Collaborative Sentencing Program (CSP)

Overview for Legal Organizations
2025

COMMUNITY JUSTICE INITIATIVES

Introduction to Community Justice Initiatives

Community Justice Initiatives Association (CJI) is a non-profit society serving both the local and national community based in Langley, British Columbia. The organization has over 40 years of experience providing restorative justice and conflict resolution services to individuals, non-profit organizations, schools, businesses, Indigenous Nations, Government, and all aspects of the criminal justice system. Our innovative programs support some of the most complex and serious situations from violent crime, trauma, power- and gender-based violence. In 1982, CJI initiated the first Victim Offender Reconciliation Program (VORP) in Western Canada, thus establishing a precedent in BC for the use of restorative justice (RJ) diversionary practices in mid-range youth and adult criminal matters. Based on the success of VORP, in 1991, CJI started the first Canadian restorative justice program involving those impacted by serious and violent crime. Under partnership and contract with the Correctional Service of Canada, the Restorative Opportunities Program (RO) now runs in all provinces, at a post-incarceration stage, to address remaining issues of accountability and psychosocial healing needs in the aftermath of traumatic criminal offences.

In 2017, CJI established the Collaborative Sentencing Program (CSP) to address the need for more connected experiences of justice for the people involved in or affected by crime. CSP provides a way to begin to decolonize the retributive justice system and provide opportunities for direct and indirect communication between victims, accused persons, criminal justice personnel, and community Elders and leaders through thorough preparation and facilitation by qualified staff. The focus is on ensuring processes are accessible and are conducted in accordance with traditional teachings and ways of knowing. While this innovative program ran pro bono for many years, in 2024, CJI was awarded a 3-year grant from the Federal Victim's fund in recognition of the vital importance of this burgeoning work in supporting a more meaningful experience and voice in the court process for victims of crime, and for its ways of supporting growth and accountability for those responsible for harm.

COMMUNITY JUSTICE INITIATIVES

CJI's Collaborative Sentencing Program (CSP)

Definition & Details of the Program:

The Collaborative Sentencing program, developed by the Fraser Region Community Justice Initiatives Association (CJI), is a restorative approach to sentencing based on many years of research that looked at alternative, meaningful ways of sentencing in other countries, including the U.S. This research showed that these alternative approaches were often more cost-effective, led to greater satisfaction among those involved, and reduced the chances of people re-offending. The key idea is that when harm doers receive treatment and support that address their specific needs, they are less likely to commit more crimes in the future. Further, sentencing recommendations that included the voice of the victim/survivor, understood needs for healing and amends making, and included safety planning for the eventual return to the community were more likely to create a sense of community support and trust in the justice system, and to allow those responsible to address the root causes of their harmful behaviour leading to better reintegration into the community after serving their sentence.

Key Benefits for Defence and Crown Attorneys:

- **Enhanced Sentencing Submissions:** Judges favour client-specific planning because it provides more detailed information than standard pre-sentence reports. This allows for more effective use of alternative punishments and strengthens defense arguments for tailored sentencing.
- **Increased Client Engagement:** By addressing Harm Doers' specific needs, this approach can lead to greater client buy-in and participation in the rehabilitation processes, which can be a mitigating factor in sentencing.
- **Stronger Case for Alternative Sanctions:** The program provides a framework for developing comprehensive sentencing plans that go beyond the traditional 'just deserts' philosophy, emphasizing accountability, understanding the needs of both victims and offenders, harm reduction, treatment, and skill-building.
- **High Acceptance Rate:** Judges often accept plans proposed by counsel and community partners, incorporating them into their official sentencing reasons. Research indicates a high rate of judicial acceptance of these recommendations (97% in early cases).
- **Opportunity for Creative Solutions:** CSP offers a platform for proposing innovative sentencing solutions that address the needs of both the victim and the harm doer, potentially leading to more rehabilitative outcomes.
- **Addresses Victim Concerns:** CSP provides a structured way to incorporate victim input and ensure their needs are considered and valued, which can lead to greater victim satisfaction with the justice process.
- **Promotes Restorative Outcomes:** The program aligns with the principles of restorative justice, which can be a valuable approach in cases where rehabilitation and community reintegration are priorities.

CJI's Collaborative Sentencing Program (CSP)

Where is the Victim's Voice?

Early sentencing research often overlooked the importance of including the community and victim's perspective. CJI's program integrates insights from restorative dialogue processes between victims/survivors and those responsible for the harm, acknowledging both the public and private aspects of crime.

Key Questions Addressed by CSP:

The program addresses standard justice questions:

- What laws were broken?
- Who is guilty?
- What are appropriate sanctions?
- How can sentencing principles be achieved?

CSP also incorporates questions relevant to victims:

- Who was hurt?
- What harm was done, and what are their needs?
- Whose responsibility is it to address those needs?
- Who has a stake in the situation?
- What is the best process to involve stakeholders in making things right?

CJI believes this model is particularly relevant today, given:

- Overloaded court systems
- The impact of the Victims Bill of Rights
- Growing research on the positive impacts of Restorative Justice
- Government mandates to increase the use of restorative justice, especially for Indigenous Peoples

Who and What Cases are Suitable for CSP?

CJI welcomes discussions with all stakeholders about this program, and invites confidential case consultations to see if the process might be a fit.

The requirements for the program are:

- The stage of the case before the courts is between the first appearance and sentencing
- The victim/s desire some level of participation in a restorative process
- The accused takes responsibility for the crime and harm caused
- The accused is open to participation in a restorative process with the victim/s
- All involved parties are a minimum of 18 years old

CJI's Collaborative Sentencing Program (CSP)

How Can I Make a Referral to CSP?

We also invite direct referrals to our program from Crown and Defense Counsels as well as Victims/survivors of crime. We will meet with you confidentially and go over the potential fit, as well as benefits of the program with you. If you wish to refer a client or case to our program:

- Please fill out the CSP referral form provided alongside this information package. The referral form can also be found on our website at www.cjibc.org

Or, feel free to call or email our offices to speak to our staff directly.

Phone: 604-534-5515

Email: mail@cjibc.org

CSP Case Study

Intention and Usage

What follows is an illustrative example of CJI'S Collaborative Sentencing Program (CSP). This case 'study' is intended to demonstrate what can be accomplished using this model.

This case involves serious harm. While the specific details are omitted, the subject matter may still be dysregulating or triggering for some readers. Please take care.

The case centered on a manslaughter charge. As the proceedings have concluded, the case now represents a publicly available sentencing precedent in Canadian Law. We quote a substantial portion of the sentencing comments to illustrate both the specifics of the case and the judge's perspective on the process.

To minimize further harm to both parties, their families, and community members, we have removed all names and identifying details. Initials have also been changed.

CSP Case Story:

The opening comments in the judge's Reasons for Sentence set the stage for this landmark case—the first of its kind to use the Collaborative Sentencing Program (CSP). Below, we quote selected sections from that document verbatim:

THE COURT: *We are here today to deal with the penal consequences that should flow from the tragic death of L.M.T. on [date] on what can fairly be described as one of the mean streets of the Downtown East side of Vancouver. The sentences that I impose today on T.D….. and R.S….. will hopefully, absent an appeal, conclude the involvement of the courts in regard to the criminal charges laid against them. I fervently hope that this step in the criminal justice process will in some small way help L.M.T.'s siblings, his extended family, and his friends in dealing with the loss of L.M.T. from their lives.*

The judge then turned immediately to the matter of the Collaborative Sentencing Program (CSP) process and the outcomes it had produced, commending the participants and our agency for this initiative and for producing a set of sentencing recommendations on which consensus had been reached by all of the principal parties. He commented in court that, in all of his many years on the bench, he had never seen any such thing:

- *In this regard, I must commend and applaud the initiative taken by L.M.T.'s family to engage in a collaborative sentencing process under the auspices of the Community Justice Initiatives Association. Both accused consented to that process which involved a carefully prepared and facilitated meeting with Ms. W. who is the eldest sister of L.M.T. As all of the principal parties are of Indigenous ancestry, the process was conducted in accordance with traditional teachings and procedures.*

- *Quite notably, Ms. W. shook hands with both accused who acknowledged their respective roles in the events leading up to the death of L.M.T., answered the questions put to them by Ms. W., and apologized to her. In addition, each of the accused agreed to hold themselves accountable to the family of L.M.T., to the community at large, and to L.M.T. himself. The latter involved offering thanks and gratitude for the role [this process played] in changing the lives of both accused. The former involved commitments to provide apology letters, to contribute to the cost of a burial headstone for L.M.T., and to make various amends to the community.*

- *A report outlining the process and what was referred to as a reparation agreement was provided to the court. It records that Ms. W. felt the meeting was an important step in her intended journey toward healing and forgiveness. Insofar as the collaborative sentencing project is currently only a pilot project in the Fraser and Vancouver region, I feel I should express my view that it contributed in a very meaningful way to the sentencing hearing as have the victim impact statements prepared by the family of L.M.T.*

This case began with a phone call from a Crown Prosecutor who had known about CJI and the full range of programs we had implemented over the years. Anticipated benefits in cases appropriate for referral to CSP, we believed, included: opportunity to assist survivors of criminal trauma in dealing with that trauma at an early stage; greater empowerment of victims, granting them voice and agency in sentencing in a way not seen before in Canadian jurisprudence. It also greatly reduced costs to individual victims and accused as well as 'system' costs; the avoidance of multiple hearings, costly trials and unnecessary legal procedures that were causing cases before the courts to be dropped because of lengthy delays violating the rights of accused, and therefore threatening to bring the administration of justice into disrepute, resurfacing the old adage that "Justice delayed is justice denied."

Crown consulted with us and asked whether we thought (assuming that the two co-accused and the family survivors of the homicide would agree to participate) that it might be a suitable case for our nascent Collaborative Sentencing Program (CSP). A short time later we were sent the particulars of the case, and began the 'work-up', the initial contacts with each of the accused's lawyers, and the potential family survivor participants, beginning with Ms. W., the oldest sister of the deceased victim, and, as the matriarch of the family, the traditionally assumed (and chosen) representative of the rest of her siblings.

Ms. W. was a care worker for a large Indigenous community service organization. She had heard of restorative justice, and was intrigued by the possibility of having greater voice and agency through the aegis of CSP than she would have had in the usual court proceedings. She wanted to meet with us before deciding. We set a meeting time and date, and flew her from her home community to Vancouver in order to meet with us and the Crown Prosecutor. Before the end of the day, Ms. W. had contacted the rest of her brothers and sisters to give them opportunity to talk to us if they chose to, and to ensure that she had their support in participating. All were agreed: this was the way to proceed.

We then contacted the accused's defense lawyers again to inform them that the victim family representative had chosen to participate, and that we were able to proceed with next steps, beginning with interviewing each of the co-accused. All were now open to having us meet with their clients to explain the process and see if they, of their own volition, would choose to participate. One, T.D., was in custody. He was eager to meet with Ms. W., saying:

I've been a member of a criminal gang for a long time, but I was devastated to hear, when the police arrived at my door to charge me on suspicion of murder, that I had been responsible for taking someone's life – the life of one of my own Indigenous 'brothers.' I am ready to be held to account for the hurt I've caused. At the very least, I owe them a sincere apology, and I want to make it in person.

R.S., who had no 'priors' and had been seen as less culpable than T.D., was on bail. He quickly agreed to meet with us, and was also eager to proceed, although somewhat terrified at the prospect of having to meet the family survivors, and an Indigenous family 'Elder' at that.

After a number of meetings with all parties to co-design the process, the date was set, the courtroom booked and each of the participants notified about the date and time for the convening of 'the dialogue'. We picked Ms. W. up from her hotel and took her for a very early breakfast, putting the last-minute pieces together for the day's proceedings. We drove to the courthouse and were met there by the Crown Counsel whose role, we had earlier decided together, would be to play the CCTV footage of the altercation and the 'push' which had resulted in the victim's backward tumble, where he struck his head on the sidewalk, and to present the Crown's position, that sentencing precedents in similar cases (hands-on assault, resulting in death) suggested a prison term of up to eight years. Following her introductory role and the playing of the tape, she planned to absent herself while we facilitated the circle.

The courtroom door was unlocked for us and **"Do Not Enter"** notices posted on the door. T.D. was brought up to the courtroom from the cells where he had spent the night after being transported there from the pretrial custody center. Two Sheriffs positioned themselves, one beside T.D., the other at the entry door, lest there be any attempt to escape. It was clear that the Sheriffs would be sitting in with us for the entire duration of the proceedings–given the fact that this had never happened before–(crime victims, facilitators and accused meeting in a circle on chairs set up in the fairly tight space between the lawyers' benches and the public gallery railing). Sheriff Jay, the more seasoned of the two sheriffs seemed intrigued, but a bit unnerved by the unfamiliarity of it all. "Known gang members and family survivors of homicide sitting together in a circle," he was heard to quietly say to the younger, "What could go wrong?"

The meeting began with Ms. W.'s Elder (via Skype) leading us in traditional songs and a prayer for each participant: gratitude to Creator that this day had finally come, asking for courage for each of them in speaking from the heart, truthfully and for freedom in contributing to the conversation. We began with a brief introduction and opened the circle. The Crown Prosecutor shared the video and particulars from the police report, then left. As the talking piece went around, each person introduced themselves and expressed gratitude that all had chosen this process in hopes of bringing about a degree of healing for everyone. Ms. W. had brought pictures of her brother which she circulated and audio tape 'clips' in which other members of her family remembered and shared things about L.M.T. that they wanted the defendants, T.D. and R.S., to be aware of.

Attention then turned to T.D. and to R.S., as they responded to what they had already heard, and quite emotionally expressed regret and remorse for having committed the offences and caused the losses that had brought us all together. The remainder of the morning was spent considering the amends the victim family members were suggesting, and those that T.D. and R.S. had already determined to offer. After a lunch break, we began to more formally craft the terms of a sentencing agreement which, if agreed upon by all parties, would be signed off at the end of the day and presented to the each of the other justice professionals: Crown, the Defense Counsels and, if approved, then presented to the judge as the consensus product of the CSP circle negotiations.

It all went smoothly, and as planned, the sentencing recommendations were written up and signed. At the end of the afternoon, when it was clear the work we had come to do was completed, we rose and closed the circle with a further song and prayer. Then Ms. W. crossed the circle to shake the hands, first of T.D., then of R.S. Sheriff Jay, by then, had relaxed; in fact, he left his seat beside T.D. and approached Ms. W. "Are you huggable?" he asked the diminutive Ms. W., dwarfed beside him. "Yes, I am," she replied. Sheriff Jay wrapped his arms around her and said, obviously deeply moved, "I have never seen such courage and class in this court room, and I sit here every day. Thank you for letting me witness this. It has been a real honour."

We quickly tidied up the space we had been meeting in and watched as Sheriff Jay led T.D. out the back door of the courtroom, he and Ms. W. waving goodbye to one another. We then walked with R.S. out of the courtroom into the hallway, where his adoptive parents, his wife and little girl were waiting for him. Ms. W. spoke with them, reporting that she had been deeply satisfied with how things had gone. R.S. shook Ms. W.'s hand, one last time, and she pulled him toward her and hugged him, saying, "I have forgiven you. Now I expect you to keep your commitments. No more gangs, no more crime, take care of these precious people, and, please, stay out of trouble." R.S. promised that, from this point on, he would do all of that.

Ms. W. had never seen the Pacific Ocean, and asked, since we had hours yet before her plane was to depart, if we could go for a walk on the seawall at Stanley Park. We did, for the most part maintaining a fitting silence, until Ms. W. broke it saying:

I think we made some history today: that was beyond anything I might have hoped for it. Now to see how genuine their repentance is, whether they keep all the commitments they made to me. I want to come back to witness the sentencing and what the judge does with the recommendations we made. I suspect the Crown will support that, and I hope my presence will make a difference.

We then headed to the airport for a light bite to eat before parting ways as she checked in. She gave us one final hug, and said:

Thank you… for all that you have done for our family…this has been healing. I'll look forward to sharing all this with my family members, and we'll meet again at a graveside ceremony to place the headstone and release our brother's spirit to carry on.

Ms. W. did return for the sentencing, and was present to hear the judge's appreciative comments as he asked the accused to stand, one at a time, and sentenced them exactly as the recommendations had been written, with one addition. Crown had originally suggested seven years' incarceration for T.D., and in her submission had reduced that to three years. R.S.'s Defense Counsel had suggested that case precedents allowed for sentences in similar cases of as little as one year. In conferring with her, however, T.D. had asked that his sentence be set at two years, to ensure that he would do his time in a federal prison where he might be more fully assured of getting programs to benefit him. When asked by the Judge if that was, indeed, his preference, T.D. stood and replied:

Yes, your Honour, it is. I hope that in a federal institution I will be able to work with Aboriginal Elders and to find my way into my culture and grow in my spirituality, something I've never had opportunity to do before now.

Since then, there have been a number of follow-up calls with Ms. W. and with R.S., and a number of visits to the other T.D. in the institution where he is doing his time. All report doing well. Commitments have been kept allowing the purchase of the headstone for L.M.T.'s grave. Ms. W. reports that "hearts have healed."

This was the first formal use of CSP as we had designed it. But it was not to be the last. Ms. W. is proud of her part in helping to set all of this in motion. She is always eager for news of T.D. and R.S., and whether they are keeping their commitments. Conversely, they ask about Ms. W. and her wellbeing each time we are touch with them. Time will tell, but it appears a healing 'bond' has formed between them, one composed of equal parts responsibility-taking, remorse, regret, accountability, listening and acknowledgement, confession, meaningful apology and the granting of forgiveness. A perfect recipe, given pure ingredients and each in its proper measure, for "Healing Justice."