



**Center for Justice Innovation Testimony Vermont General Assembly
House Committee on Judiciary
Hearing on the H.41- Referral of Domestic and Sexual Violence Cases to Community
Justice Centers
February 8, 2023**

The Center for Justice Innovation is a national training and technical assistance provider and has worked with hundreds of jurisdictions across the country as they seek to enhance their responses to domestic and sexual violence. As gender-based violence continues to impact our communities at high rates, practitioners across the country are looking for new ways to improve current practices to ensure that all community members can heal and thrive.

Through our national work, we developed a new definition of accountability which is to *create systemic and relational pathways for people who cause harm through gender-based violence to develop responsibility, healing, and hope for themselves, their families, and their communities.* This definition expands common conceptions of accountability to include system and community accountability and the role of systems and communities in creating multiple pathways to accountability and healing for community members, including identifying and remedying the barriers these entities have created for abusive partners and survivors to safety and accountability. This is necessary because healing and accountability are not uniform experiences, a truth that is often in conflict with the traditional ways of addressing domestic and sexual violence: solely through the legal system.

Many survivors do not access the legal system, and, when they do, their voices are often not heard. Almost half of people harmed by intimate partner violence do not officially report harm or seek help from law enforcement¹. A 2015 survey reported that over half of callers to the National Domestic Violence Hotline believe that calling the police would make things worse for them, while a third of callers felt they were made less safe as a result of making that call.² When engaging in systems, survivors' needs may be overlooked. Research and the Center's experience learning from survivors through listening sessions demonstrates that while some survivors want punishment, others want the violence to stop, to safely co-parent, or to have a say in what safety looks like for them. The need for alternative processes to address harm is

¹ The U.S. Department of Justice, Office of Justice Programs Bureau of Justice Statistics. Retrieved from <https://www.bjs.gov/content/pub/pdf/cv19.pdf>

² National Domestic Violence Hotline, *Who Will Help Me? Domestic Violence Survivors Speak Out About Law Enforcement Responses*. Washington, DC (2015). Retrieved from <http://www.thehotline.org/resources/law-enforcement-responses>. The potential risks created by calling the police explain why. For a person experiencing abuse, the consequences of calling 911 may include being threatened with or arrested and incarcerated oneself; having children taken away; losing economic stability; losing housing; jeopardizing their partners or family with deportation; and other harms, all without any assurance or even good odds of securing safety.

particularly important for these survivors who want help, but for reasons of culture, safety, or other individual circumstances do not call the police or desire a system-based response.

Similarly, the Center's work on abusive partner intervention both nationally and locally echoes the need for multiple pathways – to accountability. Understanding that people who cause harm have different needs and may have different motivations for their use of violence, different programming options are needed for people who cause harm. The Center has seen innovative programs emerge to meet these needs. These programs include aspects like trauma-focused approaches, conversations about how cultural values promote healthy relationships, peer support opportunities, and restorative elements. Indeed, in New York City, the Center has been involved in many initiatives created to develop this multiple pathway approach. New York City now offers trauma-informed mandated programming, voluntary programming unconnected to systems entirely, community-based education approaches at the intersection of intimate partner violence and gun violence, brief education classes for people on supervised release, training and support for practitioners, and a restorative justice collaborative to support practitioners engaging in restorative approaches to intimate partner violence. Each of these represents one possible way to address intimate partner violence and provides more opportunities to support accountability for those who cause harm.

Restorative approaches, inspired by varied traditions and often learned directly from Indigenous peoples across the globe, have been used for over centuries to respond to harm. Many communities in the United States have begun to use restorative justice as one viable option that can lead to both accountability for the person who has caused harm and healing for the survivor of domestic violence. In 2021, the Center published a national portrait of restorative approaches to intimate partner violence. The oldest program in our sample began operations in 1977. The majority of programs (73%) were created after 2000 and nearly half (48%) were created in the past ten years.

Notably, restorative justice, at its core, is a community-based approach to responding to harm. Restorative justice embraces our interconnectivity and uses it to address harm, understand it, and foster healing. Rather than looking to a criminal code to see what law was broken, restorative justice centers the person who has experienced harm (e.g., a survivor) and a deep understanding of their needs. Restorative justice calls on those who have caused harm to listen. They hear how their actions have affected others and are then given the opportunity to reflect on the impact of those actions and take responsibility by repairing what they can. Through a process of accountability, they begin their healing process.

Sometimes the person who is harmed and the person who caused them harm engage in a process together, and sometimes separate processes are held for each. Restorative justice processes also include people who are indirectly impacted by the situation, and often other community members. Through conversation, this collection of people reflect and discuss how

collectively they have been harmed and how their collective action—or inaction—has enabled that harm. This conversation can include harms passed intergenerationally. It can consider how structural violence and systems of oppression can drive interpersonal harm. A restorative response is not limited to discrete harms that are codified as criminal but focuses on the relationship as a whole and thus, has the potential to address the complexities of harm within an intimate relationship. Restorative justice encompasses several kinds of processes that abide by these principles, rather than any pre-scripted model.

In the Center’s research for the national portrait of restorative approaches to intimate partner violence, respondents reported why they were interested specifically in restorative approaches. Eighty percent of respondents highlighted the ineffectiveness of conventional criminal legal approaches for addressing intimate partner violence and sexual assault. While most cases are referred by criminal court (40% often/very often receive such referrals), corrections (39%), and child welfare services (36%), more than a quarter of programs reported that informal referrals—e.g., self-referrals (30%) and community referrals (27%)—are common. This indicates the need for multiple restorative justice pathways for survivors and for those who cause harm, especially for those survivors who may never access the criminal legal system. Based on the findings from these diverse restorative justice programs nationally, the Center identified key themes including: a focus on survivor safety and agency, active accountability with the person who has caused harm, voluntary participation regardless of referral source (which does not mean that if there was a criminal referral there were not sanctions for non-compliance); engaging and reflecting the community served; addressing diverse participant needs through collaboration and referral; and collaboration with community-based domestic violence and sexual assault organizations.³

In 2020, the Center also published a blueprint for restorative approaches to intimate partner violence for New York City, a culmination of a series of listening sessions and discussions with those directly impacted by as well as practitioners working to end intimate partner violence. This report supported processes that operate outside of the criminal legal system for New York City in order to focus on people who opt out of that system as described above, increase the likelihood of non-coerced participation from people who cause harm, and encourage practitioners to be accountable to communities.⁴ Community-based not only means operating separately and apart from the court or other state actors, but it also means locating offerings where people live and attending to the traditions, faith, culture, and other aspects meaningful to them and their everyday lives. Importantly, the absence of connection to the legal system does not equate to the absence of consequences. Processes often include community-driven

³ Center for Justice Innovation, A National Portrait of Restorative Approaches to Intimate Partner Violence: Pathways to Safety, Accountability, Healing, and Well-Being. New York, NY (2021). Retrieved from

https://www.innovatingjustice.org/sites/default/files/media/document/2019/Report_IPV_12032019.pdf

⁴ Center for Justice Innovation, Using Restorative Approaches to Address Intimate Partner Violence: A New York City Blueprint. New York, NY (2020). Retrieved from

<https://www.innovatingjustice.org/publications/restorative-approaches-address-intimate-partner-violence>

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consequences developed by those in the process and a mechanism for following up on these agreements. Building restorative approaches is ultimately about increasing options and pathways to healing and accountability for survivors, their families, people who cause harm, and the broader community. It seeks to get the community involved in the process and remind everyone that we all have a stake in healing and accountability.

Vermont is a national leader in the implementation of restorative approaches to harm and violence. In 2021, the Center worked with Vermont to develop an innovative values-based approach to their policies for domestic violence accountability programs, which standardized the importance of community input and an openness to developing new ways to address harm, including restorative approaches. The Center featured Vermont in a national webinar highlighting their approach and continues to direct other jurisdictions to Vermont to learn about the ways the state has piloted the Circles of Peace Model (an intervention for people who cause harm through intimate partner violence using peacemaking circles and restorative approaches to encourage discussion about the harm with trained facilitators, community volunteers, support people, and willing family members) and infused restorative justice in their broader approach to crime and harm through their community justice centers.

The Center supports Vermont's continued efforts to bring restorative approaches into domestic violence work and believes strongly in the promise of restorative justice as an option for the many survivors who choose not to access the legal system but still desire and deserve the chance to heal and thrive.