



Restorative Justice

Restorative Justice (RJ) is a process through which remorseful offenders accept responsibility for their misconduct to those injured and to the community which, in response, allows the reintegration of the offender into the said community. RJ treats crime as a violation of people and relationships. It creates an obligation to make things right through proactive involvement of victims, ownership of the crime by the offender and participation of the community in search for solutions which promote repair, reconciliation and reassurance.

Restorative Justice, then:

- is a different way of thinking about crime and our response to crime;
- focuses on the harm caused by crime: repairing the harm done to victims and reducing future harm by preventing crime;
- requires offenders to take responsibility for their actions and for the harm they have caused;
- seeks redress for victims, recompense by offenders and reintegration of both within the community; and
- is achieved through a cooperative effort by communities and the government.

Basic Elements of Restorative Justice

Unlike in the traditional justice system, a restorative effort is a holistic response to crime or conflict which needs to be attended to in all these relationships to be able to strengthen community fabric. The repairing relationships of stakeholders do not mean creating a friendly and positive attitude between them. It means restoring appropriate “balance of power” among stakeholders.

- *Encounter*: Create opportunities for victims, offenders and community members who want to meet and discuss the crime and its aftermath;
- *Amends*: Expect offenders to take steps to repair harm they have caused to their victims;
- *Reintegration*: Seek to restore victims and offenders as a whole and help them become contributing members of society; and
- *Inclusion*: Provide opportunities for parties with a stake in a specific crime to participate in the resolution.



Encounter



Amends

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Goals of Restorative Justice

The goal of RJ is to repair the harm. The criminal justice professional applying the philosophy needs to understand the impact of crime on the victims, and the latter's family and future. By helping the victim the system can:

- Exert efforts to appropriately respond to the victim's harm;
- Accordingly hold offenders accountable;
- Reduce the victimization of the victim again;
- Improve active involvement and cooperation of the victim; and
- Protect and empower victims.

Benefits of Restorative Justice

- It views criminal acts more comprehensively: rather than defining crime as lawbreaking, it recognizes that offenders harm victims, communities and even themselves.
- It involves more parties: rather than giving key roles only to government and the offender, it includes victims and communities as well.
- It measures success differently: rather than measuring how much punishment has been inflicted, it measures how much harm has been repaired or prevented.
- It recognizes the importance of community involvement and initiative in responding to and reducing crime, rather than leaving the problem of crime to the government alone.

Principles of Restorative Justice

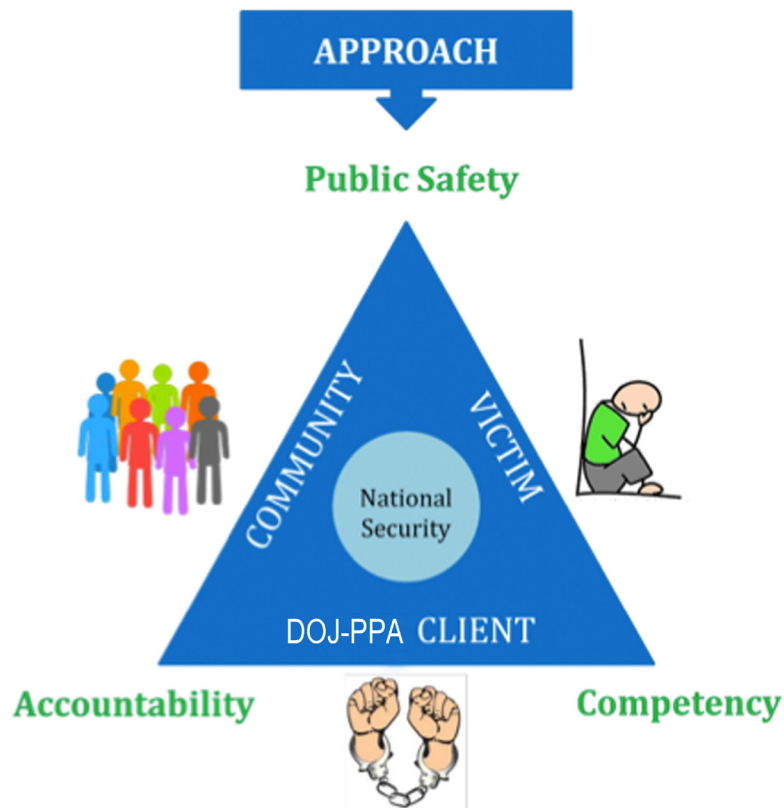
- Justice requires that we work to restore those who have been injured.
- Those most directly involved and affected by crime should have the opportunity to participate fully in the response, if they wish.
- Government's role is to preserve a just public order, and the community's role is to build and maintain a just peace.

**...requires work to restore those
who have been injured...**





DOJ-PPA Balanced and Restorative Process



Crime or conflict hurts people and relationships. The three stakeholders (victim, offender, and community) are disturbed by the impact of crime or conflict; therefore, their relationship is affected, and they deserve the end-goals of RJ. The client-offender should be accountable to correct his or her mistake, and restitute whatever damages were inflicted (accountability). The victim has to be compensated and be empowered again (competency development). The community and its inhabitants deserve an orderly and peaceful society (public safety).

The DOJ-PPA's role, through its provincial and city field offices, is very vital in the implementation of the RJ Program with respect to its clientele who are undergoing supervision. The RJ Program, which has implication to the total efforts in the rehabilitation and reintegration of offenders, has vital national consequence on the evolving issues of human rights and social justice. These offenders, if not properly managed, and if the appropriate treatment is not implemented, certainly have impact to national security.

Restorative Process

Mediation

Also known as Victim-Offender-Mediation (VOM). It is a form of Alternative Dispute Resolution (ADR), a way of resolving disputes between parties with concrete effects. Typically, a third stakeholder, the moderator, assists the parties to negotiate a settlement. The moderator may mediate disputes in a variety of fields, such as commercial, legal, diplomatic, workplace, community and family matters. This is a process that provides interested victim/s an opportunity to meet the offender in a safe and structured setting, and engage in a discussion of the crime.

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Conferencing

Is a voluntary, structured meeting between offender/s, victim/s and/or both parties' family and friends, in which they address consequences as restitution and other outcomes.

Circle of Support

Is a model of RJ which provides an opportunity for victims, offenders and community to discuss the crime, and its aftermath, particularly its effect on the relationships in the community.

Indigenous Practices

To preserve, protect and respect Indigenous Practices of DOJ-PPA tribal clients, the Agency adopts and adheres to prescribe mechanisms customary to their beliefs but ensuring and guaranteeing the due exercise of the concerned tribal community to reject or allow the intervention, documentation and publication of the DOJ-PPA of the indigenous conciliation practice undertaken.

Basic Procedures

Restorative Justice, as a new model of balanced justice, is globally emerging and experiencing remarkable growth of awareness and interest as a newly discovered correctional theme. It is a guiding framework or paradigm shift ultimately focused to promote and encourage active involvement of the three (3) stakeholders in a crime situation, specifically the victim, offender and community. Since RJ is considered as an emerging concept, the treatment of crime is future-oriented, and it affords the stakeholders a chance to be heard and participate in the making of a better and brighter future by arriving at a solution which promotes, repairs, reconciles, reassures and re-empowers.

Anchored on a balanced approach vision primarily designed to heal the effect of the crime and delinquency, this restorative paradigm is very much compatible with the present structure and goals of the Agency, and therefore integration of its guiding framework may enhance the policies and practices of the individualized, community-based correction and develop a broader vision of an integrated justice approach to include victim and community.

The incorporation of the concept of RJ into the Agency mission and vision will enhance and realize the overall thrusts of crime prevention through the process of community involvement and social welfare networks with the stakeholders actively identifying, discussing and solving problems to achieve a workable solution.

Therefore, the DOJ-PPA hereby adopts and implements the RJ paradigm in the individualized, community-based treatment of probationers, parolees and pardonees.

Circle of Support





Investigation Stage

Orients the victim on the RJ concept. The victim's version of the offense, and the effect of victimization to their lives, families, future and plans should be given importance in the RJ process. Likewise, obtaining victims' suggestions on how the damage/harm inflicted by the crime could be repaired, and accordingly healed should be taken into consideration. All these information should be incorporated in the investigation reports (courtesy investigation (CI), post-sentence investigation (PSI), and pre-parole/executive clemency investigation (PPCI)) to be submitted to the concerned offices by the DOJ-PPA.

The New Post-Sentence Investigation Report (PSIR) has a portion as to Victim's Statement of the crime. Likewise, the victim will manifest whether or not he/she is amenable on the grant of probation of the petitioner and state the corresponding reasons. It is advisable to gather information if reconciliation is possible with the petitioner. This information and other relevant information gathered from the victim with regard to RJ Program should be written in the PSIR. As to parole investigation, the same policies and procedures shall apply.

Soliciting stakeholders' interest for their introduction to the restorative process shall commence during this stage.

Supervision Stage

RJ Program (e.g. payment of civil liability or any RJ outcome as a result of an RJ process during this stage) could be part of the condition of client's release (probation conditions) and should be incorporated in his My Personal Development Plan (MPDP) previously called Supervision Treatment Plan (STP).

- The parties should be brought within the program of their own free will. Parties should have the right to seek legal advice before and after the restorative process;
- Before agreeing to participate in the restorative process, the parties should be fully informed of their rights, the nature of the process, and the possible consequences of their decision;
- Neither the victim nor the offender should be induced by unfair means to participate in restorative justice processes or outcomes;
- Where no agreement can be made between the parties, the case should be withdrawn from the restorative process;
- In the event agreement was reached by parties, this should be put in writing to give substance/essence to the agreement. The failure to implement any provision of the agreement made in the course of the restorative process is a basis for the withdrawal of the case from the program; and
- Discussions and disclosures made during the process shall be treated with strict confidentiality and shall be disclosed and used against the parties involved.



Restorative Justice

Supervision Process with Restorative Justice Impact

1. A Probation and Parole Officer individually assigned to handle investigation and supervision caseloads shall act as restorative justice planner. As such, he/she shall have the following responsibilities:
 - a. Identifies and recommends to Chief Probation and Parole Officer (CPPO) a potential case for Peacemaking Encounter;
 - b. Conducts dialogue to explore together the possibility of restorative justice process;
 - c. Coordinates/collaborates with responsible members and leaders of community for their participation in the conference;
 - d. Serves as facilitator-strength in the conference;
 - e. Assists in the healing process of stakeholders based on the MPDP; and
 - f. Prepares casenotes reflective of restorative justice values and anchored on following points:
 - Impact of crime and effect of victimization
 - Victim inputs and involvement opportunities
 - Offender opportunity to take direct responsibility for the harm
2. A CPPO shall have the following responsibilities:
 - a. Approves case for Peace Encounter conference and issues office order; and
 - b. Monitors plans and agreement for implementation achieved during the conference and sets direction to realize success of the process.
3. A VPA may have the following responsibilities as assigned or designated by the CPPO or Officer-in-Charge (OIC):
 - a. Works in close consultation and cooperation with the Supervising Officer in the conduct of RJ process;
 - b. Keeps all information about the supervisee in strict confidentiality;
 - c. Makes reports of activities in relation to the RJ process;
 - d. Denotes a substantial and quality time for supervision of clients;
 - e. Acts as resource individual, donor, lecturer, speaker, organizer, coordinator, facilitator, mediator and planner for RJ activities;
 - f. As may be deputized, secures Circle of Support venue and provides refreshments, etc. when assigned to supervise clients;
 - g. Endeavors to heal the victim, client and community relationships; and
 - h. Attends RJ activities as may be required.





Procedural Safeguards

- The DOJ-PPA clients must admit the offense to be eligible for the conference, and if possible, they should be encouraged to take full responsibility;
- A personal visit by the RJ planner may be necessary to solicit interest and willingness of stakeholders to participate in the restorative process;
- The victims' preference for the time, date and place of the meeting should be given greatest weight;
- RJ planners should also get in touch with the community strengths to serve as facilitators such as local officials, members of the Lupong Tagapamayapa or any responsible and respected personalities in the locality;
- A pre-conference meeting with the selected facilitators prior to the actual conduct of Peace Encounter conference should be set to carefully plan for all the details, from the seating arrangements and refreshments to the box of tissue papers, which incidentally let participants know that display of emotion is all right;
- A pre-conference meeting could likewise be arranged separately with individual stakeholders to explain the process and other vital details of the conference;
- RJ planners should ensure that everyone knows how to reach to the location site of the conference;
- Facilitators should ensure that the conference shall be conducted without interruption in a comfortable location and shall secure the safety of all stakeholders;
- Stakeholders shall be consulted relative to the composition of the panel of facilitators. Any party may move to oppose the inclusion of persons by reason of relationship, bias, interest or other similar grounds that may adversely affect the process; and
- Indigenous system of settling differences or disputes shall accordingly be recognized and utilized to conform with the customs and traditions of that particular cultural community.

Restorative Justice Outcomes

Restitution

Restitution is the payment by an offender of a sum of money to compensate the victim for the financial losses caused by the crime. It is justified in a restorative perspective as a method of holding offenders accountable for their wrongdoing, and as method of repairing the victim's injury. Restitution can be determined in the course of mediation, conferencing or circle of support.



Restorative Justice

Community Work Service

Community work service is work performed without compensation by the offender for the benefit of the community as an outcome of a RJ process reached through restorative agreement among stakeholders.

- Is free - a public labor performed by a criminal offender as a sanction for an offense for the benefit of the community.
- Its essence is to present meaningful lesson for offender-client to realize that the crime he/she has committed has a public repercussion, and therefore on his/her part incurred restorative obligation to settle.
- As a restorative practice, it should be included either as a condition of his release in the individualized community-based program or incorporated in the MPDP.

Restorative Process

