



National Association of Community and Restorative Justice

January 2022

NACRJ Policy Statement on

Community and Restorative Justice in Criminal and Juvenile Legal Systems

The National Association of Community and Restorative Justice (NACRJ) Board of Directors and Advisory Council promote policies and procedures that adopt and strongly support the use of community and restorative justice processes within criminal and juvenile legal systems.ⁱ A variety of restorative justice processes and practices have been shown to create profound change both within these systems as well as in the lives of individual participants across the United States. Restorative and community justice processes should be primary options across the legal continuum for persons impacted by or responsible for harm or crime.ⁱⁱ The participation of legal system partners is essential to achieving this goal and likely necessitates refocusing current priorities, processes, roles and responsibilities.

The language used in this document is intended to reflect the dignity and full humanity of all participants and stakeholders.ⁱⁱⁱ This value should be reflected within all legal system practices.

In support of this policy position, NACRJ advocates that restorative processes in legal systems shall be inclusive of the guiding restorative principles, values, and practices, including the following:^{iv}

- **Equitable**

Restorative justice practices should incorporate policies and procedures that reflect awareness of current and historical racialized harm that affect our legal systems. Such policies include, but are not limited to the following:

- o Ensuring through policy and recruitment that restorative justice, practitioners and program administrators reflect the racial and ethnic diversity of the community and that, to the extent possible, restorative programs are held by local organizations that deeply understand the needs and reflect the resilience of historically marginalized communities.
- o Providing that practices guided by restorative justice theory, values, and principles are accessible and available in an equitable manner, and especially attend to the needs of populations that are disproportionately harmed by crime or criminalized.
- o Establishing practice features such as eligibility criteria, location, participation requirements, language and logistical considerations that minimize bias and result in equitable access to restorative justice.

- o Maintaining disaggregated data to evaluate the impact of restorative and community justice implementation in terms of racial, ethnic and other disparities.^v

- **Inclusive and collaborative**

The design and implementation of restorative justice practices should be inclusive and collaborative, intentionally elevating the voices of people who have been historically marginalized.^{vi} Collaborative processes should engage harmed person(s), responsible person(s), community and system stakeholders, including victim service workers and advocates. Development of restorative processes should seek to be respectful of and collaborate with established practitioners, to maximize fidelity to restorative principles.

- **Centered on the needs of persons harmed**

Person(s) harmed and survivors often feel removed from services and support that can help them in the immediate, short and long-term, and from criminal and juvenile justice system processes that should be designed to protect them. By addressing the trauma and needs of person(s) harmed, restorative justice can more clearly define the harm caused by crime and its impact on survivors.^{vii} The objective is to promote healing and avoid re-traumatization and revictimization. Victim advocates and victim assistance services are key players in the collaborative process of implementing restorative justice processes and in connecting those who have been harmed with restorative justice information and opportunities.

- **Grounded in responsibility/accountability**

Restorative justice processes should provide a pathway for people who are responsible for harm to take accountability for past and future actions in a non-punitive, strength-based process. Elements of accountability include: accepting responsibility for one's actions, acknowledging the impact of those actions, expressing remorse for the harms, repairing the harm and making amends guided where possible by the needs and wishes of the person harmed and taking steps to ensure one does not repeat the harm.^{viii}

- **Trauma-informed and resilience focused**

Restorative Justice processes should aim to foster a relational environment that is respectful of participants' dignity and experience. Facilitators should be attuned to recognizing the causes, widespread impact, and signs of trauma to proactively create a safe environment that resists re-traumatization. Historical trauma and ongoing harm can influence context, so naming these harms and identifying ways to decentralize power, encourage authentic inclusion, and build trust can address and disrupt these dynamics within the restorative process. Providing

opportunities for individual choice and collaboration while also creating space and time for digestion, rest, and release can support participants to develop resilience.^{ix}

- **Voluntary**

Restorative practices are based on the principle of voluntary participation for all participants. Voluntary participation means that the participants are making an active and informed choice to engage in the process.^x Prior to making a choice, each participant must receive a full explanation of what the restorative justice process is and what their role will be. Participants may choose to withdraw from the process at any time. In order to safeguard this value, processes should be structured to consider power dynamics and related factors.

- **Confidential**

All communication between and among facilitators and participants during *all phases* of a restorative justice process (preparatory through any follow-up steps after a process) shall be protected by confidentiality standards that ensure participants' privacy and prevent use of a restorative process for adversarial or punitive purposes.^{xi}

- **Comprehensive**

Incorporate restorative practices across the continuum of the criminal and juvenile legal systems from pre-file through post-sentence opportunities.

- **Sustainable**

Restorative practices require sufficient and durable funding to support personnel, evaluation and other infrastructure, such as creating standards of practice, training, professional development and additional operating costs.

Summary

This policy seeks to create awareness and collaboration among legislators, policymakers, community stakeholders, and legal system partners to promote and support justice reform that:

- Provides training and technical assistance to legal system and community stakeholders, including victim advocate and support services, in best practices for designing and implementing restorative justice and restorative practices with fidelity to restorative justice principles.
- Supports restorative practices and practitioners across the legal system continuum that are informed as much as possible by community-driven initiatives, from pre-arrest diversion through reentry/reintegration.

- Creates opportunities to address difficult community issues relating to law enforcement and the legal system in constructive and meaningful ways through restorative dialogue.
- Furthers evaluation methodologies, including performance measures, that are essential in continued development and implementation of best practices.
- Promotes needed legislative and other policy support for successful implementation of community and restorative justice.

ⁱ Also called “justice systems.”

ⁱⁱ See Implementation and Management Resources.

ⁱⁱⁱ See also Implementation and Management Resources Guide. Throughout this document, we have attempted to use language that describes restorative justice participants and stakeholders in ways that affirm their dignity and humanity rather than labeling them in ways that stigmatize or reduce them to a particular act or experience. We believe this most closely reflects and advances restorative values and principles, while honoring the ways people come to restorative justice processes. We are aware that many terms often used in restorative justice practices have historically reflected common usage and the labels used by retributive systems, e.g. Victim Offender Dialogue. We invite policymakers and restorative practitioners alike to shift toward a more restorative use of language, especially as they are codified in policies.

^{iv} See Implementation and Resources Guide for more details about restorative principles, values, and practices. See also Zehr, H. (2005). *Changing Lenses: A New Focus for Crime and Justice*. Scottsdale, PA: Herald Press.

^v See [NACRJ Positioning Statement on Historical Harm](#). See also Valandra, E. and W.W. Hokšila (Eds.) (2020). *Colorizing Restorative Justice: Voicing Our Realities*. St. Paul, MN: Living Justice Press.

^{vi} See also Valandra, E. and W.W. Hokšila (Eds.) (2020). *Colorizing Restorative Justice: Voicing Our Realities*. St. Paul, MN: Living Justice Press.

^{vii} Pavelka, S. and A. Seymour. (2019). “Guiding Principles for Restorative Justice and Victims,” *Corrections Today*, a publication of the American Correctional Association, Jan/Feb.

^{viii} Sered, D. (2019). *Until We Reckon*. New York: The New Press.

^{ix} See Implementation and Management Resources.

^x Criminal legal system involvement arguably may undermine voluntariness as people choose between restorative justice and punitive options. In these scenarios, participants must still have freedom to choose how they will engage with the restorative justice process without pressure or coercion. If a participant is incarcerated or otherwise involved in the legal system, they must still have the choice whether or not to participate in a restorative process. Reference: *Restorative Justice Facilitator, Code of Conduct and Standards of Training and Practice*, State of Colorado, Amended August 2015, found on <https://rjcolorado.org/>.

^{xi} In Illinois, a 2021 law established that “anything said or done in preparation for a restorative justice practice or as a follow-up to that practice, or the fact that the practice has been planned or convened, is

privileged and cannot be referred to, used, or admitted in any civil, criminal, juvenile, or administrative proceeding unless the privilege is waived” <https://ilga.gov/legislation/102/SB/PDF/10200SB0064lv.pdf>.