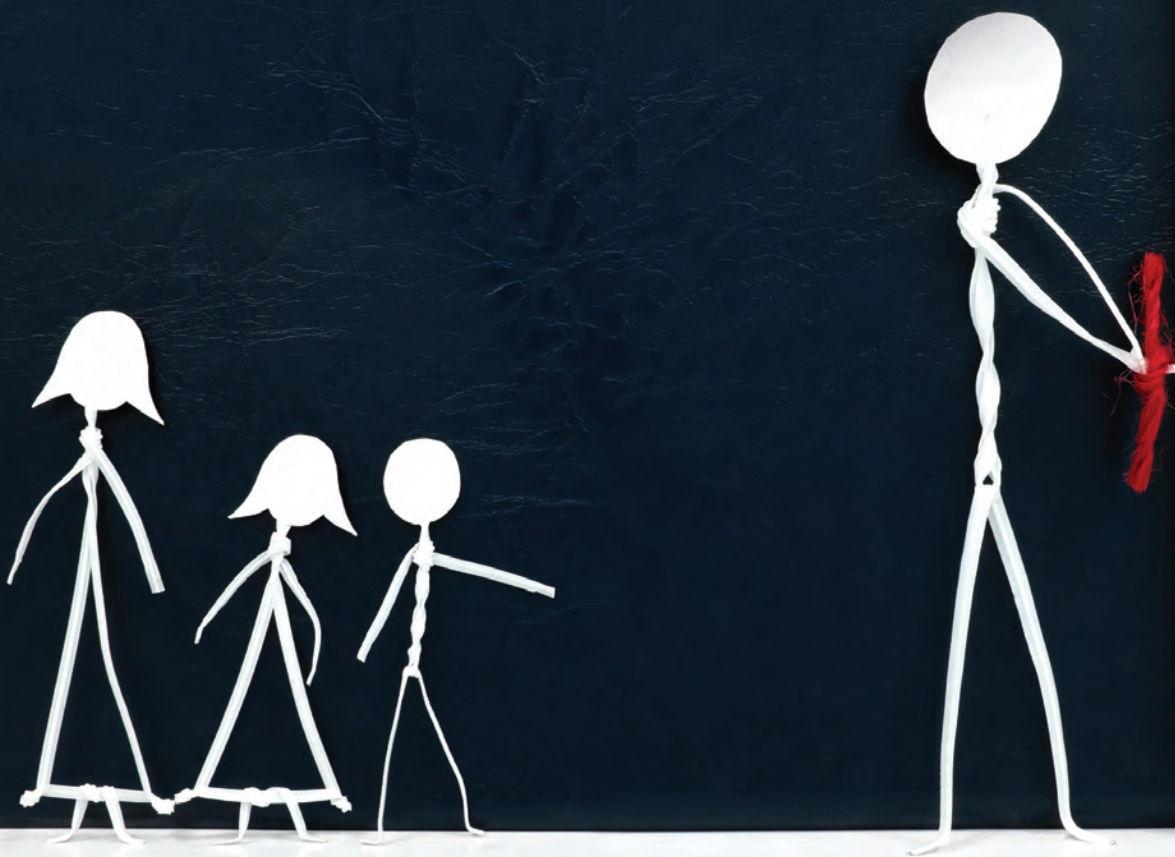


Mediation BREAKS into Prison

By Caroline A. Broussard and Justine M. Ware



Louisiana has some of the highest incarceration and recidivism rates in the United States. Alison McCrary, after obtaining her JD degree from Loyola University's College of Law in New Orleans, decided to use her background in social justice and mediation towards reducing this fact. McCrary created an organization with the goal of improving incarcerated persons' transition back into the home through mediation. She founded the Re-Entry Mediation Institute of Louisiana (REMILA) in 2018. REMILA seeks to decrease recidivism rates, improve a person's transition home from incarceration, and nurture sustainable support through positive relationships with loved ones.

Through REMILA, incarcerated persons have the opportunity to sit down prior to release from a correctional facility with family members and two mediators. During the mediation, the incarcerated person and his/her family will make a plan for a smooth re-entry. What makes this program unique to regular mediations is the nature of the mediator panel. Through REMILA, the role of the mediator is held by formerly incarcerated people and/or loved ones of presently or formerly incarcerated people. These mediators are given the necessary skills through a 50-hour training program, monthly training and an apprenticeship program.¹ Opening these positions to formerly incarcerated people provides an additional level of understanding to the mediations. Rebuilding relationships and resolving any remaining conflict are critical to a successful transition back into society and REMILA aids in facilitating this goal.²

Re-entry is the transition from life in incarceration to life in the community. Although re-entry may be inevitable, this does not mean that it will be successful.³ Recidivism — the tendency to relapse into a previous mode of behavior, *especially* into criminal behavior — is an unfortunate and common result of re-entry. Individuals being released from prison are likely to face hardships after enduring the stress and isolation of a prison environment. Many have limited



job skills, addiction problems, strained relationships, and may have difficulty adjusting to cultural changes that have occurred during their time in correctional facilities.⁴ Those reintegrating into society tend to lean on those around them for support. Unfortunately, if those familial and amical relationships are strained at the outset of re-entry, those crucial people in the reintegrating person's life may be unable to adequately aid them in re-entry.⁵ These factors combined contribute to high recidivism rates in the United States.⁶ In Louisiana, more than 18,000 people are released from the Department of Corrections (DOC) facilities each year. According to the DOC, 43% of those released return to prison within five years. This creates a cycle of incarceration and return to prison which REMILA seeks to decrease.⁷

Re-entry mediation is an attempt to break down these barriers in hopes of lowering the likelihood that the formerly incarcerated person recidivates. However, there is an additional hurdle that must be overcome to have a successful re-entry mediation. Often, incarcerated people may harbor negative feelings towards authority figures.⁸ If the parties involved in mediation feel as though they cannot speak freely or are being judged, then the mediation is less likely to be effective. REMILA combats this by training formerly incarcerated people and others who will be mediators in re-entry mediations. The 50-hour training program teaches

prospective mediators REMILA's model of mediation, how to mediate a case from start to finish, and how to handle existing and potential conflicts. The training program is an interactive program that utilizes role-playing to simulate the real-life situations the mediators will encounter. By encouraging people with conviction histories to apply to become a mediator through REMILA, the program is adding a level of understanding to re-entry mediations that has not previously been present.

The Community Mediation Maryland's Prison Re-Entry Mediation Program (CMM) is a comparative program to REMILA and has seen success thus far. This program facilitates re-entry mediations in a similar way to REMILA and also targets recruitment to those who have served time to ensure diversity among their mediators.⁹ However, not all formerly incarcerated persons will be cleared to enter correctional facilities for the purposes of mediation depending on their conviction history. Regardless, these people will still be trained as mediators for mediations outside the facility.

In 2014, CMM hired Choice Research Associates, an independent evaluator, to evaluate the effectiveness of its re-entry program. Choice Research Associates found that the probability of re-arrest is reduced by 13%, and the probability of future conviction is reduced by 15% for those who participated in re-entry mediation compared to those who did not. Additionally, the research showed

that each additional individual mediation reduced the probability of re-arrest by 8%.¹⁰ REMILA is also working in close partnership with Choice Research Associates as a third party to collect and analyze data and recidivism rates.

In 2013, CMM provided evaluation forms to participants in the re-entry program three months after its initial mediation with the program. Of the 96 participants, 80% agree they partake in creative problem solving when faced with a conflict. Significantly, these evaluations also showed that of the “inside” participants, meaning those who were incarcerated at the time of the mediation, 80% reported they felt they were more prepared to return home.¹¹ Given these results, it is clear that the CMM and REMILA Re-Entry Mediation Models are an effective tool for the individuals, their families and the community.

REmila trained and hired its first group of system-impacted mediators in September 2021 through a 50-hour initial training and two-year performance-based evaluation apprenticeship program. It also launched its pilot project in Plaquemines Parish Detention Center, a maximum-security facility, in June 2021, to be followed by St. Tammany Parish jail. To get involved,

support or learn more, go online to www.reentrymediation.org.

The article was written under the supervision of Paul W. Breaux, Louisiana State University adjunct clinical professor and former chair of the Louisiana State Bar Association's Alternative Dispute Resolution Section.

FOOTNOTES

1. “About Re-Entry Mediation,” www.reentrymediation.org/about.
2. Eric Mondesir, “Recidivism and Relationships,” www.reentrymediation.org/evaluation-and-data.
3. Mondesir, www.reentrymediation.org/evaluation-and-data.
4. Lorig Charkoudian and Shawn Flower, “Prisoner Re-Entry Mediation,” *Disp. Resol. Mag.*, at 14, 14 (2010).
5. Mondesir, www.reentrymediation.org/evaluation-and-data.
6. Nayely Esparza Flores, “Contributing Factors to Mass Incarceration and Recidivism,” *Themis Rsch. J. Of Just. & Forensic Sci.*, Vol. 6, Article 4 at 56, 57 (2018).
7. Scott Peyton, “Employment and Second Chances in Louisiana,” *Right On Crime* (April 17, 2019).
8. Shawn Anderson, “Ban the Box: Mediation’s Place in Criminal Reentry and Employment Rights,” 19 *Pepp. Disp. Resol. L.J.* 157, 166 (2019).
9. However, not all formerly incarcerated people will be cleared to enter correctional facilities for the purposes of mediation depending on their conviction history. Regardless, these people will still be trained as mediators for mediations outside

the facility. <https://re-entrymediation.org/start-a-program/best-practices-sample-forms/>.

10. Shawn M. Flower, Community Mediation Maryland in-Depth Recidivism Report Analysis (Nov. 2014). <https://re-entrymediation.org/evaluation-results/>.

11. Flower, <https://re-entrymediation.org/evaluation-results/>.

Caroline A. Broussard, born and raised in Thibodaux, received her undergraduate degree in business administration from Nicholls State University. She is currently a 3L student at Louisiana State University Paul M. Hebert Law Center. She is a member of the Public Interest Law Society and a LexisNexis student representative. (cbrou87@lsu.edu)



Justine M. Ware, born and raised in Lake Charles, received her undergraduate degree in psychology from the University of Louisiana at Lafayette. She is currently a 3L student at Louisiana State University Paul M. Hebert Law Center. She is a senior editor on the Louisiana Law Review. She also has served as a board member of the Public Interest Law Society. (jware8@lsu.edu)



Ethics Advisory Service

www.lsba.org/goto/ethicsadvisory

For assistance with dilemmas and decisions involving legal ethics, take full advantage of the LSBA's Ethics Advisory Service, offering - at no charge - confidential, informal, non-binding advice and opinions regarding a member's own prospective conduct.

Eric K. Barefield, Ethics Counsel

LSBA Ethics Advisory Service

601 St. Charles Ave., New Orleans, LA 70130-3404

(504)566-1600, ext. 122 • (504)619-0122

toll-free: (800)421-5722, ext. 122 • Fax: (504)598-6753

E-mail: ebarefield@lsba.org

