. This MMF program will also provide support to Métis community members wherever possible, no matter where they live.
- The Manitoba Keewatinkowi Okimakanak (MKO) Northern Justice Project has been in place since 1997. MKO provides culturally relevant restorative justice programs in 16 communities: Garden Hill, Wasagamack, Pukatawagan, Grand Rapids, Opaskwayak, Chemawawin, Sapotaweyak, Moose Lake, Oxford House, Shamattawa, Tataskweyak (Split Lake), Lac Brochet, God's Lake Narrows, Nisichawayasihk (Nelson House), Pimichikamak (Cross Lake) and Norway House. Cross Lake and Norway House have also begun to deliver restorative justice programs in addition to those developed by MKO.
- The Southern Chiefs' Organization Justice Project provides restorative justice programs in five communities: Waywayseecappo, Pinaymootang, Sagkeeng, Pine Creek and Long Plain.
- There are also programs providing restorative justice in the communities of Fisher River, St. Theresa Point and Hollow Water First Nation.

## CREATING AWARENESS

Ideally, appropriate cases should be referred to a restorative process as early as possible. Many in the justice system play a role in assessing whether restorative justice should be considered in a case, including Crown attorneys, the judiciary, defense counsel, police agencies, victim services and probation staff. Manitoba Justice will ensure that those in the justice system are made aware of the restorative justice programs available throughout the province.

### To do this, we will:

- provide annual workshops to key stakeholders in each region of the province, including representatives from organizations delivering restorative justice services



*“To make restorative justice work, it must be community driven and flexible enough to allow for the cultural and community differences that exist across Manitoba.”*

– Common theme emerging from consultations

### **POLICE REFERRALS**

Police agencies have the ability to make referrals to restorative justice programs; however not all agencies have protocols to use this valuable option.

**To increase the number of police referrals we will:**

- work closely with police agencies, making them aware of the restorative justice options in their communities and assist the police agencies with the administrative and reporting requirements they may require to have confidence in the referral process

### **RESTORATIVE JUSTICE ONLINE TOOLKIT**

We need to do a better job of informing the public about the methods and goals of restorative justice. Sharing information on restorative justice, by making presentations at community events and creating media awareness will help build public understanding and confidence.

**To do this, we will:**

- enhance the profile of restorative justice on the Manitoba Justice website
- develop brochures and/or other materials for the public explaining restorative justice
- find opportunities to present information about restorative justice in communities and in regions across the province

### **OFFICIAL RESTORATIVE JUSTICE WEEK**

In mid-November every year, Manitoba proclaims Restorative Justice Week. Many of the agencies that deliver restorative justice programming, and other community agencies celebrate this week with information events, films and discussion tables that are open to the public. The events are well attended.

- The Manitoba Legislature will be asked to proclaim a week in mid-November as Restorative Justice Week and will continue to provide support to the event

# GREATER CAPACITY

## SUPPORT HUBS

In order for restorative justice to be successful, stakeholders must have confidence in the programs and a simple way to make a referral. Manitoba Justice has built relationships with some very strong agencies and justice committees to deliver restorative justice programming across the province, with programs intended to be responsive to the needs of stakeholders and their clients, including both offenders and victims. Several programs provide culturally appropriate, community-based services for Indigenous and Métis clients.

Services vary across the province. Agencies and justice committees have different specialties and skill levels that are appropriate for different kinds of cases. Manitoba Justice believes that those making referrals to restorative justice should be able to determine suitable options more readily.

### To do this, we will:

- create five restorative justice hubs throughout Manitoba: Winnipeg (already in place), Westman, Eastman, Parkland and Northman. The structure of the justice hubs will vary depending

on the location and the resources available within the region. Hubs will provide support to their community justice programs, while recognizing the need for flexibility; and hubs will help share resources across regions while ensuring trained victim/offender mediators are available in each hub, adding mediator services where necessary.

- Manitoba Justice will provide new funding of \$42,800 for this fiscal year (2015/16) and \$168,100 for next fiscal year (2016/17) to the John Howard Society (Westman Mediation) to create justice hubs in Brandon (Westman) and Dauphin (Parkland), to simplify the referral process for cases to be diverted and to add victim/offender mediators in those regions.
- In addition, \$20,500 for this fiscal year and \$81,000 for next fiscal year is being provided to the Manitoba Métis Federation to increase their capacity to provide reintegration services for offenders being released from institutions and to expand diversion programming for Métis people in the Winnipeg area.

## STRONGER VOLUNTEER TRAINING

Justice committees are an important component of an effective restorative justice system, especially in rural areas. It is challenging to ensure that the volunteer members of the justice committees receive ongoing training so that they can deliver effective restorative justice sessions.

### To improve training, we will:

- use the newly created hubs to provide justice committee volunteers with the necessary training and supports to provide effective service within their communities.



# VICTIM-CENTERED JUSTICE

## GREATER VICTIM SUPPORT

A restorative justice approach can be used at any time during a case, right up to the release of the offender back into the community. Victims can indicate their desire to participate in a restorative justice approach at any time, however victim safety must be a paramount consideration in any restorative process. Manitoba Justice Victim Services will provide information on a restorative process and ensure victims' requests are relayed to Crown attorneys. Victim Services will be available in serious cases to provide support before, during and after the restorative justice process, should the victim choose such an option.

### To do this, we will:

- prepare victim-centred information pamphlets on how restorative justice works and the potential benefits for victims
- provide support to victims directly through the Victim Services branch for serious post charge cases where a victim has requested a restorative process be part of the case resolution

## STRONGER AGENCY AND COMMITTEE TRAINING ABOUT VICTIMS

Many agencies delivering restorative justice programs have staff trained to provide support to victims. Manitoba Justice believes it is essential for agencies and the community justice volunteers to be well-trained and knowledgeable in this area.

### To do this, we will:

- ensure training is provided, so agency staff and volunteers are comfortable in working more closely with victims during the restorative process

## ASSISTING VICTIM SUPPORT ORGANIZATIONS

- Manitoba Justice will be providing \$10,000 to Candace House to assist the organization in preparing a business plan to create a place for victims to seek support and solace

## RESTITUTION RECOVERY PROGRAM

A common decision in both the traditional court system and restorative justice is for the offender to pay restitution to the victim. It may be a preferred outcome in many cases, but not realistic given the offender's personal circumstances. In the traditional court system, the victim is usually responsible for collecting the money from the offender. The victim may not be familiar with the collection processes or whether the offender is able to pay. If restitution becomes difficult to collect, the victim may feel further victimized. Manitoba Justice will assist non-corporate victims to collect payment when restitution is ordered, reducing the burden currently placed on these victims.

### To do this, we will:

- in 2016, change the restitution administration process to provide support to non-corporate victims in obtaining a civil judgment for their order
- consider legislative amendments to permit the ability for Manitoba to enforce the collection of restitution
- subsequently, further add to the restitution administration process to assist non corporate victims collect the amount due if the offender defaults on payment

# GETTING TO THE ROOT

As part of the departmental reinvestment strategy, it is important to maximize partnerships with outside agencies responsible for health services, housing, education and employment. Whenever parties come into contact with the criminal justice system, there is a statutory mandate to move them through a court process which is very costly. Alternatives to incarceration have been demonstrated to be successful in reducing the expense of the criminal justice process.

The province operates two problem solving courts in Winnipeg, a Mental Health Court and a Drug Treatment Court. Service providers work with offenders whose mental health or drug addiction issues are the root causes of their criminal involvement. These courts are resource intensive and rely heavily on federal financial assistance and supports from other stakeholders including: Manitoba Health, Healthy Living and Seniors, Winnipeg Regional Health Authority (WRHA), and the Addictions Foundation of Manitoba. The Winnipeg Drug Treatment Court has been successful in helping graduates avoid future contact with the criminal law. The rate of recidivism for graduates of drug court is about 13 per cent, far less than for the regular criminal justice system. The Mental Health Court has been in



operation since May 2012 and deals with offenders with long term mental health issues. A team of four WRHA staff support a caseload of under 30 participants.

To build on these successes, we will consult with our federal and provincial partners as well as a range of service providers with the intent to:

### **ADD MORE MENTAL HEALTH COURTS**

- We will expand the Mental Health Court model to Portage la Prairie and Brandon.

### **WINNIPEG DRUG TREATMENT COURT EXPANSION**

- We will increase the number of placements in the Winnipeg Drug Treatment Court.

### **NORTH END COMMUNITY COURT**

- We will open a community court in the William Whyte neighbourhood of Winnipeg to function as a “problem solving court” to explore the root causes of a person’s criminal behaviour, find the appropriate supports and mentors for the person, and help prevent future criminal involvement.

# INDIGENOUS COMMUNITY

## **PROBLEM SOLVING COURT STRATEGY**

Indigenous peoples in Manitoba are over-represented in the criminal justice system, both as offenders and as victims. Manitoba Justice will explore using problem-solving courts in some Indigenous and Métis communities over the next five years, with the goals of improving community safety and reducing contact with the criminal justice system.

### **To achieve this, we will:**

- consult with elders, community members, Indigenous leaders and existing service agencies
- co-ordinate existing provincial services in these communities into a more effective and holistic resource
- develop a strategy, based on feedback from communities and stakeholders, to guide the creation of an Indigenous community court



*"How do we make this work? Come to my community. Come fishing with me. Sit under a tree and eat a meal. Then we can talk about how to make this work."*

– Cross Lake consultation participant

## HELP FOR LOW-RISK CHRONIC OFFENDERS

A small number of Manitobans are chronically involved with the criminal justice system. Their criminal activity may be relatively minor, but is frequent enough to limit the community-based options that are available. The criminal justice system is also not adequately equipped to deal with these individuals' underlying issues to effectively reduce the likelihood of future contact with the law.

**To address this issue, we will:**

- encourage access to appropriate programs for these offenders as early in the criminal justice process as possible (ideally before or instead of a conviction)
- create stronger relationships with appropriate agencies, to help connect individuals with longer-term community supports to resolve their underlying issues



# SHOWING PROGRESS

## RESTORATIVE JUSTICE ADVISORY COUNCIL

*The Restorative Justice Act* creates an advisory council of senior representatives from Manitoba Justice, other government departments and members of the community. The council will be tasked with monitoring progress related to implementing Manitoba's Strategy for Victim-Centred Restorative Justice.

## OUTCOME MEASURES AND EVALUATIONS

Manitoba Justice needs to ensure the changes outlined in the strategy have a positive effect for all Manitobans, especially victims and offenders.

### To do this, we will evaluate:

- victims' level of satisfaction
- the number and types of cases referred and resolved through restorative justice programs and compare to similar cases in the traditional court system. Manitoba is targeting to increase referrals by 30 per cent (this includes police referrals)
- re-contact rates for offenders
- restitution payment rates



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# WE ARE LOOKING FOR YOUR INPUT

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This document represents the proposed restorative justice strategy of Manitoba Justice. We will be pleased to consider your comments or suggestions on the plan until February 1, 2016.

You can contact us at: **[RestorativeJustice@gov.mb.ca](mailto:RestorativeJustice@gov.mb.ca)**







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