

6.0 Victim Serving Agencies Protocol

6.1 Introduction

This protocol outlines the potential for victim serving agencies to refer or collaborate with the Nova Scotia Restorative Justice Program in cases where a restorative justice process could assist or support a victim.

There are separate protocols guiding use of the NSRJP by police, crowns, courts, corrections and the Regional RJ Team. There are **Definitions** and a **General Protocol** that apply to all protocols.

6.2 Authorization

Referral can be considered in cases where no individual has been charged in relation to the offence or where an accused is not willing or able to participate in restorative justice. In such cases the restorative justice processes would be oriented to respond to the needs of victims for information, support, reparation or community response. A victim serving agency may consult with the Restorative Justice Regional Team through the Lead Team to determine whether a process is possible or appropriate considering the circumstances and available resources.

Victims may also make request through a victim serving agency or another justice system partner for a restorative justice referral to be considered involving an accused or offender at any stage of the criminal justice process. Such referrals will be contingent upon the willingness of the individual accused or offender involved and a referral by the appropriate justice system partner or the Judiciary.

Justice Partners have undertaken shared commitments to use, support and advance use of restorative justice in the criminal justice system and in the community. All partners have signed a **Memorandum of Understanding** committing to collaborate in support of restorative justice in Nova Scotia and to coordinated implementation of the NSRJP.

6.3 Principles, Goals and Objectives

Justice Partners are committed to a restorative approach to justice grounded in the following principles, which guide the development, governance and implementation of the NSRJP and the work of the Justice Partners in support of the NSRJP:

- **Relationally focused:** attention to interconnection, seeking to understand and promote just relations between individuals, groups and communities
- **Comprehensive and holistic:** takes into account histories, contexts and causes of harm and its impacts
- **Inclusive and participatory:** culturally grounded and trauma informed, attentive to the needs of parties and the safety and well-being of participants
- **Responsive:** Contextual, flexible practice, accessible, efficient and effective processes, informed by data and knowledge
- **Focused on promoting individual and collective accountability & responsibility**

- **Collaborative and non-adversarial:** among parties to the process and system and community partners
- **Forward-focused:** educative (not punitive), problem-solving, preventative and proactive

Justice Partners have adopted the following goals and objectives for the NSRJP:

- **Respond to needs of individuals and communities affected by crime:** with particular attention to the needs of victims and those harmed by crime (individuals and communities)
- **Harm reduction:** reduce cycle of harm and injustice, prevent further harms to vulnerable individuals and communities and reduce over-representation of marginalized individuals in the justice system
- **Support individual and collective taking of responsibility for harm and public safety**
- **Increase access to justice:** more effective, timely, inclusive, equitable justice system
- **Provide responsive justice:** human-centered justice processes that consider root causes and seek meaningful outcomes and responses
- **Increase public confidence and accountability in the administration of justice**
- **Build and support healthy, safe and strong communities**

6.4. Eligibility

6.4.1 Indigenous Persons

If a person identifies as an Indigenous person, consideration must first be given to referral to the Mi'kmaw Legal Support Network (MLSN) to assess whether the matter is appropriate for resolution under Customary Law according to policy and procedure. If not, then the matter may be considered for referral to the NSRJP in accordance with these program protocols.

6.4.2 Eligibility

All matters are eligible for referral by police, crown, courts, corrections and victim serving agencies. Police, crown and corrections shall consider all matters for referral except where:

- **A provincial hold or moratorium is in place;** or
- Referral is otherwise barred by law.

In furtherance of the overall principles, goals and objectives outlined in section 6.3, referral agents shall also consider the following factors as weighing in favour of referral:

- Opportunity for more culturally appropriate, meaningful and effective justice process
- Reduction of harm for direct parties (trauma informed)

- Potential for victim participation
- Enhanced opportunity for access to justice for affected communities – increased confidence in the administration of justice
- Opportunity to understand and consider root causes or systemic issues connected to the parties or offence
- Reduce over-representation in justice system for individuals from vulnerable and marginalized communities/groups
- Access to better supports and wrap around responses to parties needs

In considering whether a referral to the NSRJP is appropriate, Justice Partners may, at any time:

- Consult the Regional RJ Team for information, or
- Request a case conference be convened with the Regional RJ Team Leads, or a designated representative and other Justice Partners as appropriate, to consider potential for referral.

6.4.3 Options for Referral

Options for using restorative justice to assist in meeting victims' needs include, but are not limited to:

- Restorative justice process including the offender
 - To allow the victim to communicate with the offender and community members who have responsibilities for the harm(s) experienced in order to share their needs and receive support and response.
- Circle of support or healing circle for the victim (not including offender)
 - The victim has an opportunity to meet with community members and other supports. Community and support persons can listen to the victim's experience, assist with needs, and identify available support resources. Such a process should address victim reintegration into the community when they experience isolation in relation to the offence.
- Community support group to discuss systemic factors that contributed to the harm
 - Victim may meet with community members to discuss how systemic issues contributed to their harm and harm to the broader community. Attention would be paid to the needs generated by the harm, and the relationships impacted by the harm.

- Restorative Approach to victim voice statement
 - Victim may be assisted in sharing their experience using a restorative process, allowing a victim's voice to be heard and understood by those who matter to the victim. This may form part of the preparation of victim statements to the court or be supported within the context of the court process.

6.5 Referral Procedures

6.5.1 Preparing a Referral

Prior to a referral the referring agent may consult the Lead Team of the Regional RJ Teams for information to inform a decision to refer and regarding current cases referred to the Regional RJ Team. Communications with the Regional RJ Team are intended to assist with decision-making regarding referrals and are **not to dictate or set conditions or pre-conditions on the restorative justice process beyond those required by law consistent with a sentencing order.**

Referring agencies must communicate with Regional RJ Team Leads to ensure the required information is available to the team to accurately assess and undertake the referral.