

NJC KEY CONCEPTS

Community Justice (CJ) broadly refers to innovative crime prevention and justice processes that actively include the local community and are focused on enhancing community quality of life.

Community Justice:

- Has its roots in community development. Examples of community justice practice include community policing, community crime prevention and community justice centres around the world. Mainstream justice systems have adopted and adapted many CJ ideas.
- Is underpinned by citizen participation and a commitment to finding sustainable and effective solutions to local crime and safety issues.
- Targets areas experiencing high crime rates, where mainstream criminal justice approaches often fail.
- Recognises that while the same law applies to everyone, the justice system needs to tailor its approach in different communities, particularly in areas with high crime rates and high levels of disadvantage.
- Emphasises that strong communities provide the foundations for public safety – not the formal justice system.
- Builds the community's capacity to tackle crime and safety issues and improve the quality of life in these areas for the people who live and work there.
- Promotes a problem-solving, 'prevent, restore and repair' response to crime and recognises the underlying causes of crime, rather than just allocating blame and punishment.
- Develops creative partnerships with individuals, agencies and groups in the local community to coordinate effective responses to local issues.

Therapeutic Jurisprudence (TJ) is fundamental to problem-solving justice. The consideration and application of a therapeutic jurisprudential approach to justice has been laid out in NJC's relevant legislation. The notion of Therapeutic Jurisprudence is a major consideration in the sentencing process at the NJC.

Therapeutic Jurisprudence:

- Focuses attention on the impact of the legal system (court and non-court personnel and processes), on the emotional and psychological wellbeing of people involved in that system, including victims, offenders and the community.
- Uses tools and insights from social sciences to examine the therapeutic consequences of the law¹.
- Emphasises that those working within the system can approach their roles with an eye for the therapeutic wellbeing of the people they deal with, while upholding the fundamental values of the legal system².
- Recognises the underlying physical, psychological, social or economic circumstances that can contribute to criminal behaviour and proposes social interventions to address these factors.
- Acknowledges that legal actors must weigh up therapeutic approaches alongside other justice system values such as the weight of deterrence.
- Sees legal actors practising with greater interpersonal skills and under an ethic of care.
- Procedural fairness in TJ-informed decision making, means going further than just acting fairly and impartially to protect the individual's rights and interests. Procedural fairness in TJ aspires to supporting dignity, respect and a sense of having been listened to. Indeed, research has shown that court participants are more likely to adhere to orders when they feel they have been heard and respected when telling their story. (Winick and Wexler 2003)

¹Victoria's Neighbourhood Justice Centre, Indigenous Justice Clearinghouse, August 2009

²Ibid.

Restorative Justice (RJ) is a theory of justice that emphasises addressing and repairing the harm caused by criminal behaviour or an incident. It is best accomplished through cooperative processes that involve all people affected by the behaviour or incident. This can lead to transformation of people, relationships and communities.

Restorative Justice:

- Aims to restore victims' wellbeing and to make offenders aware of the impact of their actions on others. RJ also offers offenders the opportunity to repair the harm caused and to prevent further offending.
 - Is practised in the Australian criminal justice system most commonly through programs such as victim-offender mediation, conferencing (for both adult and young offenders) and circle sentencing. Internationally it is also used in child welfare settings.
- RJ practices generally provide a process so that parties affected by harmful behaviour can work together to reach a common understanding of what has happened, to determine collectively how best to deal with the aftermath of the incident(s) and, where possible, to transform conflict into cooperation.
 - The NJC encourages the active participation of victims, offenders, their families, and the community in the justice process.
 - RJ is enshrined in the NJC's legislation; section 5(a) of the Courts Legislation (Neighbourhood Justice Centre) Act 2006 provides that: "In assigning a magistrate to the Neighbourhood Justice Division, the Chief Magistrate must have regard to the magistrate's knowledge of, or experience in the application of, the principles of therapeutic jurisprudence and restorative justice".

Problem-solving and problem-oriented approaches to justice "... have been developed over the last decade to address the underlying causes of crime and to find solutions to the complex problems facing offenders, victims and the community... These approaches aim to stop, or at least slow, the 'revolving door' where some offenders move in and out of the criminal justice system." (Victorian Auditor General's Report, 2011).

These approaches:

- Have greater concern for responding to the underlying causes of crime, reducing recidivism, preventing re-victimisation and improving confidence in justice.
 - Involve collaboration between justice and social services agencies to link offenders and victims to appropriate, local treatment and services.
- Use data analysis and evidence-based risk and needs assessment tools to tailor responses to individuals' problems.
 - Treat offenders as individuals rather than employing a 'one-size-fits-all' approach.
 - Recognise that offenders often lead complex lives and use strategies to increase the effectiveness of their engagement with services, such as increased offender accountability with regular monitoring of their progress by the court and placing an emphasis on the continuity of personnel working with the offender.

Problem-Solving Process (PSP) at the NJC is a unique process that helps offenders with complex needs turn their lives around by addressing the underlying causes of their offending.

The Problem-Solving Process:

- Is informed by therapeutic jurisprudence, restorative justice processes and the principle that people are more likely to change their behaviour for the better when people in authority "do things with them, rather than to them, or for them." (Wachtel and McCold, 2004)
 - Is an out-of-court process, and brings as many people as required to the table to assist an offender to discuss treatments and support options tailored to help them break the cycle of offending.
- Is strictly voluntary and confidential and the referred person can withdraw at any time.
 - Has a participatory nature that means all who take part are expected to contribute meaningfully to the discussion.
 - Reports of problem-solving meetings, including agreed outcomes, are given to the court, providing an informed context for the Magistrate's decision-making.
 - Any person with a criminal matter listed in the NJC Court is potentially eligible for problem-solving, except in contested criminal matters.