



Grasping at the Root:

A look at Restorative
and Transformative
Justice for Black
People in Canada

2025

Prepared by Nana Yanful



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CABL is a national network for Black legal professionals formed in March 1996, with a mission to uplift and celebrate the achievements of Black professionals within the legal field by offering its members access to job opportunities, mentorship, and professional growth opportunities. Additionally, CABL also works to advocate for the overall well-being of Black communities.

The Grasping at the Root report takes its name and spirit from the words of Angela Y. Davis: “*Radical simply means grasping things at the root.*” This report reflects a commitment to identifying pathways to addressing harm and conflict outside traditional carceral systems.

This report is the result of a collaboration between **Nana Yanful, Reakash Walters** and **CABL**. We extend our deepest gratitude to all those who helped shape the report’s methodology, analysis, and recommendations.

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EXECUTIVE SUMMARY

Grasping at the Root: Building Towards Justice for Black Communities

This report examines how restorative and transformative justice processes and programs operate within and in contrast to the criminal legal system in Canada. Through exploring the various origins, influences, and evolution of restorative and transformative justice initiatives over time and across borders, including the role of Africentric perspectives in shaping Black communities' understanding and expectations of justice, we examine ways to address harm and its root causes on our terms.

Our work is grounded in the reality that harm occurs among people in all communities. However, the criminal legal system has produced, sustained and perpetuated anti-Black racism through both its policies and practices, labelling and treating Black people as more criminal and dangerous. As a result, Black people are incarcerated at alarming rates across generations. Instead of addressing the root causes of interpersonal violence and harm, the system focuses on punishment and shame, failing to provide accountability or pathways to healing for those who have experienced harm. Research shows that incarceration does not effectively enhance community safety or reduce harm. Instead, it often leads to higher rates of re-offending, serves as an ineffective method of rehabilitation, disrupts social relationships, and increases economic strain on already marginalized communities.

Africentric approaches to justice, deeply rooted in traditions across Africa and throughout the Diaspora, offer Black communities in Canada a framework for justice grounded in collectivity and community care. However, despite the presence and persistence of these practices, Canadian courts have failed to acknowledge that Black communities hold distinct perspectives of justice beyond the Western criminal legal system. This was affirmed in the 2021 Court of Appeal for Ontario decision in *R v Morris*, where the court ruled against such recognition.

Understanding Restorative and Transformative Justice

Restorative and transformative justice processes offer Black communities meaningful alternatives to the criminal legal system. In this system, criminal legal proceedings frame the person who caused harm as being accountable to the state, rather than to the individual who was harmed or the community impacted, effectively excluding their voices and needs.

Restorative justice is an approach to addressing crime and conflict that challenges the power imbalances reinforced by the current system. It creates space for dialogue between those who have experienced harm, those responsible for causing it, and the broader community affected. Through processes such as victim-offender mediation, community and family group conferencing, circles and community boards or panels, restorative justice aims to repair relationships and foster healing through inclusive and democratic processes. People who have caused harm are encouraged and supported in taking responsibility for their actions, with the overarching goal of restoring relationships and strengthening collective well-being.

There are hundreds of restorative justice programs across Canada, many of which operate within and alongside the criminal legal system. However, because of the systemic anti-Black racism embedded within the criminal legal system, restorative justice programs that are closely tied to it risk reproducing similar patterns of harm. For example, we heard in our interviews that offers to engage in a restorative justice process, through diversion, for example, are frequently inaccessible to Black people due to biases that frame their alleged offences as more serious or

less deserving of alternative approaches. Additionally, we learned that many restorative justice programs prioritize repairing harm between individuals, without addressing oppression and the root causes that contribute to harm in the first place.

Transformative justice, on the other hand, is a relational and political approach to addressing harm and conflict. It is rooted in the view that:

- Prisons, policing, and state surveillance are projects of racial injustice and class domination;
- Poor, racialized, undocumented, disabled, queer, and gender diverse people are more likely to be targeted for criminalization and punishment; and
- Systemic oppression and social inequality are present, relevant, and inform outcomes in the criminal legal system.

Transformative justice processes occur outside the criminal legal system. Its focus is on transforming the conditions that make violence possible in society, in communities, and our families. Transformative justice acknowledges that complex social forces, including dominant moral values and shifting power dynamics, influence crime. It builds upon the principles of restorative justice, extending beyond the criminal legal system. It seeks not only to repair harm but also to address the underlying social conditions and power structures that contribute to violence and injustice.

Towards a Liberatory Justice Framework

This report builds on the foundational work of marginalized communities, including Indigenous, Black, immigrant, working-class, disabled, sex worker, and queer and trans communities, who created restorative and transformative justice practices. In the report, we offer guiding values, principles and practices for groups and organizations seeking to develop Black-focused restorative and transformative justice frameworks grounded in community care, self-determination, and non-carcerality.

Additionally, this report is deeply informed by the wisdom and experiences generously shared by interviewees, as well as the valuable contributions of researchers, writers, and academics whose work continues to shape and expand the landscape of restorative and transformative justice.

While anti-Black racism remains deeply entrenched in the criminal legal system, there are many possibilities and pathways towards liberation and away from criminalization. We offer the following next steps as recommendations for advancing this work:

1. Resource Black-led and community-rooted justice pathways focused on restorative and transformative justice frameworks
2. Expand awareness, access, and community education
3. Resource the material needs of people who have been harmed
4. Transform systems through non-carceral reform
5. Integrate restorative and transformative justice in organizational and everyday contexts

This report can support efforts to secure funding for Black community-led initiatives. Legal professionals may find it helpful when advocating for restorative and transformative justice opportunities for their clients. Criminal legal system participants, including judges, police, and crown attorneys, can also use this report to inform diversion policies and practices, better understand community-based alternatives to prosecution, and make decisions grounded in culturally relevant approaches to safety, accountability, and healing.

Ultimately, we hope this report will inspire deeper dialogue within Black communities across Canada about the possibilities these approaches offer for reimaging justice and building collective well-being.

GLOSSARY OF TERMS

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Abolition: This term refers to a political vision aimed at eliminating imprisonment, policing, and surveillance and creating lasting alternatives to punishment and incarceration. Abolitionist scholar, Ruth Wilson Gilmore says, “Abolition is about presence, not absence. It’s about building life-affirming institutions. Abolition’s goal is to change how we interact with each other and the planet by putting people over profit, welfare over warfare, and life over death.”

Alternative Measures: This refers to a range of interventions such as community service, restitution, mediation, and restorative or transformative justice processes. Under section 717 of the *Criminal Code*, Crown Attorneys can divert eligible cases into these programs for individuals accused of a crime.

Black: In this report, “Black” refers to individuals, communities, and peoples whose ancestry originates from the Black racial groups of Africa. This includes Afro-Caribbean individuals and those who may identify as African Nova Scotian or African Canadian.

Institutional Violence: This term, also known as “structural violence,” refers to the harm that is produced, sustained, or perpetuated by institutions such as schools, governments, the criminal legal system, healthcare systems, etc., and disproportionately affects marginalized individuals and groups. This type of harm is embedded within an institution’s policies, practices and norms, making it often difficult to identify and address.

Intersectionality: A framework for understanding how different types of oppression can intersect and impact individuals and communities in various ways. First articulated by scholar, educator and activist bell hooks in 1984 in her writing on second-wave feminism and its failure to address the intersectional nature of oppression, legal scholar Kimberlé Crenshaw coined the term in 1989. Intersectionality helps us understand that issues like racism, sexism, homophobia, classism, and other forms of oppression do not occur in isolation; they often intersect and make people’s experiences of injustice more complex. For example, if we talk about anti-Black racism in the criminal legal system but do not think about intersectionality, we might miss how Black trans people face different and often more serious forms of harm.

Liberation: In this report, “liberation” refers to “Black liberation,” which is the generations-long fight to dismantle racist beliefs and systems, ensuring freedom and self-determination for Black people. It imagines a world where Black people everywhere can thrive without the limitations imposed by racism and have full rights and opportunities in all parts of life, socially, politically, and economically.

Multidisciplinary: This term refers to the practice of employing tools, methods, and approaches from multiple fields of study or disciplines to address a specific issue or topic. This approach allows for a more comprehensive understanding of the issue than if it were viewed from a single perspective.

Person who caused harm: This term or “harm-doer” is used throughout this report to refer to people accused of a criminal offence. In the criminal legal system, this person is also referred to as the “accused” before criminal conviction or the “offender” post criminal conviction.

Person who experienced harm: This term is used throughout the report to refer to individuals who have been harmed, including but not limited to experiences of sexual violence, where the terms “victim” or “survivor” may also be used. We acknowledge that in Black communities, the impact of criminalization extends beyond the individual directly involved with the criminal legal system. It often has broader, harmful ripple effects on families, neighbourhoods, and entire communities.

Trauma: The Centre for Addiction and Mental Health describes “trauma” as the “lasting emotional response” that living through a distressing event, such as abuse, neglect and violence, can have on an individual. “Trauma-informed” refers to policies, practices and approaches that recognize the connections between harm, abuse, violence and trauma and how that trauma can influence behaviours, reactions and interactions with others. For Black communities, trauma is often not just an individual experience; it can be experienced collectively, stemming from a history of enslavement, colonization and segregation, as well as the current manifestations of anti-Black racism in their lives today.



“Another world is possible On a quiet day, I can hear her breathing.” — Arundhati Roy

For several decades, numerous government-commissioned reports have sounded a consistent alarm: systemic anti-Black racism is deeply embedded across Canadian institutions.¹ None more so than in the criminal legal system, where the discretion exercised by those with decision-making power (e.g., police, prosecutors, judges, etc.) often has negative consequences for Black people. This is particularly evident in the over-surveillance of Black communities by police, instances of racial profiling, and disproportionately high rates of detention and arrests of Black people.²

Furthermore, Black people experience significant disparities in prosecutorial discretion, access to bail, the conditions attached to bail, and sentencing, which facilitates the mass incarceration of Black people in both provincial and federal prisons.³ Although the reports confirm the existence of anti-Black racism in the criminal legal system and offer pathways for meaningful reform, action has remained insufficient.

From the 1992 Yonge Street Uprising – sparked by the killing of 22 year old Raymond Lawrence by two Peel Regional police officers – to the 2016 Black Lives Matter-Toronto community protests outside Toronto Police Headquarters following the killing of Andrew Loku, where no criminal charges were laid against the officer responsible – to the global protests in 2020 after the public execution of George Floyd by police in Minneapolis, Minnesota. These events serve as tragic and violent reminders of what Black communities in Turtle Island or North America have known for centuries: that the state and state actors do not keep Black communities safe. In light of the racial reckoning that gained momentum again in 2020, discussions both within and outside of Black communities re-emerged about the need to divest from violent systems, including legal frameworks that perpetuate racism, and to reinvest in creating safety and care within Black communities.

In 2021, the Court of Appeal for Ontario issued a landmark decision, *R v Morris*,⁴ providing critical guidance to trial judges on how to consider evidence of anti-Black racism in sentencing proceedings. The Court in *Morris* stated unequivocally that anti-Black racism “must be acknowledged, confronted, mitigated and, ultimately, erased.”⁵ Then, drawing on the rationale in *R v Gladue*⁶ and *R v Ipeelee*⁷ – cases which compel judges to consider the distinct histories and circumstances of Indigenous peoples – the Court addressed whether a similarly distinctive framework applied to Black communities in Canada. It concluded:

Although there can be no doubt that the impact of anti-Black racism on a specific offender may mitigate that offender's responsibility for the crime, just as with Indigenous offenders, there is no basis to conclude that Black offenders, or Black communities, share a fundamentally different view of justice, or what constitutes a “just” sentence in any given situation.⁸

The assertion by the Court that there is no basis to conclude that Black communities hold particularized views of justice is not only inaccurate, but deeply harmful. It echoes a long-standing pattern of erasure. Just as earlier forms of colonial logic denied that Black people had culture, knowledge systems, or identity beyond imposed categories, this judicial reasoning suggests that Black visions of justice either do not exist or do not matter.

Reading that portion of the *Morris* decision was disheartening and propelled a call for action. This report was motivated, in part, by the need to document and affirm the historical, existing, and emerging voices, traditions, and evolving frameworks of justice within Black com-

munities in Canada. To identify not only responses to harm but also proactive relational strategies, understandings of accountability, and how Black communities wish to heal. We undertook this work not only in response to the courts but also for ourselves and our communities to assert and define what justice truly means for Black communities.

So, we started with a simple and powerful question: **What does justice mean to you?**

We engaged in conversations with people who have been through the criminal legal system, academics, legal practitioners, community mobilizers, activists, and frontline service providers. We made sure to reach out across generations and regions of the Black diaspora in Canada, knowing we are not a monolith – our experiences, traditions, and languages of justice are as diverse as our origins. Their voices are reflected in the content and as stand-alone quotes in this report.

We gained a deeper understanding of the distinctiveness, specificity, and power of an Africentric worldview in relation to justice, healing, and addressing harm. This worldview is rooted and shaped by generations of Black people across the African continent and throughout the diaspora. We were reminded that Africentric approaches to conflict, accountability, and healing are grounded in communal values, spiritual practices, and relational understandings of self and society. They centre the well-being of the collective, not just the individual, and view healing as an ongoing, shared process. As bell hooks reminds us in “All About Love: New Visions,” “Rarely, if ever, are any of us healed in isolation. Healing is an act of communion.” This truth is embodied in Africentric traditions where community, dialogue, storytelling, and collective responsibility have long served as tools for repair and transformation. These practices are not new; they are ancestral.

We also explored justice frameworks that are restorative, transformative, and rooted in collective care, rather than current punitive systems that continuously fail our communities. We believe that these visions of justice are already here. They live in our cultural practices, in the work of organizers, and in the resilience of those most harmed by existing systems.

This report is a contribution to that legacy. It aims to make visible what has long been present: that Black communities in Canada *do* have distinctive, rich, and evolving concepts of justice – and we will continue to name them, practice them, and fight for them.

We gained a deeper understanding of the distinctiveness, specificity, and power of an Africentric worldview in relation to justice, healing, and addressing harm. This worldview is rooted and shaped by generations of Black people across the African continent and throughout the diaspora.

There is minimal empirical evidence that the existing criminal legal system reduces crime or makes communities safer.⁹ Rather than improving public safety, criminalization and incarceration exacerbate social problems and perpetuate inequality.¹⁰ In a vicious cycle, inequality and poverty significantly increase the likelihood that a person will face social challenges and criminalization.¹¹ Some studies have found that incarceration:

- can increase recidivism (also known as re-offending);¹²
- is an ineffective rehabilitative strategy; and,
- fails to effectively deter harmful behavior.¹³

Meanwhile, the criminalization and mass incarceration of Indigenous and Black communities:

- reduces employment rates and income levels;
- erodes social relationships; and,
- places increased socio-economic strain on already marginalized communities.¹⁴

Once Black people are incarcerated, the conditions of confinement are dire. Carceral institutions and punitive responses to harm serve as an additional site where anti-Black racism is borne out and rehabilitation takes a back seat. Some of the systemic issues that Black prisoners experience are:

- institutional racism;
- obstacles to accessing culturally relevant programming;
- disproportionate exposure to use of force;
- limited employment opportunities;
- frequent involuntary transfers;
- discriminatory correctional labelling; and,
- incongruent security classification.¹⁵

In his 2021-2022 report, the Correctional Investigator of Canada, Dr. Ivan Zinger, stated that, “All of the problems and concerns identified in the Office’s 2013 investigation, including racism, discrimination, stereotyping and labelling of Black prisoners remain pervasive and continue to raise significant concerns.”¹⁶ In other words, the existing criminal legal system is replete with anti-Black racism and comes at a significant social cost while producing little good.

Moreover, the criminal legal system is often seen as an unsafe and untrustworthy option for Black survivors seeking justice. Nneka MacGregor, co-founder and Executive Director of WomenatthecentrE,¹⁷ shared that in conversations with Black women survivors of sexual violence, many chose not to report their experiences to the criminal legal system, citing fear of systemic violence and skepticism regarding whether their stories would be believed. Research indicates that only 5% of sexual assaults will ever be reported to the police, and that when Black, Indigenous and racialized women do report their experiences, they often report feeling re-victimized by the experience of reporting.¹⁸

Survivors of sexual violence are often harmed by people they know, who they have financial, familial, legal and social ties to,¹⁹ and MacGregor shared that in conversations with Black women survivors, many expressed that they did not want their partners to be further criminalized but instead held accountable in meaningful ways. According to MacGregor, the current system fails both those who have experienced harm and those who have caused harm, as it lacks compassion, does not address the root cause of violence, and fails to recognize that some individuals who cause harm have also been victims themselves. MacGregor added that punitive approaches – which involve shaming and blaming – do little to address the conditions that facilitate and exacerbate harm, encourage accountability or foster behaviour change.

There is also a lack of understanding within the criminal legal system about the diverse and nuanced experiences of communities within Black communities. As educator, author and activist, Dr. Robyn Maynard states in her book, “Policing Black Live: State Violence in Canada from Slavery to the Present,” not all Black people are “demonized equally or identically.”²⁰ How individuals experience anti-Black racism is shaped by intersecting aspects of their identity, such as gender, sexual orientation, religion and place of birth, among others. For example, Black Muslim youth face distinct forms of criminalization shaped by the intersection of anti-Black racism and Islamophobia. These intersections are often misunderstood or ignored by the criminal legal system.²¹ Additionally, Black trans and gender diverse people experience overlapping forms of marginalization that contribute to high rates of poverty and homelessness, increasing their exposure to criminalized forms of labour, as well as to heightened police surveillance and criminalization.²²

The authors of Canada’s Black Justice Strategy report, published in June 2024, emphasize that in order for the federal government to regain the trust of people of African descent in Canada, it must prioritize reparatory justice as part of its justice strategy and criminal law policy.²³ The authors argue that while criminal law’s primary focus is on the actions of individuals, reparatory justice is concerned with injustice perpetuated by the state.²⁴ The report recommends expanding the availability and use of restorative justice options with a focus on Black defendants.²⁵

Restorative and Transformative Justice in brief

While restorative and transformative justice are explained in more depth later in this report, it is important to briefly define them now.

Restorative justice is generally understood as an approach to crime and conflict that encourages communication between those who have experienced harm, those who have perpetrated the harm, and the community that the harm has impacted. Restorative justice processes aim to restore, repair and heal those relationships through inclusive, democratic processes. By hearing how their actions impacted others, those who have caused harm are encouraged to take responsibility, which is meant to encourage them, along with those who have been impacted by the harm caused and communities, to begin the difficult work of healing and rebuilding collective well-being.²⁶ The origins of restorative justice trace back to Indigenous ways of understanding and applying justice that existed for centuries before the term “restorative justice” was created by settlers. In Canada, contemporary restorative justice emerged as a conflation of practices and approaches inspired by traditional Indigenous and Mennonite conflict resolution practices;²⁷ however, it is important to note that Indigenous justice and restorative justice cannot be considered equal.²⁸

Transformative justice is a relational and political approach to addressing harm and conflict that takes place outside of the criminal legal system. Transformative justice is about transforming the conditions that make violence possible in society, in communities, and in our families. It recognizes that crime is shaped by complex social forces, including dominant moral values and shifting power dynamics and it builds on the principles of restorative justice but extends beyond the criminal legal system.²⁹ It seeks not only to repair harm but also to address the underlying social conditions and power structures that contribute to violence and injustice.

Practical rationales for Restorative Justice mechanisms

There are strong moral reasons for using restorative justice mechanisms as opposed to the traditional criminal legal system processes: people who have been harmed deserve the opportunity to express their needs and have them meaningfully addressed, while those who have caused harm should be encouraged to take responsibility. Additionally, survivors, families, and communities should be involved in defining accountability, healing, and justice.³⁰ While these

moral reasons are primary, there are also practical benefits, including greater efficiency and cost savings. Due to its grassroots origins and view of criminal punishment, transformative justice has largely evolved through community networks rather than through nonprofits or organizations adjacent to the criminal legal system. Therefore, there is limited data and less formal research on the effectiveness of transformative justice approaches and tools. As a result, this section will focus primarily on restorative justice.

EFFICIENT AND COST-EFFECTIVE

Restorative justice programs can serve as an important solution to address issues of backlogged court proceedings. These programs have been found to be more efficient than the formal criminal legal process, less expensive, and to result in a reduced recidivism rate.³¹ Where the person who caused harm and the person who experienced harm are permitted to come to a resolution on their own timeline, without the pressure of reporting their progress to a judge at regular intervals, the parties are often able to resolve their matter within one or two mediation sessions.³² Meanwhile, in 2020, the median duration of an adult criminal proceeding was 139 days, and 15% of Superior Court of Justice matters exceeded the presumptive ceilings established by the Supreme Court of Canada in *R v Jordan*.³³

These efficiencies also suggest that a restorative justice process is more cost-effective than the traditional criminal legal process. For example, costs associated with prosecuting an assault charge land in the range of \$15,000, and on average \$398,663 to prosecute a murder charge.³⁴ Though existing state-sponsored restorative justice programming is limited to a subset of criminal offences, research reveals that for every dollar invested in restorative justice programming, the returns exceed that initial investment.³⁵ A mediation with two parties costs the state \$600 per three-hour session, and most matters are resolved within an average of three restorative justice conference sessions.³⁶

Despite growing recognition of the value of restorative justice, federal funding for these processes remains deeply disproportionate compared to the substantial resources allocated to the criminal legal system, particularly prisons. In 2020, the Government of Canada committed \$5.5 million over three to five years to support 12 restorative justice programs across the country. Additional funding included \$216.4 million over five years, and \$43.3 million in ongoing support for youth diversion programs.³⁷ While these figures may seem significant on their own, they pale in comparison to the over \$3 billion spent on federal incarceration in 2022-2023³⁸ and the \$20 billion allocated to the criminal legal system as a whole in 2014 alone.³⁹ This contrast highlights how much more is invested in punitive responses than in community-based alternatives for addressing harm, fostering healing and encouraging accountability.

5.5M

Funding over 3 to 5 years to support 12 restorative justice programs across the country in 2020

216.4M

Additional funding included over five years

43.3M

Ongoing support for youth diversion programs

3B

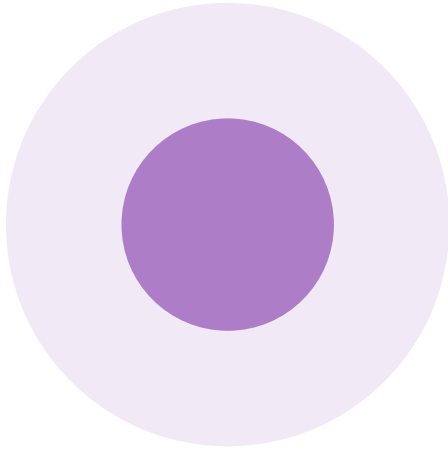
Funding spent on federal incarceration in 2022-2023

20B

Funding allocated to the criminal legal system as a whole in 2014 alone

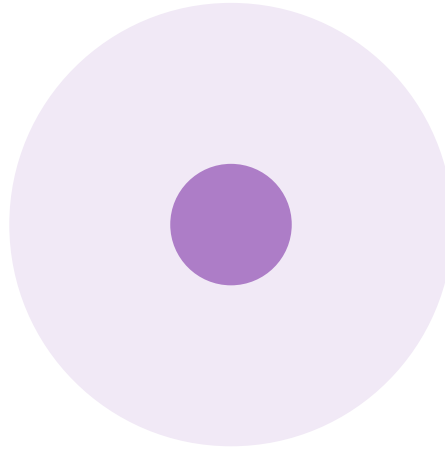
PARTICIPANTS FIND THE PROCESS TO BE POSITIVE

People who have experienced violence also report satisfaction with the restorative justice process. For example, Ottawa's Collaborative Justice Program found that 47.9% of survivors and victims they surveyed reported that meeting with the person who caused harm was the most satisfying part of the process.⁴⁰ Another 27.4% of respondents reported that the "feelings of closure" they experienced after a restorative justice process was the most satisfying part of the process.⁴¹ Similarly, research from the Community Justice Initiatives program in Kitchener, Ontario found that 91.4% of participants found the restorative justice process positive.⁴²



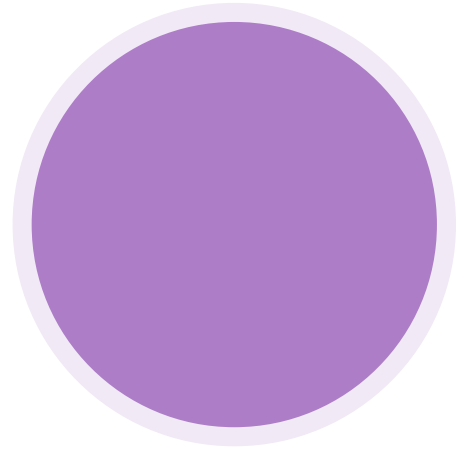
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91.4%

of participants found the restorative justice process positive

GENERAL PUBLIC SUPPORT

In addition to participants' experiences with restorative justice processes, public opinion research indicates that while most people living in Canada are not familiar with restorative justice, there is general support for having conversations between people who have experienced harm and those who have caused harm and providing an opportunity for the person who experienced harm to speak about the impact of the crime.⁴³ Interestingly, the research also revealed increasing support over time for using restorative justice to address a broader range of offences. For instance, in 2016, there was hesitance among those surveyed about applying restorative justice to issues like domestic or sexual violence, harm to a child, or other violent crimes. However, by 2023, most respondents supported the use of restorative justice for a wider variety of offences as long as both participants were willing to engage in the process.⁴⁴

This report drew on multiple research methods to ensure a well-rounded and informed perspective, guided by subject-matter experts in the field, whose insights helped shape the scope and focus of the inquiry. The project began with a comprehensive review of academic literature from Canada and the United States, as well as grey literature (i.e., reports and publications from community-based and non-profit organizations) to better understand existing programming and grassroots approaches to this work.

Another primary source of data for this report comes from qualitative interviews (see Appendix A). Between late 2024 and early 2025, 30 semi-structured interviews were conducted, in person and via Zoom, with interview participants deeply engaged in work related to restorative and transformative justice. These informants included community practitioners, people who have experienced criminalization, legal professionals, researchers, and advocates.

Finally, there was an environmental scan that arose from the literature review and interviews, where different existing restorative and transformative justice initiatives were reviewed, summarized, and influenced the principles for the guiding framework that is proposed at the end of this report.



What is Restorative Justice?

Restorative justice has its roots in Indigenous teachings, values and practices. Its roots refer not just to the origins of the techniques – such as circles – but also, most importantly, as Kay Pranis explores, the roots are “in the world view of [I]ndigenous people – the understanding of interconnectedness and the dignity of all parts of creation... [This is] an evolving concept... [that] has grown in importance over the years.”⁴⁵

The modern field of restorative justice in Canada emerged in 1974 in a small Mennonite community in Elmira, Ontario.⁴⁶ Mark Yantzi, a probation officer, was looking for a less punitive way to resolve a case involving two young people who had vandalized property across 22 homes while intoxicated.⁴⁷ Alongside his colleague Dave Worth, both of whom were members of the Mennonite church, Yantzi had been meeting with other church members to explore ways to live out their faith in relation to harm and conflict in their communities.⁴⁸ In response to the vandalism case, they experimented with alternative approaches to justice that they had discussed in their Bible studies. Their idea was to take the two young people to each home they vandalized, where they would meet the residents and apologize for their actions.⁴⁹ In each encounter, the youth apologized and offered to make restitution for their actions. The judge presiding over the case consented to this innovative resolution, and news of their approach quickly spread beyond the small Ontario town.⁵⁰

Some restorative justice practitioners argue that when the state intervenes in the name of the collective, it undermines community connectivity. Restorative justice sees crime primarily as harm done to communities, where individuals who cause harm have a responsibility to take active steps towards repair, centering the experience of those who have been harmed and communities in the process.

This approach and resolution was a strong contrast to what traditionally happens when someone commits a crime. In Canada's criminal legal system, crime is defined as harm done against the state, not an individual person. The state stands in for society at large, so when an individual contravenes a criminal law, they also violate their social contract with the collective. As a result, criminal court cases proceed as between the Canadian state and an individual person who the state accuses of violating the *Criminal Code*, written as *R* (state) versus *Jane Doe* (accused), for example.⁵¹ This arrangement limits the involvement of the people who have been harmed and other community members to that of witnesses in the court proceedings. These parties hold no formal standing, and the state can choose to proceed with charges with or without their involvement. As a result, many people who have been harmed report feeling ignored, neglected and/or abused by the criminal legal system.⁵² Had Mark Yantzi not intervened in the Elmira case, church members would not have been part of the conversation, nor the decision-making, and visiting each vandalized home would not have been a possible solution.

Some restorative justice practitioners argue that when the state intervenes in the name of the collective, it undermines community connectivity.⁵³ Restorative justice sees crime primarily as harm done to communities, where individuals who cause harm have a responsibility to take active steps towards repair, centering the experience of those who have been harmed and communities in the process. Restorative justice shifts the dynamic of state versus the accused by expanding the set of stakeholders beyond just the government and the defendant, to include victims of crime and community members who were affected by the wrongdoing.⁵⁴ Interview participant, Dr. El Jones has seen incarcerated people benefit from restorative justice process when done meaningfully, when it is community-driven and culturally specific, sharing that “people in prison find it rewarding, when they have an opportunity to speak to families and take accountability.” Another interview participant described restorative justice as an opportunity for healing and understanding past traumas.

Restorative justice encompasses a broad set of programs, practices and principles. While the restorative justice field has grown and developed over the years beyond the criminal legal system into schools and health care systems, for example, Howard Zehr, a leading restorative justice scholar and practitioner and Harry Mika, describe the fundamental principles of restorative justice as follows:

- i. Crime is fundamentally a violation of people and interpersonal relationships;
- ii. Violations create obligations and liabilities; and
- iii. Restorative justice seeks to heal and put right the wrongs.⁵⁵

Zehr describes restorative justice as providing an “alternative framework for thinking about wrongdoing.”⁵⁶ It is a relational theory of interpersonal and social repair that can be described as seeking to “restore the social equality in relationships to ones in which each person’s right to equal dignity, concern and respect are satisfied.”⁵⁷ Fania E. Davis reminds us that while often thought only to be a reactive response to harm, “restorative justice is also a proactive relational strategy to create a culture of connectivity where all members of a community thrive and feel valued.”⁵⁸

Some of the most common restorative justice processes include victim-offender mediation, community and family group conferencing, circles and community boards or panels.⁵⁹

Victim-offender mediation or reconciliation is one of the original forms of restorative justice programming. These encounters bring the person who caused harm and the person who was harmed together in the presence of an impartial mediator to reflect on the conflict, harm caused, and develop opportunities for restitution or reconciliation.⁶⁰ The mediator’s role is to offer the participants a structured setting and the tools they need to communicate in emotionally safe ways.⁶¹

Community and family group conferencing involves the family and friends of both the harm-doer and person who was harmed. A co-ordinator brings affected parties together to discuss and explore what options are available to address the problematic behaviour and pursue improved relations.⁶² The wider group is able to take stock of the impact that the harmful behavior had on the community and develop a plan to repair this harm. A supportive circle is often convened and the person who caused harm is encouraged to address those they have harmed, take responsibility for their actions, express their remorse and offer reparations for the harm they caused.⁶³

Circles go by several titles, including healing circles, sentencing circles, peacemaking circles, and community circles. Circles are often practiced in Indigenous communities and include a wider set of community members than victim-offender mediations or conferences.⁶⁴ In circles, the person who caused harm, the person(s) who experienced harm, community Elders, other community members, and court actors convene to discuss the consequences of a conflict and consider strategies to resolve it.⁶⁵

Community boards or panels are more often used in the context of young people who have caused harm. Here, trained volunteers from the community formally meet with the harmed person(s) or the person(s) who caused harm to facilitate a discussion about accountability, harms and needs. The board or panel decides what sanction is appropriate in the context and provides the harm-doer the opportunity to redress harm caused and contribute positively to the community.⁶⁶

Many interview participants highlighted challenges with the practice of restorative justice, noting that it has been co-opted by the criminal legal system, which contradicts its core values of being family and community-led and sensitive to intersectional identities. Jones asked, “How can it be restorative in a punishment system?” Furthermore, Jones pointed out that access to restorative justice programs for Black people is extremely limited, partly due to the perceptions that offences committed by Black people are more serious, rendering them ineligible for such programs and that Black people are less remorseful.

Another way that interview participants felt that current restorative justice practice has been insufficient, is that it often focuses on repairing relationships without necessarily decreasing the likelihood of harm from occurring in the future. Additionally, that restorative processes sometimes require guilty pleas and do not erase criminal records. Jessica Gadea Hawkins, Staff Lawyer at Toronto Metropolitan University’s legal clinic, referenced the current criminal legal system’s use of restorative justice processes as a “non-reformist reform”⁶⁷ and that there is a need for fully participatory research and program development with impacted communities. While restorative justice can also be used as a tool to resolve conflicts before they escalate into formal criminal matters,⁶⁸ some interview participants shared their skepticism, noting that without accountability and community support, misuse or shallow application of restorative justice undermines its value and intended purposes.

What is Transformative Justice?

Transformative justice is rooted in the view that prisons, policing, and surveillance are projects of racial injustice and class domination.⁶⁹ Fundamental to this movement is the view that though people of all races and socioeconomic classes engage in criminalized behaviour, it is poor, racialized, undocumented, disabled, queer, and gender diverse people who are more likely to be targeted for criminalization and punishment.

Transformative justice as a political framework and movement is based on the knowledge that systemic oppression and social inequality are present, relevant, and inform outcomes in the criminal legal system. It is an approach for responding to violence, harm, and abuse that takes place outside of the criminal legal system without creating more violence. As writer and educator Mia Mingus writes, “Transformative justice responses and interventions

“Transformative justice accepts that we are all learning, have trauma and make mistakes. Part of transformative justice is to reimagine what community safety is and create conditions for it.”
— adrienne maree brown

1) do not rely on the state (e.g., police, prisons, the criminal legal system, I.C.E., foster care system (though some TJ responses do rely on or incorporate social services like counseling); 2) do not reinforce or perpetuate violence such as oppressive norms or vigilantism; and most importantly, 3) actively cultivate the things we know prevent violence such as healing, accountability, resilience, and safety for all involved.”⁷⁰

Author adrienne maree brown states, transformative justice accepts that we are all learning, have trauma and make mistakes.⁷¹ Part of transformative justice is to reimagine what community safety is and create conditions for it. Transformative justice practitioners call for divestment from police and prisons, and reinvestment in housing, healthcare, education, food and other resources. In this way, they call attention to root causes of interpersonal violence and harm in order to encourage an analysis of the conditions that give rise to violence in the first place.⁷²

Some transformative justice practitioners’ critique restorative justice for being myopic and short sighted in its approach to conflict resolution and justice.⁷³ In her book, *Stories of Transformative Justice*, sociologist Ruth Morris noted that restorative justice failed to address issues of systemic oppression and the social inequalities present in the context of harm and conflict.⁷⁴

The contemporary North American transformative justice movement emerged from the organizing of Black working-class mothers in the early 1990s who were responding to the violence of criminal prosecution and mass incarceration in their communities.⁷⁵ In the wake of the first Critical Resistance and INCITE! Conferences in the late 1990s and early 2000s, organizers like Lena Palacios reflected on where communities should seek help when violence takes place (i.e., when violence occurs in family and/or community settings), and where the carceral state is primarily a source of further harm.⁷⁶ Palacios explains that “by developing community responses for support, intervention, healing, and accountability that do not rely on the state, these grass-roots movements are building capacity to address multiple forms of structural and institutional violence.”⁷⁷ Leaders in the transformative justice movement continue to be women of colour and survivors of intimate partner violence, family violence, structural violence and state violence.⁷⁸ These leaders draw much of their knowledge from Black queer feminist theory and accounts.⁷⁹ In their book “Beyond Survival,” Ejeris Dickson and Leah Lakshmi Piepzna-Samarasinha describe transformative justice as a “[way] to address violence without relying on police or prisons.”⁸⁰ Co-founder of the Third Eye Collective,⁸¹ Hirut Melaku, described transformative justice as a process where the Collective works to change individual and societal behaviour, and ask questions such as, “what would it take to stop the individual, societal and systemic harm?” Professor Michelle

Brown explains that “the work of transformative justice originates in life-seeking resistance to violence and premature social and biological death, one in which no other space of existence is possible other than the struggle to end violence.”⁸²

Transformative justice practitioners recognize that even if state violence were to end permanently, individuals would still experience conflicts with one another. Abolitionists generally believe that ordinary people should have access to the tools and resources necessary for resolving interpersonal conflicts without relying on state incursion.⁸³ This perspective aligns with the understanding of conflict criminologists, who, informed by the economic and social theories of political theorist and philosopher Karl Marx, view conflict as a natural and universal aspect of human interaction. In Marx’s view, conflict should not be avoided or denied; instead, it should be embraced.⁸⁴ Dr. Rachel Zellars, professor, researcher, longtime organizer and co-founder of the Third Eye Collective, expressed this as being “conflict curious” – an important orientation for those engaged in transformative justice practices.

In Black communities, transformative justice is championed and shaped by those who have experienced harm, particularly in cases of intimate partner and sexual violence, where the person causing harm is often someone known to them and holds greater power, both socially and within the criminal legal system. Survivors turn to transformative justice not only because traditional systems have failed to respond to their experiences of harm, but also because those systems routinely ignore or exacerbate the unequal power dynamics that Black survivors face.

Transformative justice supporters assert that the systems responsible for the oppression of vulnerable communities cannot generate forms of justice relevant to marginalized communities. Instead, they understand the criminal legal system as a project that can only serve to preserve existing conditions of structural violence.⁸⁵

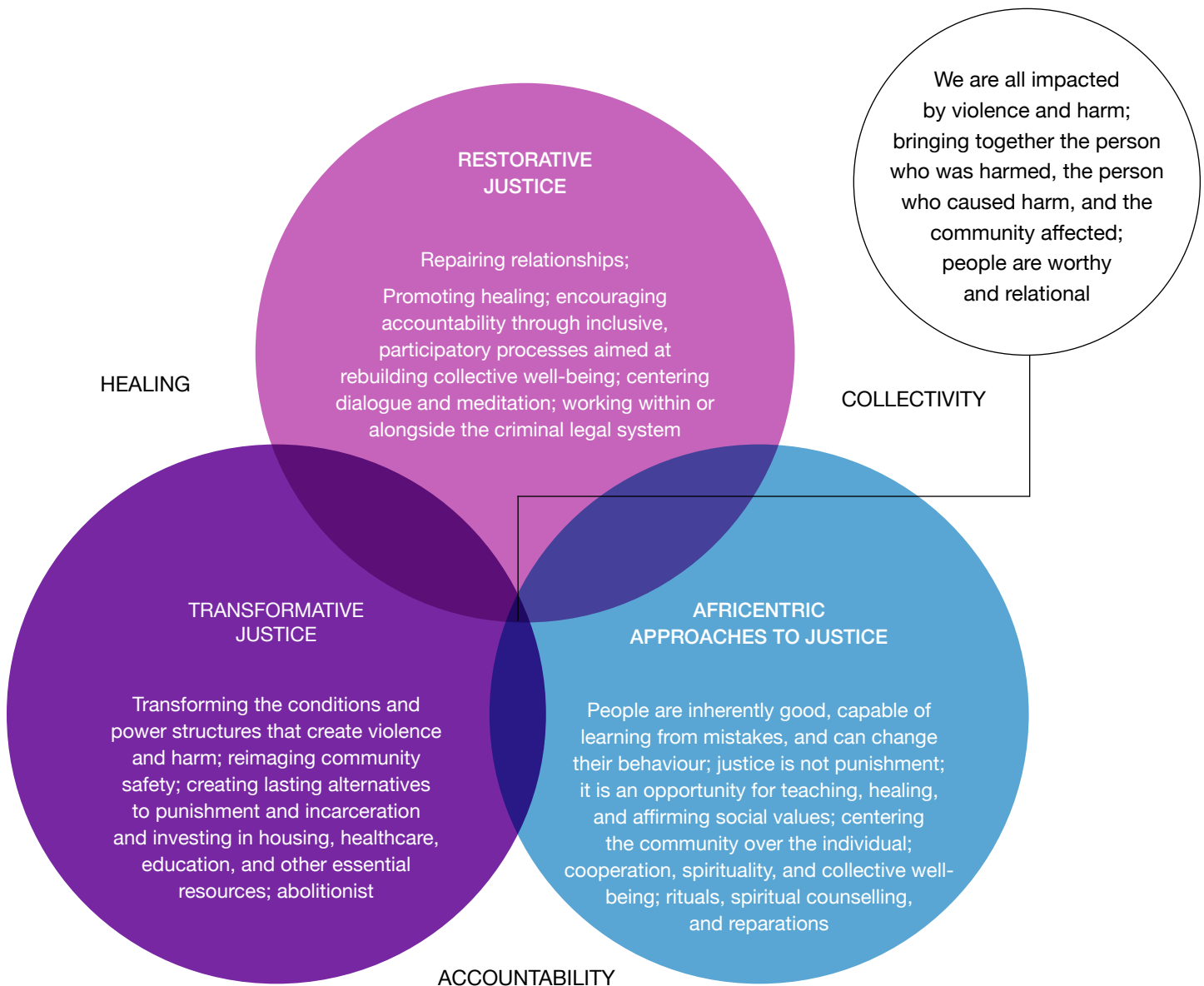
Comparing Restorative and Transformative Justice approaches

Many interview participants asserted that because racism is baked into the criminal legal system (the legislation, as well as its practices and processes), true restorative or transformative justice practices cannot be implemented in such a deeply carceral and racist system. Unless there is a commitment to decarceration, such processes will never be able to combat systemic anti-Black racism. Due to their deep distrust of the criminal legal system, transformative justice practitioners disapprove of engaging in reform measures that add legitimacy to the criminal legal system. One interview participant said that unlike restorative justice, transformative justice is not trying to be an alternative that gets co-opted by the state; it is a fundamentally different approach and politic. Dr. Johonna McCants-Turner emphasized that restorative justice often replicates the criminal legal system rather than replacing it, referring to George Pavlich’s concept of the “*imitator*” paradox,⁸⁶ and warned that “when we try to integrate restorative justice into the criminal legal system, it grows the system.” The reluctance to collaborate with the existing criminal legal apparatus serves as one practical difference between the transformative and restorative justice movements.

Interview participants also expressed that there are more commonalities than differences between the movements. As one practitioner shared, both restorative and transformative justice offer human-focused alternatives to the traditional criminal legal process and both face systemic, legal, and ideological barriers – especially in cases of sexual violence, where policies restrict their use.⁸⁷ One academic shared that very rarely have they seen a tenet or principle of transformative justice that restorative justice practitioners reject; while there are shifts in emphasis, transformative and restorative justice practitioners are gesturing towards a similar politic of harm reduction and accountability. As authors and educators, Cameron Rasmussen and Sonya Shah write, both restorative and transformative justice paradigms are needed, and by conflating the two

or even pitting them against one other, we not only miss “the complex and intersecting origins, philosophies, and practices of restorative and transformative justice” we also limit “possibilities for growing more just approaches to relationships, harm, and violence of all kinds.”⁸⁸

In this spirit, the guiding values, principles and practices presented at the end of this report are intentionally designed to draw from both traditions. They aim to support Black-led groups and organizations in building justice processes rooted in their unique contexts – processes that focus on Africentric approaches to conflict resolution, healing, accountability, and self-determination outside the confines of state control. Taking an approach to justice that differs from the current legal system is not new to Black people, particularly from a historical and cultural perspective that spans the African Diaspora over time. Research into Africentric justice mechanisms reveals that the court in *Morris* was mistaken in their assertion that “there is no basis to conclude that Black offenders, or Black communities, share a fundamentally different view of justice, or what constitutes a ‘just’ sentence in any given situation.”



AFRICENTRIC HISTORIC AND DIASPORIC APPROACHES TO JUSTICE

22

According to Africentric worldviews, although human beings make mistakes, we are naturally good,⁸⁹ and are capable of learning from our mistakes and changing our behaviours. In this context, facilitating justice under an Africentric worldview provides an occasion to teach, learn, and affirm social values and bonds rather than inflict further harm and punishment.⁹⁰ Through an Africentric perspective, the community – rather than the individual – is the primary focus. Cooperation should be prioritized over competition, and spirituality offers an important source of knowledge.⁹¹ Contrary to the court's assertion in *Morris*, these Africentric values exist in deep contrast to traditional Eurocentric worldviews. One interview participant shared that diasporic African communities have long-standing restorative justice traditions, often rooted in family and community healing. Eurocentric perspective focuses on control, materialism, individualism, competition, and the primacy of scientific knowledge.⁹² The divergent nature of these worldviews suggests that alternative approaches to justice developed solely from Eurocentric viewpoints and designed exclusively by white people are likely to inadequately address the cultural needs of Black, African Nova Scotian, Indigenous and racialized communities in Canada.



Dr. Morris Jenkins' article, *Gullah Island Dispute Resolution: An Example of Afrocentric Restorative Justice*, explores how traditional African and Gullah Island justice practices offer community-based, restorative alternatives to Western criminal legal systems. Despite the imposition of European legal structures, many African societies – including the Kpelle tribe in Liberia, communities in Nigeria, and groups in South Africa – have maintained their indigenous justice models rooted in communal values and spiritual harmony. For example, the Kpelle tribe in Liberia relied on Elders to mediate or arbitrate disputes between parties. The primary goal of these processes was to “restore the relationship between the parties and obtain spiritual harmony in the community.”⁹³ Indigenous people in South Africa developed a formal legal system based on the philosophy of *ubuntu*⁹⁴ a communitarian value that is core to several southern African traditions including the Zulu, Xhosa, Tswana and Venda cultures. *Ubuntu* is translated to mean, “a person is a person through their relationships,” emphasizing interconnectedness and collective care.⁹⁵ As African Indigenous justice scholar Okafo Elechi observes, Indigenous justice practices remain integral to many communities across the African continent and often operate alongside Western legal systems. Elechi suggests that the comparatively lower crime and incarceration rates in many African countries, compared to those in Western nations, may be connected to the “greater effectiveness” of these practices.⁹⁶

Dr. Jenkins draws parallels to the Gullah Islands of South Carolina,⁹⁷ where Black communities developed their own justice systems rooted in African customs and Christianity. At the beginning of the Civil War in the United States, many enslavers and plantation owners fled their land and left enslaved Africans with the ability to largely govern themselves.⁹⁸ In the early 19th century, many enslaved people were introduced to Christianity and adopted it, supplementing and substituting certain Christian traditions with their own African customs and rituals.⁹⁹ In this way, religion emerged as the foundation of Gullah social structure and community and leaders in the Black Church were afforded responsibility for plantation discipline and were highly regarded as leaders in Gullah communities.¹⁰⁰ The Gullah's “just law” had roots in West African justice mechanisms¹⁰¹ and focused on restoring peace, making reparations, and reinforcing community norms. These laws were spiritually and communally grounded, rejecting state-led “unjust” law.¹⁰² By the end of the Civil War, church-led structures like praise houses became the centre of the community and a source of law.¹⁰³

Dispute resolution processes within Black communities of the Gullah Islands offer valuable insight into how Black communities on Turtle Island have developed justice mechanisms – first in the absence of, then parallel to – state-imposed justice systems. Dr. Jenkins' research showed that although praise houses no longer serve as the centre of Gullah communities, formal and informal restorative justice practices are still used to help community members resolve interpersonal harm, disputes, and violence. Gullah communities still engage in informal restorative practices, including rituals, spiritual counselling, and reparations. Jenkins' research underscores how Africentric justice mechanisms – designed by and for Black communities – can offer meaningful, culturally grounded alternatives to punitive legal systems.

CURRENT RESTORATIVE AND TRANSFORMATIVE JUSTICE INITIATIVES

Pathways to Restorative Justice programs

Although the use of restorative justice varies greatly across the country, the *Criminal Code* and the *Youth Criminal Justice Act* ¹⁰⁴ provide the legislative mechanisms by which restorative justice processes can take place within the criminal legal system.¹⁰⁵ For example, section 717 of the *Criminal Code* permits Crown Attorneys to divert cases into alternative measures programs for those who are accused of a crime. Alternative measures can comprise a wide set of interventions, including community service, restitution, mediation, or restorative processes.¹⁰⁶ Police officers, crown attorneys and judges are all justice system actors who can engage restorative justice mechanisms pre-charge, post-charge, pre-sentence and at sentencing.¹⁰⁷ The Correctional Service of Canada has also used restorative justice inside prisons and in the parole process.¹⁰⁸ When alternative measures are used, criminal proceedings are suspended until the accused person completes the task(s) assigned to them.

Sentencing circles, derived from the First Nations concept of the talking circle, are often used as an alternative to the formal sentencing process or in diversion, outside the formal criminal legal process.¹⁰⁹ Alternatively, in some circumstances, judges will convene a sentencing circle as part of the process to craft a sentence for a convicted person.¹¹⁰ Sentencing circles were first used in the criminal legal system in a case called *R v Moses*,¹¹¹ when Judge Barry Stuart invited Elders to participate in the sentencing process for Philip Moses, a 26 year-old member of the Na-cho Ny'ak Dun First Nation in Mayo, Yukon.¹¹² One challenge of integrating practices like sentencing circles into the criminal legal process is the *ad hoc* nature of many restorative justice processes.¹¹³ In response, some courts have attempted to develop governing procedures to regulate sentencing circles. For example, In *R v BL*, the Alberta Court of Appeal directed that the facts of a case should be established before a sentencing circle is convened.¹¹⁴ Where disputed facts arise, the court suggested the sentencing circle may be temporarily suspended pending the establishment of the disputed facts.¹¹⁵ While this directive may sound straightforward, thrusting the parties back into an adversarial trial-like proceeding interrupts the trust-building inherent to restorative justice processes like sentencing circles and may render a return to the circle unfeasible.

These challenges highlight the tension between restorative approaches and the adversarial nature of the criminal legal system. As restorative justice programs evolve, particularly with an emphasis on addressing the needs of Black individuals, it is crucial to thoughtfully consider how they can be integrated into or work alongside existing legal frameworks. This integration should prioritize preserving their integrity, cultural roots, and transformative potential.

A snapshot of Restorative Justice programs across Canada

There are hundreds of restorative justice programs operating across the country, including through major service providers like Halifax's Community Justice Society¹¹⁶ programming, the Island Community Justice Society,¹¹⁷ the Alberta Community Restorative Justice Program,¹¹⁸ British Columbia's Community Justice Initiative,¹¹⁹ Circles of Support and Accountability (CoSA) in British Columbia, Manitoba, New Brunswick, Ontario, Québec and Saskatchewan,¹²⁰ and several restorative justice initiatives in Manitoba. Manitoba's *Restorative Justice Act* and Criminal



Justice System Modernization Strategy have served as cornerstones to the province's renewed commitment to providing greater access to restorative justice for residents.¹²¹

Nova Scotia has the longest running state-affiliated restorative justice program in the country, having begun as a pilot program for youth in 1999. The program was born from frustration among justice system actors who felt that the mainstream criminal legal system processes did not meet the needs of individuals who caused harm, the individuals who were on the receiving end of harm, nor the affected communities.¹²² Nova Scotia's Restorative Justice program was, from its inception, viewed as a partnership between the state and certain communities.¹²³ Program offerings have been limited by a moratorium instituted in the 1990s that states that restorative justice cannot be used in cases of sexual assault and intimate partner violence. This policy decision aligns with the view of some scholars that restorative justice should be used with extreme caution in cases where there is a significant power imbalance between the person who has caused harm and the individual who experienced harm, for example in cases of sexual assault and family violence.¹²⁴ However, in their report "Avenues to Justice: Restorative & Transformative Justice for Sexual Violence" for Women's Legal Education and Action Fund ("LEAF"), Tamera Burnett and Mandi Gray note that Nova Scotia's moratorium was originally intended to serve as a stop-gap measure, not a permanent policy.¹²⁵ According to their research, the exclusion of sexual and intimate partner violence was originally established as a way to give the province time to adapt and structure the restorative justice process in order to better serve these types of cases.¹²⁶ In the authors' view, "continuing the moratorium allows the government and the legal system to abdicate their responsibility to respond to the challenges of this area."¹²⁷ They further note that it is nearly impossible to effectively exclude certain types of crimes and harm from restorative justice programming because people seeking justice are often affected by multiple intersecting types of harm at once. Burnett and Gray argue that "complete bans on the use of alternative measures including restorative/transformative justice for sexual violence ignores these complicated situations and leaves service providers struggling to address the needs of clients while still respecting the rules set out by the province."¹²⁸

Ontario, Alberta, Quebec and Newfoundland have also instituted complete moratoriums on cases involving sexual assault. British Columbia bars the use of alternative measures for aggravated sexual assault.¹²⁹ As a result of these sustained moratoriums, restorative justice practitioners have limited training and expertise on responding to sexual violence.

In Ontario, many restorative justice programs are available for young people, including Peacebuilders. As part of their five (5) pillars, Peacebuilders offers intervention programs, including diversion programs. They serve youth under the age of 18 facing charges under the *Youth Criminal Justice Act*. Many of the youth they serve experience race and class marginalization. In

their interviews, frontline providers spoke about the challenges they encounter when engaging with the people who have been harmed by the young person in a restorative justice process, such as a healing circle. They shared that service providers are blocked from contacting with the person by either the police or victims' services. This interrupts the restorative justice process by rendering it impossible for communication to take place between the harm doer person who has caused harm and the individuals who were harmed. This opportunity for communication between parties is a fundamental principle of restorative justice.

Despite substantial research indicating the myriad benefits of restorative justice, such programming is often limited to offences related to property or offences committed by youth.¹³⁰ We heard repeatedly from interview participants that restricting access to restorative justice processes by offence type was problematic; they felt that no offence should be excluded. Likewise, there is strong research indicating restorative justice effectively reduces recidivism when used in the context of a broad set of offences, including violent offences.¹³¹

At the same time, restorative justice programming is not a one-size-fits-all solution to instances of interpersonal violence and conflict. Some practitioners and scholars recommend examining the communities where harm has occurred before engaging in a restorative justice process or other alternative justice processes. They are concerned that there is a risk that those who have experienced harm may experience pressure to comply with broader community interests rather than pursuing their own desires for accountability, responsibility and justice.¹³²

Limitations of standard Restorative Justice programs in serving Black communities

One of the major limitations of existing restorative justice programming is that it fails to examine the context within which harm takes place, particularly within Black communities. Michelle Williams notes that restorative justice “fails to address the fundamental structural, institutional, systemic and individual anti-Black racism that exists.”¹³³ Instead, existing restorative justice programming involves what she describes as “a limiting two-dimensional relational exchange against a backdrop of deeply entrenched racial and social inequality – i.e., no acknowledgment of systemic racism or structural power differentials between involved parties.”

Williams' analysis of how restorative justice programming falls short for Black communities in Canada reflects decades of critique from racialized practitioners and scholars about restorative

Restorative justice practitioners focused on the therapeutic, social service aspects of the practice and pathologized individual behaviour rather than considering the structural conditions that influenced those who caused harm and their decision making.

justice more broadly. Dr. Carl Stauffer and Dr. Johonna McCants-Turner explain that in the early days of restorative justice, the field focused almost exclusively on making restorative justice into a better social service and neglected other important matters.¹³⁴ Restorative justice practitioners focused on the therapeutic, social service aspects of the practice and pathologized individual behaviour rather than considering the structural conditions that influenced those who caused harm and their decision making.¹³⁵

In “The Little Book of Race and Restorative Justice: Black Lives, Healing, and US Social Transformation,” Fania E. Davis writes that during the first 40 years of the restorative justice movement, it largely ignored issues of race.¹³⁶ Davis describes this omission as surprising in light of the fact that it is racialized people, particularly Black people, who disproportionately bear the brunt of systemic harms from criminalization and punishment. To rectify this omission, Davis argues that “healing interpersonal harm requires a commitment to transforming the context in which the injury occurs: the socio-historical conditions and institutions that are structured precisely to perpetuate harm.”¹³⁷ Here, acknowledging the wider context of systemic racism and historical harms against communities that are now disproportionately criminalized, and committing to transform the resulting inequitable conditions are key actions on the path to developing effective restorative justice programming. Transformative justice offers a path forward by targeting both interpersonal and structural dimensions of harm, making it uniquely suited to address the historical and ongoing injustices Black communities face. By refusing to separate individual acts of harm from the systemic conditions that enable them, transformative justice pushes beyond traditional models to support healing, accountability, and liberation in contexts where state systems have repeatedly failed.

The experiences shared by the interview participants throughout this report echo these limitations and are further described in the following examples. For instance, we heard anecdotally that many Black youth reportedly do not have access to restorative justice processes, such as diversion programs. Staff at Peacebuilders, who provide diversion programs primarily to young Black men, noted that police officers rarely offer pre-charge diversion options to their clients. They could recall only one instance where they received a pre-charge diversion referral, which came from a probation officer.



Additionally, one interview participant pointed out the absence of race-based data collection within the criminal legal system, making it impossible to determine how many Black people are referred to pre-charge and post-charge diversion programs. Then, finally, another interview participant who primarily works with Black youth expressed that the diversion programs are often not led by Black facilitators and lack cultural relevance, which leads to young people feeling disconnected. The youth expressed sentiments like, “You don’t know me,” and felt compelled to engage in processes that did not resonate with them.

Black-focused Restorative and Transformative Justice initiatives

In our research, we asked interview participants to tell us about restorative justice initiatives that specifically addressed the needs of Black people and communities.

GOOD GUISE

Good Guise is an arts-based collective of Black, Indigenous, Latinx, racialized men and non-binary people committed to fostering cultures of consent, care, and accountability based in Toronto.¹³⁸ Rooted in abolitionist values and transformative justice, the collective explores pathways towards liberation and healing, highlighting the belief that no one is disposable. The collective uses creative expression, including photography, poetry, film, beatboxing, and martial arts, to spark conversations about healthy masculinity, vulnerability, and community-based responses to harm. Their work resists shame and punishment in favour of radical alternatives grounded in connection and responsibility.

JUSTICE HOODISTIQUE

In 2008, Montréal police fired bullets at three racialized youth in a park: Fredy Villanueva (Honduran) was shot and killed, and Denis Meas (Cambodian) and Jeffrey Sagor Métellus (Haitian) were struck by bullets but survived. Protests ensued, and a Social Forum was established as a space for politicization.¹³⁹ Funded by the Public Health Agency of Canada (PHAC), Justice Hoodistique emerged as a restorative justice pilot project operating in the neighbourhood where the park is located. Nancy Zagbayou, a lawyer who works with Justice Hoodistique, shared that the project was born out of the desire to help young people sharpen their critical thinking skills and organize themselves as a collective force. It is reserved for accused persons of African descent ages 12 to 64 whom Crown Attorneys refer under Québec’s General Alternative Measures Program, and only some criminal offences are eligible for the program.

According to Zagbayou, Justice Hoodistique employs a holistic, multidisciplinary, and intersectional approach through its seven-month program, where the whole being of the person accused of an offence is viewed beyond just a lens of criminality and victimization. Zagbayou shared that the unique aspect of the project is the programming – where participants engage in two retreats, which include a variety of workshops on poetry writing, yoga, and meditation, and classes including Black history, political history, self-esteem, and mentorship opportunities. Then, the person who has caused harm determines what action to take to repair the harm caused with the help of their social circle – the Hoodistique circle. They may repair the wrong through community service, a donation, or mediation. Through Justice Hoodistique, if the person who has been harmed would like to participate, the project helps facilitate victim-offender mediation. Justice Hoodistique also allows the person who has caused harm to receive psychosocial support. At the second retreat, the person who has caused harm meets with formerly incarcerated people, who share their experiences of incarceration and the impacts having a criminal record has had on their lives. Once the participant completes the program, the charges are dismissed, and the person who has caused harm will not have a criminal record.

LANIA EL MUGAMMAR

Rania El Mugammar is a Sudanese artist, abolitionist, and liberation educator whose work spans transformative justice, reproductive justice, digital justice, and art as a tool for liberation.¹⁴⁰ As a multidisciplinary performer, writer, and anti-oppression consultant, she centers abolitionist principles in her education and creative work. Rania offers workshops to individuals, grassroots groups and organizations on transformative justice principles and practices, which introduce the core values of transformative justice and community accountability, help people unpack punitive and retributive justice models, reflect on criminalization, and develop practical tools for interpersonal and community-based interventions, and cultivate a framework for collective liberation through mutual responsibility and healing.

RITTENHOUSE: A NEW VISION

Rittenhouse: A New Vision (RaNV) is an organization grounded in transformative justice founded by Ruth Rittenhouse Morris, a Canadian author and advocate. RaNV promotes decolonization, abolition, decarceration, decriminalization, and structural equality.¹⁴¹ Its work includes public education, training, advocacy, and direct support for people impacted by the criminal legal system, especially those confined to carceral spaces such as prisons, psychiatric institutions, immigration detention, and disability institutions. While RaNV does not provide programs specifically for Black people and communities, their work honours the legacies of Indigenous, Black, racialized, disabled, 2SLGBTQ+, and poor communities, and they acknowledge it is these communities who have long practiced restorative, transformative, and healing justice. In addition, RaNV remains one of the few organizations in the country that provides support with preparing for and facilitating transformative justice circles and family conferencing.

SANKOFA JUSTICE INITIATIVE

The African Canadian Civic Engagement Council (ACCEC), located in the heart of Alberta Avenue, in Edmonton, Alberta implemented the Sankofa Justice Initiative (SJI) which aims to address the disproportionate representation of African Canadians in Alberta's punitive legal systems.¹⁴² One of the initiatives under the SJI program is its restorative justice program which focuses on repairing harm from criminal acts through reconciliation, healing, and rebuilding relationships. It actively involves people who have caused harm in acknowledging their wrongdoing and taking responsibility, promoting accountability and rehabilitation, in collaboration with Alberta's provincial court. The program focuses on people who have experienced harm— and prioritizes their needs and involvement in resolution decisions. Community members also play a key role by; offering support and fostering reintegration for both those who have been harmed and those who have caused harm.

At the heart of their work are *wisdom keepers*: trusted individuals who uphold cultural protocols and guide programming through deep knowledge of African philosophies and traditions. ACCEC also collaborates with Indigenous Elders from Turtle Island, recognizing the diversity of Indigenous perspectives and integrating them into its work. Through experiential learning and cultural programming, with a focus on Black youth, ACCEC fosters intergenerational transmission of African Indigenous knowledge and celebrates cultural diversity. Over the past five years, the Wisdom Keepers Circle has become a cornerstone of ACCEC's efforts to promote cultural awareness, restorative practices, and community healing.

THIRD EYE COLLECTIVE

*"We are a collective of survivors, led by Black women and supported by the beloved work of transformative justice practitioners in our wider community. We are mothers, sisters, daughters, god-mothers, other mothers, aunties, birth practitioners, community workers, and scholars. We stand on the shoulders of our Black feminist foremothers and sister-ancestors who have shown us how to do the work that we do in our communities. We honor those in death with our lives and our work in the present."*¹⁴³



The Third Eye Collective began its work in 2013 in Montréal with Black mothers in response to personal experiences of intimate partner violence and the failed response of legal systems – both family and criminal – being used against those who had experienced harm. The founders of the Third Eye Collective learned firsthand the lack of Black-led alternatives for those seeking a transformative justice process outside of the criminal legal system. The Third Eye Collective members trained with the Bay Area Transformative Justice Collective in its early days and have since expanded to Halifax, Nova Scotia. Members support Black people and communities by leading accountability processes, supporting survivors, developing transformative justice training opportunities and study groups, engaging in birth-related work, and participating in advocacy opportunities around reproductive justice issues. Co-founders Dr. Rachel Zellars and Hirut Melaku shared that some barriers to doing this work include prosecutorial discretion, lack of skilled or experienced practitioners, and overreliance on punitive responses – even within Black communities. They shared the importance of investing in Black-led, community-rooted initiatives, emphasizing mutual aid, small-scale relational justice and survivor-centred healing and engaging with Black-led organizations, Elders, visible community leaders, churches and mosques in a community to understand what is known and misunderstood about transformative justice. Dr. Zellars also shared the importance of decoupling community-based justice work from government funding and institutionalization.

WOMENATTHECENTRE

WomenatthecentrE is a survivor-led nonprofit organization working to eradicate gender-based violence against women, girls, two-spirit, trans and gender-diverse peoples through personal, political and social advocacy.¹⁴⁴ After conducting a three-year research project, where they documented insights from survivors of sexual abuse, WomenatthecentrE published a report in 2020 entitled *Declarations of Truth*. The report documented and explored the possibilities of an alternative model of justice for sexual violence survivors due to the harm caused by the current criminal legal system. It also stressed the need for justice models that allow survivors to define what justice looks like for them while also creating spaces for those who have caused harm to learn, unlearn, and take accountability. In evaluating both restorative and transformative justice models, the report found that while both models have merits, transformative justice had the ability to acknowledge the role the state plays in “perpetuating ongoing racist, misogynistic violence, primarily against Black and Indigenous communities” and had more components matching the elements survivors had shared with the researchers about what they were looking for. Nneka MacGregor, co-founder and Executive Director shared that they called the framework, *Transformative Accountability & Justice* incorporating foundational principles of compassion and kindness for both those who have been harmed and those who have caused harm. MacGregor also shared that some challenges in implementing restorative and transformative justice programs include the lack of funding necessary to expand these initiatives, which risks leaving them as theoretical reports rather than as vehicles of real change. Another critical issue is the need for proper training, ensuring that those involved in the process have the skills to understand the complexities of survivors’ experiences, including how violence intersects with poverty and homelessness.

WomenatthecentrE is currently working on a five-year initiative (2021-2026) titled, *Truth and Transformation: Advancing Gender Equity for Black Women, Girls, Gender-Diverse and Trans People in Canada*, designed for Black women-identified, Black girls, Black gender-diverse and Black trans individuals who have experienced anti-Black racism and gender-based violence.

YOUTH ASSOCIATION FOR ACADEMICS, ATHLETICS, AND CHARACTER EDUCATION

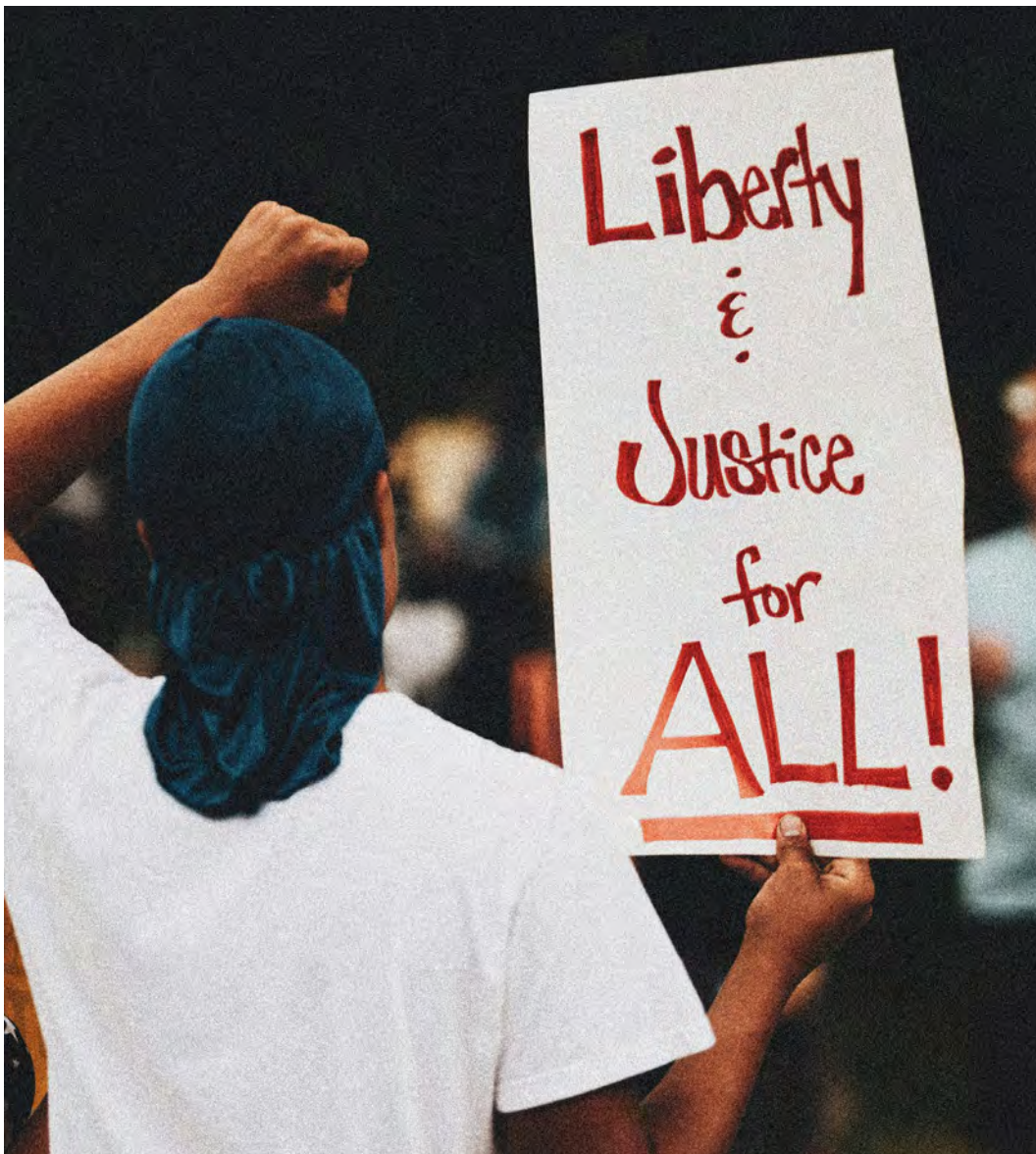
The Youth Association for Academics, Athletics, and Character Education (“YAACE”) is a Black-led, Black-focused, and Black-serving organization that provides culturally reflective programs and services to mitigate the opportunity gap for racialized and under-resourced communities.¹⁴⁵ It was founded in 2007 to address the needs and polarization of the communities in the north end of Toronto, Ontario. YAACE, in partnership with Kids of Incarcerated Parents, operates a program called, Fresh Start, a strengths-based, trauma-informed and restorative justice program for youth 12-17 years of age who are or at-risk of being in conflict with the law. This diversion initiative provides individualized support, mandatory workshops, a rehabilitative workbook that youth complete, and follow-up mentoring to build protective factors and foster resilience in program participants. Upon entry, youth are assessed for their strengths and needs. They are then assigned a mentor who collaboratively works with a caseworker to provide individualized supports and create an action plan for each participant. Dr. Ardavan Eizadirad, Senior Manager-Research, Evaluation & Knowledge Mobilization, shared that youth are often referred to the program through their justice partners (e.g., crown attorneys, defence lawyers) and families. Dr. Eizadirad also shared that many of the young people they work with find the restorative justice process healing and empowering, and noted that while they have not offered opportunities for face-to-face mediation or interaction between those who have caused harm and those who were harmed, the families of the young people are often involved and also provided with support to navigate the criminal legal process.

TOWARDS A LIBERATORY JUSTICE FRAMEWORK

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While existing restorative justice programs for Black communities offer vital alternatives to punitive systems by prioritizing healing, accountability, the involvement of all affected parties, and open dialogue and communication, they often operate within or alongside existing legal structures. These efforts, while important, may be limited in their capacity to fully address the root causes of harm or envision justice beyond the carceral system.

Restorative justice does not prescribe a single or exact framework or approach. Instead, restorative justice initiatives are meant to be designed to distinctly serve and respond to the needs of the community they exist within. Howard Zehr directs that “restorative justice should be built from the bottom up, by communities in dialogue assessing their needs and resources and applying the principles to their own situations.”¹⁴⁶ Similarly, transformative justice practices, including abolition movement organizing, can materialize “across a continuum of everyday acts” that are not explicitly tied to a prescriptive set of actions, but are instead connected by the practice of constructing new worlds without punishment.¹⁴⁷ Ejeris Dixon, Founder of Vision Change Win



We learned that attention and resources should be placed on creating and sustaining alternative frameworks that intervene before harm occurs, [...] before the criminal legal system imposes a criminal charge.

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in New York City, explains that transformative justice is not one type of response. Instead it can look like “accountability processes, ways that we protect and interrupt violence in the moment through de-escalation or bystander intervention, ways that we can support survivors to heal, and structures that we create for communities to address violence, harm, and emergencies outside of the carceral state.”¹⁴⁸ Additionally, we heard common themes from interview participants about what they would like to see in the future. We heard that the rich diversity within Black communities complicates a one-size-fits-all program for Black people across the country and would run counter to restorative and transformative justice principles, which centre lived experience, local context, and community-defined needs. At the same time, we heard that collectively imagining and building processes rooted in care, accountability, and liberation is essential to forging a just and transformed future for Black people. Further, we learned that attention and resources should be placed on creating and sustaining alternative frameworks that intervene *before* harm occurs, for example by such as resourcing community organizations and programs focused on employment, housing and education, and interventions *pre-charge*, before the criminal legal system imposes a criminal charge. Additionally, interview participants overwhelmingly shared the importance of education – both in our communities and with participants in a restorative or transformative justice process. This education may include information about Indigenous and African ways of engaging in conflict resolution as well as political education to combat the inter-generational trauma many Black people and communities in the diaspora live with. And finally, many interview participants spoke about widespread misperception that exists: the suggestion that restorative or transformative justice approaches are “soft” and a way for people who have caused serious harm to “get off easy.” To the contrary, real accountability and boundaries are central to any effective alternative justice resolution process. Some examples of accountability and repair shared were forms of repayment, restrictions in community settings, apologies, community services, etc.

In light of all the above, we have proposed a set of guiding values, principles and practices for designing a framework for Black communities that intentionally weaves together aspects of both restorative and transformative justice – grounded in community care, self-determination, and transformative values. While each community will develop their own, we are hopeful the lists below will help ground this work.

Rooted in Black communities’ lived experiences, needs, and wisdom, we are hopeful that justice frameworks that emerge from these values, principles and practices will have the potential to both repair harm and to dismantle the conditions that produce harm in the first place. We dare to imagine justice as both a process of healing and a pathway to liberation for Black people.

Values for a Black-focused justice framework

Readiness to engage and build a Black-focused justice framework is dependent on the presence and enduring investment in a socio-organizational ecosystem characterized by the following values, which have been developed based on the literature outlined above, as well as the examples shared from the interviews we conducted.

Values	Description
Mutuality	We honour the deep connections between individuals, families, and communities, recognizing that our liberation is collective.
Integrity and Authentic Connection	We commit to showing up truthfully and building relationships rooted in honesty, transparency, and care.
Trust	We cultivate trust through consistency, accountability, and shared commitments, knowing it is foundational to healing and transformation.
Compassion	We lead with empathy and an understanding of each other's humanity, especially in moments of harm and conflict.
Humility and Courage	We approach justice work with openness and a willingness to be challenged, even when it is uncomfortable.
Healing	We prioritize healing at every level – individual, collective, and systemic – as a necessary condition for justice and liberation.
Responsibility and Accountability	We embrace responsibility for harm and strive to be accountable in ways that are meaningful, transformative and sustainable. We recognize that accountability is an ongoing process and is not imposed from the outside.
Sharing and Sustainability	We value the equitable sharing of resources, knowledge, and power in ways that sustain people and communities over the long term.
Transformation and Growth	We believe in the possibility of change – for individuals, communities, and systems – and work towards growth that is rooted in justice.
Liberation and Freedom from Violence	We envision and strive for a future beyond carcerality and oppression, where Black people can thrive in all our complexity, beauty, and brilliance. This future includes freedom from both state and interpersonal violence.
Courageous Safety	We understand that true safety often requires risk – especially the risk of vulnerability, honesty, and challenging the status quo. We acknowledge that safety is not always the absence of conflict, but the presence of honesty and care.
Holism and Intersectionality	We centre the well-being of all involved, attending to emotional, spiritual, relational, and material dimensions of individuals, families and communities.

Principles for a Black-focused justice framework

This set of principles encompasses common characteristics of alternative justice processes and can be applied to building a customized and flexible justice framework that responds to the needs of the community it serves. They build on research from the literature canvassed above¹⁴⁹ and the information gleaned from the interviews we conducted. The values described in the previous section hold and reinforce these principles. The principles are not meant to be applied in a strict sequence; instead, they are interconnected and work synergistically to support meaningful justice.

Principles	Description
Black-led	The framework should be grounded in the leadership, lived experience, and political vision of Black communities. Black-led approaches ensure that the work of justice is responsive to the specific forms of violence, surveillance, and mass incarceration that Black people face, that it is culturally relevant, while affirming Black life, agency, and expertise in imagining and building alternative systems of care and accountability.
Community accountability	In their book, <i>Fumbling Towards Repair</i> , Mariame Kaba and Shira Hassan share a set of best practices for transformative justice that include community accountability work. ¹⁵⁰ As defined by the Audre Lorde Project, this involves “strategies aimed at preventing, intervening in, responding to, and healing from violence through strengthening relationships and communities emphasizing mutual responsibility for addressing the conditions that allow violence to take place, and holding people, accountable for violence and harm.” ¹⁵¹
Community ownership	Building the framework should begin with meaningful consultations with diverse affected groups ¹⁵² to ensure the sustainability and credibility of these initiatives within their communities. ¹⁵³ Project design should involve these communities in the planning, implementation, and evaluation stages to avoid inaccurate assumptions about community culture and needs. This participatory strategy also fosters community ownership of initiatives that might otherwise feel unfamiliar or new.
Independent of the criminal legal system	While restorative justice programs that are embedded in the criminal legal system will continue and act as important non-reformist reforms, the proposed framework would exist parallel to and independent of the system, while also ensuring the processes are legally protected. As many interview participants shared, an independent process outside of the system allows for a Black-focused justice process that can truly interrupt systemic criminalization of Black communities.

Trauma-informed approach	As emphasized by Kaba and Hassan, a trauma-informed approach is an essential element of community accountability work and includes holding “a basic understanding of the psychological, neurological, biological, social and spiritual impacts that trauma and violence can have on people.”¹⁵⁴ This approach acknowledges that the line between a person who has caused harm and a person who has been harmed is not always distinct, as many respond to their own experiences of harm by engaging in harmful behaviours. Individuals who practice trauma-informed conflict resolution and facilitation focus their efforts on approaching people who have been harmed and who have caused harm with compassion and care.
Early intervention	Early intervention prioritizes engagement with community-based conflict resolution strategies <i>before</i> a charge is made or before litigation commences.¹⁵⁵ The earlier these alternative processes are used, the more likely a conflict can be resolved without engaging formal legal processes. Examples include programs in schools that teach conflict resolution skills to young people or established mediation programs that support conflict resolution for landlords and tenants.
Harm reduction	Kaba and Hassan emphasize the importance of a harm reduction approach in facilitation work. This approach provides support and access to individuals without preconceived judgments, prioritizing self-determination and survival amid systemic oppression and violence.¹⁵⁶ More than a public health strategy, harm reduction is a liberatory philosophy shaped by marginalized communities, including queer, trans, and gender-diverse individuals, people of colour, individuals who use drugs, people who engage in sex work, and HIV/AIDS survivors.¹⁵⁷
Collective interventions	In Black communities, collective interventions already exist in the form of cultural care traditions and mutual aid. These interventions are diverse in their tactics, from supporting someone who has been harmed to organizing community-based responses to harm. Programs should account for these scalable, adaptable, community-rooted responses.
Accessibility	Barriers to access can dissuade people from using alternative processes. Programs should be easily accessible, where possible, timely, transparent, and have reduced or no costs for individual persons. Programs should be user-friendly, for example, located in places that are welcoming and safe to community members while maintaining confidentiality, ideally outside a courthouse.¹⁵⁸

Voluntariness and choice	Ensuring genuine voluntariness in programs for marginalized communities requires that participants engage by choice, free from pressure or obligation. This empowers individuals, respects their autonomy, and prevents coercive practices that can create further harm. To facilitate true voluntariness, all parties should receive complete information about the process and alternatives and the implications of their choices.¹⁵⁹ While participants may have apprehensions, they should make informed decisions about whether to proceed with the alternative justice process. Understanding that an encounter between the person who has been harmed and the harm-doer is not always chosen or appropriate is essential.¹⁶⁰ Acknowledging that not everyone may agree with the outcomes of the alternative justice process is crucial. In such cases, mediators may need to make difficult decisions to ensure safety, which could conflict with participants' wishes. To support these mediators, appointing an external mentor or Elder to oversee cases is a recommended best practice.¹⁶¹
Careful preparation	Careful preparation is vital for effective restorative and transformative justice programs. Intake processes should identify necessary documentation and educational materials for each participant and clarify their roles early on. Discussions about sharing relevant information should occur before starting any accountability circle, mediation, or other process.¹⁶² Other necessary preparations may include one-on-one conversations or counselling with participants and ensuring each participant has their basic needs met, including housing, medication and food, to be fully present in the process.
Opportunities for in-person dialogue	Creating opportunities for in-person (or face-to-face) dialogue (based on the needs of the person who has been harmed) greatly enhances individuals' involvement in their own sense of justice; however, such dialogues are often not accessible to those involved in traditional criminal legal processes. All parties in a restorative or transformative justice process must agree to such discussions. If full consent is not possible or face-to-face meetings are not feasible, alternatives like video conferencing can still be beneficial.¹⁶³
Advocacy and support circles	Participants should have the opportunity to enlist the support of others in their network who might provide advice or themselves be affected by the original harm. The involvement of lawyers can sometimes hinder restorative and transformative justice processes since they are trained in traditional adversarial settings. However, lawyers experienced in alternative justice can be less detrimental. If involved, they should allow clients to speak for themselves, participate actively, and make decisions without external pressure.¹⁶⁴

Confidentiality

Confidentiality is vital for the effectiveness of restorative or transformative justice programs and should be clearly outlined during the intake process and at key stages.¹⁶⁵

While complete confidentiality of group-mediated discussions cannot be guaranteed, all participants should agree to hold conversations in confidence. This means anything said during the conflict resolution process should not be shared outside of it. Violating this confidentiality can erode trust. While admissions made by individuals who have caused harm in processes under section 717 of the *Criminal Code* are protected from use in other legal proceedings, not all restorative justice processes fall under this section.¹⁶⁶ Further advocacy is needed to ensure that admissions in all restorative processes are deemed inadmissible in future legal cases.

There is also a distinction between the confidentiality of discussions and the need for transparency regarding outcomes. Whether outcomes are made public is important; in some cases, transparency can foster systemic change, while privacy may be necessary for effective resolution in others.¹⁶⁷ Striking a balance between public transparency and individual privacy should be discussed throughout the process to ensure understanding among participants.

Relevant and realistic outcomes

For alternative justice mechanisms to be credible and sustainable, outcomes must be realistic and actionable.¹⁶⁸ This requires that the necessary resources and opportunities that correspond with the outcomes of a process, such as community service, drug rehabilitation, anger management programs, therapeutic services, etc., are available or can be developed. Additionally, the process should include evaluation measures to monitor compliance and establish consequences for non-compliance.¹⁶⁹

Flexibility and responsiveness

Flexibility and responsiveness are key principles in community-based justice work. Each process should be tailored to the specific conflict and the needs of those involved.¹⁷⁰ Rigid structures that limit customization should be avoided. Participants must have the ability to withdraw from a process, ask for space and time, or to get support around any trauma stemming from engaging in the process. All efforts should prioritize self-determination for individuals and communities.

Practices for a Black-focused justice framework

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The following practices intertwine and work together in light of the above-noted values and principles for a restorative and transformative justice framework for Black people and communities, that highlights care, connection and political grounding.

Practices	Description
Committing to Loving Practices	As bell hooks articulated in “All About Love: New Visions,” love is a political and collective practice rooted in action, care, respect, responsibility, and honest and open communication. These elements are essential to transformative justice processes. When we prioritize love in our practices, abuse and oppression cannot co-exist. By cultivating loving practices, we can recognize each other’s full humanity, challenge punishment-based mindsets, embrace contradictions and build collective care.
Practicing Accountability	We take responsibility for our actions and their impacts, individually and collectively, <i>before</i> harm escalates or is named, understanding accountability as an ongoing practice, not a reactive step.
Centering Relationships Over Outcomes	We prioritize the health, care and integrity of our relationships above productivity, performance, or fixed goals, recognizing that meaningful change grows from connection.
Fostering Decentralized and Emergent Leadership	We create space for multiple leaders, shared power, and organic growth rooted in community, not hierarchy.
Upholding the Humanity and Dignity of All	We refuse to dehumanize, even in the face of harm. We hold space for people’s full complexity, recognizing that no one is disposable.
Embracing Contradiction and Complexity	We resist binary thinking. Instead, we make space for paradox, tension, and nuance as necessary conditions for justice, growth, and transformation.
Committing to Personal Healing Beyond the Collective	We engage in our own inner work alongside collective efforts, knowing that group healing is only possible when we are also healing ourselves.
Practicing Collective Care and Shared Responsibility	We lead together, care for one another, and act in ways that reflect our interdependence, rejecting individualism and isolation.
Interrupting Oppression to Build Trust and Belonging	We name and challenge harmful power dynamics within ourselves and our spaces as part of building just and connected relationships rooted in trust.
Moving through Conflict with Honesty and Care	We do not avoid conflict. We move through it in ways that foster truth and trust, seeking transformation rather than control or punishment.

Staying Rooted in Purpose and Vision	We stay focused on the vision and work, even in the face of discomfort or challenge, because we know the stakes are high and the work is urgent.
Engaging in Ongoing Reflection and Adaptation	We stay open to feedback and change, recognizing that learning is continuous and growth is not linear.
Practicing Gratitude and Generosity	We honour the labour, care, and courage that make our work possible. We express appreciation and practice generosity with time, resources, and attention.
Centering Survivor Self-Determination	We follow the lead of survivors, supporting their choices and needs without imposing ideas of what healing or accountability <i>should</i> look like.
Understanding Safety as Relational and Ongoing	We recognize that safety is not fixed or guaranteed; it is co-created, relational, and must be continually tended to in practice.
Distinguishing Between Safety and Comfort	We do not equate comfort with safety. We expect discomfort as a part of justice work, especially when truth is being spoken.



NEXT STEPS: BUILDING TOWARDS JUSTICE ON OUR TERMS

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“RJ/TJ offer the most powerful tools to confront anti-Black racism—but only if we keep them outside the systems that have always harmed us.” –Interview Participant

The findings in this report affirm a deep truth: the current criminal legal system does not serve Black communities, and restorative and transformative justice processes cannot simply be inserted into broken systems. Yet it also points towards powerful possibilities: community-rooted pathways, survivor-centered frameworks, and bold new models built outside carceral logic.

The following next steps reflect what we heard, learned, and envisioned across conversations and contributions to advance transformative and restorative justice work that is both principled and practical:

1. **Resource Black-Led and Community-Rooted Justice Pathways focused on Restorative and Transformative Justice Frameworks**

- Fund and invest in small-scale, Black-led and grassroots initiatives (versus academic or state institutions) embedded in communities to design non-state, community-led justice hubs where those who have experienced harm and those who have caused harm can access care, support and accountability outside the criminal legal system.
- Investing in community-based groups will allow programs to respond to community needs and avoid institutional co-optation that may replicate control, surveillance or punitive oversight. Sustained, flexible funding will help support long-term relational work, including mutual aid, healing circles, harm reduction, and safety planning strategies, not only formal system interventions.
- Strengthen informal care networks by training and resourcing community-based practitioners skilled in trauma-informed and culturally grounded practices. These Black-led groups can then work to create culturally responsive, restorative and transformative justice frameworks that address the realities of Black communities, intergenerational trauma and systemic harm. They can learn from and draw inspiration from Indigenous justice practices, ensuring that they do not replicate or appropriate them.

2. **Expand Awareness, Access, and Community Education**

- We heard in our interviews that many Black people and communities do not know that restorative and transformative justice programs or initiatives exist, or they do not know where or how to engage with such processes safely.
- Therefore, next steps can include developing materials (such as infographics, videos, zines, and podcasts) and hosting community meetings and town halls to explain existing options. Additionally, building “first contact” pathways will enable Black people seeking alternatives to engage and connect with trusted practitioners or support networks safely. Outreach efforts should focus on explaining restorative and transformative justice, addressing the isolation often experienced by both those who have been harmed and those who have caused harm.
- Raising awareness and building community political education can assist with validating community-based knowledge, resilience, and leadership in shaping what safety and justice look like.

3. Resource the Material Needs of People who have been Harmed

- For Black people, especially those navigating multiple forms of marginalization (including gender, class, migration status, and more), the economic fallout from violence or harm can be devastating and long-lasting.
- As part of restorative and transformative justice efforts, dedicated funding and infrastructure to support survivors' basic needs such as housing, food, childcare, healthcare, legal support, and income security is essential.

4. Transform Systems Through Non-Carceral Reform

- Part of the work must include advocacy to reform terms such as “victim” and “vulnerability” to reflect the experiences of Black communities.
- Create systems that allow individuals to speak the truth without fear of legal repercussions, particularly for Black women and gender-diverse people. Additionally, we must advocate for legal reforms that protect those who have been harmed and who speak out, as well as protections for those who take responsibility. Build parallel systems of protection when the law falls short.
- We heard the importance of developing a restorative and transformative justice process that supports alternatives even for serious offences while prioritizing survivor safety and choice.
- Advocacy should push for multi-sectoral, upstream approaches to harm prevention, connecting education, health, housing, and criminal and family legal systems.

5. Integrate Restorative and Transformative Justice in Organizational and Everyday Contexts

- While this report focuses on the criminal legal system, we heard from many that implementing Black-focused transformative justice principles in other systems, such as the family and child welfare system and in workplaces to deal with harm and violence, is also a priority.

A Living Practice, Not a Final Destination

This work is not about perfect outcomes. It is about practices that make our freedom feel possible in the present. As one interview participant said, quoting Professor Arline Geronimus, “*Our generation has the privilege of aliveness.*” Let us use that gift to build what comes next – together. We close this report with humility and urgency: restorative and transformative justice is not a toolkit, a checklist, or a scalable program. It is a living practice – built in the cracks, from the ground up, held in relationships, and carried forward by those who dream of freedom not as an idea but as a necessity. As many participants in our interviews shared, justice looks like *freedom*, and while the work ahead is long and uncertain, let us use this moment to lay the groundwork for the justice we have yet to see for Black people and communities.



APPENDIX A – INTERVIEW QUESTIONS

1. What is your experience with restorative and/or transformative justice?
 - Lived/personal experience?
 - Work experience?
2. In what regions in Canada does your work take you?
3. Have you experienced criminalization and/or participated in the criminal legal system as a complainant, witness, etc.?
4. Have you worked with people who have experienced criminalization and/or those who have participated in the criminal legal process as complainants, witnesses, etc.?
5. Have you focused on particular issues or groups in the criminal legal system?
6. What are the demographics of the populations you have worked with?
7. In your opinion, what is the current function of the criminal legal system?
8. How do you define restorative justice? What are its defining features?
9. How do you define transformative justice?
10. Do you see restorative and/or transformative justice as an opportunity to address systemic anti-Black racism in the criminal legal system? Why or why not?
11. If an individual who has caused harm/charged with an offence wanted to access a restorative and/or transformative justice process:
 - Where could they go to explore options?
 - Who would they need to speak to?
12. How does a person who has caused harm know about the availability of alternatives to the traditional criminal legal process?
13. Are there specific alternatives to justice programs/initiatives for Black people who have caused harm/charged with a criminal offence?
 - What services/organizations provide alternative justice options specifically for Black people?
14. Tell me about your experiences participating in a restorative and/or transformative justice process.
15. What have people/clients reported to you, if anything, about their experiences in restorative and/or transformative justice processes?
 - If they are Black, did they report anything in particular about their experience as Black people in the process?
16. What legal or non-legal barriers exist for people who want to participate in a restorative and/or transformative justice process?
17. What legal or non-legal barriers exist (if any) for non-profit organizations and grassroots restorative and/or transformative justice practitioners?
18. What legal and non-legal reform measures could better address the barriers we've discussed today and allow Black communities meaningful methods of seeking justice?
19. What are the benefits of having restorative and/or transformative justice processes separate from government-controlled processes? What are the potential challenges with this?
20. Are there specific criminal offences you think should not qualify for a restorative and/or transformative justice process?
21. What does justice look like for you?

- 1 Walter Pitman Task Force (1977); Gerald Emmett Cardinal Carter, Civic Authorities of Metropolitan Toronto and its Citizens (1979); The Report of the Race Relations and Policing Task Force (Ontario, April 1989) (Chair: C. Lewis); Royal Commission on the Donald Marshall Jr. Prosecution (Province of Nova Scotia, 1989); Stephen Lewis, Report to the Premier on Racism in Ontario (1992); Report of the Commission on Systemic Racism in the Ontario Criminal Justice System, December 1995. Queen's Printer for Ontario, 1995; The Honourable Roy McMurtry & Dr. Alvin Curling, The Roots of Youth Violence Report (Queen's Printer for Ontario, 2008); Canada, Office of the Correctional Investigator, A Case Study of Diversity in Corrections: The Black Prisoner Experience in Federal Penitentiaries (Ottawa, Public Works and Government Services Canada, 2013) ["OCI Black Prisoner 2013 Report"]; Canada, Office of the Correctional Investigator, Annual Report 2021-2022, (Ottawa, Public Works and Government Services Canada, 2022) ["OCI 2021-2022 Report"]; Canada, Office of the Correctional Investigator, Annual Report 2022-2023, (Ottawa, Public Works and Government Services Canada, 2023) ["OCI 2022-2023 Report"]; Senate of Canada, Report of the Standing Senate Committee on Human Rights: Anti-Black Racism, Sexism and Systemic Discrimination in the Canadian Human Rights Commission (December 2023); Canada, Office of the Correctional Investigator, Annual Report 2023-2024, (Ottawa, Public Works and Government Services Canada, 2024) ["OCI 2023-2024 Report"]. NdT : Cette réforme aggrave fut entamée au moment de la Révolution mexicaine de 1910 et sa fin ne fut promulguée qu'en 1992.
- 2 Ontario Human Rights Commission, *Racial Disparities in Arrests and Charges* (Ontario: Government of Ontario: 2020), online: <https://www.ohrc.on.ca/sites/default/files/Racial%20Disparity%20in%20Arrests%20and%20Charges%20TPS.pdf>.
- 3 Robyn Maynard, Policing Black Lives: State Violence in Canada from Slavery to the Present (Halifax & Winnipeg: Fernwood Publishing, 2017), at 5; Barrington Walker, *The African Canadian Legal Odyssey: Historical Essays* (Toronto: University of Toronto Press, 2012) at 3; Barrington Walker, *Race on Trial: Black Defendants in Ontario's Criminal Courts, 1858-1958* (Toronto: University of Toronto Press, 2010) at 25; OCI Black Prisoner Report; OCI 2021-2022 Report, OCI 2022-2023 Report; OCI 2023-2024 Report.
- 4 *R v Morris*, 2021 ONCA 680 [Morris].
- 5 *Morris* at para 1
- 6 *R v Gladue*, 1999 CanLII 679 (SCC).
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- 47 *Stauffer & Turner* at 444.
- 48 *Stauffer & Turner* at 444.
- 49 *Stauffer & Turner* at 444.
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- 51 *Criminal Code*, RSC, 1985, c C-46 ["Criminal Code"]. For example, *R v Jane Doe*. "R" stands for Regina (Latin for Queen) or Rex (Latin for King). "R" represents the Crown or the government that brings the criminal prosecution against ("v" for "versus" or "against") the harm-doer (in this example, Jane Doe).
- 52 *Zehr* at 5-6.
- 53 *Zehr* at 26.
- 54 *Zehr* at 21.
- 55 *Zehr* at 83-89.
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- 57 Jennifer J. Llewellyn & R. Howse, "Restorative Justice – A Conceptual Framework" (1999) Paper Prepared for the Law Commission of Canada.
- 58 *Davis* at 19.
- 59 Barbara Tomporowski et al., "Reflections on the Past, Present and Future of Restorative Justice in Canada" (2011) 48:4 Alberta Law Review at 826 ["Tomporsowski, Reflections"]; Barbara Tomporowski, "Restorative Justice and Community Justice in Canada" (2014) 2:2 Restorative Justice 218 at 220 ["Tomporsowski, Community Justice"]; In Canada, certain programs operated by First Nations, Tribal Council and Métis Organizations are termed "community justice" programs rather than restorative justice programs. This mix of terminology can be confusing and present challenges for data collection and information gathering. However, it is worth noting that while some community justice programs offer restorative justice services, others engage in Indigenous approaches to justice that differ from restorative justice practices. As such, Indigenous led "community justice" programming should not be conflated with restorative justice programming.
- 60 Canada, Law Commission of Canada, *Transforming Relationships Through Participatory Justice*, (Ottawa: Law Commission of Canada, 2003) at xv ["Law Commission of Canada"]. We note, however, that forgiveness or reconciliation is not a primary principle or focus of restorative justice, as it is a personal experience that varies and is entirely up to the person who has been harmed to forgive or seek reconciliation. Further, we note that the term "mediation" has been increasingly replaced by terms such as "conferencing" or "dialogue" because the neutral language of "mediation" may be misleading or offensive as it assumes a level playing field where responsibility is shared on all sides, which is not always true in criminal matters: *Zehr* at 13-16.
- 61 *Tomporsowski, Reflections* at 818.
- 62 *Law Commission of Canada* at xv.
- 63 Robin J Wilson, Bria Huculak & Andrew McWhinnie, "Restorative Justice Innovations in Canada" (2002) 20 Behavioral Sciences and the Law 363 at 371 ["Wilson, Huculak & McWhinnie"].
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- 68 *Tomporsowski, Reflections* at 818.
- 69 Walidah Imarisha, Alexis Pauline Gumbs, Leah Lakshmi Piepzna-Samarasinha, adrienne maree brown, "The Fictions and Futures of Transformative Justice" (Transform Harm: 2017), online: https://transformharm.org/ab_resource/the-fictions-and-futures-of-transformative-justice/
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- 72 Michelle Brown, "Transformative Justice and New Abolition in the United States" in Pat Carlen & Leandro Ayres Franca, eds, *Justice Alternatives* (London: Routledge, 2019) at 78 ["Brown"].
- 73 See Jennifer J Llewellyn, "Transforming Restorative Justice," *International Journal of Restorative Justice* (2021) 4:3 at 374.
- 74 Ruth Morris, *Stories of Transformative Justice* (Toronto: Canadian Scholars, 2000).
- 75 *Brown* at 73.
- 76 *Brown* at 77; Incite, "About" online: <https://incite-national.org/history/>; Critical Resistance, "History" online: <https://criticalresistance.org/mission-vision/history/>
- 77 *Brown* at 77.
- 78 *Brown* at 73
- 79 *Brown* at 73
- 80 Ejeris Dixon & Leah Lakshmi Piepzna-Samarasinha, *Beyond Survival: Strategies and Stories from the Transformative Justice Movement* (Chico: AK Press Publishing, 2020) at 16.

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- 114 R v BL, 2002 ABCA 44 ["BL"].
- 115 BL, at paras 41-44.
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- 122 Bruce Archibald & Jennifer Llewellyn, "The Challenges of Institutionalizing Comprehensive Restorative Justice: Theory and Practice in Nova Scotia" (2006) 29:2 Dalhousie LJ 297 at 300 ["Comprehensive Restorative Justice"].
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