

# Increasing the Use of Restorative Justice in Criminal Matters in Canada

## Baseline Report

Federal-Provincial-Territorial Working Group on Restorative Justice

### Federal/Provincial/Territorial Partners

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**Product Information**

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## **Synopsis**

The Research Subcommittee of the Federal-Provincial-Territorial (FPT) Working Group (WG) on Restorative Justice (RJ) conducted a survey to gather baseline data on the use of RJ processes in the Canadian criminal justice sector. Survey respondents included ministries and departments who are members of the WG. They reported data on RJ referrals, processes, and participants regarding the RJ programs they fund or provide. The purpose of this report is to better understand national RJ caseloads and, with data collection repeated annually for the next 5 years, begin to track changes in caseloads over time.

In November 2018, FPT Ministers Responsible for Justice and Public Safety released a target to increase the use of RJ by a minimum of 5%, if possible. Ministries were encouraged to consider how they would make progress toward the target over the next three years, and what kinds of strategies they would use to increase referrals and the number of victims and offenders who participate.

Eighteen (18) ministries reported supporting 240 programs and 242 agencies delivering RJ services in Canada. In total, 22,576 referrals were received by these RJ programs and agencies in the reference period. The responses indicate that considerable progress is occurring. As described in Appendix A, every jurisdiction has taken concrete steps to increase the use of RJ. For example, all respondents indicated that they had plans to increase awareness/education for criminal justice system professionals. Other common strategies include more training for RJ programs/practitioners and developing collaborative partnerships between RJ agencies, justice sector organizations, and other groups to increase referrals and participation in cases facilitated with RJ. Other steps included holding events, hiring additional staff, and creation of new programs/projects/policies.

## **Background**

In June 2017, FPT Deputy Ministers Responsible for Justice and Public Safety directed the FPT WG on RJ to gather baseline data on the use of RJ processes in the Canadian criminal justice sector. In November 2018, “Ministers agreed to increase the use of restorative justice processes by a minimum target of 5% per jurisdiction, where possible, over the next 3 years.”<sup>1</sup> To measure the progress towards the approved minimum target, the FPT WG conducted a survey that

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<sup>1</sup> For the full media release, please visit: <https://scics.ca/en/product-produit/news-release-federal-provincial-territorial-meeting-of-ministers-responsible-for-justice-and-public-safety/>. Ministers agreed to the 5% target as a voluntary measure for each jurisdiction to gauge current use of RJ and avenues for enhancing its use. It is recognized that achieving the target will require continued commitment by governments and that jurisdictional priority changes may affect attainment of the target. In addition, jurisdictions are at different stages regarding the development and implementation of RJ strategies, policies and programs, which may impact their ability to reach the target. 2017-18 was chosen as the baseline year and the working group plans to continue gathering this data until at least 2020-21.

gathered baseline data for the 2017-18 fiscal year on the use of RJ processes in the Canadian criminal justice sector.

### **Methodology**

In order to gather the required baseline data, reporting jurisdictions completed a survey. FPT ministries and departments were asked to provide statistical information on the RJ programs or services they funded or provided, as well as information about concrete action taken to increase RJ. Every jurisdiction provided information about concrete actions taken, and thirteen (13) were able to provide statistical information.

This survey focused on ministry- or department-level data, rather than jurisdictional, program-level, or agency-level data. This was because many jurisdictions have multiple ministries or departments supporting RJ, each of which might collect their own data. This method was also intended to reduce the reporting burden on community-based agencies, particularly since some jurisdictions already collect information from RJ programs. Data was collected between January 11 and January 31, 2019 regarding referrals and processes that took place in 2017-18.

The results were aggregated to provide information about RJ in each jurisdiction. The data was compiled and analyzed by Public Safety Canada's Research Division and members of the Research Subcommittee, which includes officials from Public Safety Canada, Statistics Canada, Justice Canada, Correctional Service of Canada, Royal Canadian Mounted Police, Nova Scotia Department of Justice, and Saskatchewan Integrated Justice Services.

### ***Cautions and Limitations***

The data collected should not be interpreted as national comprehensive coverage. As the different approaches that FPT jurisdictions use for data collection and storage<sup>2</sup> limited some jurisdictions' ability to submit comprehensive data, the FPT WG on RJ continues its work with FPT jurisdictions towards more comprehensive data collection in the future. This could include the development of National Standards for RJ Data Collection so that definitions are consistent across the country and that every program is encouraged to collect the same information.

While the WG was interested in gathering wide-ranging data on many aspects regarding the use of RJ (i.e. referrals, participants, processes and outcomes), resource limitations made it necessary to focus on a smaller, more manageable amount of data. The FPT WG on RJ is working towards going beyond the initial indicators, providing more extensive data about RJ in Canada.

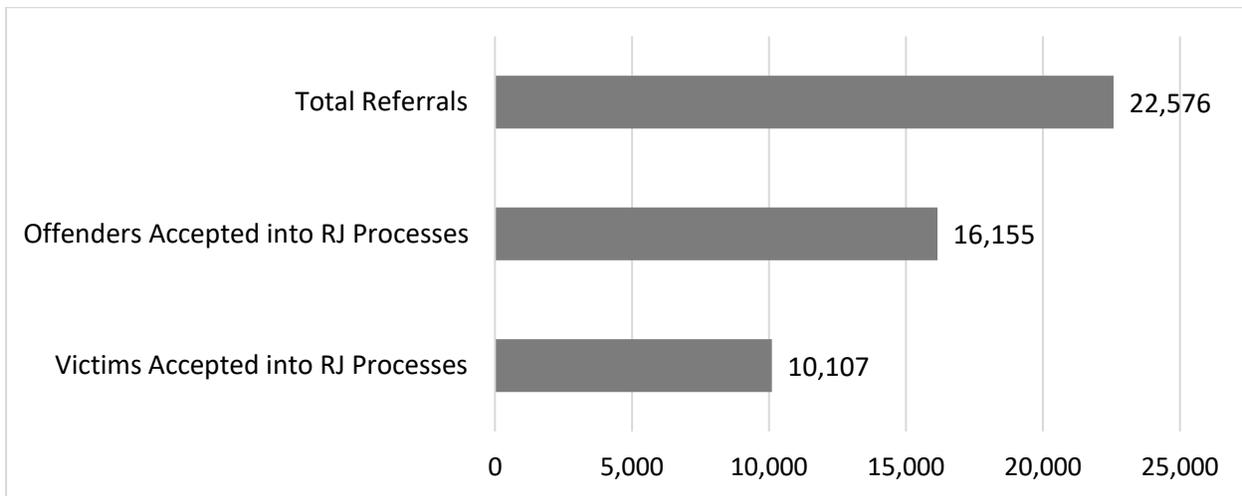
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<sup>2</sup> There are a wide variety of approaches that FPT jurisdictions use for data collection and storage. They range from aggregate data captured on program funding applications and stored on spreadsheets or hard-copy files, to comprehensive electronic case management systems that monitor individual RJ processes.

## **Results**

All FPT jurisdictions responded to the survey. Fourteen (14) provided information about the concrete actions taken, while thirteen (13) provided statistical data. They cumulatively reported funding/providing 240 programs and funding 242 agencies, which reported receiving a total of 22,576 referrals. Of the 22,576 referrals, at least 16,155 offenders and 10,107 victims were accepted<sup>3</sup> into a RJ process (See Figure 1 below). Each jurisdiction is responsible for achieving their target of a 5% increase in RJ referrals. Should each jurisdiction be successful, this would mean that collectively the number of reported referrals would increase from 22,576 in 2017-18 to 23,705 in 2020-21.<sup>4</sup> The number of reported participating offenders and victims would rise from 16,155 and 10,107 respectively in 2017-18 to 16,963 and 10,612 in 2020-21.

Figure 1. RJ referrals in 2017/2018, by offender and victim participation in a RJ process



### ***Victim Involvement in RJ Processes***

Of the cases that involved victim participation, type of victim participation was available for 2,831 (28.2%) of processes. While this information only pertains to over a quarter of the cases, it is informative that slightly more than a third of these (37.2%) involved a face-to-face meeting between the victim and the offender, whereas almost half (46.1%) included victim participation without contact with the offender. Given that victims are key participants in RJ processes, efforts should continue to be made to increase the participation of victims in these processes if they wish to do so.

### ***Progress Toward the 5% Target***

To assess how jurisdictions intend to achieve this 5% increase, they were asked about their plans to increase referrals and number of participants (victims and offenders) involved in RJ within the

<sup>3</sup> The term “accepted” refers to those cases that were accepted as eligible under the RJ program, including those that victims agreed to/chose to participate in.

<sup>4</sup> For 2017-18, there were 22,576 referrals reported by jurisdictions: 5% of 22,576 is an approximate addition of 1,129 cases collectively.

three-year timeline. Jurisdictions were asked to comment on their progress, concrete steps taken, future steps, challenges and lessons learned, pertaining to each relevant strategy. Overall, jurisdictions reported progress as evidenced through various concrete steps, including: holding events (conferences, symposiums, meetings, and training); hiring additional staff; the creation of new programs, projects and/or policies; mandatory training of Crown prosecutors and/or other criminal justice professionals; investing in and/or conducting research; and investing in better data reporting. Many jurisdictions reported limited resources (such as lack of funding, capacity, and staff member turnover) as a challenge in implementing their strategies. Moving forward, jurisdictions expressed the importance of government and community partnerships as well as multi-year funding agreements to increase referrals and accepted cases. For further information on the concrete steps made by each jurisdiction, please see Appendix A.

Jurisdictions were also asked to report on lessons learned and best practices that they could offer. Many indicated the following best practices/lessons learned: the importance of strong government/community/justice agency partnerships, increased training in both the community and the criminal justice system, and multi-year funding for continuous support. Additionally, they noted that successful initiatives take time to create. Consequently, it is important to recognize that fruitful initiatives require much effort and time to implement.

Jurisdictions also reported on potential next steps such as developing best practices regarding victim involvement; developing National Standards for RJ Data Collection; and discussing a “Roadmap Project” about data collection and data storage practices in community-based RJ agencies and supporting organizations across Canada. It is clear that better data management is required and, ideally, a centralized system that holds RJ program information would be available in each jurisdiction.

### **Recommendations**

Jurisdictions provided recommendations to increase the use of RJ in criminal matters:

1. Ministries continue implementing their plans/strategies to increase referrals and cases.
2. Continue efforts to involve victims, increase victim awareness of RJ processes, and share best practices on victim engagement and participation.
3. Ministries evaluate administrative procedures and data collection processes to better identify participants in a RJ process (offender, victim, community) as well as to capture more data on these participants (e.g., ethnicity, age, and gender).
4. The FPT WG on RJ continue its work with FPT jurisdictions towards more comprehensive data collection in the future. This could include the development of National Standards for RJ Data Collection.
5. Establish a national dialogue on best practices and standardization, where possible, regarding data collection.
6. Dedicate research activities to examine the impacts of the different types of RJ processes on participants and how to increase the participation of Indigenous and minority populations.

## **Conclusion**

Clear progress has been made towards increasing the use of RJ and data collection. In order to gather this baseline data, the WG developed data collection definitions, created surveys to collect national data, and identified data challenges and gaps. Every jurisdiction has taken concrete steps to support RJ, and jurisdictions have made progress on several fronts toward the target. These vital steps will help FPT jurisdictions with increasing the use of RJ processes in Canada and supporting the efforts of communities and community-based organizations to use RJ.

## Appendix A: Concrete Steps Made Towards Achieving Target, by Jurisdiction<sup>5</sup>

### **Alberta**

- Based off a research report commissioned by the Government of Alberta, an options paper for actioning items to increase referrals/improve services was developed.
- From the options paper, recommendations for developing standards of practice and a mandatory standardized training are being explored.
- Worked with Strategic Services on enhancing data gathering and data collection on victims.
- Victims Services commissioned a research report on approaches to working with victims; from this, a training program was developed that is provided to Victim Service Units provincially, encouraging referrals to RJ.
- Alberta RCMP announced that there will be an individual responsible for RJ in every RCMP detachment in the province.
- There is a high government priority on drug courts currently; concurrently, an interest in these courts have been seen from judges and the Minister.
- Provided introductory trauma-informed practice online training to all Youth Justice Committees.
- Contracted with a consultant to design and deliver RJ Community Facilitator training materials to Youth Justice Committees province-wide.

### **British Columbia**

- RCMP-E Division developed a Project Blueprint for increasing RJ referrals to community RJ programs in the province.
- BC's Civil Forfeiture Crime Prevention and Remediation grant program increased the maximum amount of funding that RJ projects could request up to \$30,000 for the 2019/2020 grant cycle under the RJ Stream; the list of eligible applicants was also expanded to all current RJ service providers.
- Consultations were held with key RJ, Indigenous justice and other justice stakeholders, including an online consultation session, to get feedback on opportunities for enhancing the use of RJ in BC.
- The data collection process for RJ community programs was enhanced to improve the number and type of data collected.

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<sup>5</sup> These include changes/updates as of January 2020.

### **Manitoba**

- The Intensive Case Assessment Process (ICAP) was introduced in the Winnipeg office of the Manitoba Prosecutions Service (June 2015). The intention of the ICAP is to review cases early and use RJ responses where appropriate.
- The *Restorative Justice Act* was proclaimed in November 2015.
- The Restorative Justice Centre (RJC) was opened in October 2017. The mandate of the RJC is to enhance community safety and promote healing, by offering RJ options as an immediate alternative to the mainstream justice system, for victims, offenders, and the community.
- Through the Transformation Initiative (October 2018), the RJC was moved to a central location, and leveraged iPhone technology to allow staff to spend more time in the community with clients.
- RJ initiatives with Police Agencies: Domestic Violence Pre-Charge Diversion Partnership between Winnipeg Police Service and RJC (October 2018); Pilot initiative with East Division RCMP to increase use of diversion.
- Host an RJ conference to accelerate the use of RJ in Manitoba.

### **New Brunswick**

- Developed a work plan that outlines a planned approach to advance RJ in NB.
- Participated in the RJ Narrative data gathering project (SenseMaker).
- Selected a provincial representative to join the FPT WG on RJ.
- Contracted with a consultant to train Diversion Coordinators on RJ to support increased RJ referrals within the Diversion Programs.
- Contracted with a consultant to deliver RJ facilitator training to increase RJ capacity within NB.
- Presentations to partners on Diversion/RJ to promote referrals.
- Piloted an RJ approach within a provincial correctional centre.

### **Newfoundland and Labrador**

- An Adult Diversion Pilot Project is now running in two communities on the west coast of NL.
- The Drug Treatment Court pilot project started in St. John's (November 2018).
- Justice summits were held across the province to help create a profound understanding of the issues colleagues face in the justice system.
- Organized the Restorative Justice – Shifting the Paradigm Together event in February 2019.
- Participated in the RJ Narrative data gathering project (SenseMaker).

## **Nova Scotia**

- Completed a renewal process to develop a new program authorization and new program protocols leading to all matters being eligible for referral by police, crown, courts, corrections and victim serving agencies.
- The new protocols also require police, crown and corrections to consider all matters for referral, except where a provincial hold or moratorium is in place, or a referral is otherwise barred by law.
- Completed a new practice guide for the Nova Scotia Restorative Justice Program.
- Provided foundational education workshops to caseworkers/facilitators within the program, based on the new protocols and the new practice guide.
- Delivered education to key stakeholders on changes to the program based on the new protocols.
- Currently developing video-based educational materials explaining the program that can be shared freely with stakeholders and referral sources.
- Established a permanent RJ Governance and Management committee comprised of government, community and all key stakeholders and referral sources.
- Created and filled positions to increase the complement of staff for the Restorative Initiatives Unit.
- Participated in SenseMaker data collection and collected over 300 narratives.
- Continuing to utilize SenseMaker data collection, in a redesigned way, to collect data and evaluate the Nova Scotia Restorative Justice Program.
- Completed an assessment of the requirements for a new Restorative Justice Information Management System.
- Updated case management system to better capture data across the program, to assist with case management and reporting. Among the changes made was the capture of additional data on victim participation.

## **Nunavut**

- Organized outreach meetings, open houses, training, and public events.
- Government of Nunavut have hired staff (hopeful that this will decrease turnover and increase capacity due to job security).
- Created pamphlets and presentations on RJ and Community Justice Diversion programs.
- Community Justice Outreach Workers submit monthly statistics to Community Justice Specialists; Community Justice Specialists review the data and forward it to the Manager of Community Justice.

### **Northwest Territories**

- Implemented 2-year agreements with communities to help decrease barriers to access funding and help with financial planning at the community level.
- Provide training on the consequences of trauma and trauma-informed practical skills for service delivery to community members and frontline staff, particularly for RJ practitioners; this includes multi-sector representation from policing, corrections, health services, and mental health service staff.
- Community Justice Coordinators support clients in court proceedings and increase awareness of the evidence supporting RJ principles and outcomes.
- Providing Trauma-Informed Investigative Practices to all 21 RCMP Detachments.
- Facilitated annual regional training opportunities to Justice Coordinators and Committee Members on best practices in RJ.
- Exploring the development of software that will assist communities in data collection and the reporting process.
- The NWT includes options for referrals from Federal and Provincial partners, Department of Fisheries and Oceans, Parks Canada, and Environment and Natural Resources.
- Improved communication with RCMP and Crown resulting in significant increases of referrals and implemented a new referral process which will assist more accurate tracking and data collection.

### **Ontario**

- Preliminary cost savings analysis has been completed to illustrate the savings in Ontario relating to Indigenous Justice Programs (expansion of up to 58 Indigenous RJ programs).
- Funded 24 Revitalization of Indigenous Legal Systems Projects to support Indigenous communities to gather Elders and Knowledge Keepers together to share knowledge and document their Indigenous Legal Principles and Systems. These projects have formed the basis for the development of additional Indigenous Restorative Justice Programs.
- Mandatory Indigenous cultural competency training was implemented for all criminal Crown prosecutors; 770 criminal Crown prosecutors participated.
- Funded two coordinator positions to support the creation of new Indigenous Peoples Courts.
- Funded Indigenous organizations to support Elder participation in Gladue Court.
- Gladue/Indigenous Peoples Courts have been established in nine communities across Ontario – including several in the Toronto area, Thunder Bay, Sarnia, London, Brantford, Cayuga, Walpole Island, Niagara and most recently Ottawa.
- Hired a person with the primary focus of creating a new data collection system for RJ and analyzing the data.
- Developing a data collection system so that more reliable, consistent data and better analysis of the efficacy and impact of RJ programs can be completed.

### **Prince Edward Island**

- Through the Attorney General’s Advisory Committee on RJ (established in 2018), the Province has been active in exploring ways to increase awareness around the use of RJ in criminal matters. The Committee has drafted an Action Plan for RJ advancement which outlines various policy and program design considerations.
- In May 2019, a provincial symposium was held entitled *Transforming Justice: Restorative Responses in Criminal Matters*. The event was well-attended and has sparked a dialogue between government and community regarding RJ in the jurisdiction.
- *A Community of Interest for RJ* forum has been established which involves representation from various sectors including health, justice, education, housing, Indigenous groups and community-based agencies. The intention behind the *Community of Interest* initiative is to build broader culture and support for RJ and to showcase the application of RJ in various contexts through guest speakers and facilitated discussion.
- In early 2020, the Province will host foundational training to government and community partners. It is anticipated that skill-based training for RJ facilitation will follow.

### **Quebec**

- A budget of \$25M will be allocated over 5 years for the launch of the General alternative measures program (PMRG) across all of Québec.
- Two working groups have been formed: one with all of the stakeholders to monitor the PMRG program and a second to monitor extrajudicial sanctions for young offenders.

### **Saskatchewan**

- Completed the Victim Engagement Training, which is the first of its kind in Canada. This new training complements Saskatchewan’s ongoing training program for mediators in all RJ programs supported by the Ministry of Justice.
- Two new agencies in northern Saskatchewan began offering school-based RJ.
- Implemented a new work plan to increase RJ/community justice, which includes new initiatives in areas such as collaboration, training and data collection. For example, this includes establishing RJ committees with Indigenous and non-Indigenous organizations, criminal justice agencies, and other partners in various communities.
- Supported the 2018 National RJ Symposium, which was hosted by the SK RJ Network.
- Participated in SenseMaker data collection and collected over 300 narratives.

## **Yukon**

- Developed a process document for pre-charge RJ processes.
- Letter of Agreement (LOA) templates (lays out the process of what is required to be done upon receipt of referrals), completed and signed between RCMP community detachments, and each of the First Nations/Justice Program (3 LOAs have been signed to date, 2 others have been initiated).
- Travelled to communities to inquire what programming they would like to see implemented in their community. Currently, working with one community to help build capacity to deliver/facilitate the conferences.
- Partnership between Yukon Justice and Health and Social Services Restorative Conferencing Trainer/Facilitator to provide Community Justice Workers, various professionals in community, other interested community members and the RCMP, training/mentorship in Community Conferences to help build skills and capacity.

## **Federal**

- Multi-year funding agreements are now in place with the vast majority of Indigenous Justice Program (IJP) community programs, providing them with more stability and opportunities to plan over the longer term.
- IJP and the RCMP are partnering on the development of resources for RCMP officers to increase pre-charge referrals.
- Launched training and knowledge exchange webinars for IJP-funded programs in Fall 2018.
- Hosted a roundtable with victims and stakeholders on the criminal justice system, including a discussion on RJ (2017).
- The Policy Centre for Victim Issues hosted a one-day knowledge exchange on victims and RJ processes (2019), to continue to build awareness and capacity to respond to the needs of victims participating in RJ processes.
- Hosted Webex meetings on victims and RJ (2017, 2018) and youth and RJ (2017).
- Call for Proposals under the Victims Fund to: 1) continue to build awareness and capacity to respond to the needs of victims participating in RJ processes; and 2) promote local or regional partnerships (2017/2018).
- Provided funding under the Justice Partnership and Innovation Program to support the increased use of RJ.
- Undertook research on a range of topics related to RJ to increase awareness and understanding (e.g., FASD, victims of crime, public opinion).
- Developed a Directory of RJ Programs in Canada.
- Created a webpage on RJ on the Department of Justice Canada website.
- Multi-year funding for crime prevention projects supporting offender reintegration through circles of support and restorative practices.
- Hosted a National Victim Roundtable on the Right to Protection in Federal Corrections and Conditional Release including a half-day discussion on RJ.
- Included the Correctional Service of Canada (CSC) Restorative Opportunities Program in communications plan for National Restorative Justice Week.
- Distributed publications in print and online to victims, victim service providers and the general public, which included information on CSC's RJ programs and victim-offender mediation services.
- Updated the Public Safety Canada website on RJ to ensure accuracy of information.