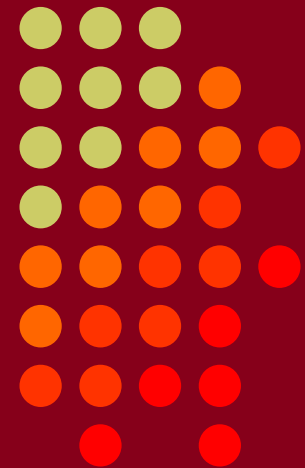


Introduction to Restorative Justice

Borbala Fellegi

Training for Commissioners in Serbia
12 June 2007, Belgrade





**As a prison officer what kind of tools
did you use to regulate/discipline
the inmates?
How effective were they?**

OVERVIEW

- Definition and principles
- Background
- Forms
- Standards
- Research
- RJ in practice
- RJ in the criminal justice system
- Mediation in Serbia

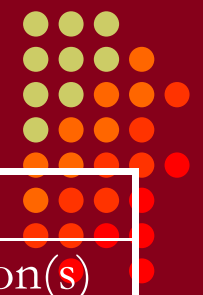


What is Restorative Justice?

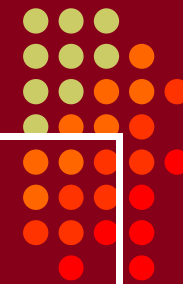


- “Restorative process means any process in which the victim and the offender, and [...] any other individuals or community members affected by a crime participate together actively in the resolution of matters arising from the crime.”
- “Restorative outcome means an agreement reached as a result of a restorative process”, such as “reparation, restitution, and community service, aimed at meeting the individual and collective needs and responsibilities of the parties and achieving the reintegration of the victim and the offender”. (United Nations, 2002)

BASIC PRINCIPLES



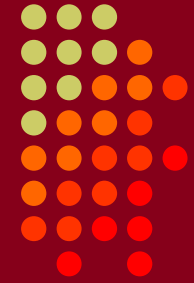
'Conventional' justice approach	Restorative justice approach
- Crime is a violation against the State (laws are broken)	- Crime is a violation against other person(s) (human relations are broken)
- It is the State that can provide justice by its criminal justice system	- The justice system intends to directly involve the victims, offenders and members of their communities in order to make an agreement on how to restore the harm
- Main goal: to retribute, punish the offender and prevent/deter further crime	- Main goal: restore the harm of the victim and the community and encourage responsibility-taking in the offender
- 3 main questions: 1. What rule/law was broken? 2. Who committed it? 3. What does he/she deserves for it?	- 3 main questions: 1. Who were harmed? 2. What are their needs? 3. Whose duty is it to fulfill these needs and in what ways?



‘Conventional’ justice approach	Restorative justice approach
Justice is defined by right rules	Justice is defined by right relationships
Community is on side line, represented abstractly by the State	Community as facilitator in the restorative process
Action is directed from the State to the offender → victim ignored, offender passive	Victim’s and offender’s roles are recognised (victim’s needs, offender’s responsibility)
Offender’s accountability: taking punishment	Offender’s accountability: understanding the impact of the act and helping to decide how to make things right

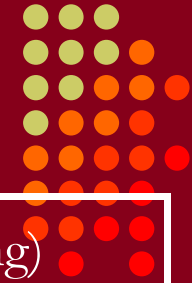
Based on Zehr (1990)

Background

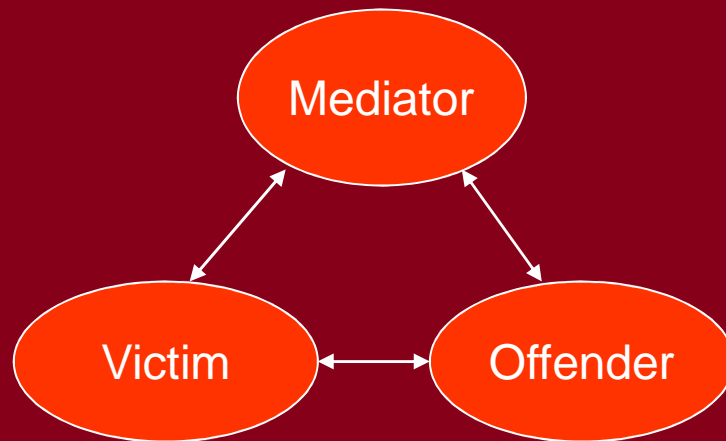


- Importance of the community in responding to wrongdoing (NZ, Australia, USA)
- Recognition of victim's needs (Europe)
- Ineffectiveness of the criminal justice system → need for alternatives, importance of crime prevention (CEE)
- International agreements (CoE, EU, UN)

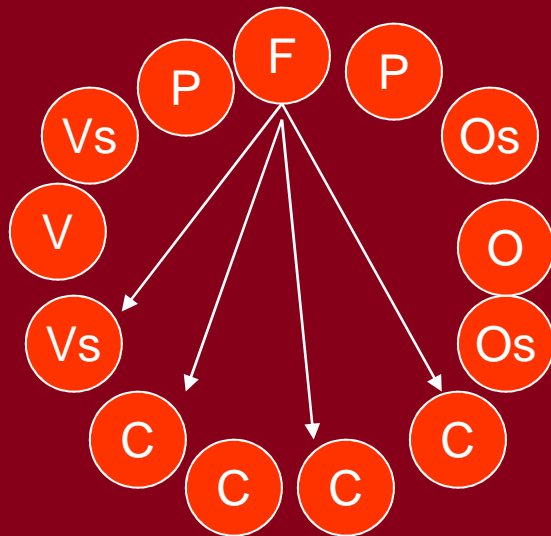
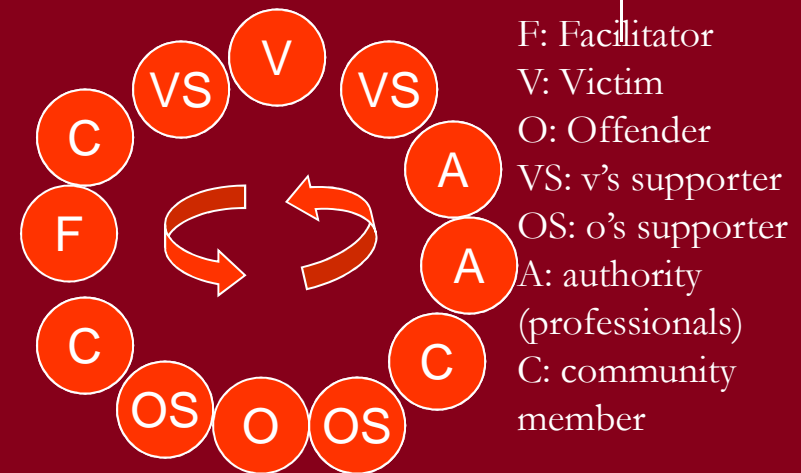
Main forms of restorative justice



Victim-offender mediation



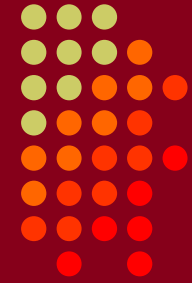
Circles (sentencing, peacemaking)



Conferencing

- Restorative Justice conferencing
- Family Group Conferencing (private time!)

Common elements & standards I.



- Voluntariness
- Balanced focus on the (material and emotional) needs of victims, offenders and the community
- Direct involvement (confrontation) of the affected parties
 - dialogue about 1.) the circumstances, background factors that led to the offence; 2.) the ways of restoration and 3.) how to prevent future offending
- Possibility for voluntary offers from the offenders to restore the harm → active responsibility-taking
- Involvement of supporters

Common elements & standards II.



- Impartial facilitators/mediators
- Appropriately trained facilitators/mediators
- Confidentiality
- Realistic and informed choice for the parties
- Thorough risk-assessment
- Perpetrator accepts responsibility
- No pressure on victims
- Thorough preparation and follow-up
- Acknowledgment that views of all are important
- All parties involved
- Solutions agreed by all parties
- Inter-agency cooperation

based on the Youth Justice Board's (2001) and the Home Office's (2003) standards, UK

The restorative 'attitude'



How do we respond to wrongdoing?

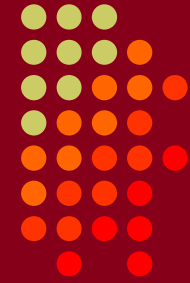
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<i>TO</i> Punitive	<i>WITH</i> Restorative
<i>NOT</i> Neglectful	<i>FOR</i> Permissive

S U P P O R T

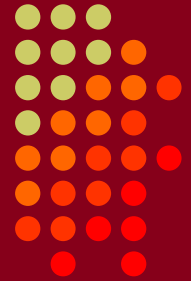
O'Connor - Wachtel (1999)

Some research findings



- Most recent: Sherman – Strang report (2006): substantial reduction in **re-offending**, mostly in violent and property crimes, effect is more significant for more serious crimes [UK]
- 15-20% reduction in re-offending (Garth – Lind, 2002) [New Zealand]
- 38% decrease in re-offending for young violent offenders (Sherman, 2000) [UK]
- **Satisfaction rates** above 90% (e.g. Moore – O’Connel, 1994) [USA]
- Reduction of **fear of crime** (Umbreit, 1994) [USA]
- **Agreement** reached between 70-90% (e.g. Umbreit – Coates, 2001; McCold, 2003)[USA]
- **Compliance rates** usually between 80-95% (e.g. Moore – Forsythe, 1995; Braithwaite, 2002) [Australia]
- **Punitive attitudes** of the public and the CJ professionals (Sessar, 1992; Weitekamp, 2000) [Germany]
- **Cost-effective** calculations: 705 € saving/case (Aaltonen) [Finland]

Phases of restorative interventions

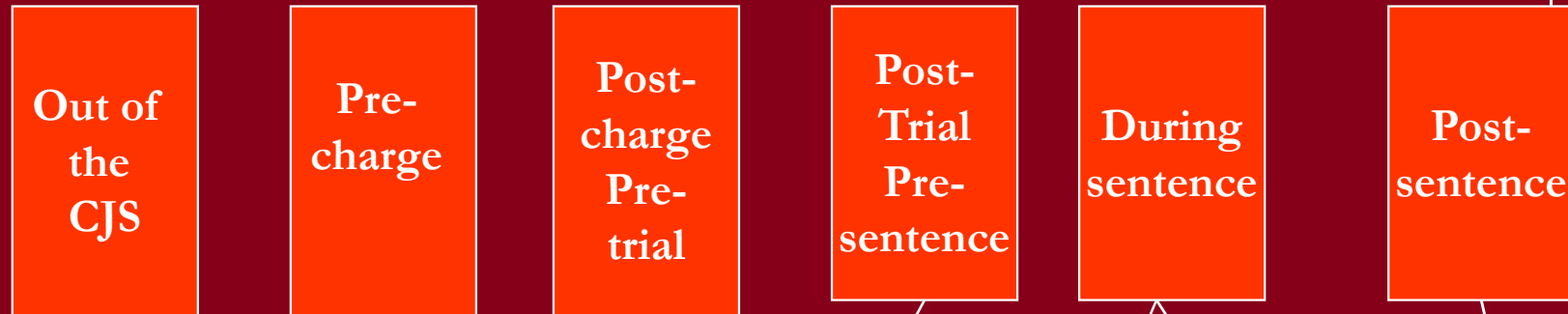


- Referral
- Preparation
- Meeting
- Follow-up

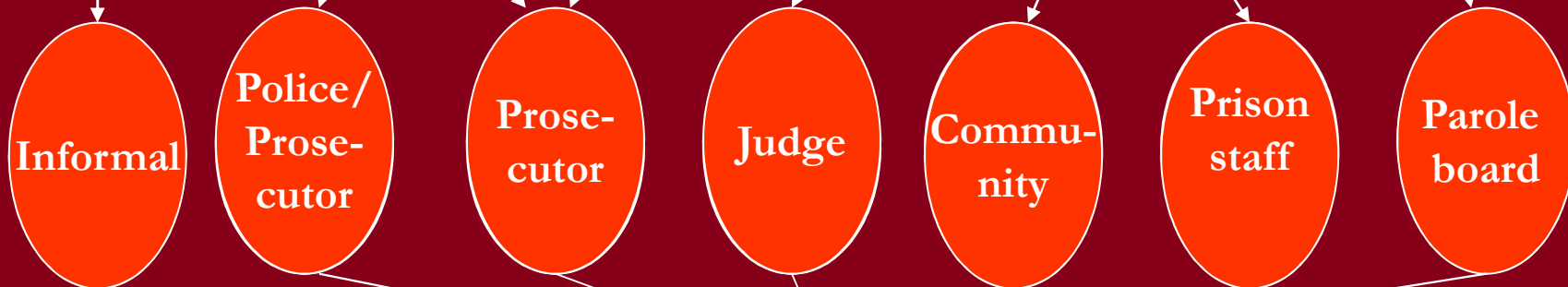
Position of RJ programmes in the criminal justice system



STAGES



REFERRALS



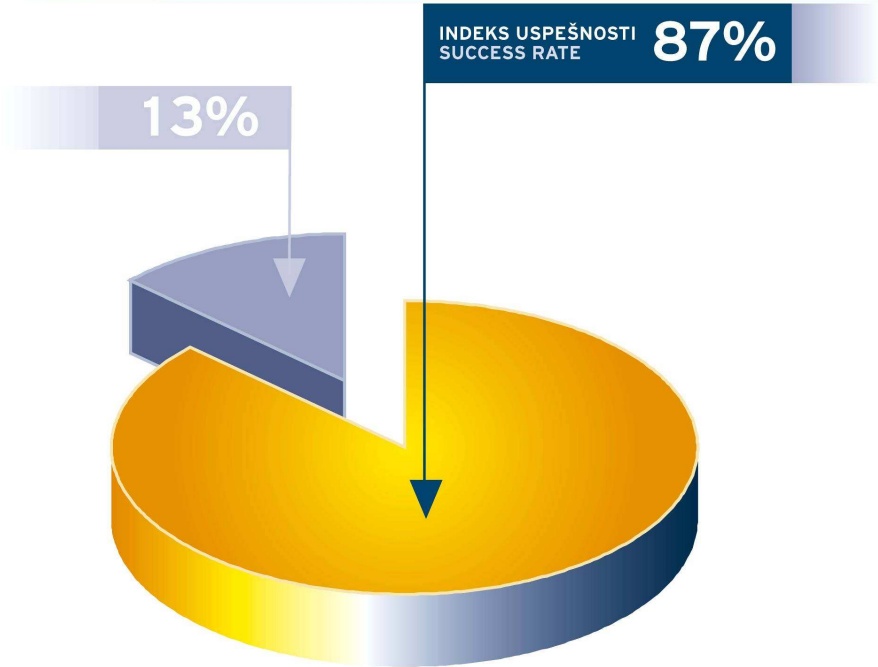
RESTORATIVE JUSTICE PROGRAMMES

Mediation in Serbia



- RJ in the youth justice system (UNICEF)
 - 3 pilot projects in communities, 1 in a juvenile correction institution in Krusevac
- Truth and reconciliation activities by NGOs
- Civil mediation within the court (“court annexed mediation”) (with the help of the International Finance Corporation)
- Mediation in the Criminal Procedure Code of Serbia (2006), Chapter XXX. (Article 475-478)
 - Plans for the implementation?

MEDIJACIJA U SRBIJI 2004. - 2007.
REZULTATI POSTUPKA MEDIJACIJE
RESULTS OF MEDIATION
MEDIATION IN SERBIA 2004. - 2007.



Group exercise No.2



Group 1:

What are the motivations for victims to be involved in the CJS? What roles can it mean for the commissioners?

Group 2:

What are the ways in which victims can currently be involved in the CJS in Serbia? What roles can it mean for the commissioners?

Sensitive cases

- Serious crimes
- Domestic violence
- Sexual offences
- Long-term conflicts
- Involvement of children
- Parties with special needs



Group exercise No.3



How could you integrate restorative justice into your work as a commissioner?



THANK YOU
FOR YOUR ATTENTION!

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