

and the cost to the taxpayer may further be reduced.

- **Enhance community involvement in the dispute resolution process**

The inclusion and participation of communities in restorative justice processes strengthen and deepen our democracy.

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# Fact Sheet

## RESTORATIVE JUSTICE

## BACKGROUND

In response to the challenges faced by the criminal justice system and simultaneously transforming the administration of justice, the Justice Crime Prevention and Security Cluster (JCPS) has adopted the Restorative Justice approach for several reasons including the fact that Restorative Justice is largely informed by indigenous and customary responses to crime, and that it refers to processes within and outside of the criminal justice system, including “nonstate forms of ordering and justice”.

There is a similarity between restorative justice and justice as practiced by Africans through community and customary courts which have also found expression in urban areas in forums such as street committees and people’s courts. The current punitive system i.e. the system of punishing people for crimes committed seems to have only limited success, hence the need for a different approach and response.

## WHAT IS RESTORATIVE JUSTICE?

Restorative Justice is an approach to justice that aims to involve the parties to a dispute and others affected by the harm (victims, offenders, families concerned and community members) in collectively identifying harms, needs and obligations through accepting responsibilities, making restitution, and taking measures to prevent a recurrence of the incident and promoting reconciliation.

Restorative Justice sees crime as an act against the victim and shifts the focus to repairing the harm that has been committed against the victim and community. It believes that the offender also needs

assistance and seeks to identify what needs to change to prevent future re-offending.

## WHAT ARE THE VALUES AND PRINCIPLES OF RESTORATIVE JUSTICE?

1. Restorative Justice processes must comply with the rule of law, human rights principles and the rights provided in the South African Constitution.
2. Restorative Justice must promote the dignity of victims and offenders, and ensure that there is no domination or discrimination.
3. All parties must be provided with complete information as to the purpose of the process, their rights within the process and the possible outcomes of the process.
4. Parties should clearly understand that they may withdraw from the process at any time.
5. Parties must be given a reasonable amount of time to consider their options, when a restorative justice option is proposed.
6. Referral to restorative justice processes is possible at any stage of the criminal justice system, with particular emphasis on pre-trial diversion, plea and sentence agreements, pre-sentence process, as part of the sentence, and part of the reintegration process, including parole.
7. Participation in restorative justice processes must be voluntary for all parties, including victims.
8. Victims and offenders should be allowed to bring support persons to the encounter provided that this does not compromise the rights and safety of any other party.

## WHEN CAN IT BE APPLIED?

Restorative Justice can be applied at any stage in the Criminal Justice System such as:-

1. Pre-charge (before a charge is laid).
2. Pre-trial (after a charge is laid and before accused appears in Court).
3. Post-charge (after charge, but before plea in court).
4. After conviction, but before sentence.
5. Post-sentence (for parole and re-integration purposes).

## WHAT ARE THE BENEFITS OF A RESTORATIVE APPROACH TO JUSTICE?

- **Preventing re-offending**  
Research indicates that offenders who experience restorative justice interventions are less likely to re-commit further offences than similar offenders who are subject to more conventional interventions.
- **Empowering victims**  
Restorative Justice processes can facilitate access to justice for victims and provide a more empowering experience for victims. It is also less time consuming and costly. It has greater possibility for restitution, compensation and giving victims a voice.
- **Benefiting criminal justice agencies**  
It helps to reduce case back-logs and to prevent unnecessary cost and delay in the criminal justice system. Overcrowding in prisons