

Restorative Justice: A Primer for Judges

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Restorative justice emphasizes repairing the direct and indirect harms caused by criminalized behavior to achieve three core outcomes:

- holistically addressing the diverse needs of survivors/victims;
- promoting accountability of the person causing harm/offender; and
- supporting positive community reentry and reintegration.

What Is Restorative Justice?

Restorative justice (RJ) is both a theory and a set of practices that engage principles of accountability and reparation to promote and center the healing and well-being of people and communities directly and indirectly affected by crime and harm. In contrast to retributive justice processes, which focus the state's response on criminal penalties and incapacitation, RJ interventions prioritize the accountability of the person who caused harm and meaningful survivor/victim engagement to achieve key goals of safety and order.

Though distinct in their form, RJ practices and processes operate from a shared set of values, including Indigenous traditions of peacemaking and community restoration. In the United States, the most commonly used practices of RJ are dialogue-encounter processes such as victim–offender dialogue between the person causing harm and the person harmed, victim–offender mediation, circles, and conferencing. Conducted by trained professional RJ practitioners, these processes use structured field-validated confidential frameworks in four stages: referral, pre-dialogue preparation, dialogue meeting (including defining a potential reparative agreement and conditions), and post-dialogue follow-up. These stages provide the participants with transparency in process (i.e., process orientation), set defined boundaries of the process, and promote safe and meaningful interactions. RJ also includes indirect processes that allow the person who caused harm and the survivor/victim to communicate without a direct dialogue encounter such as through apology or accountability letters, shuttle communications transmitted through a third party, victim impact panels, and recorded messages. Such processes are also facilitated by a trained RJ practitioner.

The use of surrogates in restorative processes

Not all RJ processes engage a victim/survivor and the harming party. A surrogate approach is used when direct contact between the survivor/victim and the harming party is not possible or appropriate, for example when a victim wants to remain anonymous, jurisdictional restrictions prohibit contact, or the victim is deceased. In such cases, a volunteer who has experienced or can speak to a similar type of harm shares their story and is often authorized to help shape or agree to a reparation plan on behalf of the absent victim.¹

Restorative Justice in Criminal Matters

Since the 1970s, RJ has become increasingly integrated as an alternative, supplement, or adjunct to other criminal justice processes. This “legalization” has led to the passage of statutes and court rules in 48 states and the District of Columbia as well as the implementation and formalization of a diverse set of practices and programs at the local level along the procedural continuum of criminal justice processes for both juveniles and adults.² Under these laws, judges have a range of authorities, from diversion of juveniles and adults pre-adjudication to sentencing.³

★ ★ ★ ★ ★	★ ★ ★ ★ ★	★ ★ ★ ★ ★	★ ★ ★ ★ ★	★ ★ ★ ★ ★	★ ★ ★ ★ ★	★ ★ ★ ★ ★
Community	Law Enforcement Contact/ Arrest	Pre-Charge - Victim services - Diversion - Deferrals	Case Filed Pretrial	Disposition	Sentencing - Probation - Community supervision - Incarceration	Reentry
★	★	★	★	★	★	★
Healing and Support Circles	Circle of Support & Accountability (CoSA)/Reentry Circles	Sentencing Circles	Victim–Offender Dialogue (VOD)/Victim–Offender Mediation (VOM)	Family Group Conferencing (FGC)	Restorative Community Conferencing (RCC)	

In many states, RJ is used as a diversionary alternative to formal proceedings, in particular for young people accused of crimes.⁴ In 2023, for example, the National District Attorney’s Association and the Urban Institute found that 38 percent of 496 diversion programs in the United States used an RJ approach.⁵ Similar to non-RJ diversion interventions, when RJ is available, a prosecutor makes a formal case assessment to determine the eligibility of the crime and accused person for participation in a restorative process. The case is then referred to a community-based organization to determine the most appropriate RJ practice, assess the interest and capacity of the survivor/victim to voluntarily participate, and engage the parties in the initial preparatory stage. After completion and fulfillment of agreement requirements, charges are not filed or the case is dismissed.⁶

Restorative justice in state law

RJ has been codified into more than 250 statutes and court rules.⁷ In addition to setting forth key definitional provisions of RJ and procedural requirements in juvenile and adult criminal matters, some states have established statewide RJ offices or oversight bodies, and others have formalized confidentiality, admissibility, and privilege protections for RJ practices, including statements, communications, conduct, records, participation, and admissions.⁸

However, the use of RJ is not limited to diversion programs and processes. Across the country, municipalities and local courts have expanded access to RJ through interventions at the pretrial, post-conviction, confinement, and community reentry stages. In the post-conviction context, for example, an RJ process may be included in sentencing as part of probation and completed with a community-based RJ program.⁹

Restorative justice courts: Cook County Restorative Justice Community Courts (Chicago)

Cook County's Restorative Justice Community Courts (RJCC) offer young adults ages 18–26 charged with nonviolent felonies or misdemeanors conflict resolution through restorative conferences and peace circles involving the person who caused harm, victims, family, and community members. For a case to be eligible for the RJCC, the victim of the crime must agree to participate in the process, which culminates in a Repair of Harm Agreement—a community contract in which the person who caused harm commits to completing tasks like community engagement, a letter of reflection, or treatment. Successful completion results in case dismissal, record expungement, and recognition at a graduation ceremony.¹⁰

Restorative justice and Tribal courts

Among Tribes in the United States, restorative justice processes—such as Indigenous practices of peacemaking or culturally responsive approaches that focus on healing and repair—are incorporated into multiple areas of practice, policy, and law. One such example is the use in wellness and family courts in Tribal communities. Tribal Healing to Wellness Courts are specialized restorative justice courts that combine judicial supervision with intensive, culturally based treatment for people with substance abuse issues.¹¹ Such models may operate within an independent Tribal court or in joint jurisdiction courts where authority is shared between a Tribe and a state or county, such as the Hoopa Valley Tribal Court and Humboldt County Superior Court Joint Jurisdiction Family Wellness Court.¹² Similarly, intertribal courts, which pool resources to serve multiple Tribes outside state systems, may also provide wellness-based restorative responses. One example is peer decision-making for Tribal youth, such as the Intertribal Court of Southern California's Tribal Youth Court.¹³

What Does the Research Show?

RJ in criminal justice contexts has demonstrated promising outcomes for survivors/victims, harming parties, and communities. When compared with traditional prosecution, RJ can lead to:

1. higher survivor/victim satisfaction with the justice process and lower levels of mental health distress, including symptoms of post-traumatic stress disorder (PTSD);¹⁴
2. decreased recidivism for harming parties, especially among youth;¹⁵ and
3. lower costs to the criminal justice system.¹⁶

Research on restorative justice continues to grow, and more studies are needed to rigorously evaluate these and other findings; however, restorative justice practices, by their design, increase the odds of strengthening community safety and cohesion and facilitating effective community-led solutions to harm.¹⁷

Restorative Justice Process Models

There are several models commonly used for restorative justice dialogue-encounter processes: circles, victim–offender dialogue (also known as victim–offender mediation), and restorative conferencing. While each model has its own structure and process, all three share a commitment to facilitated dialogue in which those most directly affected by harm are given an opportunity to meaningfully identify the impact of the harm and determine the path toward repair.

The dialogue-encounter process. RJ dialogue-encounter models include a series of stages and steps for facilitation. At each stage (referral, preparation, process, and agreement/follow-up), RJ practitioners work closely with participants. This work includes intensive one-on-one preparation during which the practitioner assesses the parties' readiness, determines parties' needs and expectations, sets forth the difference between RJ and retributive justice, and describes the format of the process with the survivor/victim and harming party prior to holding any dialogue process.

Model	Description	Restorative Process
Circle Process	Circles are RJ practices that draw on the principles and values of relationship, peacemaking, and community-building to promote accountability. In circles, participants engage in facilitated dialogue seated in a physical circle shape and take turns (“rounds”) speaking and listening to one another based on prompts from the RJ practitioner. This collaborative approach begins with the development of consensual guidelines created by all participants. There are common elements in the facilitation of circle processes, such as the use of an object or “talking piece” that is passed from one person to another to indicate whose turn it is to speak. This process is designed for all parties’ voices to be heard and carry equal weight.	 Healing and Support Circles  Circle of Support & Accountability (CoSA)/ Reentry Circles  Sentencing Circles
Victim–Offender Dialogue (VOD)	Sometimes called “Victim–Offender Mediation” (VOM), VOD is a facilitated, face-to-face meeting between the survivor/victim and the person who committed the crime. Participants speak directly about the impact of the offense, seek answers, and develop a plan for meaningful repair. A trained practitioner guides the dialogue in a safe, structured, and respectful environment, supporting both parties in communicating effectively and honestly. Like circles, additional participants may include support people for the directly impacted parties. VOD/VOM processes occur most often at the request of the victim/survivor. The purpose of the VOD/VOM is not for the victim/survivor to forgive the harming party—unless that is the unequivocally identified need of a victim/survivor. Instead, the goal is for the victim/survivor to feel heard, describe the impact of the crime, and ask questions, and for the harming party to holistically understand and address the effects of the harm. In these processes, the victim and the harming party are directly involved in developing an agreement for repair, including restitution when appropriate.	 Victim–Offender Dialogue (VOD)/Victim–Offender Mediation (VOM)
Restorative Conferencing	Restorative Conferencing (RC) is modeled after Family Group Conferencing models developed in the New Zealand juvenile justice system. RC typically involves the harmed and harming parties, their families, and relevant community supporters. Through a mediated process, each of these participants provides input on the broader impacts of the harm and participates in identifying the reparative obligations the responsible party must fulfill. The RC model can also be applied when multiple people are involved in or affected by the same harmful incident, allowing all parties to take part in a structured dialogue and agreement process.	 Family Group Conferencing (FGC)  Restorative Community Conferencing (RCC)

Endnotes

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- 8 Thalia González & Aidan Tomlinson, *Protecting Restorative Justice: An Analysis of Confidentiality, Admissibility and Privilege Provisions in State Legislation (2001–2025)*, 105 NEB. L. REV. XX (2026); and González, *The State of Restorative Justice*, 2020.
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