

**Interim Report to the General Assembly
of the Restorative Justice Study Committee
issued pursuant to Act 146 of 2018**

December 1, 2018

**Issued by
The Vermont Network Against Domestic and Sexual Violence**

Interim Report of Act 146 Restorative Justice Study Committee

Introduction:

In 2018, Vermont’s General Assembly passed Act 146, An Act Relating to the Creation of Restorative Justice Study Committee. The statute outlines the composition of a study committee and charges the group with “*study(ing) whether restorative justice can be an effective process for holding perpetrators of domestic and sexual violence and stalking accountable while preventing future crime and keeping victims and the greater community safe*”. The Restorative Justice Study Committee was seated in July and has met 5 times between July 31st and December 1st. Areas of shared learning for the Restorative Justice Study Committee to date include developing a common understanding of the landscape of restorative justice and domestic and sexual violence advocacy in Vermont, gathering information about programs using restorative justice to address domestic and sexual violence in other states and countries, and developing a framework for victim-centered design. This interim report serves as a preliminary summary of the group’s findings and work.

The establishment of the Restorative Justice Study Committee marks a new chapter in cross-sector dialogue about the potentials for applying restorative processes in domestic violence, sexual violence and stalking cases. Historically, victim advocates have worked to prevent domestic violence, sexual violence and stalking cases from being diverted or handled through any complementary or alternative justice processes. In 2008, victim services advocates strongly advocated for statutory language preventing community justice centers from accepting domestic violence, sexual violence and stalking cases (24 V.S.A. § 1967). As the victim services field has evolved, and criminal justice reform models have proven highly successful in addressing crime in Vermont and elsewhere, there is an openness and enthusiasm for applying

similar interventions in the realm of interpersonal violence. In addition, there is growing consensus within the victim advocacy field that the criminal justice system's primary focus on offenders often does not meet the needs of victims – especially of injurious and complex crimes such as domestic violence, sexual violence and stalking.

Throughout the past decade, restorative justice offerings in Vermont have also grown and diversified. Vermont has one of the most well-established statewide applications of restorative justice programs in the country. In Vermont, restorative justice programs are located within state government, in private non-profit organizations, in municipal government and in educational institutions ranging from the elementary level to institutions of higher education. Restorative approaches to crime and harm are now used in school settings, at the pre-charge/diversionary stage, as part of court ordered conditions, within correctional settings (on a very small scale), and in the re-entry context. Restorative approaches are used in the criminal justice setting, child welfare, and educational contexts. Given the growth in restorative approaches, and evolution of the victim services field and other statewide efforts to promote criminal justice reforms, the Restorative Justice Study Committee has commenced its work at an opportune moment.

While the conversation about applying restorative justice to domestic violence, sexual violence and stalking cases is newly emerging in Vermont, there is strong interest in exploring these potentials on the national and international level. The Restorative Justice Study Committee has received presentations from several national experts on the application of restorative justice programs to domestic violence, sexual violence and stalking cases.

There are numerous community-based programs using restorative justice to address domestic violence, sexual violence and stalking exist across the country. These programs have historically been alternative to mainstream approaches and often operated on a local level in

relative isolation. However, the Department of Justice, Office on Violence Against Women recently funded the *National Portrait of Restorative Approaches to Domestic and Sexual Violence*. This research grant funds the Center for Court Innovation to engage researchers, consultants and interdisciplinary stakeholders across the nation to create a comprehensive national survey and compendium of programs in the U.S. using restorative justice to address domestic and sexual violence. The project also includes site visits with several highlighted programs using restorative justice in domestic and sexual violence cases. On the international level, programs in New Zealand, Australia, the United Kingdom and Canada have used restorative justice approaches to address issues related to domestic violence, sexual violence and stalking for decades with promising outcomes.

Areas of Emerging Consensus

The Restorative Justice Study Committee has developed several areas of emerging consensus. These areas of shared consensus will be further developed and related to the final recommendations of the Committee. Areas of consensus include:

- ***Mechanisms should exist for victims to request a restorative process.***

Currently, all restorative justice programs and services offered in Vermont are offender-driven and designed. Referrals made to restorative programs (ranging from diversion to community justice centers to reentry programs), are currently solely initiated by a referral of the individual who committed harm. With few exceptions, there is no way for a victim to request that their case, or the person that committed harm against them, be referred to a restorative process. Programs reach out to victims to encourage their inclusion in the process - through in-person attendance, letters or proxies – however, a restorative justice process can continue with or without a victim’s input or participation. The committee

agrees that victim initiated options are a fundamental component to building a victim-centered process.

- ***Input from victims or those harmed should inform the recommendations of the study group and restorative justice program design.***

The Restorative Justice Study Committee believes that victims possess important knowledge about elements of restorative justice program design that will result in increased safety, community accountability and repair of harm. To that end, the Committee believes that victim input must be formally sought and integrated into restorative justice offerings. Currently, there are very limited opportunities for victim input into the design and outcomes of restorative justice processes. The Restorative Justice Study Committee has dedicated its time and efforts to hearing from the victims serving on the Study Committee and considering their recommendations.

- ***Training and resources for practitioners must be available.***

Domestic violence, sexual violence and stalking are complex patterns of behavior and harm. These crimes also thrive in environments of secrecy, and are driven by patterns of manipulation and coercion. It is essential that training and resources on the dangers and subtleties of domestic and sexual violence be accessible for practitioners to engage in this work. Currently, community justice centers and court diversion programs rely on volunteer capacity. Although these programs are well established, at this time, the training for volunteers does not include comprehensive training or information on domestic and sexual violence and stalking.

- ***Restorative justice should be one option available to victims, not in lieu of other options but in addition to.***

The Study Group agrees that restorative justice options can be complementary and create a comprehensive response to domestic violence, sexual violence and stalking. There is strong consensus that current interventions – including criminal legal responses – should continue to be resourced, robust and available. Restorative approaches may, in some cases, be able to provide healing and support for victims and perpetrators in ways that the criminal legal system is not designed to. These two approaches, working in concert have strong potential to create better outcomes for both victims and perpetrators.

- ***The current infrastructure of community based restorative justice programs are a major asset, but not currently structured to support this work.***

Vermont has one of the most well developed state-level infrastructures for restorative justice work in the country. This is a network and resource that can be leveraged to support the eventual recommendations of this committee. However, currently, the network of community justice centers, youth justice programs and reentry programs are not designed to accept domestic violence, sexual violence or stalking cases. With the exception of the Circles of Support and Accountability (COSA) model, these programs largely intervene in misdemeanor level crimes or non-violent felonies.

- ***The hoped-for outcome of restorative justice programs applied to domestic violence, sexual violence or stalking should be healing for survivors and community engagement.***

The Restorative Justice Study Committee believes that additional work is needed to develop outcome measures for restorative justice programs addressing domestic violence, sexual violence and stalking. Programs designed to meet outcome measures focused solely on recidivism are unlikely to be effective in repairing harm caused by interpersonal violence. For these reasons, the Restorative Justice Study Committee is in consensus that programs should be designed to provide healing for victims of violence and aim to engage community members in holding offenders accountable and preventing violence in their communities.

- *There are many viable existing practices and approaches related to restorative justice, domestic violence and sexual violence and there is interest in exploring the possibilities offered.*

Based on the work of the Committee to date, there is consensus that there are approaches being used in Vermont and elsewhere that are effective and ought to be explored in greater depth in Vermont.

The Restorative Justice Study Committee will continue to meet monthly throughout the spring and will issue a final report and recommendations by July 1, 2019.

Appendix:

1. Membership List
2. Agendas for Meetings