



Name of Policy: Restorative Justice

Policy Adoption Date: *SLSC Annual General Meeting, Ottawa, ON, June 4, 2021.*

Mission and Mandate: St. Leonard's Society of Canada is a membership-based, charitable organization dedicated to community safety. The mission of SLSC is to promote a humane and informed justice policy and responsible leadership to foster safe communities. It:

- a. Endorses evidence-based approaches to criminal and social justice;
- b. Conducts research and develops policy;
- c. Supports its member affiliates; and
- d. Advances collaborative relationships and communication among individuals and organizations dedicated to social justice.

Purpose of SLSC Policies: Policies of SLSC are developed in collaboration with affiliate agencies, SLSC's Board of Directors and members, and are ratified at the Annual General Meeting with the express purposes of:

- Identifying criminal justice and related issues relevant to its membership;
- Reflecting SLSC organizational values and social justice goals;
- Articulating SLSC approaches, practices and standards to achieve these goals; and
- Ensuring the good governance of SLSC on matters of legal, administrative and organizational relevance.

Background:

As of 2021, there is no consensus on a single definition of restorative justice (RJ); however, RJ generally refers to participatory practices that focus on balancing and addressing the needs of the individual(s) who have caused harm, the individual(s) that have been harmed, and the broader community (e.g., families). Restorative justice is rooted in Indigenous peacemaking practices, which largely focus on making amends, preserving relationships, and restoring harmony in the community.¹ RJ is acknowledged as a grassroots movement that is oriented towards restoring individual, relational, and social harm, rather than punishing people who have done wrong.² Though restorative justice can vary across different communities, proponents of RJ generally agree that there is a set of principles that form a guide and foundation for RJ practices. Some of these principles include^{3 4}:

- **Voluntariness:** Involvement of all participants must be purely voluntary, without coercion.

¹ Pierson, L. (2021). [*'You cannot be tougher on crime than preventing it in the first place.'* Delegate hopes restorative justice can help juvenile offenders.](#) Charleston Gazette-Mail.

² Ward, T., & Langlands, R. (2009). [*Repairing the Rupture: Restorative Justice and the Rehabilitation of Offenders.*](#) *Aggression and Violent Behaviour, 14*(3), 205-214.

³ Johnstone, G., & Van Ness, D. (2007). Ethics, Universal Principles and Restorative Justice. In G. Pavlich (Ed.), *Handbook of Restorative Justice*. William Publishing.

⁴ Rodriguez, N. (2007). [*Restorative Justice at Work: Examining the Impact of Restorative Justice Resolutions on Juvenile Recidivism.*](#) *Sage Publications, 53*(3), 355-379.

- **Engagement:** Active and meaningful involvement of participants;
- **Empowerment:** Encourage a sense of dignity and equality, giving each participant the opportunity to share their experience and individual needs;
- **Accountability:** Opportunity for the individual(s) who caused harm to acknowledge and take full responsibility for the consequences of their actions;
- **Restore Relationships:** Restore relationships between the individual(s) who caused harm, individual(s) harmed, and the community at large through reconciliation;
- **Reparation:** Repair or reduce harm caused through agreed upon solutions;
- **Partnerships:** Build connections between the individual(s) who caused harm, individual(s) harmed, the criminal justice system, community-based organizations, and community members;
- **Transformation:** Foster habilitation and integration of each person involved, while avoiding shame and stigma regarding the harm that occurred.

While using these guiding principles, restorative justice practices can take many forms that are both formal and informal and can also be implemented into existing structures. Some practices that are central to RJ include victim-offender mediation, healing and sentencing circles, youth justice committees, as well as family group and community conferencing.⁵ Such practices are often facilitated by an impartial practitioner trained in RJ principles and practices who can encourage collaboration among participants.

Most of the principles of restorative justice are distinct from those of retributive justice, which is the philosophy on which the Canadian criminal justice system is founded. Through a retributive justice lens, crime is viewed as a violation against the state and thus it primarily prioritizes denunciation, deterrence, punishment, and exclusion from society as a response to laws that have been broken.⁶ As such, the principles of restorative justice often conflict with those of retributive justice because they largely focus on attaining justice through healing and reparation rather than retribution. Restorative justice offers an opportunity for all parties involved to each participate and have an integral role in both defining and administering justice relative to the circumstances of the harm caused.⁷

Since 1980, the use of restorative justice in the criminal justice system has become much more prevalent, receiving merit as an effective and humane approach to addressing harm. This momentum is reflected in the fact that more than 100 different countries worldwide have adopted restorative justice practices.⁸ Non-government organizations (NGOs), in particular, have played a major role in establishing RJ as a recognized practice.⁹ NGOs are vastly connected to the community and often work to support and provide services that meet the needs of the community and its members.¹⁰ As such, many perceive community-based organizations as being responsible for delivering (formal and informal) RJ practices and embedding them within various levels of the criminal justice system as well as in other public, private, and voluntary

⁵ John Howard Society of Ontario. (2012). [Restorative Justice Programs: Promising Responses to Crime](#).

⁶ John Howard Society of Ontario. (2012).

⁷ Rodriguez, N. (2007).

⁸ Ward, T., & Langlands, R. (2009).

⁹ Dandurand, Y., & Griffiths, C. (2006). [Handbook on Restorative Justice Programmes: Criminal Justice Handbook Series](#). *United Nations Office on Drugs and Crime*.

¹⁰ St. Leonard's Society of Canada. (2021). [About SLSC](#). See Visions and Values.

sectors (e.g., schools, neighbourhoods, and workplaces).¹¹ The effectiveness of RJ largely stems from the efforts made by NGOs to build networks of support in the community, since restorative justice practices heavily rely on participation from the community.

In 2015, the Government of Canada made a commitment to review changes made to the criminal justice system over the past decade. The purpose was to ensure that all provisions aligned with common objectives, including community safety, and to confirm that all criminal justice processes and outcomes were effective and compassionate for all persons involved.¹² In 2017, a national engagement process was launched to identify areas of interest that could assist in creating positive change within the current landscape of the criminal justice system.¹³ During these discussions, restorative justice practices were one of the four areas that was identified as a priority.¹⁴

Issues/Scope:

SLSC's philosophy has remained much the same since the first rendition of its Policy on Restorative Justice that was adopted in 2005. However, given the growing demand for establishing restorative justice practices as a viable alternative to traditional retributive justice practices, this policy was selected for revision to better understand RJ practices in a modern context. SLSC has explored much of the research concerning RJ practices, identifying some valuable outcomes and implications for individuals and the community at large. Many findings suggest that RJ practices^{15 16}:

- Take many forms that are more culturally appropriate for Indigenous people, families, and communities in particular, thus, taking important steps toward diminishing the mass incarceration of Indigenous people that are currently incarcerated.
- Are highly effective in fostering forgiveness and reconciliation between individual(s) who have caused and been subject to harm.
- Can increase community engagement and facilitate community member involvement in responding to and resolving conflict.
- Are more time- and cost-effective when compared to traditional retributive approaches (e.g., courts and corrections), and can reduce the burden on the criminal justice system by diverting people into more integrative community-based sanctions.

Both the *Youth Criminal Justice Act* (YCJA) and *Criminal Code of Canada* (CCC) have similar fundamental purposes and principles for sentencing. Each with an objective to protect society and contribute to crime prevention by imposing just sanctions that will assist in rehabilitation, provide reparation for harm done to individual(s) and the community, and promote a sense of responsibility in individual(s) who have caused harm.¹⁷ Research indicates that RJ practices are effective in achieving these purposes and principles,

¹¹ Dandurand, Y., & Griffiths, C. (2006).

¹² Office of the Federal Ombudsman for Victims of Crime. (2017). [Canada's Criminal Justice System: Getting Fair Outcomes for Victims in Canada's Criminal Justice System](#). Government of Canada.

¹³ Office of the Federal Ombudsman for Victims of Crime. (2017).

¹⁴ Office of the Federal Ombudsman for Victims of Crime. (2017).

¹⁵ Dandurand, Y., & Griffiths, C. (2006).

¹⁶ Smith, P.A. (2020) Progression of Restorative Justice Programs and Their Effectiveness on Recidivism and Being Cost Efficient. Available from ProQuest Dissertations and Theses Global.

¹⁷ [Criminal Code \(R.S.C., 1985, c. C-46\)](#); [Youth Criminal Justice Act \(S.C., 2002, c.1\)](#) Current to March 10, 2021

however, they are not explicitly acknowledged in the YCJA or CCC.¹⁸ Instead, the justice system tends to rely on retributive practices, despite consistent research findings that suggest punishment, deterrence, and denunciation are less effective at preventing and/or reducing crime.¹⁹

Under the YCJA, some of the RJ principles and practices are implicitly acknowledged as extrajudicial measures and sanctions (alternatives to sentencing) that can provide appropriate and meaningful consequences for young people (e.g., family and group counselling, accountability). These measures are recognized as being the most effective way to address harmful youth behaviour because it encourages them to take responsibility and repair the harm caused, while also allowing families and other community members to be involved in the process.²⁰ Similarly, RJ is also implicitly acknowledged as alternative sentencing measures under the CCC (e.g., compensation, community service), with a requirement that an individual take responsibility for their actions.²¹ Given these considerations, government research and consultations with stakeholders have indicated a need to expand current legislation to include restorative justice, increase the amount of resources available to people who have been harmed, as well as increase the overall awareness of, and opportunity to engage in RJ practices.²²

Experts suggest that restorative justice practices are frequently successful at achieving their intended goals in healing, forgiveness, and restoration. However, success is largely dependent on personal and contextual factors (e.g., age, history, post-traumatic stress, cognitive ability, cultural differences), as well as one's willingness to participate.²³ A common concern related to RJ is its suitability in cases where individual(s) have caused or been subject to more serious types of harm such as homicide, sexual assault or domestic violence.²⁴ As such, the duration and scope of RJ practices used will typically depend on the nature of the harm caused, in addition to various factors.²⁵ Further, there has also been discussion around whether RJ practices can reduce future harming behaviour (i.e. recidivism). Evaluations of RJ practices indicate that RJ not only reduces the frequency and severity of harmful behaviour, but it can also enhance family and community relationships, and increase habilitation and integration success.²⁶

To ensure effective implementation of RJ practices, there are a few strategies that RJ service providers can employ throughout the restorative process. For instance, facilitators are used to establish and maintain a balance between participants, ensure dynamics and dialogue are positive and non-threatening, and that restorative outcomes are achieved.²⁷ Facilitators can also mediate from an objective perspective, provide participants with referrals to additional support services, and remind participants that their involvement is fully voluntary. Additionally, RJ practices can validate the experiences of people who have

¹⁸ Frederiksen, E. A. (2010). *Aboriginal Peoples and Restorative Justice in Canada: Confronting the Legacy of Colonialism*. Canadian Political Science Association, Concordia University.

¹⁹ John Howard Society of Ontario. (2012).

²⁰ [Youth Criminal Justice Act \(S.C., 2002, c.1\)](#)

²¹ [Criminal Code \(R.S.C., 1985, c. C-46\)](#)

²² Office of the Federal Ombudsman for Victims of Crime. (2017).

²³ Ward, T., & Langlands, R. (2009).

²⁴ Rodriguez, N. (2007).

²⁵ John Howard Society of Ontario. (2012).

²⁶ Rodriguez, N. (2007).

²⁷ Dandurand, Y., & Griffiths, C. (2006).

been subject to harm and offer them a more proactive role in the justice process and in deciding possible conflict resolutions. The effectiveness of restorative justice can increase when agencies and service providers work collaboratively together to incorporate RJ principles into various programs. A key component, however, is inviting community members and professionals from diverse sectors (e.g., mental health workers) to take part in the restorative process.²⁸

Case studies involving restorative justice have found that harmed individual(s) are generally more satisfied with their experiences both during and after participating in RJ, when compared to traditional retributive approaches.²⁹ It is further suggested that involvement in victim-offender mediation, and the process of restoration in particular, can decrease clinical rates of post-traumatic stress disorder of harmed individual(s) and improve emotional and psychological well-being of all participants.³⁰ Reports indicate that RJ practices can encourage individual(s) with a history of causing harm to become more engaged in other programming, thus further supporting positive behavioural change.³¹

Given the positive outcomes and implications restorative justice practices have on the individual(s) who have caused harm, the individual(s) that have been harmed, and the broader community, it makes sense to explore RJ as a promising community-based alternative to traditional retributive justice practices. The momentum restorative justice practices have gained recently has raised some concerns; however, if they are addressed adequately, RJ can work to solve many of the root causes associated with harmful behaviour, thus having long-lasting impacts that will foster safe, just, and healthy communities.

Resolutions:

Whereas restorative justice principles properly implemented can result in the reduction of harm in a community:

Be it resolved that St. Leonard's Society of Canada supports:

- the use of restorative justice practices as the model to respond to harm committed by youth and adults;
- the use of restorative justice practices in all cases where the involved individuals voluntarily participate;
- the consistent availability of trained restorative justice facilitators in courts at all levels; and,
- funding, resources, and supports to increase the capacity to deliver community-based restorative justice practices in a way that respects the diversity of communities across Canada.

Additional Information

External Reports/Publications:

- Bushie, B. (1999). [Community Holistic Circle Healing](#). *Hollow Water, Manitoba: International Institute for Restorative Practices*.

²⁸ John Howard Society of Ontario. (2012).

²⁹ Lloyd, A., & Borrill, J. (2019). [Examining the Effectiveness of Restorative Justice in Reducing Victims' Post-Traumatic Stress](#). *Psychological Injury and Law* 13, 77-89.

³⁰ Lloyd, A., & Borrill, J. (2019).

³¹ Dandurand, Y., & Griffiths, C. (2006).

- Department of Justice Canada. (2001). [Re-Thinking Access to Criminal Justice in Canada: a Critical Review of Needs, Responses and Restorative Justice Initiatives](#).
- European Forum for Restorative Justice. (2021). [Research Reports](#).
- Leonardi, L., & Bliss, K. (2016). [Expanding the Use of Restorative Justice: Exploring Innovations and Best Practices](#). *Canadian Families and Corrections Network*.