

Restorative Justice and Intimate Partner Violence

A Summary of Findings
from Two Reports

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Acknowledgments

This publication was generously funded by Trinity Church Wall Street. We are deeply grateful for their continued support and faith in our ability to engage in this work.

This paper offers a summary of two recent publications from the Center for Court Innovation. For full reports, see Cissner et al. (2019). *A National Portrait of Restorative Approaches to Intimate Partner Violence: Pathways to Safety, Accountability, Healing, and Well-Being*. NY, NY: Center for Court Innovation and Sasson, E. and Allen. C. (2020). *Using Restorative Approaches to Address Intimate Partner Violence: A New York City Blueprint*. NY, NY: Center for Court Innovation.

This paper is an attempt to distill the lessons from two publications by two gifted teams that I was honored to join. With Gale Burford, Amanda Cissner, Sarah Desmarais, Joan Pennell, Erika Sasson, and Rebecca Thomforde Hauser, we took on the tremendous task of identifying and depicting this work on a national scale. Along with Charlene Allen, Brittany Davis, Erika Sasson and Purvi Shah, we connected with everyone in New York City we could reach who is doing and interested in this work. Thank you all for your tremendous effort, wit, compassion, and commitment. Additional gratitude to each of these authors, to Liberty Aldrich and Kellsie Sayers from the Center and to Lynne Echenberg, all of whom reviewed and edited this summary, questioned its contents and made it infinitely better.

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January 2021

Introduction

This year, the United States reached a critical mass of people joining the call to, at a minimum, reduce our use of law enforcement to respond to conflict and harm. Included is the call for how we respond to intimate partner violence. Among the voices calling for change are those for whom the system is nominally designed to serve, and to them, we must listen. Recently, and notably, it also includes those who, for years, advocated for a carceral response to intimate partner violence, the consequences of which has devastated Black communities and other communities of color.

Almost half of people harmed by intimate partner violence do not officially report harm or seek help from law enforcement.¹ 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 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 arrest or arrested and incarcerated oneself; having children taken away; losing economic stability; losing housing; and other harms, all without any assurance or even good odds of securing safety.

In June of 2020, 47 statewide coalitions against domestic violence and sexual assault signed a letter entitled “Moment of Truth.” The letter aims to “call ourselves to account for the ways in which this movement, and particularly the white leadership within this movement, has repeatedly failed Black, Indigenous, and people of color (BIPOC) survivors, leaders, organizations and movement.” The letter enumerates the

ways in which the anti-violence movement has failed to listen to their colleagues of color, including dismissing community-based approaches for “healing, accountability and repair...created by BIPOC leaders and used successfully in BIPOC communities.”³

Restorative justice processes are community-based approaches to responding to harm. Inspired by varied traditions and often learned directly from Indigenous peoples across the globe, restorative justice is a theory and to some, a way of life. Restorative justice values our interconnectedness. In the face of harm, restorative justice embraces our interconnectivity and uses it to address harm, understand it, and foster healing. Restorative justice processes focus on meeting the needs that arise when harm occurs. Rather than look to a criminal code to see what law has been broken, restorative justice looks to the people who have been harmed to ask what needs they have. 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 own 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 the harm that needs attending. 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.

Despite the growing popularity of restorative justice processes as an alternative to incarceration for people accused of committing a spectrum of crimes, including violent ones, intimate partner violence has frequently been set aside as inappropriate for a restorative intervention. Some argue that safety cannot be assured and that an abusive partner can easily manipulate a community-based process. Some find the use of the term “restorative” problematic—in the context of an unhealthy and inequitable relationship, what are we restoring? Finally, critics argue that anything less than arrest and prosecution risks minimizing the long-fought battle to condemn violence against women.

However, across the country, people have been learning and practicing restorative practices in response to intimate partner violence. In 2015, the Center for Court Innovation (the Center) convened a national roundtable on the intersection of restorative justice and intimate partner violence.⁴ The roundtable surfaced a desire for sharing wisdom and for more information on practices implemented across the country. Accordingly, the Center collaborated with Drs. Joan Pennell, Sarah Desmarais, and Gale Burford to begin to fill this gap with funding from the Office of Violence Against Women to author *A National Portrait of*

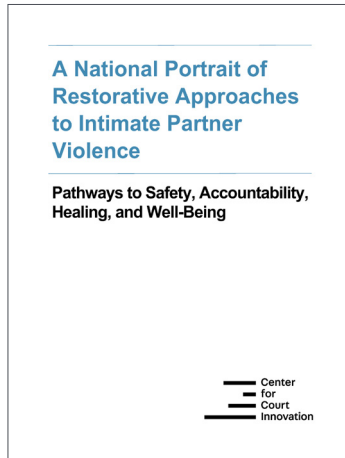
*Restorative Approaches to Intimate Partner Violence.*⁵ The study yielded a picture diverse in geography, spheres of practice, and approaches.⁶

Subsequent to the completion of the national report, the Center was awarded a grant by New York City's Mayor's Office to End Domestic and Gender-Based Violence. Building on what was gleaned nationally, and in partnership with consultants Charlene Allen and Purvi Shah, the Center turned to New Yorkers to understand how these practices are manifesting at the local level and to imagine growing this work across the diverse cultural landscape of New York City. This resulted in the second publication that is the subject of this paper, *Using Restorative Approaches to Address Intimate Partner Violence: A New York City Blueprint*.

The following is a summary of these two efforts. This paper is in no way intended to serve as a guide on how to implement a restorative approach, nor should it supplant in-person training and mentorship. Rather, it highlights the guiding principles that emerged from these studies, and synthesizes our learnings for practitioners, policymakers, and funders in the hope that we will encourage ongoing conversation and support for this work.

Implementation in Different A National Portrait of Restorative Approaches to Intimate Partner Violence

Guided by a multidisciplinary advisory board, the national study yielded data from 34 completed surveys of practitioners doing this work.⁸ The methodology and analysis of this effort are detailed in the full report.⁹ In addition to the survey, the study included site visits and in-depth case studies of five survey respondents. The three guiding principles that emerged from the study appear in bold below.



Origins of Practice

Amongst the survey respondents, this work is relatively new. Three-quarters (73%) of respondents began their practice after the year 2000 and half were established in the last ten years.¹⁰ Once launched, commitment to this work is high even when needed funding isn't available: 89 percent of survey respondents have been in continuous operation since they began, despite the fact that only one-quarter (26%) have had a dedicated funding source. The work is often funded by small grants, supported by multiple sources, or—as in the case of 17

percent of respondents—entirely unfunded.¹¹ These programs are working in partnership with, or adjacent to, the child welfare system, criminal courts, corrections facilities, universities, and as stand-alone community-based work.

Respondents report three primary and overlapping reasons for pursuing this work. The two most common are the lack of efficacy of standard approaches (80%) and respondents' familiarity with restorative approaches (60%).¹² Almost half of respondents reported *both* of these rationales, suggesting a coinciding push away from a criminalized response and pull towards something vastly different. Forty-three percent responded that a desire for culturally appropriate responses generated their work. Cultural knowledge and responsiveness surfaced as a common study theme.

Respondents' practices are rooted in various Indigenous traditions: family group conferencing from the Maori, peacemaking from *Diné* (Navajo) culture, circle practice from the *T'lingit* First Nations, *Tloque Nahuaque* or interconnected sacredness from Mexican and American Indian culture, and *ho'oponopono* from the Native Hawaiian tradition. The adaptation of these practices is happening in both urban and rural communities across the United States, in locales culturally, linguistically, and spiritually removed from these roots, raising concerns regarding wrongful appropriation and the simultaneous failure to honor and harness the culture, traditions, and ancestral wisdom of participants. While we must remain vigilant to both, the survey revealed that practitioners of restorative justice are **mindful of the tension between honoring and appropriating Indigenous practices and know that the culture of participants matter**.¹³ For those practitioners who identify as a member of one of these root traditions, the practice is a means of

cultural affirmation. For practitioners who are not personally connected to the roots of a restorative practice, they honor their teachers by naming them, and adhering to the practices' core components, while modifying those that do not resonate with participants and inviting participants' own traditions into the space.

Practice Goals

Survey respondents identified ending violence, promoting safety and empowerment, and changing social norms as their primary program goals. For those who have been harmed, in addition to empowerment and safety, respondents named improving survivor support networks, healing, and satisfaction with the process *over* goals such as restitution, communication, or offering an alternative to the criminal legal system. Some models, such as family group conferencing, prioritize building support networks not only around those who have been harmed but also around children and other family members. In contrast to concerns that restorative justice is primarily focused on rehabilitating those who are causing harm, we found that **restorative approaches are centered around preserving the agency and safety of the harmed person(s)**. Participants who have been harmed are given space to tell their stories and shape the consequences of the harm they endured with the support of those who are closest to them. All but four survey respondents invite participants *some* or *most* of the time to bring support people of their choice to a process, and half of respondents *always* extend such invites. Thirty-seven percent of respondents won't ever engage in an accountability process with the person causing harm without the consent

of the harmed person while an additional 17 percent require their consent some of the time. Half of respondents (46%) work closely with domestic violence advocates.¹⁴ The goals respondents named for persons who have caused harm include reducing violence and promoting accountability. In addition, more than half of respondents rated at least one of the following very or extremely important goals for the person: rehabilitation, healing, improved communication with the harmed person, community reintegration, and procedural satisfaction as very or extremely important goals.

Violence and Case-by-Case Eligibility

While survivor safety is paramount, it does not come at the cost of excluding those who have committed violence. Few programs exclude participants based on criminal history or pending charges. Of those that do, most exclude individuals facing felony (17%) or misdemeanor (11%) sexual assault charges or felony intimate partner violence charges (11%).¹⁵ While half of responding programs reported using some sort of an assessment instrument (in-house risk assessment, trauma screening, or safety planning tool), only a third of programs reported that the instrument determined program *eligibility*, and even fewer used it to inform program structure, intensity, or length. More commonly, eligibility was determined by interviews with the person who caused harm (74%) and/or the person harmed (56%).¹⁶ In addition, the number of sessions required to complete a program varied both across programs and within them, allowing for flexible and individualized processes based upon the unique needs of each case. Notably, only a quarter (26%) of programs use any

interim sanctions for noncompliance; fewer (20%) terminate participants for new acts of violence.¹⁷

These approaches to determining eligibility and program length, and the lack of punitive sanctions, challenge our ideas of how to engage people who have used violence. While strategies range from working with participants in the community directly to formal partnerships with the criminal legal or child welfare systems, **restorative approaches engage the person(s) causing harm—as well as a network of invested community and family members—in an active, participatory process of accountability.**¹⁸ Respondents report involving community members (69%), family members (66%), friends or neighbors (50%), and elders (22%) to create this network.¹⁹ These community members model vulnerability, self-reflection, resilience and transformation, and create a reflective space for the person who has caused harm an opportunity to do the same.

Processes

While respondents use a range of restorative approaches, three processes were the most widely used:²⁰

1. **Peacemaking circles** bring together individuals who wish to respond to harm by engaging in conversation with all who are involved, with a focus on healing, self-governance, accountability and moving forward. These circles offer an alternative to the adversarial and hierarchical legal process wherein the win-lose model is replaced with honest communication, and a high value is placed on relationships and community. While a circle keeper

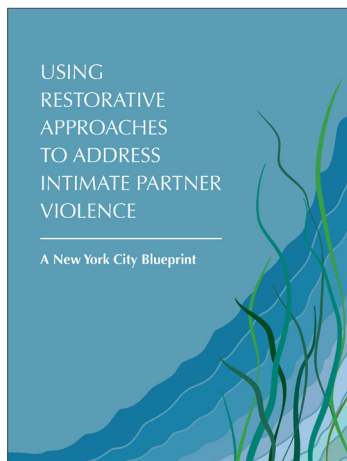
facilitates the process, a circle offers everyone—directly impacted people, their supporters, and community members—a chance to be heard equally. Peacemaking is inspired by Indigenous traditions in both the US and Canada. Peacemaking approaches were implemented by 39 percent of respondents.

2. **Support circles** aim to help people build relationships and community, and center around a person or people who are in need of support—such as persons affected by intimate partner violence—or those re-entering society after a period of incarceration. Support circles do not aim to resolve or repair harm between partners or former partners in a combined process, but rather, offers collective support to further healing and in some cases, such as re-entry circles, also aims to hold the participant accountable. Support circles were used by 27 percent of respondents.
3. **Family group conferencing** is most frequently used in the context of child protection and juvenile justice and involves family members and kin or extended networks creating a plan for halting abuse or other harmful behavior occurring within a family, with a focus on collective decision-making and reworking relationships of responsibility to increase the safety of all. Family group conferencing traces its roots to the Maori, the Indigenous people of New Zealand. This approach was used by 21 percent of respondents.

Peacemaking circles and family group conferencing may provide a process with the person who is harmed and the person causing harm separately, together (which we call a combined process), or both (for example, having separate processes until each are ready and wanting a combined process). Whether the participants meet together depends on a variety of factors that may include the practitioner's chosen model, safety assessments, and the wishes of the person who has been harmed.

Using Restorative Approaches to Address Intimate Partner Violence: A New York City Blueprint

In order to fulfill the task of drafting a blueprint for supporting restorative responses to intimate partner violence in New York City, the team spent a year hosting listening sessions with stakeholders, including New Yorkers impacted by intimate partner violence, advocates, attorneys working in the field and practitioners currently using community-based accountability processes by various names including faith-based, transformative, and culturally-responsive. From what was heard in these sessions, the Blueprint team developed key takeaways, guidelines, and a final recommendation. These ideas were presented to a large group representing all of the stakeholders. The team received their feedback and incorporated it into the final report.



Key Takeaways

First and foremost, the listening sessions affirmed that survivors want more options. They emphasized their needs are individual and unique, and often, the support offered

is not. They articulated a need for increased options along a continuum of possibilities and subsequent support for whichever option they choose. The needs they articulated converged around the following:

- To stop being ostracized and/or defined by their experience and the labels put upon them by community members, service providers, and systems;
- To be offered various healing modalities;
- To have options that do not vilify their partners;
- To receive support from credible messengers, defined as members from their own community and who share or are at least well-learned in their culture;
- To increase efforts towards community education and changing the norms that foster and enable intimate partner violence;
- To provide housing and economic resources as part of any intervention; and
- To improve access to all services, particularly for the LGBTQ and ESL communities.²¹

The attorneys and advocates echoed the need for additional options for people harmed by intimate partner violence. Those who are practicing community-based options want more training and peer support, without the requirements of professional associations, such as

credentialing, which often make such work inaccessible to BIPOC and immigrant communities.

Guidelines

Practitioners and survivors shared with us what was successful and what wasn't in interrupting intimate partner violence, and the experience of navigating services in New York City. From those stories, the following guidelines for widening the availability of restorative practices emerged. The guidelines favor processes that operate outside of the criminal legal system to focus on people who are opting out of that system, which increase the likelihood of non-coerced participation, and encourage practitioners to be accountable to communities. Community-based not only means operating separate and apart from the court or other state actor. 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.

Facilitators need access to training in both restorative justice and the specific dynamics of intimate partner violence. Processes should include support people. There should be significant time and resources for preparation with participants that includes: safety planning with the harmed person; confirming that the person causing harm acknowledges their behavior is *harmful*, wants to understand and make efforts to change it; developing a trusting relationship with all participants and, allowing enough time to assess the readiness for a combined process. Processes may include community-driven consequences and a mechanism for following up on agreements. Processes should allow for and include conversations about historical, intergenerational,

and community trauma to address the role of structural oppression in interpersonal violence.²²

Key Components

The listening sessions identified key components essential to expanding this work in New York City:

1. Establish a community of practitioners—including those who are already responding to violence in their communities—through which case conferencing, peer support, and practitioner accountability can be offered and cultivated;
2. Provide free training;
3. Offer community education to change the underlying norms of intimate partner violence, in order to mitigate the gaslighting and minimization often experienced by those harmed, and to expand the capacity of community-held processes;
4. Develop an intake, assessment, and referral process rooted in the principles of restorative justice that listens and responds to the needs of the harmed person (not only those needs immediately connect to the violence they are experiencing); and
5. Offer community healing circles to address experiences of intimate partner violence, which may have happened a long time ago, happened to one’s family member but caused a deep impact, or that otherwise would not be

served by an accountability process but wherein processing harm and accountability in the community can take place. These circles might be organized around identity such as gender, life experience, or cultural group.²³

The main recommendation of the Blueprint is to establish a community-based practitioner collaborative. The chief objective of the collaborative is to increase the capacity, delivery, impact, and field-building of restorative and community-based responses to intimate partner and family violence across New York City. The collaborative will serve as the basis for a community of practitioners, starting with people already engaged in this work. In addition to supporting one another's community-based work, the collaborative will also house a restorative justice for intimate partner violence pilot program. In order to sustain a diverse group of practitioners and ensure representation from all areas of New York City, the collaborative should be funded through a public-private partnership.

Before the Blueprint was published, the collaborative received seed funding from Trinity Church Wall Street and is currently underway.

Conclusion

The findings presented here share a small portion of how a new pathway out of a deep-seeded problem is being charted on a national and local level. The national report speaks to the breadth and variety of this work. The New York City Blueprint demonstrates how this work is beginning to take shape in response to the needs of people most impacted across the local landscape. What these efforts offer are examples of responses to violence that do not require violence itself. They are examples of efforts to respond to and stop intimate partner violence that do not demonize or sacrifice the humanity of those who are causing harm, and that honor the wisdom and choices of those who have been harmed. While these practices are not new, they offer hope that may be.

Endnotes

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). <http://www.thehotline.org/resources/law-enforcement-responses>
3. <https://www.endabusewi.org/moment-of-truth/>
4. For more information on the roundtable, see Sasson, Erica *Can Restorative Practices Address Intimate Partner Violence? Summary of a Roundtable* (2016). NY, NY: Center for Court Innovation.
5. Cissner et al. (2019). *A National Portrait of Restorative Approaches to Intimate Partner Violence: Pathways to Safety, Accountability, Healing, and Well-Being*. NY, NY: Center for Court Innovation.
6. Despite a diversity of partners and advisory members with extensive experience in the field and a range of formal and informal methods of outreach, we were not able to capture some significant work occurring throughout the country. Informally, we learned that some practitioners wished to remain unidentified due to the controversy surrounding the work as well as a reluctance to participate in a federally-funded study. We particularly wish to recognize that we were only able to engage one practitioner working in a tribal community out of what we believe to be many more.
7. *Using Restorative Approaches to Address Intimate Partner Violence: A New York City Blueprint*. NY, NY: Center for Court Innovation.
8. Survey outreach was broad and aimed to be inclusive. Practitioners who identified as using restorative, transformative, community, or culturally-based processes to address intimate partner violence, sexual assault, or dating violence were invited to participate, however, “family-based” was mistakenly omitted. The primary focus of the study, and the majority of respondents, identified as using a restorative approach to address intimate partner violence. For the sake of brevity, “restorative” refers to all included practices.
9. Cissner, A. et al. (2019.) p. 7

10. Id. at p. 14
11. Id. at p. 15
12. Id. at p. 15
13. Id. at p. 50
14. Id. at p. 20
15. Id. at p. 18
16. Id. at p. 22
17. These numbers are taken from the *National Portrait of Alternative Approaches to Domestic Violence and Sexual Assault* survey used in the previously cited study (Cissner et al. 2019), but were not presented in that publication
18. Id. at p. 46
19. Id. at 17
20. Id. at p. 16
21. Sasson, E. et al. (2020). P. 9-10
22. Id. at p. 10-15
23. Id. at p. 15-18

Notes

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