
VISITING EXPERTS' PAPERS

COMMUNITY INVOLVEMENT IN THE CANADIAN CRIMINAL JUSTICE SYSTEM

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I. INTRODUCTION

Over the last 25 years or so, in Canada, there has been a substantial growth in the number and an improvement in the quality of the opportunities available to the community to become involved in the treatment of offenders. That growth paralleled the growth of community involvement in crime prevention and the advent of problem-oriented policing. These trends are all interrelated. In Canada, there is a strong non-governmental sector in the country and that sector now plays a crucial role in crime prevention, victim assistance and the delivery of assistance, treatment and supervision services for offenders. There are also numerous community-based agencies providing mental health and substance abuse services in the community, often to offenders.

I cannot here give a detailed account of the different ways in which community members can be and are involved in offender treatment. Instead, I would like to focus on five main areas which I think are interesting for international counterparts. They are: (1) participatory justice and, in particular, the role of the community in what we call “sentencing circles”; (2) the involvement of the community in our youth justice system; (3) the role of citizens’ advisory committees within the federal penitentiary system; (4) the role of community members in what we refer to as “circles of support”; (5) the role of the Aboriginal community in supporting the rehabilitation and reintegration of Aboriginal offenders.

II. PARTICIPATORY JUSTICE

The Law Commission of Canada noted the emergence of a community justice movement in Canada:

“Disillusionment with the formal criminal justice system has led to a willingness to innovate and experiment in an effort to do things better. This is reflected in the history of neighbourhood justice centres, the continuing development of new programmes and processes (such as healing circles and group conferencing), a strong commitment to seeing results in action, and a growing interest in programme evaluation that is faithful to the consensus-based goals of community restorative justice.”¹

The expression “participatory justice” is not used very frequently in Canada, but it refers generally to a number of community-based initiatives that promote and facilitate the involvement of the community in problem solving, responding to crime and dealing with the offenders. The emphasis is often on the offender (and the victims) rather than only on the offence. Depending on the scheme, the community acts more or less autonomously from the criminal justice system.

Aboriginal communities, in particular, have shown an interest in becoming involved in what we could refer to as “aboriginal community justice”. Aboriginal offenders are very much overrepresented in the Canadian correctional system. Aboriginal communities have developed initiatives in response to an overwhelming need for emotional and spiritual healing in their communities. Furthermore, for many Aboriginal communities,

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¹ Law Commission of Canada (2003). *Transforming Relationships through Participatory Justice*. Ottawa: Law Commission of Canada, p. 28.

such initiatives are part of a larger movement to assert control over their own governance and over justice institutions.

A. Sentencing Circles

Circle sentencing is perhaps one of the best Canadian examples of participatory justice. In that process, members of the community can become directly involved in responding to incidents of crime and social disorder. In Canada, this is usually done through the formation of a Community Justice Committee (CJC) that may also include representatives from justice agencies. The common objective of the members of such a committee is to find more constructive ways to respond to conflict in their community. Cases are referred to the committee, generally from the police, prosecutors and judges, although cases may also come from the schools, victim services programmes and families.

The Committee plays an integral role in the overall circle process, including liaising with criminal justice agencies and community organizations as well as with the various stakeholder groups in the community.² The operation of the circle sentencing process is community-specific, meaning that it may (and should) vary between communities. In fact, the circle sentencing process relies heavily upon community volunteers for its success.³

The circles are also applied in situations involving juvenile offenders. The committee can often mobilize community support for the victim and the young offender throughout, and following the circle process. Restorative programmes offer some very real and effective alternatives to more formal and stigmatizing youth justice measures. In particular, because of their educational value, they are particularly useful for promoting diversionary measures and for providing alternatives to measures that would deprive a youth of his or her liberty. Many such programmes offer unique opportunities to create a community of care around children and youth in conflict with the law. Public support for restorative justice programmes for youth is usually relatively easy to garner.⁴

B. Community Conferencing

Community conferencing is also used sometimes as an alternative measure programme to which an offender can be diverted from the criminal justice system. Such programmes tend to be managed by community groups or agencies, with or without financial support from the government. The conference usually involves those most concerned about the offender and the victim and any other member of the community with an interest in the process (e.g. a school teacher in the case of a young offender, or an employer). The agency or community group to which the offender is referred is also responsible for monitoring the offender's compliance with the terms of the agreement and may or may not function under the direct oversight of law enforcement or justice officials.

C. Issues of Fairness

The involvement of the community in shaping a response to an offender's behaviour can sometimes work at the expense of the procedural safeguards that would normally be in place to protect the rights of that offender. There are obviously issues of fairness that cannot be neglected. The Law Commission of Canada has offered some general recommendations on developing fair participatory processes.⁵ There does not exist yet a comprehensive regulatory framework for such initiatives. In the absence of a Canadian regulatory framework, one may rely on the *United Nations Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters*. Among other things, these standards emphasize the need to obtain the consent of both the offender and the victim before applying such measures.

² Bazemore, G. and C. T. Griffiths (1997). "Conferences, Circles, Boards, and Mediations: Scouting the 'New Wave' of Community Justice Decision Making Approaches." *Federal Probation* 61, (June), pp. 25-38.

³ Pranis, K., Stuart, B., and M. Wedge (2003). *Peacemaking Circles—From Crime to Community*. St. Paul (Minn.): Living Justice Press.

⁴ Dandurand, Y. and C. Griffiths (UNODC) (2006). *Handbook on Restorative Justice Programmes*. New York: United Nations.

⁵ Law Commission of Canada (2003). *Transforming Relationships through Participatory Justice*. Ottawa: Law Commission of Canada, p. 217.

III. YOUTH JUSTICE

The *Canadian Youth Criminal Justice Act* (YCJA) encourages the use of provisions to keep young offenders from being processed in the formal juvenile justice system. Provisions in the Act encourage juvenile justice officials to use what are called 'extrajudicial measures' for juvenile offenders who have committed less serious offences.

The Act also sets out very clear objectives for the use of such extrajudicial measures. These objectives are: (1) to encourage family, victim, and community involvement in the process; (2) to provide the opportunity for the victim to participate in the decision-making process; (3) to repair the harm caused to both the victim and the community; and, 4) to ensure that the extrajudicial measures used are proportionate to the seriousness of the offence.

Under the Act, police officers and prosecutors are encouraged to use pre-charge and post-charge diversionary measures. The following is a list of diversion measures that police and prosecutors are authorized to use under the YCJA: (1) taking no further action; (2) warnings (informal warnings by police officers); (3) police cautions (more formal warnings by the police), and (4) police referrals of young persons to community programmes or agencies that may help them not to commit offences. The referral may be to a wide range of community resources, including recreation programmes and counselling agencies.

Although the Act states that the police must consider referring troubled youth to community programmes, the option tends to be underutilized. There remains a need to strengthen police-community partnerships by providing programmes and tools to encourage such referrals. As first responders, police are well situated to prevent youth from continuing down criminal pathways. They need to be connected to the community resources.

The BC Centre for Safe Schools and Communities, at my university, has just launched a database on community resources which can be used directly and easily by front line police officers. The tool provides front line police officers with easy access to information that can assist them in referring young offenders to mental health and drug addiction services in their communities. The database will also enable greater citizen/community participation in the youth justice system through community programmes and services for drug addiction and mental health services targeted specifically at youth.

The Act provides a variety of opportunities for justice system personnel to divert youth from the formal criminal justice process. One of these possibilities is the "family group conference" or the "community group conference". The utility of conducting conferences is also acknowledged by the Act. The law authorizes and encourages administrators to use conferences in the decision-making process for young offenders. Under the Act, 'a conference is defined as a group of people brought together to give advice to a police officer, judge, justice of the peace, prosecutor, provincial director or youth worker who is required to make a decision under the Act'.

Conference groups typically involve a variety of people and may include the youth's parental figures, the victim(s), community members or community agency personnel or other professionals whose expertise is needed in the decision-making process. Conference groups have the ability to make various recommendations about the following decisions: (1) extrajudicial measures to be used; (2) conditions for release from pre-trial detention; (3) sentences; and, (4) reintegration (re-entry) plans for the juveniles once they have been released from custody and are ready to return to their family and the community.

Conferences conducted within the YCJA legislative framework tend to take one of two forms: they are either restorative in nature or are conducted as professional case conferences. When used as a restorative mechanism, conferences address the harms caused by the juvenile's offence to both the victim and the community. A professional case conference on the other hand is conducted to develop and implement strategies for addressing the young offender's needs, in addition to determining how community services may be used to assist the young person.

IV. CITIZEN ADVISORY COMMITTEES

Citizen Advisory Committees (CACs) are autonomous committees that reflect the interest of citizens in contributing to the quality of Canada's federal correctional services and programmes. The mission of each CAC is “to contribute to the protection of society by interacting with staff of the Correctional Service of Canada (CSC), the public and offenders by providing impartial advice and recommendations about correctional services and by acting as a liaison with the community” (CSC website). They have been in operation since 1965 (and became mandatory for all penitentiaries in 1977).

According to CSC, close to 600 citizens participate in 106 committees across the country. Committee members represent various social, cultural, and demographic backgrounds and occupations, and usually reside in proximity to the operational unit for which the committee serves. They are appointed for a period of two years.

The role of the committees is defined in *Commissioner directive No. 023, 2003-03-17*: “Citizens’ Advisory Committees: (a) provide advice to the Correctional Service of Canada (CSC) regarding correctional operations, programmes, policies, and plans; (b) act as impartial observers of and provide feedback on the day-to-day activities and operations of the CSC; (c) liaise with staff and offenders and their representatives, other organizations including criminal justice and advocacy groups and the community to address correctional issues; and, (d) in performing these roles, local committees should establish clear objectives and undertake activities that will support them. (...) These objectives should be reviewed and updated yearly.”

These committees are involved in numerous activities, involving the institutions, the offenders and the community. I can perhaps give you some examples.

V. CIRCLES OF SUPPORT AND ACCOUNTABILITY

A circle of support and accountability is a form of community reintegration programme that seeks to reduce the risk of reoffending by sex offenders who are re-entering the community without supervision at their warrant expiry date. Based in the religious community, the circle aims to enhance public safety by working in cooperation with the police, neighbourhood groups, victims and treatment professionals.

This programme was originally conceived in Canada as a means to fill a gap in services left by government policy that is, regarding those individuals that had served their entire court sentence in prison and were released at the expiration of their warrant. These individuals were being released without a formal process of aftercare and without any assistance or supervision. The programme was initiated out of necessity to work with released offenders who were most likely to fail to successfully reintegrate society, presumably because of a lack of community support or other resources. Many of these individuals were untreated sex offenders and their return to the community was very likely to attract significant media attention.⁶

The programme is a fine example of community participation and of successful partnerships between the community and the justice system. The volunteers involved in the programme are carefully selected from the community, professionally trained, and aptly supported. An agreement is established between the core member (the offender) and up to seven circle volunteers. Participation is voluntary on both sides. However, once the agreement is agreed to, it becomes the road map for both the support and the accountability that can be expected by all participants. The outer “professional” circle refers to the support, guidance and interventions that are provided by professionally trained participants and representatives of official law enforcement or correctional agencies.⁷

⁶ Brown, R. E. and Y. Dandurand (2007). “Successful Strategies that Contribute to Safer Communities”, in Maio, S. (Ed.), *Selected Papers on Successful Crime Reduction and Prevention Strategies in the Urban Context*. Riyadh: Naif Arab University for Security Sciences, pp. 77-88.

⁷ See also: Wilson, R., McWhinnie, A., Picheca, J., Prinzo, M., and Cortoni, F. (2007). “Circles of Support and Accountability: Engaging Community Volunteers in the Management of High-Risk Sexual Offenders,” *Howard Journal*, Vol. 46 No 1. (February 2007), pp. 6-7.

An evaluation of a pilot project based on this model was conducted by Wilson, Picheca and Prinzo.⁸ It compared the offenders supported by the programme to 60 offenders from a matched comparison group. The 60 high-risk sex offenders who received the support of the programme reoffended at a rate 50 to 60% below the expected rate. Furthermore, the offences committed by the Circle supported offenders were less brutal, less invasive, and less injurious than the index offence – a harm reduction effect.

VI. ABORIGINAL COMMUNITY INVOLVEMENT

As I mentioned before, Aboriginal offenders continue to be disproportionately represented at all levels of the Canadian criminal justice system. According to CSC, at the end of March 2007, Aboriginal people comprised 17.0% of federally sentenced offenders although the general Aboriginal population is only 2.7% of the Canadian adult population.

A little over ten years ago, the Correctional Service of Canada and the National Parole Board of Canada developed a framework for enhancing the role of Aboriginal communities. Special funds were allocated to the initiative (\$18.6 million over five years; 2000-01 to 2004-05). Research had demonstrated that reconnecting the offenders with families and communities improved outcomes and reduced recidivism. A lot of that funding was therefore used to develop additional Aboriginal healing lodges with Aboriginal communities. Healing lodges are minimum security Aboriginal community facilities that offer culturally appropriate services and programmes to offenders in an environment that incorporates Aboriginal peoples' values, traditions and beliefs.

This was to be the beginning of greater involvement of Aboriginal communities in the reintegration of offenders. Initially, while many Aboriginal communities were interested in developing healing lodges, they often lacked the capacity and/or expertise to engage in the planning, development and implementation of community-based alternatives.

Aboriginal communities are also involved through the work of Elders. First Nations, Métis and Inuit Elders contribute throughout the sentence to meeting the cultural and spiritual needs of diverse Aboriginal offenders. They provide guidance and leadership in correctional planning/intervention for those who wish to follow a traditional healing path.

Finally, community involvement is also fostered through the work of Aboriginal liaison officers who help ensure that the unique histories and needs of individual Aboriginal offenders in institutions and of their communities are understood and met. They also facilitate interactions between offenders and non-Aboriginal staff to ensure that the offenders' spiritual and cultural needs are addressed.

VII. CONCLUSION

As shown above, there is no shortage of opportunities for community members to get involved in the treatment of offenders. Hundreds of groups and thousands of volunteers get involved each year. The Correctional Service of Canada alone reports that approximately 9,000 Canadians, from all walks of life, volunteer at the Service, helping in the penitentiaries as well as in the community. Volunteers contribute to a variety of institution-based programmes, including chaplaincy, recreation activities, classroom and workshop instruction, social events and cultural activities. In the community, they support the families of offenders and help released offenders readjust to life in the community.

Many services have effectively become dependent on the help of community members and non-governmental organization partners to deliver offender rehabilitation and reintegration programmes. The commitment to public safety and offender treatment that these community-based agencies and organizations have demonstrated has greatly enhanced the ability of the justice system to offer correctional programmes. These groups have assisted the system in dealing with the increasingly complex needs of today's offender population.

The experience community members have of their involvement in the justice system varies. Some of

⁸ Wilson, R., Picheca, J.E., and M. Prinzo. 2005. "Circles of Support and Accountability: An Evaluation of the Pilot Project in South-Central Ontario". Ottawa: Correctional Service of Canada.

them comment from time to time on the trivialization of their role and the unnecessarily limits and constraints imposed on the involvement by the justice and correctional institutions. However, generally speaking, the experience of these community members seems to be largely positive and rewarding. They, for the most part, feel that their own contribution makes a difference not only in the life of the offenders, but also in terms of public safety.

We certainly can deplore the general lack of research to assess the impact of community involvement in the treatment of offenders. In Canada, certainly, that research is very limited. However, most people who are familiar with the Canadian system would probably agree that the growing involvement of the community in the treatment of offenders has helped us make our justice system more open and transparent, and more accountable. This is indeed a very positive development.