



Government of Jamaica
MINISTRY OF JUSTICE



GREEN PAPER
RESTORATIVE JUSTICE POLICY

*Promoting Restorative Justice
to Resolve Conflicts and Grievances*



Edited: October 24, 2023



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Most importantly, the people of Jamaica who recognize that there is a better way when faced with conflicts to find a peaceful and lasting solution.

Restorative Justice – a pathway for transformation to a more secure, just, cohesive and peaceful Jamaican society



Message FROM THE MINISTER OF JUSTICE

Restorative Justice is a powerful process to resolve conflicts and secure a peaceful and harmonious relationship between parties. I am extremely grateful for the opportunity provided to promote the implementation and institutionalization of the use of Restorative Justice within the social justice paradigm of the Government of Jamaica.

The National Restorative Justice Programme continues to grow from strength to strength in our national drive to curb the proliferation of crime and violence in the society. Where parties have been referred to, or sought the use

of Restorative Justice, the success rate is over 80% and so many speak highly and express appreciation for the healing tool of Restorative Justice.

In these challenging times for our homes, neighborhoods, communities and nation where abuses, threats and violence are used to resolve conflicts, we need to change that mindset of our people and instead to seek and find peaceful resolution to our problems. We hope this Green Paper will be examined comprehensively, and criticisms and comments can be forthcoming.

Delroy Chuck
Delroy Chuck, KC, MP

ABBREVIATIONS AND ACRONYMS

ADR	Alternative Dispute Resolution
CLO	Community Liaison Officer
CJS	Criminal Justice System
CSJP	Citizen Security and Justice Programme
CSOs	Civil Society Organizations
DCS	Department of Correctional Services
DFID	Department for International Development
DRF	Dispute Resolution foundation
FBO	Faith Based Organization
FCDO	Foreign Commonwealth and Development Office
GOJ	Government of Jamaica
GAC	Global Advisory Council
IDB	Inter-American Development Bank
JCF	Jamaica Constabulary Force
LSU	Legal Services Unit, MOJ
MDAs	Ministries, Departments and Agencies
MNS	Ministry of National Security
MOEY	Ministry of Education and Youth
MOFPS	Ministry of Finance and the Public Service
MOJ	Ministry of Justice
MoU	Memorandum of Understanding
NAB	National Advisory Board
NGO	Non-Governmental Organization
NIA	National Integrity Action
PJC	Parish Justice Centre
PLRPJU	Public Law Restorative and Preventative Justice Unit, MOJ
RJ	Restorative Justice
RJC	Restorative Justice Centre
RJB	Restorative Justice Branch
RMRU	Research Modernization Reform Unit, MOJ
RP	Restorative Practices
UWI	University of the West Indies
VSJ	Victim Services Branch

EXECUTIVE SUMMARY

The introduction of Restorative Justice¹ in Jamaica reflects a paradigm shift that incorporates: addressing wrongdoing; holding persons accountable for such wrongdoing; and including communities as part of the process for accountability and healing. This process broadens the ways in which the traditional criminal or civil justice system is approached, and expands the available techniques for social intervention.

Since 2002, RJ introduced an option to treat with minor offences in the Criminal Justice System (CJS). This was followed in 2010, with the launch of the Restorative and Community Justice initiative piloted in four communities: Granville, St James; May Pen, Clarendon; Spanish Town, St Catherine; and Tower Hill, St Andrew. Growing from strength to strength, the first RJ Centre was operationalized in 2012 and the tabling of the National Restorative Justice Policy; a framework for the actualization of the National Restorative Justice Programme.

The National Restorative Justice Programme heralded the implementation and institutionalization of restorative justice principles and practices by the Government of Jamaica aligned to Goal 2 of the Vision 2030 National Development Plan, that the ***Jamaican Society is Secure, Cohesive and Just.***

Prime Minister, The Most Hon. Andrew Holness at the Denham Town Restorative Justice Centre opening in 2017:

In communities like Denham Town, like Tivoli Gardens - similar community, the people there want law and order and peace. The people here want dignity, they want respect, they want freedom and opportunity; crime stands in their way.

This effort supports the security of our country (Restorative Justice) and efforts like these will be continued and expanded and I want to encourage the minister to set up as many of these restorative justice centres as are possible because we have to get our citizens to citizens, man to man to become just with each other. While a large part of crime is driven by an enterprise with criminal intention ... Some of it is driven by how we are socialized, how we conduct our social transactions. I am your neighbour, we live together, one day my garbage pan turn over and some of it go over your yard and the neighbour gets vex and take up the garbage then throw it on your veranda, big argument start, knife is drawn, somebody gets stabbed, somebody probably dies.

That is not the genesis of a criminal enterprise, that is the genesis of poor socialization that is caused by the absence of a social infrastructure that intervenes early and so if you have an argument bring it here [Restorative Justice] and let us in a structured way reason it out, talk it out and get to point of resolution... Violence is the currency of much of our social interaction and the State has to change that. The State has to help you the citizens to resort less to violence and more to reason and this [Restorative Justice] is one such effort and I endorse it. I recommend it and the government will continue to support it.

2022 represented the 10th anniversary of the existence of the National Restorative Justice Programme and the National Restorative Justice Policy, 2012. Since 2012, much has happened across communities and within the judicial system in relation to Restorative Justice. The passage of time, with its emerging dynamics of faster and

¹ Restorative Justice and RJ are used interchangeably throughout the document.

increasing social challenges, necessitates a revision of the RJ Policy and an assessment of the Programme.

The review and evaluation of the implementation and impact of the National Restorative Justice Programme, the framework Policy and enabling legislation, identified areas which require strengthening, and the introduction of new provisions to ensure the continued relevance and efficacy of the RJ Policy and enforceability of its legislation.

The governing legislation for RJ is the *Law Reform (Miscellaneous Amendments) (Restorative Justice) Act, 2016*, promulgated through the amendment and combination of various pieces of legislation to allow certain offences to be dealt with under Restorative Justice at different stages of the Criminal Justice process. There is, at present, no legislation which guides the use of Restorative Justice practices in Civil Justice process. The nature of the legislation per criminal matters and the absence of legislation for civil matters affect the reach and overall effectiveness of RJ practices under the National Restorative Justice Programme. An umbrella legislation which holistically specializes in RJ is therefore paramount as this will strengthen existing legislative gaps and/or ambiguity, while increasing confidence, certainty, maintenance and sustainability for the use of Restorative Justice practices administered under the Programme.

The Government of Jamaica (GOJ), in recognition of the continued relevance of the National RJ Programme, RJ practices and the need for future sustainability, has by way of Cabinet Decision No. **30/21** dated **July 19, 2021**, approved for the revision of the 2012 Policy and to effect any consequential or necessary amendment to the legislation. The Green Paper was developed and by way of Decision No. **34/23** dated **October 2, 2023**, Cabinet approved the draft national RJ Policy for tabling in the Houses of Parliament as a Green Paper.

INTRODUCTION

The GOJ has recognized and approved² the use of RJ as a tool to effect and strengthen the national thrust to improve justice outcomes through the more timely, affordable, confidential and people-centred resolution methods embodied by RJ. Restorative Justice has been implemented as a national programme supported by the National Restorative Justice Policy, 2012 and the promulgation of the *Law Reform (Miscellaneous Amendments) (Restorative Justice) Act, 2016*.

The National Restorative Justice Programme was institutionalized, *inter alia*, in response to the framework established by the Justice Sector Reform initiatives of 2007 which identified the need to *embrace a culture of peace and justice within the existing paradigm of increased violence, retaliatory violence, re-offences, general social erosion and overwhelming pressure on the judicial system*, as it pertained to the increasing number of matters before the courts and the strategic aim to have higher case clearance rate.

The 2012 RJ Policy established a sustainable foundation for the implementation of the Programme, and has delivered justice in Jamaica with a focus towards reconciliation, empowerment and equipping citizens and communities with peaceful means coterminous, where necessary, with penal measures, of resolving and settling conflicts and achieving justice.

The Ministry of Justice through the Restorative Justice Branch of the Social Justice Division has responsibility for the implementation of the Programme through the engagement of critical stakeholders such as the Judiciary, the Police, Civil Society, Schools, Churches, Communities, and Ministries, Departments and Agencies.

The year 2022 marks the 10th anniversary of the RJ Policy in Jamaica with the Programme achieving considerable successes within the Justice sector. Greater success is anticipated with further strengthening and modernization of RJ Policy to ensure continued relevance and effectiveness of RJ, guided by a strong parent legislation.

² See Cabinet Decisions No. 27/02 of July 2002 and No. 27/08 dated October 18, 2008

DEFINING RESTORATIVE JUSTICE

In Jamaica, Restorative Justice (RJ) is a distinct system which has been incorporated into the realm of traditional law whilst being a resolution mechanism for conflict and social intervention. It offers a safe and just process whereby all the parties with a stake in a particular offence come together to collectively address the aftermath of the offence and its implications for the future. RJ allows victims to meet or otherwise communicate with their offender and is shown to both reduce re-offending and improve the experiences of victims within the justice system.

RESTORATIVE JUSTICE PURPOSE AND PROCEEDINGS

The statute defines the purpose and proceedings of Restorative Justice, *inter alia*, as:

to hold offenders accountable in a more meaningful way to the victim and community and provide an opportunity for healing and the lasting reconciliation of relationships between the victim and offender and their families, where the offender accepts responsibility for the offence and there are one or more victims of the offence concerned.

RESTORATIVE JUSTICE COMPONENTS & TECHNIQUES

RJ comprises three primary groups/parties resulting in a different way of thinking about crime and conflict resolution. These integral components necessary for the successful initiation of RJ are seen below:



the
VICTIM
or the individual
harmed



the
OFFENDER
or the individual who
caused the harm



the
COMMUNITY
the place where the
harm was committed

RJ focuses on holding the offender accountable in a more meaningful way, repairs the harm caused by the offence, helps to reintegrate the offender into the community and helps to achieve a sense of healing for both the victim and the community.

As a distinct form of Alternative Dispute Resolution (ADR), RJ is both a strategic tool and a treatment to address, the high crime rate; cost of crime; court clearance rate; re-offending; and social erosion. RJ also goes beyond ADR to being inclusive, focusing on process, relationships – victims, offenders and community as seen in the types and degrees of Restorative Justice Practices depicted on the diagram 1: -

Diagram 1 - Restorative Justice Practices Typology

The most common restorative justice practices are classified as partly, mostly or fully restorative.

At its core, RJ is concerned with restoring relationships where each person is treated with dignity, care and respect in the process of moving away from harm to healing. RJ offers a holistic response to the harm caused by focusing on restoring the loss endured by victims, holding offenders accountable and building peace within communities.

Ultimately, RJ is a dialogue-based approach that centres the decision-making process around those who have been impacted by the offence/harm. RJ affords citizens the opportunity to become part of a process that seeks to provide an alternative method to arriving at an amicable conclusion post offence/harm between citizens.

It allows a complementary approach to the traditional justice system and reduces the number of matters entering or having entered the courts.

RESTORATIVE JUSTICE AT A GLANCE:

Restorative Justice:

- Is a different way of thinking about crime and our response to crime;
- Focuses on the harm caused by crime: repairing the harm done to victims and reducing future harm through the process of moving away from harm to healing;
- Requires offenders to take responsibility for their actions and for the harm they have caused;
- Seeks redress for victims, recompense by offenders and reintegration of both within the community; and
- Is achieved through a co-operative effort by communities and the Government.

KEY PRINCIPLES OF RESTORATIVE JUSTICE:

Restorative Justice is guided by five (5) key principles:

- 1) Focus on the harms and consequent needs of the victims, as well as the communities' and the offenders;
- 2) Address the obligation that results from those harms (the obligations of the offenders, as well as the communities' and society's);
- 3) Use inclusive, collaborative processes;
- 4) Involve those with a legitimate stake in the situations, including victims, offenders, community members, and society; and
- 5) Seek to put right the wrongs; with a focus on repairing relationships.

GLOSSARY OF RESTORATIVE JUSTICE TERMINOLOGY

The commonly used terms in Restorative Justice are:

Restorative Justice

“An approach to justice that seeks to repair harm by providing an opportunity for those harmed and those who take responsibility for the harm to communicate about and address their needs in the aftermath of a crime”³

Restorative Justice Practices

Restorative Justice related measures or activities led and managed by the Restorative Justice Arm of the MOJ to facilitate the RJ Process.

Restorative Justice Referral (Court and Community/Police/School etc)

The process used by the courts, community members, the police, JPs, MDAs etc. to recommend or to refer a matter suitable for RJ to the Restorative Justice Branch, RJ Centre or its parish representative to initiate RJ Proceedings.

³ Federal-Provincial-Territorial Ministers Responsible for Justice and Public Safety (2018). Principles and Guidelines for Restorative Practice in the Criminal Matters. <https://scics.ca/en/product-produit/principles-and-guidelines-for-restorative-justice-practice-in-criminal-matters-2018/>

Referral Entity/Agency	Any established government or non-governmental body or representative able to refer matters suitable for RJ on to the RJ Branch or RJ Centre or its parish representative.
Restorative Justice Process/Proceeding	A restorative process/proceeding is any process in which the victim, the offender and any other appropriate individuals or community members affected by a crime participate together actively in the resolution of matters arising from the crime, with the help of a RJ facilitator ⁴ .
Restorative Justice Facilitator (Designated Officer/personnel)	Trained and certified RJ professional who manages the restorative process among the harmed person (victim), the person responsible for causing the harm (offender) and the community.
Restorative Justice Officer (Designated Officer/personnel)	Trained and certified RJ professional employed by the Restorative Justice Branch of the Social Justice Division at the Ministry of Justice and deployed to parish justice centres and RJ centres across the island.
Restorative Justice Programme	Restorative Justice related measures or activities led and managed by the Social Justice Division of the Ministry of Justice to facilitate access to RJ Proceedings and interventions for the public.
Restorative Justice Centre	Office situated in each parish to operationalize the RJ Programme. The Centre houses RJ Officers, administers and manages RJ Proceedings and provide access to RJ by the public. (See Appendix I – RJ Centres Listing).
Restorative Justice Agreement	The final outcome that is obtained as a product of a restorative justice process and practice. Examples of restorative outcomes include restitution, community work service and any other program or response designed to accomplish reparation of the victim, and the reintegration of the victims and/or offenders.
Restorative Justice Forms	Official documentation to administer, manage and monitor the RJ process (see Appendices II - VII)
Restorative Justice Order	A pre-trial or pre-sentencing directive from the courts that instructs the parties involved to take part in RJ proceedings before the matter can be heard in the court.

⁴ UNODC Handbook on Restorative Justice https://www.unodc.org/pdf/criminal_justice/Handbook_on_Restorative_Justice_Programmes.pdf

A list of Restorative Justice services and interventions with accompanying descriptions are included below at **Appendix VIII** and summarized below: -

- RJ Sensitizations for stakeholders and public - 1-hour session
- Restorative Justice Facilitator Training - 13 weeks theory+ practicum component
- Restorative Practices Training- 2 days
- Train the Trainers in Restorative Practices- 4 days

RESTORATIVE JUSTICE AS A PROGRAMME:

Restorative Justice aims to reduce recidivism, increase victim satisfaction, encourage offender accountability, allow for reintegration and bolster public confidence in the formal Justice system while encouraging safe and peaceful citizen interactions where there is conflict within communities. Given these tenets of Restorative Justice and its key principles, it provided for the formation of the Restorative Justice Programme mandated core objective:

To bring together the offender and the victim guided by a facilitator; in order to:

- i) To address the harm suffered by the victim;
- ii) Identify the obligations of the offender to the victim that arise out of the offence concerned;
- iii) Attend to the needs of victims by empowering them to participate in identifying reparative measures to be taken by the offender; and
- iv) Reintegrate the offender into the community by supporting the rebuilding of broken relationships.

RESTORATIVE JUSTICE VS. MEDIATION

RJ is commonly confused or conflated with the ADR technique of Mediation. However, RJ differs from Mediation in that for RJ to function properly, a specific harm or injury to a relationship must be identified. In addition, one party must, as a prerequisite take responsibility for the wrong doing in question. Once these pre-requisites are met, the parties, along with the larger community, come together in dialogue with a third party who guides or facilitates the process, but who allows the parties themselves to determine the best way to mend the relationship that was harmed or broken. It is this aspect that makes the purpose of a restorative intervention entirely distinct from mediation⁵.

⁵ The Differences between Mediation and Restorative Justice/Practice, Derek Brookes, Scottish Restorative Justice Consultancy and Training Service

Distinguishing features of RJ and Mediation:

MEDIATION⁶	RESTORATIVE JUSTICE
Parties are neutral and equal	Victim-centred and not equal
Limited to immediate parties	Involves wider community
Most appropriate for Civil Cases	Most appropriate for Criminal Cases
Appropriate to include where there is <u>no pre-existing</u> relationship or common community	Appropriate for <u>pre-existing</u> relationship or in a community context
Results in a legal contract or settlement	Results in a social contract or settlement

Distinguishing features of RJ and Mediation During Engagement:

MEDIATION	RESTORATIVE JUSTICE
The person who guides parties involved in a conflict come to an agreement is called a Mediator.	The person who guides parties involved in a conflict come to an agreement/social contract/settlement is called a Facilitator.
No acknowledgment by either party to wrong – the parties are morally equal prior to the process commencing.	Wrongdoer takes responsibility prior to the process commencing in terms of wrong doing.
Any party is entitled to speak first: the mediator begins by asking who would like to speak first.	Generally, the party who caused the harm speaks first to set the tone of the meeting by taking responsibility from the outset: the facilitator begins by asking that person responsible to start the dialogue by explaining what happened and why.
Strategic dialogue in which the parties' main concern is to achieve the best outcome for themselves (self-interest).	Best solution for restoring the relationships of all involved.
Involves only the immediate two parties.	Ensures the inclusion of other parties affected by the conflict.
The mediator is actively involved in the consensus building for a resolution.	The facilitator remains more in the background allowing the parties themselves to find a mutually beneficial conclusion or resolution.

⁶ Consultant, T Chambers – Reviewing the Draft Mediation Strategy for Jamaica, January 2021

RESTORATIVE JUSTICE: PART AND COMPLEMENT OF THE JUSTICE SYSTEM

In the traditional criminal justice system, the victim's primary role and voice are from the perspective of being a witness. Restorative Justice recognizes however, that victims need an opportunity to speak about their feelings and to have the power that was taken from them by the offence, restored. Victims require recognition of the pain and suffering they have endured; and also need to understand the offender's motivation for committing the crime. Restorative Justice recognizes these needs and operates in tandem with and complementary to the criminal justice system as a social yet legal infusion, to allow for victim involvement in determining how those needs can best be met.

Restorative Justice processes deal with harm and are defined and discussed most often within the context of crime and the criminal justice system. Restorative Justice however, is a theory of justice in the broadest sense, and can be accorded utilization in relation to all types of harm; as long as the basic prerequisites and conditions are met. To this extent, Restorative Justice is not limited to the criminal justice system but can be employed in the context of the civil justice system.

Finally, Restorative Justice is not a replacement or substitution for the Justice System; (broadly dichotomized as the criminal and civil justice system), but is mandated and promulgated to be part and complement to this System. A Restorative Justice approach helps meet needs that are not often met by the 'traditional' system of Justice.

Reducing recidivism, increasing victim engagement and improving public confidence in the system take enormous effort and will afford a more effective ways of making communities safer while strengthening social investments.

BENEFITS OF RESTORATIVE JUSTICE

1. Through Restorative Justice practices the victim's need for answers, healing and safety are more directly addressed, giving them a voice, encouraging them to express their needs, enabling them to participate in the resolution process and offenders held more directly accountable for the harm caused by their actions;
2. Restorative Justice processes when applied to the criminal justice system have been effective in, reducing re-offending (recidivism), increasing victim satisfaction rates and preventing the re-occurrence of crime⁷;
3. Restorative Justice re-integrates and restores the offender to become a productive member of the community;
4. communities are also encouraged to reflect on their values and norms and are supported in the role of active participants in the delivery of justice;
5. Restorative Justice has an important role among the strategies to reduce case backlog in the Jamaican

⁷ Lawrence Sherman & Heather Strang, "Restorative Justice: the Evidence" (The Smith Institute, 2007) Cited in Llewelyn, Jennifer and Graham, Danny, 'Towards a Strategic Framework for Restorative Justice in Jamaica' 2008

Courts. It is recognized that many cases that burden the Court can be diverted and addressed at the community level between the victim, offender and community, avoiding the escalation of these disputes to the formal legal justice system and thereby avoiding the associated cost and delays;

6. It has also assumed a critical role toward the achievement of public safety and crime reduction;
7. Restorative Justice (RJ) facilitates a space for reflection and interaction among the offender, the victim, the community and the State in a manner which increases the opportunities for the transformation of both interpersonal relationships and systemic conditions leading conflict resolution and problem-solving processes;

RJ seeks to involve, to the extent possible, those who have a stake in a specific offence and to identify and address harms, needs, and obligations, in order to heal and put things as right as possible⁸;
8. RJ builds the conditions for genuine and open expressions of remorse and contrition that would be difficult in other criminal justice applications when some offenders are deeply immersed in, and committed to, a fundamentally anti-social culture⁹;
9. This is highly relevant for the purpose of advancing Restorative Justice, because many of the values which 'dons' reinforce in communities – mainly revenge, intimidation and force - run counter to the principles of Restorative Justice and the formal justice system. RJ offers a potential opportunity to address a profound disconnect between the formal and informal systems of conflict resolution which is perhaps the most challenging phenomenon for advancing crime reduction strategies. Restorative Justice is a mechanism, which has the potential to begin to rebuild among the people, the trust and connection with each other so that Jamaica can flourish as a society;
10. Restorative Justice processes help to improve social structures, social attitudes, values and behaviours (social capital) which in turn:
 - a) empowers citizens to collectively resolve problems more easily;
 - b) allows communities to advance smoothly in harmony, fostering increased confidence in everyday business and social transactions; and
 - c) improves citizens' circumstances by sharpening awareness of the many ways in which our fate is linked and instilling more tolerance, less cynicism and more empathy towards the circumstances of others.

⁸ Zehr 2002, cited Dundas, 2007

⁹ Llewelyn, Jennifer and Graham, Danny, 'Towards a Strategic Framework for Restorative Justice in Jamaica' 2008

OVERVIEW OF RJ IN JAMAICA

Situational Analysis

Jamaica is affected by an epidemic of violence. The implementation of the National RJ Programme and the strategic placement of the Restorative Justice Centres in communities deemed to be ‘hot spots’ for violence has seen modest success, resulting in a reduction in violence, reprisal criminal actions and a strong representation of Jamaica’s social intervention strategies to positively impact lives.

Justice System - Case Clearance Rate

Since the implementation of RJ in 2012, its impact on the judiciary as at 2021 has been less than 3%¹⁰. The mandate of the GOJ through the Ministry of Justice to increase access to justice and timely justice outcomes is a major priority. The policy position of the Government is for there to be an increased use of Restorative Justice to achieve more timely justice outcomes, as the paradigm of Restorative Justice continues to make invaluable contributions to conflict resolution and creating a better society. RJ is therefore among the strategic tools utilized to encourage positive case clearance rate in the courts¹¹.

Social and Developmental Challenges

Gender-Based Violence, Domestic Violence and crime continue to pose significant challenges to Jamaica’s achievement of its Vision 2030 National Development Goal #2, “the Jamaican Society is secure, cohesive and just” to have a national outcome of “security and safety, and effective governance.”¹²

The pervasive nature of crime and violence in Jamaica lowers overall citizen satisfaction and leads to consequences such as high mortality rates and increases the need for prisons, medical care and private security which are costly to the individual and government as a whole¹³. The continued use of Restorative Justice is a fundamental tool for restoring and maintaining social order, thereby improving community and interpersonal relations and reducing the need for the aforementioned costly responses to crime and violence.

The ongoing erosion of fundamental social, cultural and community values such as: trust, support, and equality continue to cause mistrust of the formal justice system. This in turn poses challenges to the use of fair, respectful and constructive conflict resolution processes by citizens and consequently, the high rate of recidivism among persons who were previously charged or convicted of crimes.

The Government of Jamaica remains committed to reducing crime, violence and recidivism through the continued use of Restorative Justice.

¹⁰ Court Statistics for 2021 and Report of the RJ Branch.

¹¹ Currently reports of the RJ Unit purports that the cases referred to RJ are matters current or new before the courts.

¹² Vision 2030 National Development Plan, 2009

¹³ Kambon, Asha, and Gabrielle Henderson. “Exploring Policy Linkages Between Poverty, Crime and Violence: A Look at Three Caribbean States.” ECLAC SUBREGIONAL HEADQUARTERS FOR THE CARIBBEAN, vol. Studies and Perspectives, no. 8, 2008, pp. 5–48, repositorio.cepal.org/bitstream/handle/11362/5060/1/S2008908_en.pdf.

NATIONAL POLICY

The National RJ Policy (2012) utilized international best practices to develop a Restorative Justice model and programme that responded to the needs and culture of the Jamaican people within the existing realities of the day. The Policy incubated the adoption and use of Restorative Justice Practices island-wide and summarized international literature in support of the use of RJ as well as demonstrated the growing need locally for resorting to non-violent means of dispute resolution and restoring relationships.

The vision of the RJ Policy “**is a pathway for transformation to a more secure, just, cohesive and peaceful Jamaican society.**” This vision was undergirded by six (6) policy goals, five (5) fundamental principles and five (5) programme objectives with attending strategies, which build out the gamut of RJ in the Jamaican context.

The Policy provided a framework to build-out the Programme utilizing a general approach which treated with the stages at which different offences can be referred to RJ (see page 41: **Revised Restorative Justice Referral Process (Pre-Charge, Post-Charge and Post Sentence Referral)**), and the Restorative Justice Programme Protocols which outline the daily operational guidelines for the Programme.

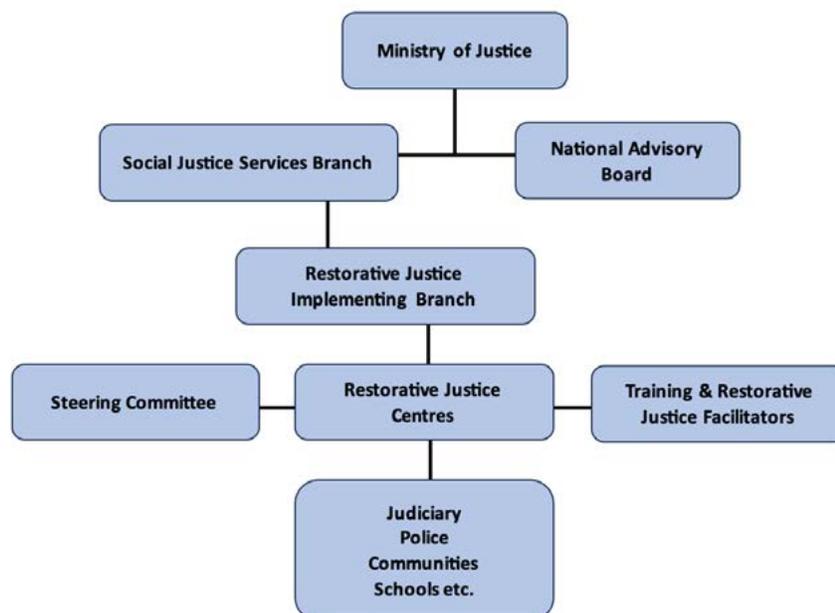
LEGISLATIVE/REGULATORY FRAMEWORK

In December 2016, *the Law Reform (Miscellaneous Amendments) (Restorative Justice) Act*, (hereafter called the “RJ Act”) was promulgated to provide a legal framework to treat with certain offences to be dealt with utilizing Restorative Justice process at different stages of the criminal justice process and to strengthen the legitimacy, reach and effectiveness of the RJ Programme. The RJ Act comprises four (4) different pieces of legislation and does not provide a fulsome representation of the objectives, principles and administrative tenets and engagements set out in the RJ Policy. Accordingly, the RJ Act requires an expansion in its scope, instructional capacity and organizational principles to adequately legislate RJ holistically in Jamaica.

EXISTING RJ GOVERNANCE STRUCTURE

The current governance structure for the Restorative Justice Programme is encapsulated in Diagram 2 below:

Diagram 2: Structure of the Restorative Justice Branch



ROLES AND RESPONSIBILITIES WITHIN THE RJ GOVERNANCE STRUCTURE

Ministry of Justice

The Ministry of Justice (MOJ) is the lead administrator of Justice in Jamaica and therefore administers legislation, delivers justice services and provides policy support and analysis on justice issues. It is mandated to:

- ensure that Jamaica is a just and law-abiding society with an accessible, efficient and fair system of justice for all;
- promote respect for rights and freedoms, the Rule of Law and the Constitution;
- promote awareness of individual responsibilities and civil obligations

Restorative Justice falls within the MOJ's mandate to ensure delivery of justice services for the administration of justice.

The MOJ partners closely with community organizations and agencies but remains the oversight body tasked with ensuring that Restorative Justice, as part of the administration of Justice, is administered properly for the citizens of Jamaica.

RJ Implementing Branch

The RJ Branch falls within the Social Justice Division of the Ministry of Justice and is led by the Director for Restorative Justice. The RJ Branch is tasked with the responsibility of overseeing the management, operations and funding of Restorative Justice on behalf of the Ministry of Justice. The Branch will maintain overall responsibility for the Programme with advice from the National Advisory Board and will liaise with the Restorative Justice Steering Committee for oversight and accountability purposes. The RJ Branch manages the RJ operations at the RJ Centres across the island and ensures an adequate training and/or sensitization programme to build awareness and expertise in RJ.

National Advisory Board

The National Advisory Board is the body that provides relevant and timely advice and guidance reflective of various government and community stakeholders that all have key roles in the delivery of the RJ Programme. Their perspective and expertise will be important for the Ministry in order to deliver RJ successfully and efficiently. In addition to providing advice to the Ministry of Justice, the National Advisory Board also provides a forum for relevant stakeholders to partner with the Government of Jamaica and have a vested interest in the RJ Programme. Building a sense of ownership outside the scope of government is important for the sustainability and productivity of the RJ Programme.

Composition of the National Advisory Board

The National Advisory Board will comprise:

- i. The Minister with responsibility for Justice;
- ii. The Permanent Secretary of the Ministry responsible for Justice;
- iii. A representative of the Ministry with responsibility for National Security;
- iv. A representative of the Ministry with responsibility for Education;
- v. The Commissioner of Police or nominee;
- vi. Director/Principal, Justice Training Institute;
- vii. Principal Director, Social Justice;
- viii. The head of the government entity with responsibility for Children and Youth;
- ix. A non-governmental organization;
- x. Any other relevant Government Departments, Agencies or Public Bodies;
- xi. Any other person(s) with the expertise and resources relevant to RJ.

RJ Steering Committee

The RJ Steering Committee is the body that provides key administrative support to the RJ Branch with representation from each county to ensure the effective delivery of the RJ Programme.

Composition of the RJ Steering Committee

The RJ Steering committee will comprise:

- i. Principal Director, Social Justice;
- ii. Director, Restorative Justice;
- iii. Three (3) Restorative Justice Facilitators (one per county);
- iv. Any other relevant Government Departments, Agencies or Public Bodies;
- v. Any other person(s) with the expertise and resources relevant to RJ;

RJ SERVICE PROVIDERS

The RJ Branch

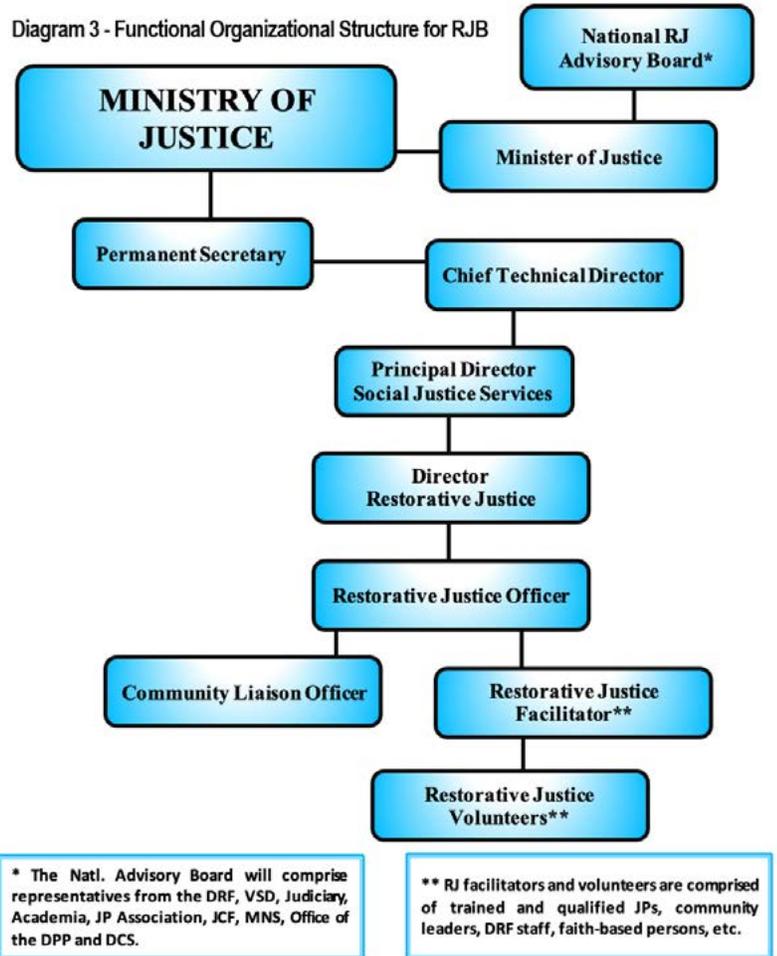
The implementing Branch for RJ and the National Restorative Justice Programme, under the Ministry of Justice, is the Restorative Justice Branch (RJB) which comprises a Director, RJ Officers and Community Liaison Officers situated in established RJs and/ or PJs in targeted high crime communities across the island. The RJB has responsibility to designate and assign Restorative Justice facilitators. The functional organizational structure for RJB is as set out in **Diagram 3**:

The RJs and PJs are the referral centres for Restorative Justice.

The referral body/person or agent at each stage of the process include:

- **Pre-Charge Stage:** Police, Community, Schools, Church, Civil Society
- **Post-Charge Stage:** Courts
- **Post Sentence:** Commissioner of Corrections and Parole Board

Diagram 3 - Functional Organizational Structure for RJB



NATIONAL RJ PROGRAMME IMPLEMENTATION

The National Restorative Justice Programme was first piloted in four (4) communities during 2010. The National RJ Policy was tabled in Parliament in 2012 to institutionalized and guide the operations of the Programme. By 2016, the required legal underpinnings for restorative justice promulgated with the passage of the *Law Reform (Miscellaneous Amendments) (Restorative Justice) Act, 2016*, enabling full implementation of the Policy in the Criminal Justice System (CJS) by the courts where the RJ referral entry point is at the post-charge stage of a dispute. This, however, had inconsistent results due to interpretation by critical referral agents. In treating with RJ outside the operations of the courts, the RJ referral entry point is at the pre-charge stage of a dispute. This allows for the communities, schools, churches and the police to make referral to the RJ Centres before matters enter the judicial realm of courts.

The services under the RJ Programme are delivered from **twenty (21)** locations island-wide: **ten (10)** RJ Centres – Tower Hill, Trench Town, August Town, Denham Town, Tivoli Gardens, Greenwich Town, Spanish Town, May

Pen, Pembroke Hall and Bunkers Hill (to commence in 2023/24); and **eleven (11)** Parish Justice Centres – St Ann; St Mary; Portland; Trelawny; St James; Westmoreland; St Elizabeth; Manchester; St Thomas, Westmoreland and St Andrew.

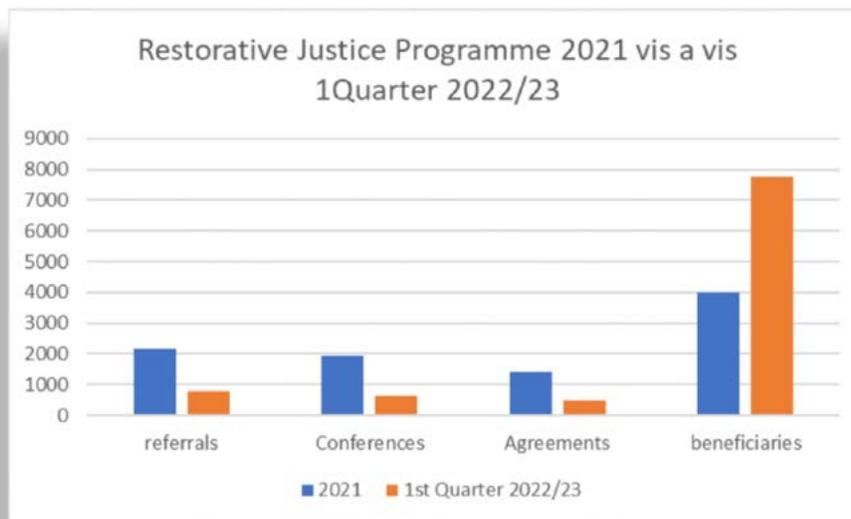
Figure 1 below displays the location of the Centres offering RJ Services. See Appendix I which provides the list of all the centres and addresses.



Figure 1 – Location of Centres offering RJ Services

In the first quarter of fiscal year 2022/2023, a total of 792 referrals were made to Restorative Justice, with 650 conferences held, resulting in 501 agreements; and over 7,750 RJ Programme beneficiaries were sensitized. See depiction in the Bar Chart below:

Bar Chart showing number of referrals for the year 2022/2023



At the end of 2022/2023, there are over 210 stipend RJ facilitators for the RJ Programme.

As a result of the positive impact of the RJ Programme in various communities, there is an increased demand by Members of Parliament for the establishment of RJ Centres in 'hot spot' communities within parishes such as Clarendon, Kingston, St Andrew and St James.

PROGRAMME IMPLEMENTATION GAPS AND FINDINGS

Activation of the Governance Structure

The 2012 Policy envisaged the implementation of the Programme with a proper governance structure. This would include a National Advisory Board (NAB) and a Restorative Justice Steering Committee for oversight and accountability purposes.

The NAB was intended to be an important part of the RJ governance structure. The Policy defines the NAB as the body that provides the relevant representation from various important government and community stakeholders that all have an important role in the delivery of the RJ Programme¹⁴. However, neither the NAB nor the RJ Parish Steering Committee indicated by the governance structure were implemented.

RJ Programme Funding

The Programme was funded by the 19-year Citizen Security and Justice Programme (CSJP) which formally ended in December 2020. This multifaceted programme financed by the Government of Jamaica, the Inter-American Development Bank (IDB), Global Affairs Canada, and the Foreign, Commonwealth and Development Office (FCDO) formerly Department for International Development of the United Kingdom of Great Britain and Northern Ireland (DFID)¹⁵ facilitated targeted crime intervention and prevention strategies in local communities and led to the strengthening of Restorative Justice operations across the island. The RJ Programme is now fully funded by the GoJ and operates through the Parish Justice Centres (PJsCs) and standalone RJ Centres across the island.

The Impact of Restorative Justice on the Courts

RJ was initially introduced as a strategic tool to assist with reduction of court cases in backlog. Between 2017 and 2019, approximately 522 cases in backlog¹⁶ were referred to Restorative Justice. More than 50%, that is, 272 of the cases referred to RJ were successfully resolved over that period. RJ continues to contribute to the case clearance rate for the courts especially in the area of new cases at the parish level. The impact of RJ over the years show a gradual but positive trend to impact the case clearance.

¹⁴ National Restorative Justice Policy, p.68

¹⁵ <https://jis.gov.jm/csjp-to-benefit-from-964-million-in-funding-over-three-years/> - 2011

¹⁶ Backlog refers to cases filed in court system for more than 24 months and unresolved

Table 1 below outlines the impact of Restorative Justice Referrals on the case clearance rate in particular for case backlog in the criminal and civil divisions of the Parish Courts (2017-2019)¹⁷

Table 1

Year	Number of backlogged cases referred to RJ	Number of backlogged cases successfully resolved at RJ	Percentage (%) contribution of RJ referrals to case clearance rate - 'backlog reduction'
2017	154	62	40.3%
2018	172	114	66.3%
2019	196	96	48.9%

The Increasing Use of RJ in Civil Matters

The agreement among RJ Practitioners is that its use carries value-laden benefits to the community. Using the relationship-based RJ philosophy contributes to a shift from the punitive, and moves towards the supportive¹⁸. One area in which RJ has gained more recognition, since 2017 in Jamaica, is in the area of civil matters.

Restorative Justice programmes are commonly utilized in the criminal realm of the justice system. The shortcomings and weakness of mainstream traditional court processes in the civil justice system (most notably in the areas of tort and family law) have not escaped attention. Much of the attention paid to reform of these processes by scholars and practitioners has come under the banner of "alternative dispute resolution" (ADR). ADR is a broad-based movement that encompasses a variety of different processes and approaches to resolving conflict outside of the traditional court processes. This movement includes but is not limited to mechanisms such as mediation, negotiation, arbitration and can include processes more closely aligned to court processes including mini-trials. The ADR movement is generally premised on a commitment to empower parties to choose the means and mechanisms that will enable them to settle their legal conflicts.

The civil justice system is generally understood to deal with private matters and concerned only with the interactions between named parties (typically these parties are assumed to align on one side or the other of the conflict). This picture of private law – of torts and of family law matters in particular – does not, however, match the reality of these conflicts and the complexities of facilitating access to timely justice outcome in response. A restorative approach reveals the extent to which complex social relationships exist in these situations and that these conflicts have far reaching effects. Facilitating access to timely justice outcome in these situations then requires more than simply settling the claim between the immediate parties. It requires identifying all those affected and the scope

¹⁷ Data received from the Statistical Unit of the Supreme Court

¹⁸ Ryan & Ruddy. (2015). Restorative justice: A changing community response. p.257.

of the resulting harm that need a response. The weakness of many ADR mechanisms is that they often replicate the weakness of traditional court processes by ignoring the relational dimension of conflicts.

The other area of civil justice in which Restorative Justice would have important applications is family law. Here a broad view of family law includes the traditional domain of matters related to the dissolution of marriage and also matters of custody and child welfare and protection more generally. Given their focus on the complex relational dynamics and implications of conflict and wrongdoing, Restorative Justice processes are particularly adept at dealing with family law cases. This is true where the outcome sought is the maintenance of existing relationships and, importantly, where the appropriate resolution requires a change in terms of the connections and interactions of the parties (perhaps requiring termination of certain formal relationships) to ensure equality, respect, concern and dignity for all concerned.

IMPERATIVE TO REVISE THE 2012 RJ POLICY

The 2012 RJ Policy substantively focused RJ on the criminal contexts complemented by the promulgation of the *Law Reform (Miscellaneous Amendments) (Restorative Justice) Act, 2016* and, has been in place for over ten (10) years. Following an assessment of the implementation of the national RJ Programme, lessons learned and changes in worldview which demand a stronger and more accountable role to be played by civil society and non-government bodies/communities/stakeholders a revision and amendment of the existing Policy and legislation respectively are necessary.

In light of the requirement for revision, during April 2021, a Situational Analysis/Discussion Paper on the Revision of the Restorative Justice Policy, 2012 (Discussion Paper) was prepared by the MOJ in order to assess the National RJ Programme with a view to updating the Policy. The Discussion Paper reviewed the scope, effectiveness, relevance, and sustainability of the Programme, and provisions in the Policy. The Paper took into consideration lessons learned during the implementation of the Programme as well as assessing the effectiveness of the existing legislation. In particular, the Discussion Paper addressed issues emanating from the Policy; its gaps and limitations and examined the impact of the National RJ Programme in relation to the overall objectives and expected results stated in the Policy.

The gaps, limitations and/or risks identified were:

- Absence of forms and templates for use at the informal stage of disputes (Pre-Charge)
- Little or no definition of key terms
- Accountability Framework for RJ Facilitators
- Issues with existing Legislative Provisions
 - i. treatment of informal disputes – requires clarity and prescription.
 - ii. Definition/ interpretation

- No expanded provision and/or guidance for the use of RJ at the informal stage/community dispute or post-sentencing stages of referral
- Identification of specified institutions to enable training and certification of RJ Facilitators
- Financial, Human Resource, Technological and Infrastructural gaps
- Demarcation RJ/ Mediation
- Failure to fully operationalize Governance Structure resulting in silos
 - Non-operationalization included National Advisory Board and Steering Committee

POLICY FRAMEWORK AND GUIDING PRINCIPLES

Vision

An improved and efficient Justice System through the delivery of high-quality Restorative Justice services across Jamaica, rebuilding relationships and communities by fostering and facilitating accountability, empathy and healing for all citizens

Mission

To provide a comprehensive guide and implementation plan for the continued utilization of and improvement in Restorative Justice programmes and practices in Jamaica and to develop and deliver world class RJ services to improve and positively impact the social structures, social attitudes, values and behaviours of Jamaican citizens, and promote a holistic approach to Justice.

Goals

The GOJ through the revised Restorative Justice Policy seeks to orient and focus efforts on integrating and implementing Restorative Justice in communities throughout Jamaica, with the aim of invoking a fundamental social transformation of the society.

The seven (7) overarching goals of the revised Restorative Justice Policy are to: -

- I. **Improve access to Justice** through restorative justice;
- II. **Create a culture of peace** through increased availability and efficacy of restorative justice that emphasize the values of mutual respect, dignity and concern among parties and promote healing, reconciliation, and restoration;
- III. **Reduce recidivism** by addressing the underlying causes of criminal behaviour and supporting the constructive reintegration of the offender into the community;

- IV. **Empower individuals**, groups and communities to respond in a positive manner to crime and wrongdoing and the harm offenders cause, thus creating satisfactory outcomes which enable productive relationships;
- V. **Strategic tool** to support the judicial system through timely resolution of matters and reduction in the number of cases before the courts by diverting cases from the traditional judicial processes of the courts to Restorative Justice;
- VI. **Eliminate the reprisal** culture by enabling individuals to have access to a dispute resolution process at the early stage of conflict and avoid escalation to violent reactions;
- VII. **Increase public confidence and trust in the justice system** by fostering greater participation in, use and ownership of Restorative Justice by the public.

THE REVISED RESTORATIVE JUSTICE POLICY

To achieve the seven (7) overarching goals, the revised RJ Policy builds on the foundation of the 2012 Policy, and incorporates lessons learned from the implementation of RJ within Jamaica.

The revised RJ Policy therefore aims to:

- i. ensure currency and efficacy;
- ii. strengthen the overall effectiveness and reach of the national RJ Programme;
- iii. address the need for agility and adaptability within the national Programme to treat with urgent situations;
- iv. clarify cases suitable for referral to RJ and strengthen the referral process within the formal justice system, and across communities;
- v. provide a framework for building citizen trust in the RJ Process and encourage better communication with the victim, offender and RJ facilitator to ensure cases are fully resolved;
- vi. guide and effect necessary amendments to the *Law Reform (Miscellaneous Amendments) (Restorative Justice) Act, 2016* ultimately promulgating a specialized (parent) legislation for Restorative Justice.

SWOT ANALYSIS FOR THE REVISED RJ POLICY

An analysis of the strengths, weaknesses, opportunities and threats (SWOT) conducted in order to inform the revised RJ Policy indicated the following: -

STRENGTHS	<ul style="list-style-type: none"> ➤ Greater demand for RJ practices at the community level or Pre-Charge; ➤ Assistance in reducing time spent on legal matters that can be rectified using RJ Processes (i.e., Victim-Offender Conference; Healing Circles) ➤ Competent staff with expert knowledge in technical areas (i.e., RP, RJ Processes) ➤ Documented policies and procedures in specialized areas: <ul style="list-style-type: none"> • RJ Policy, 2012 • RJ Legislation, 2016 • RJ Case Management Guidebook
WEAKNESSES	<ul style="list-style-type: none"> ➤ The absence of a National Advisory Board and Parish Steering Committee ➤ Training and Sensitization of the JCF and Ministry of Education through Schools, not sustained. ➤ Training and Sensitization of the DCS and Parole Board not sustained. ➤ Institutional support/stability and staffing are insufficient to meet current needs ➤ Tools available to execute functions not completed (i.e., Case Management System) ➤ Inadequate human resources (not all Centres have administrative support/ CLOs) and considerable rate of staff attrition ➤ High level reliance on external stakeholders (i.e., Referral Sources: Courts, Police, Schools, NGOs, MDAs, CSOs, FBOs, etcetera)
OPPORTUNITIES	<ul style="list-style-type: none"> ➤ Sustainable RJ Awareness Campaign <ul style="list-style-type: none"> - Increased public awareness on the services provided by RJB ➤ Incorporation of RJ in curriculum for Police Academy and Schools ➤ Training and sensitization ➤ Greater Use of Information Technology ➤ Virtual Conferences ➤ Case Management ➤ Formation of external partnerships (i.e., NIA, GAC, DRF, UWI, etc.) ➤ Bipartisan support for the appropriate use of ADRs to resolve disputes including RJ ➤ Availability of improved technologies for automation of processes (i.e., Portable Tablets for Managers)
THREATS	<ul style="list-style-type: none"> ➤ Governance Structure Not Fully Implemented ➤ Absence of mechanism for Monitoring and Evaluation ➤ Effect of slow response time from external stakeholders ➤ Uncooperative beneficiaries as the RJB functions at its core as a voluntary service provided to the public at no cost.

POLICY ACHIEVEMENT STRATEGIES

In order to achieve the goals of the revised RJ Policy, the following five (5) objectives and associated achievement strategies were developed for the RJ Programme.

Objective 1:

To strengthen established Restorative Justice principles, processes, practices and programmes

Achievements

- Promulgation of the National Restorative Justice Policy, 2012 and the *Law Reform (Miscellaneous Amendments) (Restorative Justice) Act, 2016*.

By way of the Governor-General's Proclamation on February 3, 2007, Restorative Justice Week is observed annually during the first week of February, giving the Ministry an opportunity to educate the public and raise awareness island-wide on the Restorative Justice Programme.

Cabinet via Decision **No.30/ 21 dated July 19, 2021** approved the revision of the Policy to:

- a) *ensure the currency and efficacy of the Policy and to strengthen the legitimacy, reach and overall effectiveness of the National Restorative Justice Programme; and*
- b) *effect any consequential and/ or necessary amendment to The Law Reform (Miscellaneous Amendments) (Restorative Justice) Act, 2016.*

Next step(s)

- Enactment of an agile and instructive legislative framework, including a specialized (parent) legislation for Restorative Justice.
- The introduction of a civil component to the Restorative Justice Programme in keeping with international best practices, to resolve non-criminal disputes such as child protection within the educational settings (dispute within schools); workplace disputes or employment law; family or communal conflicts, etc.

Objective 2:

To strengthen Alternative Justice Services infrastructure and processes to address harms to relationships among individuals, groups and communities affected by crime and other wrongdoing with a view to creating healthy relationships that can sustain and support a secure, cohesive and just society.

Achievements

- Establishment of island-wide network of Restorative Justice and Parish Justice Centres, with the first RJ Centre opened in February 2012. A total of twenty-one (21) PJC and RJ Centres operational of which over ten (10) are situated in 'hot spot' communities and one operation to commence in 2023/2024.

- Signing of MoU between the MOJ and the Churches. Ongoing collaboration between the MOJ and the MOEY, allowing for sensitization/training that undergird the use of RJ and restorative practices to address conflicts in schools.
- Capital investment in the infrastructure needed to bolster ADR use including Restorative Justice, Child Diversion, Mediation and Victim Support services.

Next step(s)

- Signing of a MoU between the MOJ and the MOEY, allowing for training on the use of RJ and restorative practices to address conflicts in schools.
- The development and implementation of a Victims' Charter that includes RJ services as a means of empowering victims of crime and restoring relationships.
- Commitment to continue the training and sensitization of community members, to utilize RJ processes, development of infrastructure to support appropriate dispute resolution and respond to victims of crime.

Objective 3:

To support capacity building and the development and use of best practices in Restorative Justice

Achievements

- Training and employment of Restorative Justice Facilitators to lead Restorative Justice conferences/circles. Over 200 RJ Facilitators contracted at the end of 2022.
- Increase in the number of Justice Centres and personnel engaged throughout the island to provide RJ services.
- Operationalization of the Social Justice Division and structure of the RJB.

Next step(s)

- The formal activation of the governance structure to include the National Advisory Board and the Steering Committee and a comprehensive accountability framework for RJ Facilitators.
- The development of Standard Operating Procedures, and signing of additional Memoranda of Understanding with partner agencies/stakeholders to guide the effective assimilation of the Programme.
- All RJ referrals included in legislation, outlining a clear process of how they are to be operationalized and utilized. To streamline processes in each RJ/Justice Centre along with the revision of the referral forms.

Objective 4:

To attend to the needs of victims; provide meaningful accountability for offenders that facilitate reintegration; and to engage and empower communities.

Achievements

- Exit surveys done in three communities between May 2013 and January 2018 providing an assessment and impact of the Programme: 86% of participants felt that they were treated fairly; 90% indicated that the conference took place in a supportive environment; and 84% of the parties indicated satisfaction with the agreement reached.
- Some 87,500 persons have been impacted by the National RJ Programme including over 17,000 persons who benefited from Cases Conferences, as at 2020.
- Inter-ministerial cooperation among social justice service providers to support disputants at the community level - MOEY, schools and Religious Bodies.

Next step(s)

- Build the capacity of RJ Facilitators and restorative practitioners through the integration of refresher training/ re-certification courses offered in tandem with the Justice Training Institute/ DRF/ UWI.
- The implementation of a robust Monitoring and Evaluation (M&E) Framework to assess the impact of the RJ Programme in achieving the expected outcomes (especially RJ impact on case clearance rates in the court, recidivism and restoration of relationships, etc.)

Objective 5:

To lead and strengthen public dialogue and education on the restorative Justice Policy and Programme throughout the Jamaican society

Achievements

- The Ministry launched the ADR public education campaign to emphasize the effectiveness of ADR methods to provide redress and restore relationships.

Next step(s)

- The development of a Restorative Justice Communication Strategy with targeted messages for public education using traditional and modern media to promote Restorative Justice and address the mistrust of the justice system.
- Collaboration with organizations in the creative industry such as JCDC; Edna Manley College of the Visual and Performing Arts; Manifesto JA; JAYECAN¹⁹, Kingston Creative, Bob Marley and Rita Marley Foundations to compose creative pieces for public consumption on the benefits of RJ.

¹⁹ JAYECAN – Jamaican Youth Empowerment through Culture, Arts and Nationalism

GENERAL APPROACH: RESTORATIVE JUSTICE IN PRACTICE AND PROCEDURE

Restorative Justice in practice and the necessary procedures required for its effective implementation comprises three (3) primary referral/entry points:

1. Pre-Charge Referral;
2. Post-Charge Referral; and
3. Post Sentence.

The primary criteria for referrals pre or post charge and post sentence is subject to whether the offence or wrong doing is identified as minor or major under the matters suitable to be referred to RJ pursuant to matters suitable for Restorative Justice.

RESTORATIVE JUSTICE REFERRAL PROCESSES

The RJ Programme facilitates cases from numerous referral sources, the largest source being the Parish Courts, post charge. In addition to this, referrals to the Programme are also received from the Jamaica Constabulary Force, Communities and Schools, at the pre-charge stage, and the Department of Correctional Services, at the post-conviction stage of the process. A snapshot of referrals to the Programme between 2017 to 2019 is as captured in the Table 2 below:

Table 2: Sources of Referral to the Restorative Justice Program

RJ REFERRAL SOURCE	YEAR						Total
	2017	2018	2019	2020	2021	2022	
School	14	32	7	9	0	17	79
Community	105	170	348	161	244	484	1512
Court	99	745	1504	1443	2254	1810	7855
Police	32	75	115	220	338	433	1213
Total	250	1022	1974	1833	2836	2744	10659

In addition to the engagement of RJ practices in matters referred, the Restorative Justice Programme also conducts follow up with the parties up to three months after an agreement has been reached or until all payments have been made where the matter involves compensation. A snapshot case follow-up activity of the Programme across the period 2019 - 2021 is as captured in the Table 3.

Table 3: Snapshot of Restorative Justice Case Follow-up Activity

CASE FOLLOW UP DATA RESTORATIVE JUSTICE				
	2019 - 2020	2020 - 2021	2021 - present	TOTAL
Spanish Town	287	200		487
St. Mary	237	515	110	862
St. Elizabeth	23	173		196
Hanover	59	80		139
Tivoli Gardens	131	200		331
Westmoreland	20	111		131
St. Ann	315	430		745
May Pen	36	141	107	284
Denham Town	54	93	30	177
St. Thomas		18	23	41
Portland	568	843		1411
Tower Hill	161	311		472
TOTAL	1891	3115	270	5276

Pre-Charge Referral

Pre-Charge Referral is identified as the process where a party, community, non-government organization/civil society, government institution or individual can request or move a dispute offence or wrongdoing to Restorative Justice without/before/prior to the dispute, offence or wrongdoing becoming a charge arising from that dispute, offence or wrongdoing.

Pre-Charge Referral is classified as informal referral which originates from the Police; Church (Minister of Religion); Schools (Guidance Counsellor, Dean or Principal); Community members; or Hospital Staff. Such Pre-Charge /informal referrals are made to the RJ Programme at the Restorative Justice Centre and allow for an approved RJ facilitator to provide guidance through RJ practices to an offender, a victim and a representative from the community.

Post-Charge Referral

Post-Charge Referral is the process where the court makes an order for a dispute, offence or wrong placed before the court resulting from a charge being laid, to be referred to RJ prior to trial or after conviction, but before sentencing is passed. A court order to RJ may be initiated upon the court's own motion or on the recommendation of a Clerk of Court or a constable.

The Post-Charge /formal referral is made in the form of an order that Restorative Justice is appropriate to refer the matter to a RJ Programme under the guidance of a Restorative Justice facilitator to bring together the offender and a victim.

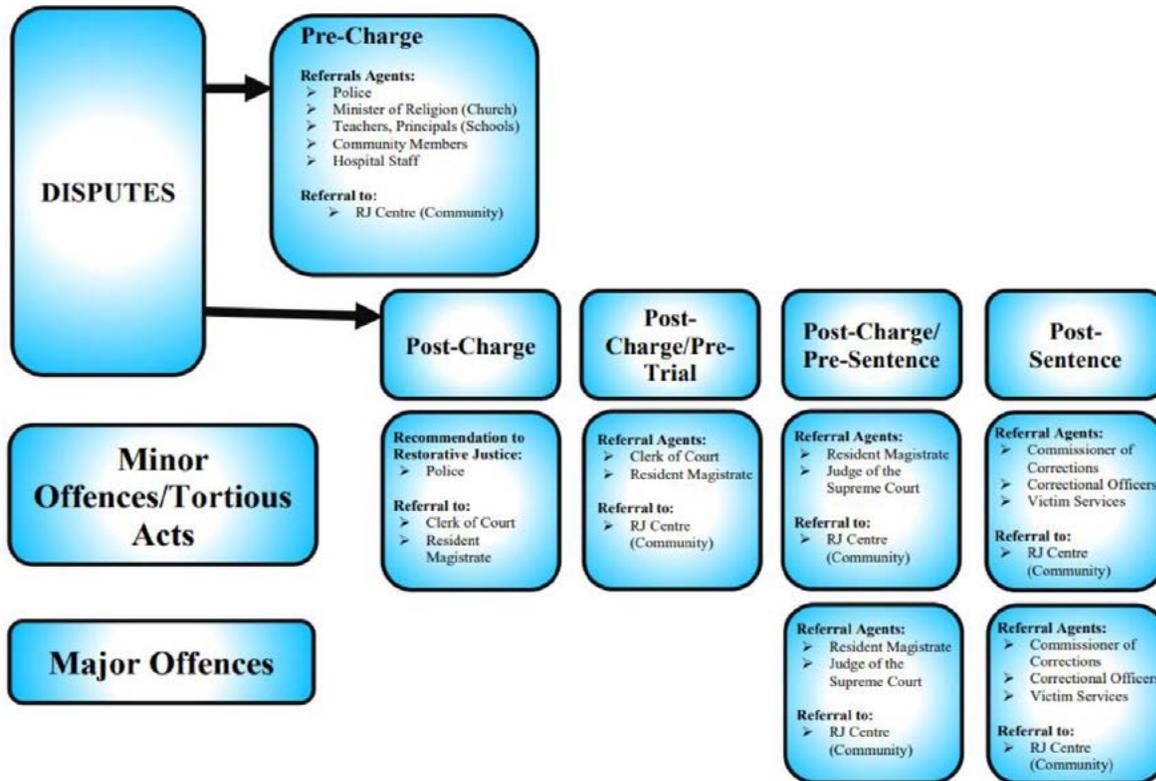
Post Sentence Referral

Post-Sentence Referral is identified as the process where the Commissioner of Corrections or Parole Board makes a request that an offender who has been convicted for wrong doing or an offence be referred to restorative justice programme.

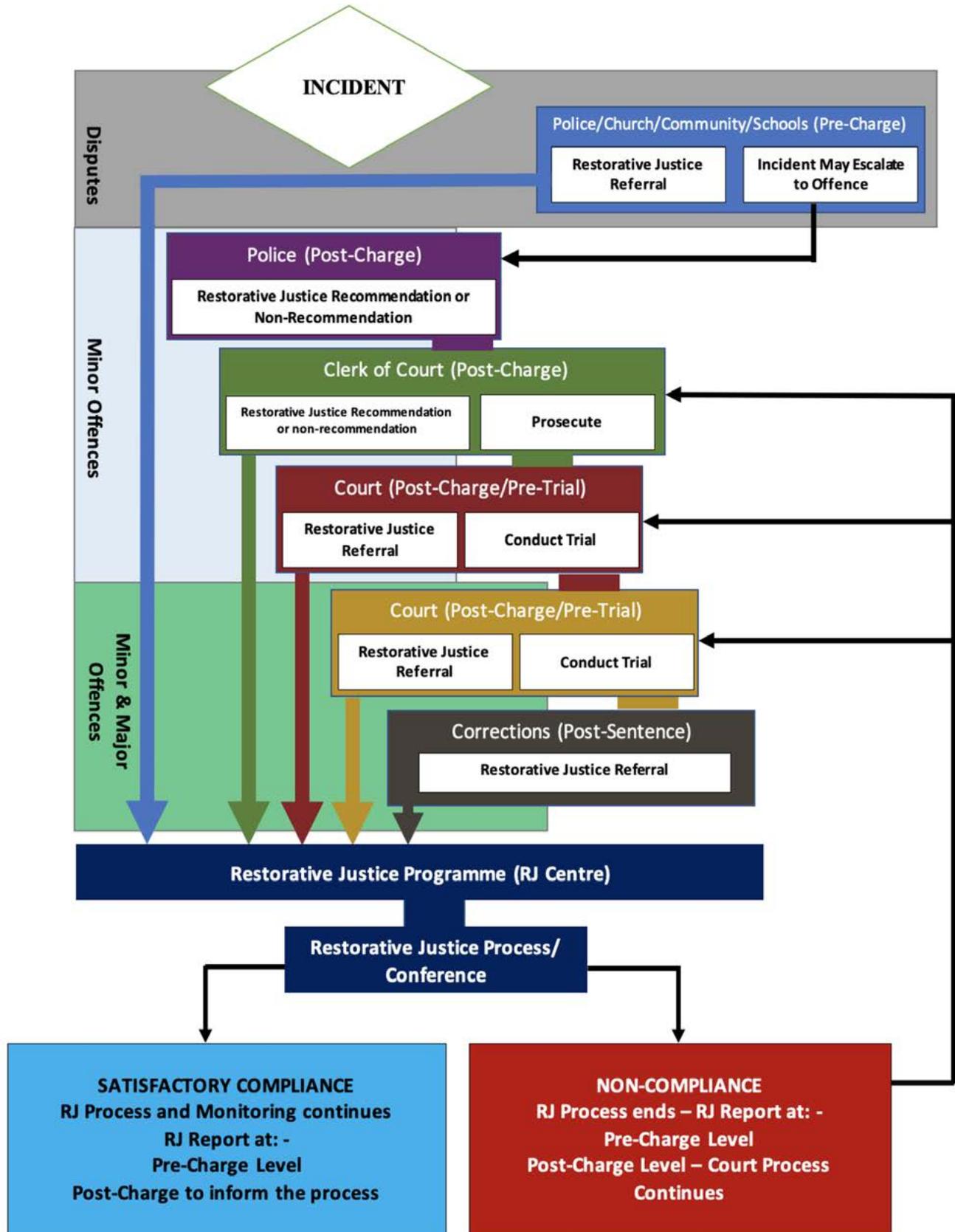
Post Charge Referral is classified as a formal referral which originate from the Commissioner of Corrections or Parole Board. The Post Sentence Referral is made under the Restorative Justice Programme through a Restorative Justice Centre for an approved Restorative Justice facilitator to guide the victim and offender through the RJ Process.

Below Pre-Charge and Post Charge Referral entry points are summarized in the Diagram 4 and followed by an illustration of the RJ Referral Process:

Diagram 4: The RJ Model – RJ Referral/Entry Points



Revised Restorative Justice Referral Process



Pre-Charge Recommendation Process for Police, Minister of Religion (Church), School and Community Members)

- In cases in which a dispute occurs within the community, the Police, a Minister of Religion, or community members can refer the individuals in conflict to the Restorative Justice Centre.
- If a dispute is occurring in the school between students, the Dean of Discipline or Guidance Counsellor will contact the Restorative Justice Centre.
- In the instance of these pre-charge referrals, the referrer will:
 - i. present the option for Restorative Justice to the victim and offender;
 - ii. Inform the parents/guardian of minors of the option to participate in RJ;
 - iii. Complete the *Community Case Referral Form (Appendix II)* and submit to the relevant RJ Centre to initiate the RJ Process.
- The RJ Facilitator at the Centre will then:
 - i. ensure the right of minors to the assistance of a parent or guardian;
 - ii. ensure the right to be fully informed before agreeing to participate in restorative processes;
 - iii. ensure that the offender and victim are not coerced or induced to participate in restorative processes;
- These referrals must be in accordance with the Restorative Justice Eligibility Criteria (**Appendix VII**) and Protocols.

Post-Charge Recommendation Process for Minor Offences (Police)

- Prior to a person being charged for a minor offence, as set out in the Schedule of Offences, the Police must, after a person has been charged for any such minor offence complete the Restorative Justice Eligibility Criteria Checklist and submit the RJ Eligibility Criteria Checklist along with any other documents to the Clerk of Court.

The Police Officer shall:

- iv. ensure that the offender is aware of the offender's right to Counsel;
- v. ensure the right of minors to the assistance of a parent or guardian;
- vi. ensure the right to be fully informed before agreeing to participate in restorative processes;
- vii. ensure that the offender and victim are not coerced or induced to participate in restorative processes;
- viii. Complete the Restorative Justice Checklist and put a copy on the police file;

- ix. send the completed copy of the Restorative Justice Eligibility Criteria Checklist to the Clerk of Court/Prosecutor;
- x. ensure the offender and victim have consented to the process and have signed the 'Consent To Participate Form'; and
- xi. These recommendations must be in accordance with the Restorative Justice Eligibility Criteria and Protocols.

Post-Charge Referral Process for Minor Offences (Clerk of Court/Judge)

- The Clerk of Court/Judge will receive the Eligibility Criteria Checklist Form with the case file of the accused from the Police and thereafter has the discretion to determine whether he/she will pursue this charge or refer the case to the Restorative Justice Centre based on all the documentation that he/she has received and based on whether the criteria on the RJ Eligibility Criteria Form are satisfied.
- If the Clerk of Courts/ Judge considers a referral to the Restorative Justice Programme appropriate, the Clerk of Court/ Judge shall:
 - ii. Complete the relevant section of the Restorative Justice Checklist (under Clerk of Court Referral);
 - iii. send the Restorative Justice Checklist to the RJC; and
 - iv. ensure the offender and victim has consented to the process and has signed the 'Consent to Participate Form' (Appendix V).
- The Clerk of Court/ Judge shall make all referrals to the Restorative Justice Programme within seven (7) days of the first mention date or before.
- In cases where the RJC, based on new information regarding the minimum requirements or discretionary factors, deems a referral inconsistent with the pre-charge/post-charge eligibility criteria, or is problematic for the Restorative Justice Programme, it may issue a "Notice of Reconsideration" (**Appendix IV**) to the Clerk of Court/Judge.
- Unless otherwise resolved between the RJC and the referring Clerk of Court/ Judge, the file associated with the referral may be closed by the RJC 30 days after the release of the "Notice of Reconsideration" (**Appendix IV**).
- Once a referral has been accepted, the RJC shall provide a progress report regarding the status of the case. The timeframe for this report shall be guided by the Clerk of Court/ Judge, assigned review dates for the referral and should be within the timeframe of approximately no later than four (4) months from the date of the recommendation.

- The Clerk of Court/ Judge will retain the authority to pursue the case for the specific offence at a later date if necessary. This is in cases where the individual who committed the minor offence does not complete the Restorative Justice Process and/or comply with the RJ Agreement. If the Clerk of Court decides to pursue the case, the Parish Court Judge, at this stage, also has the discretion whether to hear the case before him, or to refer it to the Restorative Justice Centre based on the documentation that he has received from Counsel.
- These referrals must be in accordance with the Restorative Justice Eligibility Criteria and Protocols

Post-Conviction/Pre-Sentencing for Major or Minor Offences by Parish Court Judge and by Judge of Supreme Court

- After a person has been convicted of an offence, the Parish Court Judge or Supreme Court Judge has the discretion if the Restorative Justice Eligibility Criteria Checklist has been satisfied, to allow for a Restorative Justice Process prior to sentencing.
- The Court may provide direction to the Restorative Justice Centre with respect to the purpose which the Court seeks to achieve in making the referral. Options can include one of the following:
 - i. convening of a Restorative Justice Process to develop an Agreement (**see Appendix VI**) which the offender may complete under the supervision of the Restorative Justice Centre. The result of the Restorative Justice process and the terms of the Agreement reached shall be reported to the Court by the Restorative Justice Centre prior to the date of the sentencing hearing; or
 - ii. convening of a Sentencing Circle, which may be facilitated by a RJ Practitioner with guidance by a judge, and which will also include appropriate officers of the Court.
- Preliminary work to develop the Restorative Justice Process will include contact with the appropriate Correctional Officer who may be involved with the offender.
- The RJC will ensure that the Court and the appropriate Corrections Officer receive notice of the scheduled Restorative Justice session in a timely manner.
- In cases where the RJC, based on new information regarding the minimum requirements or discretionary factors, deems a referral inconsistent post finding of guilt eligibility criteria, or problematic for the Restorative Justice Programme, it may advise the Court through a “Notice of Reconsideration” and seek direction whether to continue or terminate the Restorative Justice casework. A copy of this Notice of Reconsideration will be forwarded to the Clerk of Courts, the Corrections Officer and the offender’s legal Counsel.
- These referrals must be in accordance with the Restorative Justice Eligibility Criteria and Protocols.

Post- Sentence for Minor and Major Offences Referral by Correctional Services

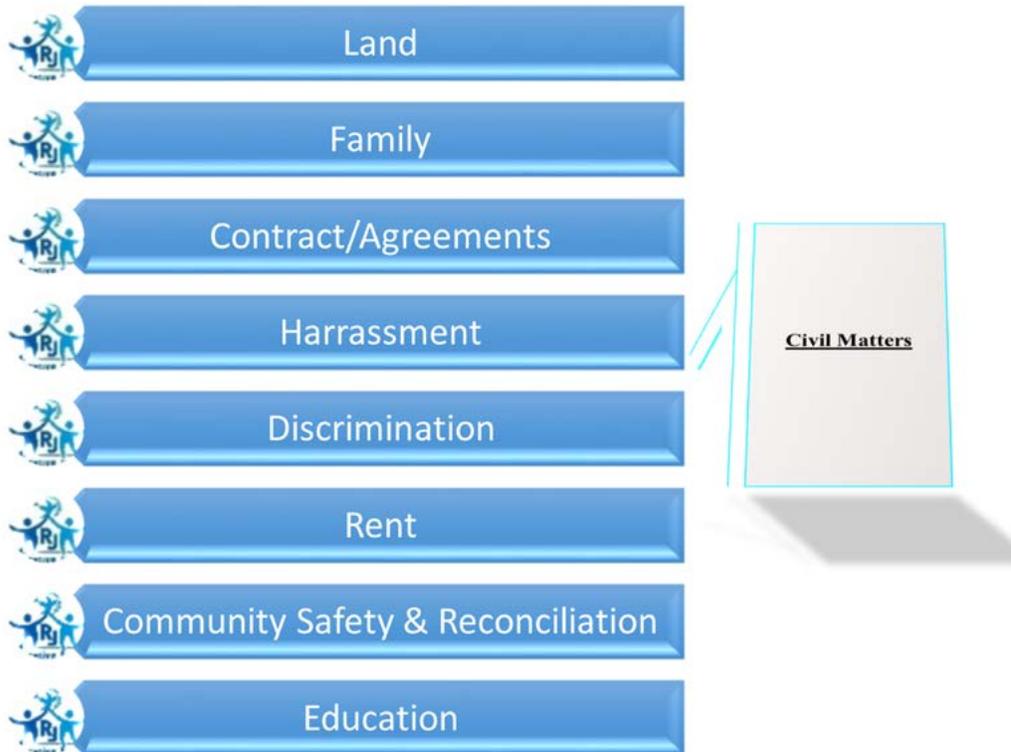
- After a person has been convicted of an offence and sentenced, the Correctional Officer has the discretion to refer the offender to a Restorative Justice process during incarceration if the Restorative Justice Eligibility Criteria Checklist has been satisfied.
- This is to aid in the reintegration of the offender into the community upon release, which will decrease the likelihood of reprisals.
- If, after reviewing the Protocols, the Probation Officer/After Care Services Worker considers a referral to the Restorative Justice Program appropriate, he/she shall:
 - i. complete the Restorative Justice Eligibility Checklist;
 - ii. send the Restorative Justice Checklist to the RJC; and
 - iii. ensure the offender has consented to the process and has signed the 'Consent To Participate Form' (**Appendix V**).
- The appropriate Probation Officer/ After Care Services shall make all referrals to the Restorative Justice Programme in a timely manner.
- In cases where the RJC, based on new information regarding the minimum requirements or discretionary factors, deems a referral inconsistent with the post sentence eligibility criteria, or is problematic for the Restorative Justice Programme, it may issue a "Notice of Reconsideration" (Appendix IV) to the appropriate Probation Officer / After Care Services. Unless otherwise resolved between the RJC and the referring the appropriate Probation Officer or After Care Services, the file associated with the referral may be closed by the agency 30 days after the release of the "Notice of Reconsideration".
- Once a referral has been accepted, the RJ Centre shall provide a progress report regarding the status of the referral to the Probations Officer/ After Care Services no later than four (4) months from the date of the referral.
- These referrals must be in accordance with the Restorative Justice Eligibility Criteria and Protocols.

MATTERS SUITABLE FOR RESTORATIVE JUSTICE

Restorative Justice and its practices have significance in response to injustice and conflict as they emerge across sectors of the Jamaican society. The suitability of Restorative Justice is evident in both the Criminal and Civil Justice Systems.

Wrongdoing, offence or tortious act deemed suitable to be referred to Restorative Justice includes the following:





SCHEDULE OF STAKEHOLDER ROLES AND RESPONSIBILITIES

The Government of Jamaica through the Ministry of Justice will lead in advancing Restorative Justice. This level of engagement will be maintained and expanded to other areas of government by a National Restorative Justice policy to reach its full potential.

Ministry of Justice

- 1. Strengthen the Restorative Justice Branch, which is charged with:**
 - Co-ordinating and overseeing the Restorative Justice implementation process, as determined within the Restorative Justice Policy.
 - Implementation, managing and monitoring of the Restorative Justice Policy
 - Evaluating outcomes and impacts of the National Restorative Justice Programme and its processes in collaboration with all stakeholders.
- 2. Secure and manage necessary funding for the implementation and administration of the National Restorative Justice Policy.**
- 3. Establish and maintain the necessary partnerships for the successful implementation of the National Restorative Justice Policy.**
- 4. Strengthen the Restorative Justice Centres and Steering Committee, which will:**
 - Ensure the efficient day-to-day operation of the Centre;
 - Ensure proper documentation and record-keeping are kept and reporting done to appropriate bodies (i.e. RJC, courts, etc.);
 - Organize and distribute cases amongst qualified facilitators;
 - Oversee facilitators and ensure there is proper preparation, encounter/circle and follow up;
 - Coordinate cases with the Court, police, DCS and schools, and ensure that all cases that are not complete or do not comply with the drafted Agreement are sent back to the proper authorities;

Victim Services Branch

This Branch will:

- Build referral and support capability to enable clients to effectively use restorative processes.
- Provide intervention and support services to victims for the Restorative Justice process to include, preparation, participation and re-integration.
- Strengthen Parish Victim Services Offices to develop a formal network of victim support services based on Restorative Justice processes in each parish.

5. Establish the Restorative Justice National Advisory Board, which will be charged to:

- Ensure collaboration with Ministries, Agencies and other governmental organizations in the delivery of RJ programmes;
- Share perspective and expertise with the MOJ in order to deliver RJ successfully; and
- Provide a forum for relevant stakeholders to partner with the Government of Jamaica and gain ownership in the RJ Programme

6. Offer training to and selecting Restorative Justice facilitators in accordance with the RJ programmes Protocols.**7. Develop public sensitization throughout the island.****8. Provide sensitization on Restorative Justice to select stakeholders in Child Care and Correctional facilities to provide support to the Child Diversion Parish Committees.****Justice Training Institute**

This Institute will:

- Develop Restorative Justice processes curriculum based on Best Practices that respond to the cultural contexts/realities of Jamaica.
- Deliver training in Restorative Justice processes to members of the Judiciary, Justices of the Peace (Lay Magistrates), Court Personnel, Victim Services Branch and other Justice related practitioners.
- Deliver training to the Restorative Justice facilitators, including members of the Restorative Justice Steering Committee and the Child Diversion Parish Committees.

Dispute Resolution Foundation

This Organization will:

- work in close partnership with the MOJ to cooperatively develop best practices standards for Restorative Justice Practices throughout Jamaica; and appoint representatives to sit on the Restorative Justice National Advisory Board.

Ministry of National Security**The Jamaica Constabulary Force**

The JCF will:

- Support the RJ Programme by providing referrals to the Restorative Justice Centres according to the Protocols set out in this Policy.
- Integrate Restorative Justice processes along with community policing activities;
- Support and facilitate the practice of RJ in Child Diversion as described in the National Child Diversion Policy and the National Restorative Justice Policy by administering eligibility criteria checklist to offences.
- Pursue the Incorporation of Restorative Justice processes in the curriculum at JCF Police Academy.
- Introduce ALL Police Officers to Restorative Justice.

- Establish the necessary partnerships for the successful implementation of the National Restorative Justice Policy.

The Department of Correctional Services

The Department of Correctional Services is suited to play a significant role along with NGOs and CBOs in the delivery of RJ. Its role in the implementation of this Policy should include:

- Support for the RJ Programme by providing referrals to the Restorative Justice Centres according to the Protocols set out in this Policy;
- Implementation of youth programmes to include the intentional use of restorative interventions as a condition of application to pre-release or temporary release programs.
- Improvement of a structured programming for offenders beyond existing skills and education programs to include Victim Awareness Programs.
- Promote Restorative Justice themes in the Correctional Centres/institutions.
- Introduction of a Victim Awareness course as part of offender education programs.
- Provision of support by Probation Aftercare Officers to offenders for the RJ process to include, preparation, participation and re-integration.

Ministry of Education and Youth

The Ministry of Education and Youth, educational institutions will be key partners and beneficiaries in the application of Restorative Justice principles and practices in Jamaica. Its role in the implementation of this Policy should include:

- Support the Restorative Justice Programme by facilitating Restorative practices in public schools;
- Support the RJ Programme by providing referrals to the RJC according to the Protocols set out in this Policy.
- Develop Restorative practices curriculum in schools;
- Deliver training in Restorative practices to teacher, Principals, and Guidance Councilors and other education providers;
- Sensitize students to the Restorative Justice processes and restorative practices; and
- Deliver sensitization of Restorative Justice and restorative practices to parents as part of the National Parenting Policy.

Communities and Civil Society

For Restorative Justice to be successful in Jamaica, communities and civil society will need to be supporters, partners and in some cases the principal drivers of Restorative Justice processes and programmes. Many organizations working in civil society have a strong sense of the day to day challenges involved in advancing social initiatives and they have also earned significant credibility with community leaders and other service delivery agencies. They have the tools, the connections and the insight to drive innovation in communities.

Through RJ processes, communities can be empowered to respond to wrongdoing and conflict. Communities might also be strengthened through restorative processes as they bring together members for a common cause and provide a forum in which to consider, reflect upon, and address injustices within communities. The Jamaican Government's commitment to the development of Restorative Justice Centres, recognizes the importance and significance of communities in conflict resolution. These institutional processes could be shaped to reflect Restorative Justice principles and thereby significantly contribute to community reconciliation and safety.

Churches and Faith Based Organizations

- It is expected that churches and other FBOs such as the Northern Caribbean University's Community Counselling and Restorative Justice Centre will take up the challenge of advancing Restorative Justice. This would give the Restorative Justice movement a pervasive grassroots presence with a very credible advocate. Moreover, churches would be able to speak strongly of Restorative Justice from a principled place that is aligned with the churches' larger message of peace, redemption, love, mercy and forgiveness.

Sport and Entertainment Sectors

- Jamaica has a viable and prominent sports and entertainment sub-sector, which reaches deeply into the social and economic life of its people. As such, it provides an opportunity and an avenue for the authorities and Restorative Justice stakeholders to embrace and encourage the practice in the varied endeavours of the sector. The Restorative Justice Branch of the MOJ will strengthen dialogue with organizations and private institutions involved in varied sporting, music and general entertainment activities to gain support in providing training and sensitization on Restorative Justice through – messages, win-win methods, dialogue, and respect especially to large groups of mainly young, male opinion shapers and participants.

RJ POLICY ACTION PLAN

RJ POLICY - BROAD GOALS



The MOJ is in pursuant of legislative and policy activities that bolster the use of RJ and reflect a people-centred approach to accessing justice, in keeping with the provisions of the Vision 2030, Goal 2 and the operating mantra of having a first-class justice system. A two-pronged approach; to revise the national Policy including legislative amendments, and increased stakeholder engagement and public education, is being utilized to increase knowledge and utilization of RJ. The general objective is to use RJ as a strategic tool and as an alternative justice service aimed at increased access and faster dispute resolution throughout the country.

This is within the wider framework of the Ministry's Strategic Business Plan outlining the core business, and services to facilitate access to justice for a better Jamaica over the next four years.

The broad goals of the revised RJ Policy for the Ministry are:

Goals of the Action Plan

This Action Plan aims to use the RJ Programme and activities to fulfil several goals, as Jamaica proactively seeks to comply with international best practices and reengineer citizens' participation in the justice process thus promoting justice for peace and harmony.

These goals include:

- Ensuring that the MOJ continues to implement a robust RJ Programme that provides increased access as part of the journey to a first-class justice system by allowing citizens to become a part of the dispute resolution process; and
- Fostering greater awareness of the RJ Programme by engaging internal and external customers through public education, capital investment and legislative reform.

RESTORATIVE JUSTICE POLICY ACTION PLAN

To strengthen Alternative Justice Services infrastructure and processes that address harms to relationships within and between individuals, groups and communities affected by crime. This activity will include:

- Investment in the infrastructural development of RJ
- Strengthening of the governance framework for RJ

Other key activities include:

- Obtain Cabinet's approval to appoint members of the NAB and Steering Committee (SC) for RJ
- Engaging with the Public Investment Appraisal Branch of the MOFPS on major infrastructural developments

Task (Action Item)	Responsible Lead/	Time Frame	Resources Required	Phase	Expected Output (s)
Building/ renovation of 3-5 additional Centres (*Stony Hill, Southside/ Rae Town)	PMTSD RJB	3-5 yrs	<ul style="list-style-type: none"> ▪ Budgetary support ▪ Successful Tenders 	<i>Infrastructural</i>	Expansion of the network of Centres offering RJ services
Establishment of the governance structure	RJB PLRPJU	1-2 yrs	<ul style="list-style-type: none"> ▪ TOR for NAB²⁰ and SC²¹ 		Effective oversight of the Programme

Action #2

To support capacity building and the development and use of best practices in Restorative Justice, through integration in higher level actions such as:

- The formalization of a RJ Facilitators' Manual/ Framework
- Introduction of a robust M&E system to assess the impact of the RJ Programme

²⁰ The new NAB will include representatives from the Judiciary/ ODPP; VSD; MNS and the Police and DCS; DRF; the country's Academia and JP and/ or any other person deemed suitable

Other key activities include

- The development (finalization of) and implementation of a Victims' Charter (includes RJ services as a means of empowering victims of crime and restoring relationships).
- Gazetting of new certified RJ facilitators
- Adoption of the RJ Facilitators (refresher) training programme by the JTI in tandem with the UWI Mona and RJB

Task (Action Item)	Responsible Lead/	Time Frame	Resources Required	Phase	Expected Output (s)
Formalization of a RJ Facilitators' Framework	RJB PLRPJU		<ul style="list-style-type: none"> ▪ RJ Facilitators' Manual/ SOPs 	Execution	An accountable, certified network of RJ Facilitator
Integration of an agile M&E system to assess the impact of the RJ Programme in achieving the expected outcomes	RJB RMRU		<ul style="list-style-type: none"> ▪ Monitoring Plan ▪ Evaluation Plan ▪ M&E tools 	Execution	A structure for monitoring and evaluating the Programme and generate accurate data regard results

Action #3

To lead and partner public dialogue and education on Restorative Justice principles, processes and practices throughout the Jamaican society by providing ongoing sensitization and information to internal and external customers on RJ initiatives, and related local, regional and international observations and developments.

1. Hook (anticipatory) activity – \$100million public education campaign focusing on the use of alternative dispute resolution (ADR) methods, to settle disputes peacefully outside of the courts.²²
 - Dates coinciding with RJ activities and themes include:
 - Feb. – RJ Week (1st full week)
 - Feb. 20 – World Day of Social Justice
 - Jun. 4 – International Day of Innocent Children Victims of Aggression
 - Aug. 19 – World Humanitarian Day
 - Sept. 21 – International Day of Peace
 - Oct. 2 – International Day of Non-Violence
 - Nov. 16 – International Day for Tolerance
 - Nov. 25 – International Day for the Elimination of Violence Against Women (IDEVAW)
 - Dec. 10 – Human Rights Day
 - Dec. 20 – International Human Solidarity Day²³

Task (Action Item)	Responsible Lead/	Time Frame	Resources Required	Phase	Expected Output (s)
Launch/ revamping of 10 th Anniversary Public Education Campaign	RJB Public Relations	FY 2022/23 - 2023/24	Fiscal Support	Execution	Increased awareness and utilization of RJ processes

²¹ The RJ (Parish) Steering Committee will be chaired by the RJ Officer and should include, at least, two court reps (Clerk of Court and Lay Magistrate); reps from the VSD; SDC; Parish Development Committee; Community Development Committee; the Police and the DCS.

²² Williams, R. (2022). ADR Campaign to be Launched Shortly. Retrieved from: <https://jis.gov.jm/alternative-dispute-resolution-campaign-to-be-launched-shortly/>

²³ UN Observances: <https://www.humanrights.com/voices-for-human-rights/un-observance-days-humanrights.html>

Action #4

Enactment of an agile and instructive legislative framework, including an independent Restorative Justice Act that has buy-in throughout the justice sector. (Preparatory work includes the engagement of internal stakeholders in situational and contextual analysis and consultative activities regarding the introduction of a civil component to the Restorative Justice Programme in keeping with international best practices, to resolve non-criminal disputes such as child protection within the educational settings (dispute within schools); workplace disputes or employment law; family or communal conflicts, etc.)

Task (Action Item)	Responsible Lead/	Time Frame	Resources Required	Phase	Expected Output (s)
Development of a parent legislation for RJ	RJB LSU	3-5 yrs.	Revised RJ Policy	Legislative	An instructive legal framework guiding the execution of the RJ Programme

MONITORING AND EVALUATION FRAMEWORK

Continuous monitoring and evaluation of the RJ Programme and effectiveness of the initial processes of the Policy will be undertaken and adjustments made as necessary with a view to expanding the category of offences and civil actions appropriate for Restorative Justice.

Evaluation methods will be selected carefully in order to ensure that scarce resources are dedicated to funding programmes and not to costly external evaluation mechanisms. It will also be important to ensure that the evaluations of these restorative justice interventions do not assume the standards and objectives of the current justice system and its practices. The “success” of this policy will be assessed in terms of the principles and goals of restorative justice (including community empowerment and development, reintegration of victims and wrongdoers, satisfaction of the parties, etc.). It is also important that the work and experience of pilot projects inform dialogue about justice, education and training efforts as well as the expansion into categories of offenders and offences to which RJ can be applied.



APPENDIX

RJ CENTRES LISTING

The Restorative Justice facilities are situated in the 11 Parish Justice Centres and 10 standalone RJ Centres as outlined below: -

ADDRESS	
PARISH JUSTICE CENTRES	St. Ann Justice Centre 2 Tucker Avenue, St. Ann
	St. Mary Justice Centre 6 Main Street, Port Maria
	Portland Justice Centre 2 Russell Avenue, Buff Bay, Portland (to be relocated fiscal Year 2023/24)
	Trelawny Justice Centre Rock, Trelawny
	St James Justice Centre Shop 136 City Centre Mall, Montego Bay St James
	Hanover Justice Centre Shop 1A Cap Complex, Millers Drive, Lucea, Hanover
	Westmoreland Justice Centre Upstairs the Post Office Great George Street, Savanna-la-mar, Westmoreland
	Manchester Justice Centre 24 Grove Road, Mandeville, Manchester
	St. Elizabeth Justice Centre 38 Coke Drive, Santa Cruz, St. Elizabeth
	St. Andrew Justice Centre 2 Hagley Park Road, Kingston 10
	St. Thomas Justice Centre Upstairs Post Office Main Street, Morant Bay, St Thomas
RESTORATIVE JUSTICE CENTRES	May Pen Restorative Justice Centre 8b Manchester Ave., May Pen, Clarendon
	August Town RJ Centre 83 Gordon Town Road, Kgn. 7
	Denham Town RJ Centre Denham Town Community Centre 1 Race Course Lane, Denham Town, Kgn. 14
	Greenwich Town RJ Centre 5 ½ Seaview Avenue Kgn. 13
	Spanish Town Restorative Justice Centre 6 March Pen Road, Shop No. 12A
	Tivoli Restorative Justice Centre Tivoli Community Centre, Seaga Blvd, Kgn. 14
	Trench Town Restorative Justice Centre Trench Town Multipurpose Complex, 10-17 Fifth Street, Kgn. 12
	Tower Hill Restorative Justice Centre Olympic Gardens Civic Centre, 119 Olympic Way, Kgn. 11
	Pembroke Hall Restorative Justice Centre Pembroke Hall Community Centre Ken Hill Drive, Kgn. 20
	Bunkers Hill Restorative Justice Centre Bunkers Hill, Clarendon (To Open Fiscal Year 2023/24)
To contact a RJ Centre, you may call 888 JUSTICE/587-8423	

COMMUNITY CASE (PRE-CHARGE) REFERRAL FORM



COMMUNITY CASE REFERRAL FORM



Reporting Restorative Justice/ Justice Centre					
Date of Referral					
Time of Referral					
Date of Incident (if known)					
Type of Referral	<input type="checkbox"/> Self	<input type="checkbox"/> School	<input type="checkbox"/> Police	<input type="checkbox"/> Church	
	<input type="checkbox"/> Other pls specify -----				
Referrer relationship to parties	<input type="checkbox"/> Family	<input type="checkbox"/> Friend	<input type="checkbox"/> HR/Work/Agency	<input type="checkbox"/> Pastor/Church Member	
	<input type="checkbox"/> Other pls specify -----				
Name of Referrer/Referral Agency					
Address of Referrer/Referral Agency					
Alleged Offender/Wrongdoer Name					
Alleged Offender /Wrongdoer Telephone Number					
Alleged Victim/Harmed Party Name					
Alleged Victim/Harmed Party Telephone Number					
Relationship between parties					
Harm identified					
Brief description of incident: 					
What does the client (s) /party (ies) hope to achieve from the RJ process? 					

MINIMUM REQUIREMENTS

All 5 must be met for a referral to the Restorative Justice Programme

- The offender accepts responsibility for his/her actions
- The offender has been informed of, and consents freely and fully, to

UNKNOWN/ NOT APPLICABLE(NA)	YES	NO
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

participation in the program

3. The offender has been advised of his/her right to Attorney at Law without delay and is given a reasonable opportunity to retain and instruct Attorney at Law
4. There is sufficient evidence to proceed with the prosecution of the offence and prosecution of the offence is not in any way barred by law
5. A government or prosecutorial policy does not conflict with this referral

DISCRETIONARY FACTORS

To be considered only if all minimum requirements are met	UNKNOWN/ NA	YES	NO
1. The victim has agreed to participate in a Restorative Justice process	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. There is a community need for a restorative result in this case	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The following have been considered:			
The seriousness of the offence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The level of participation of the offender	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The level of deliberation prior to the offence committed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The relationship between the victim and the offender prior to the offence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. The possibility of a continued ongoing relationship between the victim and the offender	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. It is reasonably believed that the offender will benefit from the RJ process and an Agreement may be arrived between the parties	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. There is potential for an Agreement that would be meaningful to the victim	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. The harm done to the victim has been considered	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Are there any exceptional circumstances in this case (the offence, the offender, victim and the community)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

COMMENTS:

OFFICIAL USE

(TO BE COMPLETED BY RJ PERSONNEL ONLY)

Is this case appropriate for Restorative Justice? Yes No

If No, please list next steps and make appropriate recommendations (i.e. referred to another community organization/NGO, Government Agency, etc.):

APPENDIX III



REFERRAL TO RESTORATIVE JUSTICE

[From _____ Parish Court]



Restorative Justice Officer
Address Line 1
Address Line 2
Parish

Date:

Dear _____:

Re: R vs. _____
Offence: _____
Information/Ref No: _____

Complainant Name:..... Tel #

Accused Name: Tel #

The above captioned persons attended the Parish Court at before H..... Honour M..... on the day of 20.... The matter is at the stage of: (1) Post Charge/Pre-Trial (2) Post Conviction/Pre-Sentence (3) Post Sentence (delete as appropriate).

The Court is of the view that Restorative Justice can assist in this matter and has agreed to refer this matter to the Programme.

The contact details for clients are as above and the districts of residence are as follows:

Victim:
Offender:

The next Court date in the matter is on the day of 20... It is hoped that a resolution can be reached before that date. The Court awaits your Report.

Should any queries arise, kindly contact Name _____
at the Court on Tel # _____

Thank you for your assistance.

Sincerely,

.....
Clerk of Court, _____ Parish Court

A copy of this referral form should be given to the parties. For the Court's convenience, please email this form to the programme at (RJ Officer Email address)

GOVERNMENT OF JAMAICA - MINISTRY OF JUSTICE
NATIONAL RESTORATIVE JUSTICE PROGRAMME
NOTICE OF RECONSIDERATION FORM

TO _____
Name

Address

DATE _____
:
(m/d/y)

Re: _____
Name

_____ _____ _____
Agency Referral Date (m/d/y) Proposed Completion Date (m/d/y)

Please be advised that the above noted referral was received on _____
Date (m/d/y)

The Restorative Justice Centre does not deem this Case suitable for the Restorative Justice Programme, for the following reasons:

Based on the above information we **DO NOT ACCEPT** this referral.
Restorative Justice Field Officer/Centre Manager _____
Signature

Date: _____

Restorative Justice Centre Name _____
Address _____
Telephone No: _____
Fax No: _____

CONSENT TO PARTICIPATE FORM

Consent of Wrongdoer/Person Arrested and Charged with a Relevant Offence to be Referred to the Restorative Justice Centre

(PROPOSED LEGISLATION)

I.....

of.....

having been arrested and charged with the offence of

.....being a relevant offence,

do hereby signify my consent to being referred to the Restorative Justice Centre to be dealt with in accordance with (Relevant Legislation).

.....
Signature of wrongdoer/person arrested and Charged with relevant offence

.....
Date

.....
Signature of Referral Source

.....
Date

NATIONAL RESTORATIVE JUSTICE PROGRAMME

CONSENT TO PARTICIPATE FORM

Consent of Victim to participate in a process at

the Restorative Justice Centre

(PROPOSED LEGISLATION)

I.....

of.....

having been impacted by an offence of

.....being a relevant offence,

do hereby signify my consent to participate and work with the Restorative Justice Centre and have the offence be dealt with in accordance with (Relevant Legislation).

.....
Signature of victim impacted by
relevant offence

.....
Date

.....
Signature of Referral Source

.....
Date

I understand that failure to complete the terms indicated above may result in my case being directed back to _____ for further action.

_____ Signature of Offender	_____ Date
_____ Signature of Victim	_____ Date
_____ Signature of Victim	_____ Date
_____ Signature of Victim /Victim Representative/Support Person	_____ Date
_____ Signature of Facilitator	_____ Date
_____ Other (Please specify)	_____ Date

Restorative Justice Eligibility Form

**GOVERNMENT OF JAMAICA
MINISTRY OF JUSTICE**

Program:	RESTORATIVE JUSTICE PRORAMME
Subject:	RESTORATIVE JUSTICE PROGRAMME PROTOCOL

RESTORATIVE JUSTICE ELIGIBILITY FORM

SURNAME (Print Caps)	GIVEN NAMES (Print Caps)	DOB (Y/M/D)	MALE <input type="checkbox"/> FEMALE <input type="checkbox"/>
ALIAS (1):		ALIAS (2):	ALIAS (3):
PERMANENT ADDRESS		TELEPHONE NOS.	EDUCATION LEVEL ATTAINED
OFFENDER'S COMMUNITY OF RESIDENCE			
EMPLOYMENT			
POLICE STATION	INVESTIGATING OFFICER NAME	INVESTIGATING OFFICER BADGE NO.	
POLICE STATION ADDRESS	POLICE STATION PHONE NO.	POLICE CASE NO.	
CRIMINAL HISTORY:	PRIOR REFERRAL(s) TO RESTORATIVE JUSTICE	YES <input type="checkbox"/>	NO <input type="checkbox"/>
DETAILS:	PRIOR CONVICTION(s)	YES <input type="checkbox"/>	NO <input type="checkbox"/>

OFFENCE INFORMATION

OFFENCE(s)	DATE(s)
DETAILS	

VICTIM INFORMATION

Number of Victims:

(if more than 2 victims attach separate sheet)

NAME	ADDRESS	TELEPHONE NO.
CORPORATE <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/>	VALUE OF LOST PROPERTY	INSURANCE CLAIM YES <input type="checkbox"/> NO <input type="checkbox"/>
NAME	ADDRESS	TELEPHONE NO.
CORPORATE <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/>	VALUE OF LOST PROPERTY	INSURANCE CLAIM YES <input type="checkbox"/> NO <input type="checkbox"/>

MINIMUM REQUIREMENTS:

All 5 must be met for a referral to the Restorative Justice Programme

- The offender accepts responsibility for his/her actions
- The offender has been informed of, and consents freely and fully, to participation in the program

**UNKNOWN/
NOT
APPLICABLE**

YES
NO

- | | | | |
|---|--------------------------|--------------------------|--------------------------|
| 3. The offender has been advised of his/her right to Attorney at Law without delay and is given a reasonable opportunity to retain and instruct Attorney at Law | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. The victim has agreed to participate in a Restorative Justice process | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. A government or prosecutorial policy does not conflict with this referral | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

DISCRETIONARY FACTORS:

To be considered only if all minimum requirements are met

UNKNOWN/
NOT
APPLICABLE

YES

NO

- | | | | |
|---|--------------------------|--------------------------|--------------------------|
| 1. There is a community need for a restorative result in this case | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. The following been considered: | | | |
| The seriousness of the offence | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| The level of participation of the offender | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| The level of deliberation prior to the offence committed | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| The relationship between the victim and the offender prior to the offence | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. The possibility of a continued ongoing relationship between the victim and the offender | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. It is reasonably believed that the offender will benefit from the RJ process and an agreement may be arrived between the parties | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. There is potential for an agreement that would be meaningful to the victim | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. The harm done to the victim has been considered | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Are there any exceptional circumstances in this case (the offence, the offender, victim and the community) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Comments:

POLICE RECOMMENDATION – POST CHARGE (check 1 only):

- RECOMMEND TO RESTORATIVE JUSTICE PROGRAMME
 DO NOT RECOMMEND

Name: _____

Rank/Position: _____

Signature: _____

Date: _____

If not recommending to the Restorative Justice Programme, please state reasons:

POST CHARGE/PRE-TRIAL REFERRAL:

- REFERRED BY: CLERK OF COURT
 RESIDENT MAGISTRATE

REFERRAL DECISION (check 1 only):

- REFER TO RESTORATIVE JUSTICE PROGRAMME
 PROCEED WITH PROSECUTION

Name: _____

Position: _____

Signature: _____

Date: _____

If not referring to the Restorative Justice, please state reasons:

CONTACT INFORMATION:
 CLERK RESPONSIBLE FOR CASE: _____
 Name Phone No.
 RM RESPONSIBLE FOR CASE: _____
 Name
 COURT CASE HEARD IN: _____
 Name
 Address
 FACILITY OFFENDER HELD IN: _____ OFFENDER NOT HELD
 Name
 Address

RESIDENT MAGISTRATES/JUDGE REFERRAL – POST CONVICTION/PRE-SENTENCE REFERRAL (check 1 only):
 REFER TO RESTORATIVE JUSTICE PROGRAMME PRIOR TO SENTENCING
 PROCEED WITH SENTENCING WITHOUT REFERRAL TO RESTORATIVE JUSTICE PROGRAMME
RM/Judge Name: _____
Signature: _____ **Date:** _____
If NOT referring to the Restorative Justice, please state reasons:

If referring, please advise provide instructions if necessary regarding purpose of Restorative Justice Conference:

- Refer to the RJ Centre to develop an agreement that the offender may complete under the supervision of RJ Centre.
- Refer to RJ Process to provide court with sentencing information prior to sentencing.

CONTACT INFORMATION:
 CLERK/PROSECUTOR RESPONSIBLE FOR CASE: _____
 Name Phone No.
 COURT CASE HEARD IN: _____
 Name
 Address
 PROBATION OFFICER RESPONSIBLE FOR CASE: _____
 Name Phone No.
 FACILITY OFFENDER HELD IN: _____
 Name
 Address
 OFFENDER NOT BEING HELD

POST CONVICTON-POST REFERRAL (check 1 only):
 REFER TO RESTORATIVE JUSTICE PROGRAMME
 CONTINUE TO SERVE SENTENCE WITHOUT REFERRAL TO RESTORATIVE JUSTICE PROGRAMME
Name: _____ **Position:** _____
Signature: _____ **Date:** _____

If not referring to the Restorative Justice, please state reasons:

OFFICE OF COMMISSION OF CORRECTIONS APPROVAL:

APPROVAL GRANTED

APPROVAL DENIED

Name: _____ **Position:** _____

Signature: _____ **Date:** _____

CONTACT INFORMATION:

PROBATION OFFICER RESPONSIBLE FOR CASE:

Name Phone No.

FACILITY OFFENDER HELD IN: _____

Name

Address

OFFENDER NOT BEING HELD

(Copies to: Ministry of Justice, Director of Public Prosecutions, Commissioner of Corrections, Jamaica Constabulary Force, Courts of Jamaica)

Other Restorative Justice Services

Restorative Justice Circle

A restorative justice circle, often referred to as a "restorative circle", "healing circle" or "restorative justice conference" is a structured and facilitated process that brings together individuals affected by a harm or conflict in a safe and inclusive space to discuss the impact, find resolution, and promote healing. Restorative circles are a key component of the broader restorative justice philosophy and practice. It is designed to promote accountability, empathy, communication, and understanding among participants.

Jamaica's 11-module Restorative Justice facilitator training is a virtual course that is designed to equip individuals with the knowledge and skills necessary to facilitate restorative justice processes in their communities. The training is open to a wide range of participants, including community stakeholders, Justices of the Peace, teachers, and other individuals who are interested in promoting peace and harmony in Jamaica.

Restorative Justice Facilitator Training

The training covers a variety of topics, including:

1. The principles and practices of restorative justice
2. How to facilitate restorative justice circles and conferences
3. How to work with victims, offenders, and their communities to repair harm and build relationships
4. How to develop and implement restorative justice programs.

The training is delivered over a period of **13 weeks (theory + practicum)**. **Each module lasting approximately 3 hours**. Participants are required to complete all 11 modules and pass a final assessment in order to receive their certificate of completion.

Restorative Practices Training - 2 days

This is the preventative side of RJ, where stakeholders such as the Schools, Churches, civil society, communities are trained in how to de-

escalate conflicts as well as how to manage and regulate themselves in such situation.

Sensitization sessions on Restorative Justice are delivered to the all stakeholders and the public to build awareness on RJ, its use and access to the Programme.

RJ Sensitizations

The sensitizations are **one (1) hour sessions**.

Jamaica's Restorative Justice Train the Trainer Program is a comprehensive program that is designed to train individuals to become restorative justice trainers. The program is offered by the Ministry of Justice's Restorative Justice Branch, and it is open to a wide range of participants, including:

- Experienced restorative justice practitioners
- Academics and researchers
- Community leaders and advocates
- Government officials
- Other individuals who are interested in training others in restorative justice

The Train the Trainer Program covers a variety of topics, including:

Trainer of Trainers in Restorative Practices

1. The principles and practices of restorative justice
2. How to develop and deliver effective restorative justice training programs
3. How to assess and evaluate the learning of trainees
4. How to support trainees in their professional development
5. The program is delivered over a period of 6 months, with a combination of online and in-person learning. Participants are required to complete all modules of the program and pass a final assessment in order to receive their certificate of completion.

The training is delivered over **four (4) days**.

Upon completion of the Train the Trainer Program, participants will be able to:

1. Develop and deliver effective restorative justice training programs

2. Assess and evaluate the learning of trainees
3. Support trainees in their professional development
4. The Restorative Justice Train the Trainer Program is a valuable resource for anyone who is interested in training others in restorative justice. The program is well-designed and delivered by experienced professionals, and it provides participants with the knowledge and skills they need to be effective restorative justice trainers.
5. In addition to the 6-month Train the Trainer Program, the Ministry of Justice also offers a shorter 3-day Restorative Justice Facilitator Training Program. This program is designed for individuals who want to learn the basics of restorative justice and how to facilitate restorative justice circles and conferences.

The Ministry of Justice is committed to promoting the use of restorative justice in Jamaica. The Restorative Justice Train the Trainer Program is a key part of this effort, as it helps to build a cadre of qualified restorative justice trainers who can support the implementation of restorative justice programs and initiatives throughout the country.

RESTORATIVE JUSTICE

Restorative Justice (RJ) is a dialogue-based approach involving all the parties with a stake in a particular offence in collective decision-making on how to deal with the aftermath of the offence.

To find out if your dispute can be dealt with through RJ, please call 876-908-5501 or 876-908-5527 or 888 JUSTICE or visit our website: www.moj.gov.jm.



MINISTRY OF JUSTICE
BALANCING RIGHTS & RESPONSIBILITIES

CONFLICT WITH FAMILY OR COMMUNITY MEMBER?

RESTORATIVE JUSTICE CAN HELP!

- ✓ Request intervention at any of our RJ Centres island-wide
- ✓ Attend RJ conferences at location near you
- ✓ Resolve conflict and reach agreement

Stay out of the courts and Give Peace a Chance!

Restorative Justice... Justice that Heals

MOJ.GOV.JM | 876-908-5501/ 876-908-5527



ACCESS TO JUSTICE

for a better Jamaica

OUR SERVICES

- Child Diversion
- Expungement
- JP & Notaries Public***
- Legal Aid
- Minister's Marriage Licence
- Restorative Justice
- Victim Support

VISIT OUR WEBSITE
www.moj.gov.jm

FOR MORE INFORMATION:
876-906-4923-31
customer.service@moj.gov.jm

Connect with us:

888 JUSTICE

5 8 7 8 4 2 3

via social media
@mojofficialjm
Ministry of Justice | Jamaica
876-851-3287 (Expungement only)

ABOUT US

The Ministry of Justice is the lead administrator of Justice in Jamaica and therefore administers legislation, delivers justice services and provides policy support and analysis on justice issues.

61 CONSTANT SPRING ROAD,
KINGSTON 10



**MINISTRY OF
JUSTICE**
BALANCING RIGHTS & RESPONSIBILITIES

61 Constant Spring Road,
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