PRESENTATION ON RESTORATIVE JUSTICE
NATIONAL CONFERENCE ON VICTIMS CHARTER

Department of Justice and Constitutional Development
1 to 3 February 2012
**Background**

- South Africa, as most countries in the world, is still applying a retributive justice system. The accusatorial system is still dominating our courts whereby the accused person is in the centre of interrogation and there is no or little concern regarding the victim’s of crime.

- The current punitive system i.e. the system of punishing people for crimes committed seems to have only limited success, hence the need for a different approach to disputes and crime in communities.

- In response to the challenges faced by the criminal justice system and simultaneously transforming the administration of justice, the Justice Crime Prevention and Security Cluster (JCPS) agreed to adopt a Restorative Justice approach.
○ The JCPS Service Delivery Agreement provides in Sub-Output 2.6 that: the Cluster needs to increase cases finalised through Diversion and Alternative Dispute Resolution Mechanisms.

○ The key activities to achieve this are:

(a) Approve Restorative Justice Policy Framework with activities across the Cluster;
(b) Increase the use of Diversion by Prosecutors and courts;
(c) Support Service Providers in order to promote Diversion, Non-custodial sanctions and Alternative Dispute Resolution processes; and
(d) Increase the use of mediation by Prosecutors.
The JCPS Restorative Justice Task Team was established in 2009/2010 on the approval of the Development committee (DEVCOMM) to develop a RJ National Policy Framework.

The RJ Task Team consists of the JCPS Cluster Departments; Organisations; Non-Governmental Organisations as well as Faith based Organisations.
The Restorative Justice National Policy Framework was approved in February 2011, by the JCPS Cluster Directors-General.

The need for this framework arises from the fact that Government is looking at dealing with crime in a more focused and coordinated manner. There is a need to increase community participation in the Criminal Justice System (CJS), both to provide better support for victims and to support offenders in reintegrating them back into society.

The key values and principles of Restorative Justice are also mentioned.

What is most important is that the Framework mentions that there must be a voluntary participation and non-coercion during Restorative Justice processes and more importantly so when the victim has to participate.

The Framework further outlines the Departmental/Organisations' roles and responsibilities.
Restorative Justice (RJ) is defined as an approach to justice that aims to involve the parties to a dispute and others affected by the harm (victims, offenders, families concerned and community members) in collectively identifying harms, needs and obligations through accepting responsibilities, making restitution, taking measures to prevent a recurrence of the incident; this may be applied at any appropriate stage after the incident.

The goal of Restorative Justice is to put right the harms caused by the offence (individual, relational, social) to heal victims, offenders and communities that have been injured by the crime.

RJ is not an alternative to the current justice system, instead it is a paradigm shift which seeks to enhance and supplement current practices in the criminal justice system to function effectively, thereby enhancing access to justice for all citizens.
Examples of Restorative Justice Processes include:
- victim-offender mediation,
- conferencing,
- panels,
- circles,
- dialogues and
- conversations.

Examples of Restorative Approaches to justice
- alternative dispute resolution mechanisms such as diversion
- non-custodial sentences
- restitution programmes
- home-based supervision
- correctional supervision/community corrections
- parole
- Providing victims a voice at a parole board hearing
A ‘restorative outcome’ is an agreement as a result of a restorative process.

- This agreement may include referrals to programmes such as reparation, restitution and community services, aimed at meeting the individual and collective needs and responsibilities of the parties and achieving re-integration of the victim and the offender.”
Impact of restorative justice approach

Extensive International Research has shown that:

- Significantly reduced repeated offending;
- Reduced victims post-traumatic stress symptoms and related costs;
- Reduced victims desire for violent revenge against their offenders;
- Provided both victims and offenders with more satisfaction with justice.
Achievements

- **Co-ordination Governance structures:**
  - Provincial Restorative Justice Task Teams.

- Held a RJ workshop in partnership with the Foundation for Human Rights during May 2011, to discuss the best Practices in the RJ field.

- Held workshop for Traditional Leaders in partnership with the Foundation for Human Rights in August 2011, to discuss the current RJ Trends in government.

- Held an RJ Indaba in partnership with the National House of Traditional Leaders at Mpumalanga in November 2011, to sensitise Stakeholders on RJ and to further lay a ground to amend the RJ NPF to include the Roles and Responsibilities of Traditional leaders.

- The Process to amend the RJ NPF to include the Roles and Responsibilities on Traditional Leaders has commenced and a working group has been established finalise this Project.

- The Department of Justice is in a process of developing learning material on Restorative Justice.

- Further the Department is in a process of conducting Sensitisation Sessions on Restorative Justice.
Way forward and Conclusion

- Develop Guidelines for Sexual Offences and Gender Based Violence cases.
- Develop a Statistical Tool to monitor RJ cases.

Thank You