

Can Restorative Practices Address Intimate Partner Violence?

Summary of a
Roundtable Discussion

by Erika Sasson

This project was supported by Grant No. 2011-TA-AX-K040 awarded to the National Council of Juvenile and Family Court Judges (NCJFCJ) by the U.S. Department of Justice, Office on Violence Against Women. The opinions, findings, conclusions, and recommendations expressed in this document are those of the creators and do not necessarily reflect the views of the U.S. Department of Justice or NCJFCJ.

Author

Erika Sasson
Director of Restorative Practices
Center for Court Innovation

2016

I. Meeting Goals

In her opening comments to the participants, OVW's Principal Deputy Director Bea Hanson discussed the impetus for this Roundtable: there is a growing concern that the current options for achieving safety and accountability through the criminal legal system do not provide sufficient recourse for all survivors. She mentioned a recent survey conducted by the National Domestic Violence Hotline,¹ which found that only half of all callers had requested help from law enforcement, and a third of those who engaged the system actually felt less safe as a result. Often, survivors may prioritize their chance to be heard or opportunities to seek other avenues of support for healing and accountability, rather than a short period of incarceration of the offender, with its potential negative impacts on economic and social stability. In many cases, historical and community-wide barriers also prevent meaningful engagement with the system. And the victim's perspective and voice—the conduit for empowerment, agency, self-expression—is most often missing from the process. This roundtable was convened in response to these discussions happening across the country on how to increase options available to survivors of intimate partner violence, sexual assault, and dating violence.

The goals for the meeting were laid out as follows:

- Identify the need for alternative approaches to intimate partner violence, sexual assault, and dating violence—for individuals and communities.
- Frame restorative justice and tribal peacemaking as they relate to intimate partner violence, sexual assault, and dating violence.
- Identify when alternative approaches could be beneficial.
- Examine current restorative practices that could be safely and effectively replicated.
- Identify limitations with the restorative approach and necessary safeguards.
- Understand how intersecting identities affect this discussion.
- Develop a set of guidelines for approaching a restorative intervention for intimate partner violence, sexual assault, and dating violence.

II. Summary of Major Themes

This meeting provided a groundbreaking opportunity to raise essential questions and make important observations about the ways in which communities and governments respond to violence against women and LGBTQ communities. Instead of coming together around a set of solutions or guidelines for future practice, the roundtable served as a vital starting point for beginning to think differently—as a collective—about pressing issues that had been surfacing among both individual practitioners and across diverse communities. The reflections that emerged from the meeting coalesced around a series of major themes:

Theme One:

What is restorative justice and can it be defined?

The participants came from diverse backgrounds, having practiced what some would call tribal peacemaking, restorative justice, transformative justice, community-based advocacy, and more. Participants had used community organizing, restorative circles, peacemaking circles, other traditional indigenous practices, community conferencing, and other modalities to respond to violence. On the one hand, this made it complex to define or even frame any of these practices under the rubric of restorative justice (or any other term). Indeed, the term itself proved problematic at times during the discussions as it became unnecessarily limiting.

Nonetheless, underlying philosophies came through to help define what is at stake with restorative justice and its various iterations. For example, one participant used Howard Zehr's definition as instructive:

The paradigm shifts from the three questions posed in the criminal justice system:

1. what law was broken;
2. who broke it; and
how do we punish them?

...to a different set of questions when using a restorative justice approach:

1. who was harmed;
2. what does she/he need; and
3. whose obligation is it to meet those needs?

The participant described this shift as fundamentally feminist in essence, because it removes the focus from the perpetrator of harm (the traditional focal point of the legal system) towards the victim/survivor.

Restorative justice was described as a necessarily organic and iterative process that responds to the specific needs of the participants, and, in particular, of the survivor. In that light, restorative justice cannot be a one-size-fits-all process. Ideally, each community will create its own model and move off-script as required by the needs of individual participants. However, while that may make it difficult to define, participants seemed more or less in agreement that the focus is on the creation of a space for healing. Whereas the legal system is primarily focused on an incident of violence, restorative processes look more deeply at the impact of violence on a multiplicity of relationships, including primarily the survivor, but also others in the family and surrounding communities. This process can promote a deeper sense of offender accountability to all those who have been harmed, with the dual goals of healing wounds and preventing future acts of violence.

Theme Two:

What is tribal peacemaking, and addressing concerns of cultural appropriation

Early on in the meeting, tribal participants reminded the group of the sheer breadth of differences among the multitude of tribes across the country. While many tribes have traditional practices such as peacemaking, not all peacemaking practices are identical. In addition, many tribes have never had their own local peacemaking traditions. It is important not to make generalizations about traditions across Indian country.

With that caveat, tribal participants provided an overview of the general meaning and practice of tribal peacemaking, writ large. First of all, “the peacemaking circle is sacred.” In traditional culture, the peacemaking circle is a place of ceremony. Once a sacred circle is set up to address a conflict or crime, there are four elements that make up its process: communication; cooperation; consensus in unity; and

comity. Fundamental to the practice of peacemaking is respect for one another and respect for the process.

The connections between indigenous peacemaking with restorative justice programs and non-Native peacemaking programs became an important topic of discussion. On the one hand, participants were united in the search for ways to elevate practices that would focus on healing survivors in a way that the criminal legal system cannot and has not. One of the issues that emerged, however, was whether something sacred, something that has essence, can be shared across cultures, and what happens when that essence is lost? How does that loss affect the originating indigenous communities, communities that have already suffered and continue to suffer from colonization and historical and ongoing trauma? Some tribal participants expressed frustration at seeing practices leave their ancestral context for use in non-Native communities in ways that felt both disrespectful and patronizing:

And it doesn't sit well with a lot of communities when we see those terms being used and being implemented in other ways [outside of Native communities] and then being sold back to us as a new and innovative practice.

This comment resonated with many participants. It was an integral part of moving this discussion forward, and there was an emphasis on recognizing the importance of supporting funding available for tribes that want to reinvigorate traditional practices, in addition to those that focus on Western-style adversarial courts.

It is important to note, however, that not everyone came at this issue from the same vantage point. For example, some people raised the issue of cultural appropriation while also recognizing that communities need to learn new ways to heal. Others shared concerns that traditional practices—even as

practiced in a Native context—are not a panacea and raised issues regarding safety. Some Tribal participants expressed their perspective that proprietary attitudes towards traditional teachings may run contrary to the underlying spirit of sharing. However, there seemed to be broad consensus that how one shares across cultures is incredibly relevant, and that there is a significant difference between learning from indigenous practices and claiming that one is replicating that very practice:

Theme Three: Developing a survivor-centric model

There are currently few options for victims who are reluctant to engage with the criminal justice system or, as the National Domestic Violence Hotline survey mentioned above found, those who feel that doing so may make them less safe. Being survivor-centered means providing listening to victims and providing them with meaningful choices. As expressed by one participant:

I don't think there is a voice in the justice system for victims. They're witnesses, at best. They're not acknowledged. The need to repair the harm is not acknowledged. The harm is not sufficiently spoken to.

Though the conventional criminal justice system aims to find justice for the survivor and the community, its focus on punishment may unwittingly shape it into an offender-centric model. In contrast, several participants felt that one of the promises of a restorative justice approach to intimate partner and sexual violence is the shift toward a survivor-centered model, which could be used in conjunction with or instead of the conventional criminal justice system. A restorative approach places the survivor at the center of the practice, focusing on what she or he wants and needs, within a safe space that is designed specifically to address those needs. As used by some practitioners, a restorative intervention encourages the survivor to

define who takes part in the process, with the general rule that whoever the survivor wants to include will be invited; and whoever the survivor does not want there is not there. While practitioners work with perpetrators and survivors to reach an arrangement in which all participants can talk safely and truthfully in a restorative intervention (with the practitioner shuttling between the two parties, or with parties together in a family group conference), it is ultimately the survivor who should make the final determination of who should be present.

When so much emphasis is placed on the survivor's needs and wishes, some participants raised concerns of coercion or undue pressure. For example, trauma may impact the survivor's ability to recognize or articulate needs and concerns. There was agreement that no survivor should participate in a process simply because a judge ordered the process or because of social or familial pressure to reconcile with a perpetrator. However, fear of coercion is a problem that pervades any intervention for intimate partner violence. As one participant noted, the district attorney's office has access to jailhouse phone calls, in which perpetrators can be heard—at times in direct violation of the orders of protection—trying to persuade survivors to drop the charges.

Given this landscape, the goal is to find a way to present a survivor with options that can be freely chosen, independent of external pressures. Participants emphasized the importance of not pathologizing a survivor's choice, even when it may seem unsafe or unwise to the outside eye. This would of course include providing options for a survivor who wants to remain in the relationship, for whatever personal reasons may guide that decision. In addition, in preparation for a restorative process, there must be a thorough assessment of the most recent episode of violence and all previous episodes of power, control, and violence,

in order to properly gauge the level of threat and the underlying dynamics of the relationship.

All participants agreed that achieving truly informed consent takes time and requires an in-depth exploratory process. Participants recommended that in order to ensure that the process is truly survivor-centric, restorative justice facilitators must have one-on-one conversations with survivors throughout the intervention, continually engaging with them to determine what they really want at each stage of what may turn out to be a non-linear process. Also, that the survivor has the right to stop the process at any time. By way of contrast, in the criminal legal system, survivors may be required to decide whether to press charges early on, which may reflect neither their needs nor their state of mind as time passes, and can result in frustration and dissatisfaction with the process.

Fundamentally, a restorative process asks more questions than it provides answers:

What would it look like for women's anti-violence movements to support justice processes that truly follow the wisdom of survivors?

Theme Four: Ensuring the safety of victims

Although restorative justice works toward ensuring survivor autonomy, all participants agreed that survivor safety is a precondition to achieving autonomy. Particularly in the context of intimate partner violence and sexual assault, the survivor's safety is paramount. Participants who work in the criminal justice system expressed discomfort with the idea of relinquishing responsibility for safety to the survivor herself or himself. However, one participant raised the point that survivors of sexual assault on campus, for example, may find it difficult to trust that a perpetrator will respect a no-contact order that is imposed by an outside authority, as opposed to one that is developed with

input from the survivor and with the participation of the offender as part of the process of the offender accepting responsibility. As stated by a participant:

Essentially what we see is a cold war on campus with no-contact orders where two students are not allowed to contact each other. The survivors are kind of always looking over their shoulders. On the other hand, with the other more collaborative approach [no-contact orders] where there is a mutual understanding with the purpose and intent, some of that cold war feeling dissipates and there's more comfort afterwards.

On the other hand, some participants brought up difficulties that they had experienced with using restorative justice and tribal peacemaking for cases of intimate partner violence:

I was an advocate when restorative justice first came around and worked with a lot of victim survivors who were a part of that process, and I never saw a successful use of it as far as the victim survivors that I worked with. They often felt coerced, were very fearful, were very intimidated to be in the same circle as their perpetrator .

Many participants raised the point that some cases may be too dangerous to go through the restorative process. However, one of the most contentious questions became, who identifies the risks and decides what is not a viable case for restorative justice? Should a judge, whose duty is protection of the community, have the discretion to decide whether or not a case is suitable for restorative justice? Or, as many participants argued, should the survivor have agency in the overall decision? If the choice is truly left up to the survivor, how does a person who has been harmed determine that the process is safe for them? If a community-based restorative justice organization makes the decision to take on a case, what information is available to them to

make an assessment regarding lethality?

It was clear that the issue of safety raised more questions than provided answers. In light of Director Hanson's reference to the number of survivors who do not engage successfully with law enforcement, and the accompanying reports of lack of safety, it is important to acknowledge that this problem has not been resolved by the current legal systems. Similarly, problematic reports within a restorative context, referenced above, also raise issues as to how interventions can best be crafted to ensure safety.

Instead of searching for a foolproof plan, some participants asked the group to think differently about this issue by considering the positive impact—both long- and short-term—that a community-based network can have on ensuring safety. For example, one participant discussed the methods employed by RESTORE, a program developed by Mary Koss in Arizona to address sexual assault.² In that program, after a restorative conference was conducted with the survivor and the perpetrator, the program set up a community accountability board—made up of volunteers—who would meet with the perpetrator for 12 months to ensure compliance and to give information to the survivor if or when she or he wanted it. This method kept all parties connected with the issues and ensured broader community accountability for a survivor's safety.

One takeaway from the meeting was the importance of investing in programs that—as part of their mission and in conjunction with survivors' input—create broader community networks to ensure safety. Instead of relying entirely on law enforcement to solve the problem, these community-based restorative approaches offer an opportunity for communities to take responsibility for safety and for survivors to take an active role in co-creating that safety. This approach addresses the need for increased survivor agency in

the outcome, as well as the longer-term importance of changing community norms to support victims of violence.

A question that arises, however, is to what degree this can be done in conjunction with—or parallel to—the current legal system (see below, “Theme 7: the community and the legal system”), or whether this can only be done outside the legal system entirely.

Theme Five: Historical trauma and structural oppression

Do we actually blame them as a perpetrator when they were violated at a young age, when they were told not to speak their language, not to carry on their traditions, to have that understanding as a human being and to come back home and be ostracized by their own people because they didn't speak the language and the trauma that was perpetrated on them when they came back into the community?

One of the major themes of the roundtable discussion was the impact of historical trauma on various communities around the United States. Regarding Native communities, referenced in the quote above, there were robust discussions as to how longstanding and ongoing traumas have led to the breakdown of traditional values and the wholesale increase in the prevalence of violence.

In African-American communities, the history of slavery—including the specific exploitation of women and girls—continues to reverberate today. As one participant expressed:

And Sankofa is a principle that is about the importance or the necessity of understanding your history in order to understand where you're going. It's symbolically represented by a bird looking behind, body facing forward but looking behind. So we root our practices in this concept of Sankofa but also understanding what's called the Maafa, which is understanding the African slave trade and understanding the importance of engaging in a deconstruction

of this deeply hurtful practice that renders black girls particularly vulnerable to sexual violence and victimization today.

These collective traumas have been left out of the highly individualized responses from the legal systems, which are designed to address incidents of violence in isolation from broader trends and are especially disconnected from the impacts of history. Participants discussed how this disconnect between past and present is harmful in its own right and also ineffective at holding perpetrators to account and addressing the needs of both perpetrators and survivors. Restorative justice processes provide a possible path toward addressing both individual and systemic victimization and for allowing the perpetrators to initiate their own healing processes as well.

Participants also discussed the oppressive nature of modern social systems on struggling communities. Participants provided several first-hand examples of how the criminal justice system interacts with other state systems to become heavily oppressive. More broadly, one participant referenced racial segregation in housing, the punitive aspect of the welfare system, and mass incarceration as modern phenomena that perpetuate the prevalence of violence. Given the absence of these viewpoints from the practice of the criminal justice system, a restorative approach with its emphasis on harm may provide a space to think more holistically about the forces that are contributing to violence.

One of the fundamental takeaways in thinking through modern systems and historical oppression is how restorative justice might provide an opportunity to begin the process of repair between communities and institutions. When an intervention for intimate partner violence does not in and of itself cause further harm—as might occur with arrest and jail—it gives perpetrators the space and opportunity they need to address their own victimization while also taking responsibility for

the harm they have caused. This allows the slow process of rebuilding trust with institutions to truly begin. As one participant stated:

Part of my interest in this conversation is not only exploring the relationships between individuals and the repair of harm between individuals, but also exploring how this framework can impact the repair of harm between individuals and institutions.

Theme Six: Achieving offender accountability

I don't think the justice system actually deals with what the offenders need either, which is to be held accountable, to understand that they've harmed someone.

Historically, the criminal legal system has equated accountability with punishment. This has led to an understanding of restorative justice—with its focus on acknowledging harm and addressing needs, rather than punishment—as being soft on accountability. Many of the participants took issue with that premise, challenging one another to think about a more profound understanding of accountability.

Moreover, questions about accountability are intrinsically tied to discussions of structural oppression. For many communities, their traumas—both historic and modern—receive little to no public acknowledgment of harm done and institutions are rarely held accountable. This lack of accountability can lead to an erosion of public trust in social systems, and when those same systems turn around and demand individual accountability, the results can become superficial, even meaningless, and can put victims at even greater risk of harm. For example, as one participant noted, mass incarceration not only decimates communities, it also blunts the moral force of the law – creating communities that mistrust the criminal justice system.

Restorative justice, on the other hand, can address harm and focuses on healing for the affected individuals and the community:

In communities of color, because the criminal justice system is what it is, it doesn't get taken seriously in that way. But when we talk about healing, when we center healing, when we center accountability and safety, it actually elevates those issues and people begin to take it more seriously.

Currently, law enforcement officers and prosecutors see many victims who may call the police at a crisis point in their relationship, but who do not want criminal justice system involvement over the long-term. As a participant from law enforcement noted:

What [survivors] want is to be in their relationship, for the violence to stop, and for the offender to get help...[but] we don't know how to make the violence stop and we don't know how to help the offender.

Theoretically, a survivor-centric restorative model could help the offender acknowledge the harm, so that there can be a chance of safely remaining in a relationship. For restorative justice practitioners, the best chance for stopping the violence is by creating the space for both the offender and the community to engage meaningfully in accountability. One participant recounted how circle processes with gang-involved men actually led to a decrease in gang-related and domestic violence through discussions about what it really means to be a man. She concluded:

Processes of accountability are not about punishment. They're about relationships, and they're about being able to show up for those relationships. And, if you keep the focus on those two lessons, you're going to see profound changes.

Theme Seven: The community and the legal system

We've been colonized. Our systems have been colonized. How we practice justice has been colonized and compromised and all of that. So, part of it is, again, finding, reclaiming those things for ourselves, and that involves community.

One of the overarching themes of the roundtable was the question of how to invest in capacity-building and norm-changing across communities to protect victims of violence. It hasn't been sufficient to simply rely on law enforcement—not for victims, who may not avail themselves of that recourse, nor for communities that may feel alienated from those very systems. Participants discussed ways to elevate local support networks that may have a longer-term impact on protecting survivors and honoring their wishes:

So this was a way of turning back to the communities, turning back to social networks and also doing this in a way that not only did it not rely on the criminal justice system, but also didn't necessarily even rely on our agencies if they weren't necessarily supporting the kinds of options that people wanted to choose.

Indeed, for all of the reasons discussed above, the movement for restorative justice is aligned with an increased role for communities with the cultural competence to respond to survivors' needs and to promote actual change in offenders, without doing the harm that may result from interactions with larger social systems. Participants also raised the importance of informal social control on maintaining safety for survivors, which is needed in communities once law enforcement has left the scene. For example, in the RESTORE program discussed above, community accountability boards exercise informal social control over perpetrators and provide information and a sense of comfort to survivors

for 12 months following the incident—something that is unavailable through current law enforcement practices.

With that in mind, participants were also quick to recognize that communities have historically failed victims of violence, which was the impetus behind the battered women’s movement to recognize violence against women as a public matter and a crime. In refocusing from a system-based to community-based response, participants remained cognizant of not romanticizing the role of communities:

Communities have the same systems of hierarchy and patriarchy, and of course it depends on the community. But in my opinion, most of them have at least some problems...[and we have] to be careful about how we define community.

One of the questions that came out of these discussions was the extent to which, if at all, a restorative approach would be integrated within the justice system. For example, one participant discussed how collaboration between courts and community in family justice centers allows survivors to have more choices during this difficult time in their lives, wherein one approach may not be sufficient. After the roundtable meeting, one participant reflected that for future discussions, it would be useful to break down the interventions into three categories: (1) Interventions that seek to make the current legal system more responsive to survivors and respectful of their autonomy; (2) Interventions that work in conjunction with the criminal justice system, such as early or pre-charge diversion; and (3) Interventions that are community-driven and entirely separate from the criminal justice system. This structure would allow different practitioners to focus on areas in which they intend to make change, without conflating the issues. No matter how these issues are categorized, however, participants agreed that more needs to be done in both systems and communities:

We need to create a safe place for our survivors within the system and within communities...They need safe space. We want to ask the survivors would you like help from the criminal justice system, would you like to access that, would you like support from your community?

The system is oppressive. The system is not responding to survivors. When we look at what happens when survivors go to court – there was a situation in Florida, [where] the judge held the survivor in contempt because she was stressed and did not want to go through the system. That is system failure.

Now, when we talk about our community, again, we're talking about communities that sometimes are not willing to even talk about the issue...We need to continue educating our communities, and we need to have the perpetrators held accountable by the community, as well as the criminal justice system.

We have to continue to give the community tools and resources and support to say, don't wait until something horrific happens. When you see something, do something. Put less responsibility on the survivor. That's what I want us to be looking at here.

III. Recommendations for Next Steps

The roundtable discussions provided a unique opportunity for people from diverse spheres and fundamentally different viewpoints to begin the conversation of where and how these practices might overlap in the common pursuit of a safer world for victims of intimate partner violence, sexual assault, and dating violence. The meeting did not culminate in a series of foundational principles, but did spark a series of follow-up questions that will be part of future inquiries on these topics (see Appendix I). In addition, the tribal representatives identified a need to have a follow-up roundtable along similar themes solely for

tribal participants in order to discuss how these issues particularly impact communities in Indian Country and urban Indian populations.

Overall, there was consensus on the need for options for survivors; options that are non-judgmental of a survivor's choices, that are community-based and culturally competent, and that are centered in elevating the voices of survivors. These needs are real and are not being met for many survivors in the current criminal and civil justice system responses. As policymakers and funders evaluate how to make options available for survivors, they might consider the need to invest in creative community-based solutions, as well as in revivals of long-standing Native approaches. Fundamentally, this conversation marked the beginning of a process to open new doors for a national conversation on how restorative approaches and indigenous traditions can bring forth community accountability and survivor safety.

APPENDIX I: Participants in Attendance

Facilitators

Liberty Aldrich, *Center for Court Innovation*

Sujata Warriar, *Battered Women's Justice Project*

Presenters

Sujatha Baliga, *Impact Justice*

Nikki Borchardt Campbell, *National American Indian Court Judges Association*

Honorable Roman Duran, *Nambe Tribal Court*

Joan Pennell, *North Carolina State University*

Participants

Natalia Aguirre, *Alliance for HOPE International*

Charlene Allen, *Common Justice*

Thom Allena, *Thom Allena Associates*

Juan Carlos Areán, *Consultant*

Sujatha Baliga, *Impact Justice*

Nina Balsam, *Attorney*

Pierre Berastain, *Casa de Esperanza*

Honorable Richard Blake, *Hoopa Valley Tribe, National American Indian Court Judges Association*

Nikki Borchardt Campbell, *National American Indian Court Judges Association*

Honorable Susan Butterwick, *Washtenaw County Trial Court*

Honorable Roberto Cañas, *County Criminal Court 10, Dallas, Texas*

Bonnie Clairmont, *Tribal Law and Policy Institute*

Donna Coker, *University of Miami Law School*

Sherene Crawford, *National Network for Safe Communities*

Honorable Roman Duran, *Nambe Tribal Court*

Erin Esposito, *Advocacy Services for Abused Deaf Victims*

Denise Gamache, *Battered Women's Justice Project*

Tamaso Johnson, *Washington State Coalition Against Domestic Violence*

Michelle Kaminsky, *Kings County District Attorney's Office*

Kalei Kanuha, *University of Hawaii at Monoa*
David Karp, *Skidmore College*
Mimi Kim, *California State University*
Monique Morris, *The National Black Women's Justice Institute*
Sue Osthoff, *National Clearinghouse for the Defense of Battered Women*
Anne Patterson, *STEPS to End Family Violence*
Joan Pennell, *North Carolina State University*
Vanessa Petti, *The California Conference for Equality and Justice*
Sayra Pinto, *Solutionary Apothecary*
Dorma Sahneyah, *National Indigenous Women's Resource Center*

Federal Partners

Bea Hanson, *Office on Violence Against Women*
Rosie Hidalgo, *Office on Violence Against Women*
Nadine Neufville, *Office on Violence Against Women*
Neelam Patel, *Office on Violence Against Women*
Catherine Pierce, *Office on Juvenile Justice and Delinquency Prevention*

APPENDIX II: Participants' foundational questions for the future of this work

1. What is the relationship between indigenous traditions and restorative justice? How do we avoid secularizing indigenous processes to the degree to which they lose their essence?
2. What restorative justice processes can we use that truly follows the voices and wisdom of survivors?
3. How can we develop and implement a process that clearly incorporates the non-linear healing process for survivors?
4. How can restorative justice processes sufficiently integrate safety planning in both preparatory meetings and in the circle or conference?
5. Is there funding that can be specifically allocated to develop and implement restorative justice process for victims of domestic and sexual violence – grounded in an understanding of the dynamics of domestic and sexual violence and the primacy of safety for victims?
6. How do we involve the voices of children?
7. Do these restorative justice processes need to exist entirely external to the criminal legal system or is there a hybrid approach?
8. What is the fear in the domestic violence community regarding restorative justice approaches and how should we respond to that fear or resistance?
9. Language—how do we name the process? Are we talking about conflict or harm or violence or coercive control, domination, etc.? Can we talk in a way that does not label people?
10. How does a person who is harmed determine that the process is safe for them and how do practitioners and/or advocates help to determine whether the process should continue or not?

11. How does a RJ process reinforce norms of anti-violence, non-victim blaming?
12. What is the training and orientation of the program?
13. How does the modality address coercive control, and what is the plan to address that?
14. How does the modality address intersectionality and incorporate that analysis of including anti-oppression work, in addition to efforts against mass incarceration?
15. How can we support ways to educate on these issues in communities; in other words, so that communities don't feel like they have to abdicate the role of dealing with harm in the community to the system?
16. We need to find out what communities are currently doing outside of institutional settings to deal with violence and to see what lessons can be learned from that.
17. How is an understanding of gender-based violence kept central to the analysis?
18. Who are the collaborators, how does one choose them, what's the approach to actual collaboration, and how do we measure effectiveness in collaboration?
19. How does one hold healing and accountability together within the process simultaneously?
20. How do we address the needs of children exposed to domestic violence within these processes, with an understanding that in some of these situations there's more than one person harmed? Is there a way in which a process will understand and see that?
21. How do we create hybrid models and how do we reach across some of our differences?
22. In considering when and how we answer these questions, we need to include and keep in mind that there are urban Indian populations and

policies need to address those tribal members who live in the urban areas as a result of a variety of historical practices, including removal and relocation policies.

Endnotes

1. <http://www.thehotline.org/resources/law-enforcement-responses/>
2. Mary Koss, The RESTORE Program of Restorative Justice for Sex Crimes: Vision, Process and Outcomes, *Journal of Interpersonal Violence*, 2 (2013) available at <https://publichealth.arizona.edu/sites/publichealth.arizona.edu/files/14%2004%2024%20RESTORE%20On-line%20published.pdf>.

Center for Court Innovation

520 Eighth Avenue, 18th Floor

New York, New York 10018

P. 646.386.3100

F. 212.397.0985

courtinnovation.org