

RESTORATIVE JUSTICE PROGRAM

1. GENERAL

- A. The purpose of this policy is to outline the procedure for referring adult and youth offenders to the Department of Justice Restorative Justice Program (NSRJP).
- B. Justice Partners have adopted the following goals and objectives for the NSRJP:
 - i. 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).
 - ii. 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.
 - iii. Support individual and collective taking of responsibility for harm and public safety.
 - iv. Increase access to justice: a more effective, timely, inclusive & equitable justice system.
 - v. Provide responsive justice: human-centered justice processes that consider root causes and seek meaningful outcomes and responses.
 - vi. Increase public confidence and accountability in the administration of justice.
 - vii. Build and support healthy, safe, and strong communities.

2. POLICY

- A. Indigenous Persons
 - i. If an offender with the law 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.

B. Eligibility

- i. 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.

- ii. Referral Criteria - The following criteria for eligibility must be met:
 1. The person referred fully and freely consents to participate.
 2. The person has, before consenting to participate, been advised of the right to be represented by counsel.
 3. The person accepts responsibility for the act or omission that forms the basis of the offence that the person is alleged to have committed.
 4. There is, in the opinion of the Attorney General or the Attorney General's agent; sufficient evidence to proceed with the prosecution of the offence.
 5. The prosecution of the offence is not in any way barred at law.

- iii. Referral agents shall also consider the following factors as weighing in favour of referral:
 1. Opportunity for more culturally appropriate, meaningful, and effective justice process.
 2. Reduction of harm for direct parties (trauma informed).
 3. Potential for victim participation.
 4. Enhanced opportunity for access to justice for affected communities – increased confidence in the administration of justice.

5. Opportunity to understand and consider root causes or systemic issues connected to the parties or offence.
 6. Reduce over-representation in justice system for individuals from vulnerable and marginalized communities/groups.
 7. Access to better supports and wrap around responses to parties' needs.
- iv. When considering whether a referral to the NSRJP is appropriate, officers may, at any time:
1. Consult the Regional RJ Team for information.

OR

2. Request a case conference be convened with the Regional RJ Team Leads, or designated representative and other Justice Partners as appropriate, to consider potential for referral.
- C. Certain offences are presumed eligible for referral only post-guilty plea/finding. This presumption may be rebutted, and a matter referred earlier in the criminal justice process, where a referral is consistent with the overall principles, goals and objectives of the NSRJP set out in section 2.3.
- D. Those offences presumed eligible for referral only post-guilty plea/finding are as follows:
- i. Cases involving death (murder, manslaughter, criminal negligence causing death, impaired driving causing death).
 - ii. Offences involving abuse of a minor child (under 18 years old) or another vulnerable person, by a person in a position of trust.
 - iii. Child pornography (adult).
 - iv. Firearms offences.
 - v. Impaired driving (adult).
 - vi. Serious crimes against the administration of justice (perjury or intimidation of a justice system participant).

- E. If an investigating officer believes an offender should be considered for the NSRJP but their offence is one that can only be referred to the program by the Court, the officer may consult with a Crown Prosecutor to make such a recommendation.
- F. Offenders who are participating in the NSRJP and breach the terms of the agreement shall be charged with the original criminal charges.
- G. Property seized from offenders who then participate in the NSRJP shall be returned to the rightful owner in accordance with established PROPERTY AND EVIDENCE POLICY.
- H. Ensure court dates are scheduled to allow for completion for the RJ process:
 - i. Adults– 5 to 6 months.
 - ii. Youth RJ process – no court date.

PROCEDURE

- I. All incidents other than noted in ABOVE section D must be considered for referral to RJ, barring Provincial Moratorium. Officers shall compile the court file as per this policy.
- J. When arresting an offender, officers shall:
 - i. Perform a criminal record check and determine if the accused has any active warrants or prior/outstanding criminal charges against them. The criminal record check shall include the following:
 1. CNI
 2. CRIMQ
 3. Outstanding warrants
 - ii. Complete the Versadex template for the Provincial Restorative Justice Form.

1. Complete a Crown Brief and Incident Report as per established policy.
 2. Ensure the offender is fingerprinted and photographed according to the Identification of Criminals Act.
 3. Forward the completed file, including the Provincial Restorative Justice Form, to the Court Section in accordance with established policy on COURT FILES no more than 8 days after the determination that charges are warranted.
- iii. If an adult offender declines to participate in the NSRJP, the arresting officer shall proceed with criminal charges in the usual manner.
 - iv. In some circumstances the arresting officer may re-establish contact with the offender prior to laying an information to re-visit the possibility of participating in the Restorative Justice Program.
 - v. For out of jurisdiction offenders' officers shall consult with their supervisors for direction. Situations shall be reviewed with consideration for the offender's ability to complete the restorative process successfully.
- K. When issuing a RJ referral, officers shall:
- i. Complete the Provincial Restorative Justice form and include them in the file.
 - ii. Submit an Incident Report on the GO and provide a court date for 5 – 6 months to allow for completion of the RJ process.
 - iii. Forward the complete file to the Quality Assurance Sergeant.
 - iv. Should the investigating officer not be able to attend a Restorative Justice Forum on their scheduled shift, they shall notify their Divisional Supervisor to arrange for another on-duty shift member to attend the Forum.
- L. The Quality Assurance Sergeant shall:
- i. Review files related to Restorative Justice Program cases to ensure investigations were completed properly, all necessary reports were completed, and appropriate action was taken.
 - ii. Assume responsibility for all decisions required to forward files to the Court Section for the appropriate action.

- iii. Ensure the assigned member reviews the file and attends the Restorative Justice Forum in the absence of the investigating officer in a case where the investigating officer is not available to attend.

M. Court Section Personnel shall ensure the following functions are performed when a Restorative Justice referral is received:

- i. If a file is lacking information, return the file to the member's QA Sergeant for completion and ensure an appropriate text is submitted on the GO detailing the action required on the file.
- ii. When a referral is appropriate, complete and forward the appropriate documentation to the NSRJP.
- iii. If the Restorative Justice Administrator has confirmed that an offender has failed to comply with the terms of an agreement, proceed with a formal charge in consultation with the Investigating Officer.
- iv. When offenders are referred to a Restorative Justice Forum ensure:
 - 1. The GO is updated to indicate the action taken and the outcome.
 - 2. A copy of the completed Restorative Justice referral is entered in CPIC under the Special Interest to Police category and the GO number is included.
- v. When an officer is requested to attend a Restorative Justice Forum, send a follow-up to the Investigating Officer stating the date, time and location of the meeting and request their attendance.

DEFINITIONS

- A. **Criminal Code:** The Criminal Code, RSC 1985, c C-46.
- B. **Customary Law Program:** The Mi'kmaq Customary Law Program offered by the Mi'kmaw Legal Support Network.
- C. **Justice Partners:** Justice system stakeholders, including HRP, from government and community that are parties to the Nova Scotia Restorative Justice Program Memorandum of Understanding and have roles and responsibilities related to the implementation and operation of the Nova Scotia Restorative Justice Program.
- D. **NSRJP:** The Nova Scotia Restorative Justice Program.
- E. **Regional Justice Administrator:** The designated representative of the Nova Scotia Restorative Justice Society.
- F. **Restorative Justice Forum:** The stage in the Restorative Justice process whereby the victim, offender and community participate in achieving a resolution to the offence committed. A Restorative Justice Forum could involve victim/offender mediation; a family/group conference; community service; or any other method or combination of methods that would lead to a resolution.
- G. **Restorative Justice (RJ) Program:** A response to crime that focuses on holding the offender accountable in a more meaningful way, repairing the harm caused by the offence, achieving a sense of healing for the victim and the community, and reintegrating the offender back into the community.
- H. **Regional RJ Team:** The collaborative team responsible for the administration and management of referrals to the Nova Scotia Restorative Justice Program.
- I. **RJ:** Restorative Justice.

Effective Date	April 9, 2020
Policy Owner	Deputy Chief, Support

By Order Of:



Dan Kinsella
Chief of Police