



Provincial Court
of Alberta



Court of King's
Bench of Alberta

Cour du Banc du
Roi de l'Alberta

THE BEVERLY BROWNE - WĪYASÔW ISKWEÊW - RESTORATIVE JUSTICE COMMITTEE COMMUNIQUÉ

By Judge Michelle Christopher and Justice Anna Loparco

History of Committee Work

In the early summer of 2019, Justices Beverly Browne and Anna Loparco of the Court of Queen's Bench – as it then was – brought together a group of dedicated volunteers from amongst the judiciary, legal profession, government and the community more broadly to study the possibility of creating a referral process for appropriate court matters to a restorative justice process. Sadly, Justice Browne passed away in March 2021, well before she could see the results of her vision for restorative justice in the province. To honour her legacy and work, the RJ Committee was renamed as The Beverly Browne - WĪyasôw Iskweêw – Restorative Justice Committee. Justice Browne's Indigenous name, which translates to "Woman Standing With the Law", was given to her to honour her time in the north as the First Chief Justice of the Court of Nunavut, prior to her return to Alberta to join the (then) Court of Queen's Bench.

When Justice Browne stepped down from the Committee due to health concerns, Judge Christopher came on as Co-Chair with Justice Anna Loparco and together they hosted a series of plenary meetings with approximately 100 community stakeholders to explore how restorative justice could best be implemented in Alberta on a province-wide basis and at both trial levels of court.

RJ Process

As noted in the July 2020 Communiqué from Justices Browne and Loparco, restorative justice is defined as a process in which the parties affected by a particular offence (the victim, the offender, and community members) are supported and voluntarily participate in a discussion about the

causes, circumstances, and impact of the offence. The offender is required to accept responsibility and commit to a restorative process to facilitate reparation of the harms caused to the victim and community.

Dialogues take place with the assistance of an impartial facilitator or “keeper”, who is tasked with engaging stakeholders to identify the harm, discuss its impact, and provide sentencing recommendations for what needs to be done to assist in creating more meaningful outcomes. The goal is to build understanding, encourage accountability and provide an opportunity for stakeholder engagement, capacity development, and repairing the harm caused by crimes. RJ has been used in Indigenous communities for centuries and the practices have been adopted to resolve various legal disputes in Canada for decades, with the result being a better approach to justice outcomes for all parties and ultimately, reduced recidivism.

Community Work and Community Engagement

At the early stages, a broad-based call-out for participants resulted in interest from a wide range of stakeholders across the province, including judges, federal and provincial crown prosecutors, defence counsel, family and civil lawyers, victims’ rights representatives, government representatives, the Law Society of Alberta, the Canadian Bar Association, Indigenous communities and justice providers, and urban service providers such as the John Howard Society, the Elizabeth Fry Society, the Alberta Restorative Justice Association, police agencies, and other organizations.

The first order of business was to work together to establish priorities and to form committees, which were then tasked with meeting and carrying out consultations within their interest group(s) and reporting back to the group as a whole in subsequent plenary meetings. Through this process, along with regular liaison and reporting by the Committee Co-Chairs to the Executive Board of the Court of Queen’s Bench (now King’s Bench) and the Provincial Court’s Chief and Council, the collective decision was to focus on criminal law as the area of greatest need with the greatest potential for RJ referrals across the province.

RJ Referral Policy

Over the course of approximately three years and numerous stakeholder meetings across the province, the Committee was able to develop and launch a restorative justice referral policy for all provincial and federal criminal law matters at both the provincial court and superior court levels. Key participants included representatives of the federal and provincial crown prosecution services, as well as members of the Committee’s Indigenous Foundations Sub-committee, which in turn,

facilitated connections with Indigenous groups and restorative justice agencies in Edmonton and regions to the north. These included the Treaty 8 Bigstone Cree Nation Restorative Justice Program, Peace Region Restorative Justice Association, Kee Tas Kee Now Restorative Justice and others. In Calgary and the southern region, retired Provincial Court Judge Eugene Creighton assisted with connections to Treaty 7 Nations and the established peacemaking programs at Kainai, Siksika and Tsuut'ina. The Committee was also fortunate to have Karen Korchinski, Alberta Justice and Solicitor General, create a province-wide roster of restorative justice service providers. It was of great benefit to have Provincial Court Judge Deputy Chief Judge Joanne Durant join the Committee in September 2021 to provide additional assistance with the planned implantation of the restorative justice referral policy and the pilot project launch event slated for spring, 2022. Going forward, Deputy Chief Judge Durant will be able to assist in coordinating the Committee's work with the broader Provincial Court Indigenous Strategy recently announced by Provincial Court Chief Judge Derek Redman.

The Committee also developed a dedicated website (www.rjalbertacourts.ca) which houses the roster of agencies with capacity to accept referrals, the Crown referral policy, and other restorative justice reference materials.

RJ Pilot Project Launch - Spring 2022

On March 31, 2022, the day for the launch event arrived with all of the attendant challenges posed by meeting in-person during the pandemic. Nonetheless, with the support of the Law Society of Alberta and the Canadian Bar Association, Indigenous Elders, Chiefs and justice system representatives were able to travel to Calgary to join in a "hybrid launch" event. This featured a smudge and an Elder prayer ceremony in the Calgary Indigenous Court followed by a land acknowledgment and presentations from several speakers in the Calgary Ceremonial Courtroom. The Indigenous prayer ceremony was powerful, not least because, as one Elder noted, it was the first time that Elders from Treaty 8 and Treaty 7 had joined together in prayer in a court in Alberta.

The speakers who followed also delivered a powerful message of support for RJ and notably included the Federal Minister of Justice David Lametti, by video-link, and in-person remarks from the Provincial Justice Minister Tyler Shandro, the Chief Justice of the Court of Queen's Bench (now King's Bench) Mary Moreau, the Chief Judge of the Provincial Court Derek Redman and other key participants involved in the work of the Committee. Due to court-related covid capacity restrictions which restricted in-person attendance, the event was simultaneously web-cast live to a large audience of supporters and interested members of the community. All in attendance, whether virtually or in-person, expressed appreciation for the initiative. Significantly, the Provincial Minister of Justice also announced the creation of the Provincial Restorative Justice

Strategy, which is expected to increase funding and support for restorative justice service providers, as recently confirmed by ministerial press release.

Next Steps

The Committee's work is now focused on the evaluation of the pilot and on delivery of sector-specific education programs for judges, crown prosecutors, court clerks and members of the defence bar, including the creation of online resources and videos.

In the months since the launch event, the Committee has begun to collect data around the referrals and to plan for evaluation. Work has also continued in terms of stakeholder engagement, building capacity and raising awareness. Justices Moreau and Loparco and Judge Christopher travelled to Wabasca in August 2022, to participate in the Bigstone Cree Nation's Treaty Days with a feast and presentation about the Court's new RJ referral policy and process. Also in August, Justice Loparco, Deputy Chief Judge Durant and Judge Christopher, along with Provincial Crown Prosecutor Matthew Hinshaw and retired Justice Tony Mandamin, presented about our work to the annual meeting of the Uniform Law Conference of Canada in Edmonton. In October, Judge Christopher, presented to the International Society for the Reform of Criminal Law's conference held virtually in Canada, the UK and Australia. Justice Loparco and Judge Christopher attended the National Restorative Justice Conference in Halifax, also in October, with a seminar presentation slated for mid to late November for both the Peace River Restorative Justice Association and for the National Restorative Justice Symposium hosted in Winnipeg.

Plans are also underway for further education sessions for the Crown, defence bar and court clerks alike, including a December 7, 2022 seminar to be hosted by the Calgary Criminal Defence Lawyers Association. It is clear that much depends, in the future, on sustained funding for existing restorative justice service providers and for building capacity for restorative justice services across the province.

Meanwhile, the Family Law Sub-committee's work has been incorporated into the work of the Reforming Family Justice Services initiative now headed by Edmonton Court of King's Bench Justice Rod Jerke and legal counsel Diana Lowe. While there is certainly interest in continuing work on how restorative justice might be implemented in civil matters, that will be a task for another time and another day. For now, the focus is on the pilot project and the steering committee's work to monitor and evaluate the referral policy for criminal matters, and continue delivering education programs for interested stakeholders.

With sincere thanks to all participants to date who have contributed diverse and instructive voices to our consultation process, the decision has been made to disband the plenary committee at this time and to relieve committees of the need for further focused meetings. Please check the

website periodically for further news as the pilot evaluation progresses and the education program continues.

Please contact either Justice Loparco or Judge Christopher directly in the event you have any comments or concerns, or wish to continue to serve as part of the steering committee.