



# Restorative Justice in Louisiana

By Kristin M. Wenstrom

**R**estorative justice is a means to address wrongdoing.

It can be used as an alternative to, or in conjunction with, the traditional justice system. Restorative justice is based on three principles. First, it focuses on the harm done to people and communities. Second, it acknowledges that harm results in obligations and emphasizes accountability and responsibility by whoever caused the harm. Unlike in the legal system where accountability is often in the form of punishment, in a restorative justice model, it means that the responsible parties must understand the full consequences of their behavior and that they have an obligation to repair the harm, as much as that is possible, both concretely and symbolically. Third, restorative justice promotes engagement and participation by those who were harmed and those who caused the harm. This often occurs in a facilitated face-to-face encounter that is preceded by screening and preparation.<sup>1</sup>

This dialogue is an opportunity for the offender to be held accountable to the person harmed and to take responsibility for that harm. It allows victims to ask questions directly of the person who caused the harm. A restorative justice conference also may result in an agreement that the victim receive some form of restitution for the wrongs suffered. Restitution may be monetary or a service performed by the responsible party. Although full restitution may be impossible, victims often find that even partial restitution is symbolically important. Victims who participated in a face-to-face encounter were more likely to be satisfied with the justice process (79%) compared to similar victims who only go through the traditional legal system (57%). Victims who participated in this type of conference expressed feelings of empowerment in the justice process and

emotional healing. Notwithstanding the positive outcomes, there are also risks. Victims may be retraumatized by what they learn or disappointed in how the offender responds to what they say.<sup>2</sup>

As for offenders, a dialogue provides them with a better understanding of the implications of their offense. It also gives them the opportunity to express their remorse directly to the person harmed, make restitution and “put things right.” A victim-offender conference encourages offenders to take an active role in their future instead of passively responding to decisions made for them. It also gives offenders the opportunity to show they are more than the crime they committed — they are not “monsters,” but rather humans, too. This process is challenging for offenders as well. A restorative dialogue breaks down any cognitive distance they may have created between themselves and the harm they committed. They must sit and listen to the pain the victims suffered as a result of their actions. This experience can be more difficult than sitting in a courtroom without having a direct conversation with the victim. That said, despite the challenges, 91 percent of offenders expressed satisfaction with the facilitated conversation process.<sup>3</sup>

Restorative justice is not employed widely in Louisiana, but this article explores three programs that use this model. Perhaps with more knowledge and awareness about this framework for justice, new programs will be developed in Louisiana.

#### **Center for Restorative Approaches<sup>4</sup>**

The Center for Restorative Approaches (CRA)<sup>5</sup> is a non-profit, community-based organization doing restorative justice work in the New Orleans area. The organization promotes not just accountability and repair within relationships, but also building and nurturing communities. CRA is the only community-based organization doing restorative justice work in Louisiana.

In 2008, CRA began by bringing restorative approaches to the charter school

system in New Orleans. The schools involved simultaneously lowered their suspension rate and incidents of violence by 40% to 50%. CRA also consults with workplaces to provide a one-time training on restorative approaches or to implement a formal restorative policy within the organization.

CRA is partnering with a national organization, Impact Justice,<sup>6</sup> to bring restorative justice policies into prosecutors’ offices. CRA is currently in conversation with the Orleans Parish District Attorney’s Office about how to bring restorative approaches into juvenile diversion cases in New Orleans. Research has shown that restorative work is more beneficial when it is facilitated by an organization with ties to the community than when it is managed by an office within the criminal legal system. Therefore, CRA’s involvement is essential for its success. CRA also worked with the Jefferson Parish District Attorney’s Juvenile Diversion office to establish the use of restorative practices within the Jefferson Parish School System. The stated goal was to reduce suspensions, expulsions and arrests. (This program is discussed in more detail below.)

While CRA’s focus has been primarily on youth, the organization has worked on a handful of cases in the adult legal system. However, restorative work in that realm is more difficult because it is, by definition, punitive, whereas the juvenile system is rehabilitative. For the restorative process to succeed, there must be “buy in” from prosecutors. Impact Justice promotes, and prosecutors nationwide have accepted, memoranda of understanding between community-based organizations and prosecutor’s offices that include confidentiality within the restorative conference and outline what information from these meetings is shared with the district attorney’s office. These boundaries allow for vulnerability and trust-building within the process. District attorneys who are interested in adding a restorative justice approach to their “tool kits” to address crime within their communities should contact CRA.

## Jefferson Parish District Attorney's Juvenile Diversion Program<sup>7</sup>

In Jefferson Parish, when a child is accused of committing certain offenses, the case may be referred to the diversion program.<sup>8</sup> If the offense involves harmed persons, the restorative justice coordinator reaches out to them to see if they are interested in participating in a community conference. If so, the coordinator then contacts the accused youths to determine whether they accept responsibility for the offense and would like to join the conference. After a few more in-depth conversations with the affected individuals, the coordinator organizes a conversation between the parties and their supporters at an agreed-upon location in the community.

The community conference is a facilitated, structured conversation that occurs between those harmed by the offense and the youths who committed the offense. The basic format is that the youth speaks first, then those harmed speak, then the community speaks, and then the youth responds to what was heard. The participants discuss what they want to come out of the conference. Often this is an agreement about how the youths can attempt to repair the harm they caused. After the conference is completed, the restorative justice coordinator monitors the progress of the youth's adherence to the agreement.

Victims benefit from the program because it provides an opportunity for them to get answers to their questions: Why did you do this? Why did you do this *to me*? Am I safe? Will you do this again? Victims appreciate that the youths who caused the harm accept responsibility for their actions, provides accountability and begins to demonstrate meaningful change that is not as observable in the traditional juvenile legal process. The juvenile diversion office has found that the accused youths also are grateful to participate in the program. They and their parents feel like they have some control over the process. They appreciate being able to do something to repair

the harm rather than just being punished. However, for many youths who have caused harm, admitting to the offense, expressing remorse, being held accountable, and then doing the repair work are more difficult than many traditional punishments that avoid the emotional aspects of the harm they caused. When they just "do the time" (in custody/probation) or even complete tasks within a diversion plan, they do not have to answer to those who were harmed or understand the full consequences of the pain they caused. Under the adopted restorative justice project, the community conference seeks to improve and correct behavior going forward and make lasting changes through these sometimes uncomfortable dialogues.

## Department of Corrections Accountability Letter and Victim- Offender Dialogue Programs

The Department of Corrections has two programs in the restorative justice style — the accountability letter program and the victim-offender dialogue. Accountability letters are written by inmates in an attempt to communicate remorse and acknowledge the pain they caused by committing the offense. The inmates take a course in prison to help them understand a victim's perspective and then to write a letter to those they harmed. In the letters, the inmate admits committing the crime, recognizes the harm done to the victim/survivor, and expresses regret for the pain caused. The letters cannot be a means to ask for forgiveness or make excuses for the crime. When the letters are completed, they are stored in the accountability letter bank at the Crime Victim's Services Bureau Office. The letters are only provided to victims at their request and the inmates will not know if the victim requested to view the letter.<sup>9</sup>

The Victim-Offender Dialogue (VOD) Program involves more interaction between the inmate and the victim/survivor. After extensive preparation by all involved, this program culminates in a carefully prepared and facilitated face-

to-face meeting between the victim of the crime and the person who committed the crime. There is no single purpose to the meeting, but many victims have questions that are left unanswered through the criminal justice system process. They may tell the inmate about how the crime affected them and the harm it caused. They may seek assurance that the offender will never hurt anyone else.

The VOD process begins when a victim/survivor contacts the Victim Services Bureau and expresses a desire to participate. Two trained facilitators are assigned to the case and those facilitators have a series of separate meetings with the victim and inmate, a process which takes about a year. If and when the facilitators feel each side is prepared to meet in person and both sides are willing, the facilitated face-to-face meeting occurs at the prison. Below is a story of one man's experience with the VOD Program.<sup>10</sup>

## Don Allison's Story

Don Allison<sup>11</sup> was leaving his office late one night in 1996. As he walked toward his car, a man jumped out of the bushes and put a gun in Don's face. Don handed over his wallet and keys and felt a wave of relief as the man began to walk away. Just then, the man returned and fired a shot, barely missing Don as he dove into the bushes. Again, Don thought he escaped harm as the man made his way toward his car, but he came back and fired another shot into the bushes before finally leaving. This time, Don was hit. The bullet traveled through his thigh and into his calf.

The man who shot Don, Marcus Cheffen, was caught and confessed to police, but pled not guilty. After a trial, Marcus was convicted of two counts of attempted second-degree murder and one count of armed robbery and sentenced to a total of 95 years imprisonment. Don was told that, even with good time, he would not be released for 47 and a half years. Don closed this chapter of his life and moved on with the peace of mind that Marcus would not be able to hurt anyone else.

But that ended in 2016 when Don received a call and learned that Marcus was up for parole due to a change in the law. At the parole hearing in July 2016, Marcus made a statement about being rehabilitated in prison. He was remorseful for what he had done to Don and he claimed he was no longer a threat to society. However, this had no effect on Don's opposition to his release and Marcus's parole was denied.

After the hearing, Don wondered whether he did the right thing by opposing Marcus's release. Don admitted that Marcus had told a compelling story of rehabilitation, but he assumed it was not true and Marcus was just a good actor. Yet, Don remained curious about Marcus — what kind of a person was he now? Don spoke with Gail Guerin, director of the Crime Victims Services Bureau within the Department of Corrections, and was frustrated to learn he could not simply visit Marcus in prison. Gail pointed Don to the Victim Offender Dialogue Program. Subsequently, Don was contacted by two VOD facilitators who met with him to hear his questions and concerns about Marcus. About a month later, the facilitators met with Marcus to see if he was interested in participating in a dialogue with Don. Marcus agreed. The facilitators carried on these back-and-forth meetings and, eventually, reported to Don their belief that Marcus was sincere in his remorse and rehabilitation.

These meetings continued through 2018. During this time, Don began taking theology classes and learning more about forgiveness as part of his training to become a deacon in the Catholic Church. At the start of the VOD process, Don was only interested in figuring out what his position would be at the next parole hearing, but now he was considering forgiving Marcus. Yet, Don still felt like he needed more information to make that decision. For that, he turned to Andrew Hundley, director of the Louisiana Parole Project (LPP).<sup>12</sup> Andrew spent two decades in prison himself and now runs a successful organization supporting prisoners through the parole process and upon release. After meeting with Marcus,

Andrew felt that he was genuine in his remorse and rehabilitation and LPP accepted him as a client.

With that assurance, Don was prepared to meet with Marcus. In August 2019, Don, his wife and two daughters drove to Dixon Prison to meet with the man who had tried to kill him two decades prior. Needless to say, it was an emotional meeting with many tears shed. Don prepared a list of questions that he asked Marcus that morning. Marcus's only expectation was that he would have a chance to apologize to Don, face-to-face. So, when Don accepted his apology and then told him he forgave him, Marcus was overcome with emotion. During the lunch break, Don decided that, based on what he had seen that morning, he wanted to support Marcus's next bid for parole. Don had considered it before the dialogue but could not feel confident that Marcus was genuine until he met with him in person. At that meeting, Don saw that Marcus, now in his 50s, was no longer the 24-year-old who shot him. He was a different person who was no longer a danger to others and deserved a second chance on freedom. That afternoon, Don revealed to Marcus his plan to help him be released on parole as soon as possible.

Marcus's second parole hearing was in February 2020. This time, Don wrote a letter to the parole board expressing his support for Marcus's release. Don also testified at the hearing. The board voted in favor of Marcus being granted parole and he was released into LPP's transitional housing a few days later. Since then, Don and Marcus have remained close — they speak on the phone regularly and meet occasionally for lunch.

Don and Marcus are extraordinary men, but they are not unique. While even Don warns it is not appropriate for everyone, VOD provides a mechanism for connection and healing that is not available through any other means.

## Conclusion

The programs described in this article demonstrate how a restorative approach can support crime victims and survivors,

promote true accountability and growth for those who commit crimes, and create safer communities overall. Despite these benefits, restorative justice programs are rare in this state. Stakeholders in Louisiana's criminal legal system should consider incorporating restorative approaches into how they address crime in their communities.

## FOOTNOTES

1. Howard Zehr, *The Big Book of Restorative Justice*, pp. 33-39 (Good Books 2015).
2. Zehr, *supra* n. 1, pp. 178-80.
3. Zehr, *supra* n. 1, pp. 180-82.
4. Interview with Troi Bechet and Kai Werder, Oct. 18, 2022, on file with author.
5. [www.theecra.net/](http://www.theecra.net/).
6. The Restorative Justice Project at Impact Justice aids in the expansion of restorative justice diversion programs nationwide through direct training, technical assistance and the development of its National Training and Innovation Center. The organization supports partners across the country to develop restorative justice programs in their communities. See, <https://impactjustice.org/>.
7. Interview with Blake Bascle, Marguerite M. Tyson and Douglas Rushton, Oct. 17, 2022, on file with author.
8. A diversion program addresses the offense committed without engaging the full criminal legal process. If an offender completes certain tasks and activities, the charges may be dismissed by the district attorney.
9. Interview with Francis Abbott, July 9, 2022; see also, "Facts about Accountability Letter Program" brochure, available at <https://s32082.pcdn.co/wp-content/uploads/2019/08/accountability.letter.program.brochure.pdf>.
10. Interview with Francis Abbott, July 9, 2022; see also, "Victim-Offender Dialogue" available at: <https://s32082.pcdn.co/wp-content/uploads/2019/08/VOD-Flyer-December-2015.pdf>.
11. Interview with Don Allison, Oct. 31, 2022, and Nov. 14, 2022, on file with author.
12. [www.paroleproject.org/](http://www.paroleproject.org/).

*Kristin M. Wenstrom is a senior research attorney at the Louisiana Supreme Court. Before working at the Court, she was a lawyer at Innocence Project New Orleans and the Louisiana Center for Children's Rights. She received her BA degree from New York University and her JD degree from Tulane Law School. (kwenstrom@lasc.org; 400 Royal St., New Orleans, LA 70130)*

