

AZ JUDICIAL CONFERENCE

*Riding the Fire
Horse: Judicial
Leadership, Public
Safety &
Restoration Practic*



RIDING THE FIRE HORSE: JUDICIAL LEADERSHIP, PUBLIC SAFETY & RESTORATION PRACTICE

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Riding the Fire Horse

Judicial Leadership, Public Safety, and Restorative Practice

“Listen to understand.”



A Different Way of Listening

Listen to understand.



The Question

What actually changes outcomes?



The Cost

“There is a cost to seeing the same young man four times.”



Traditional Court

What rule was broken?

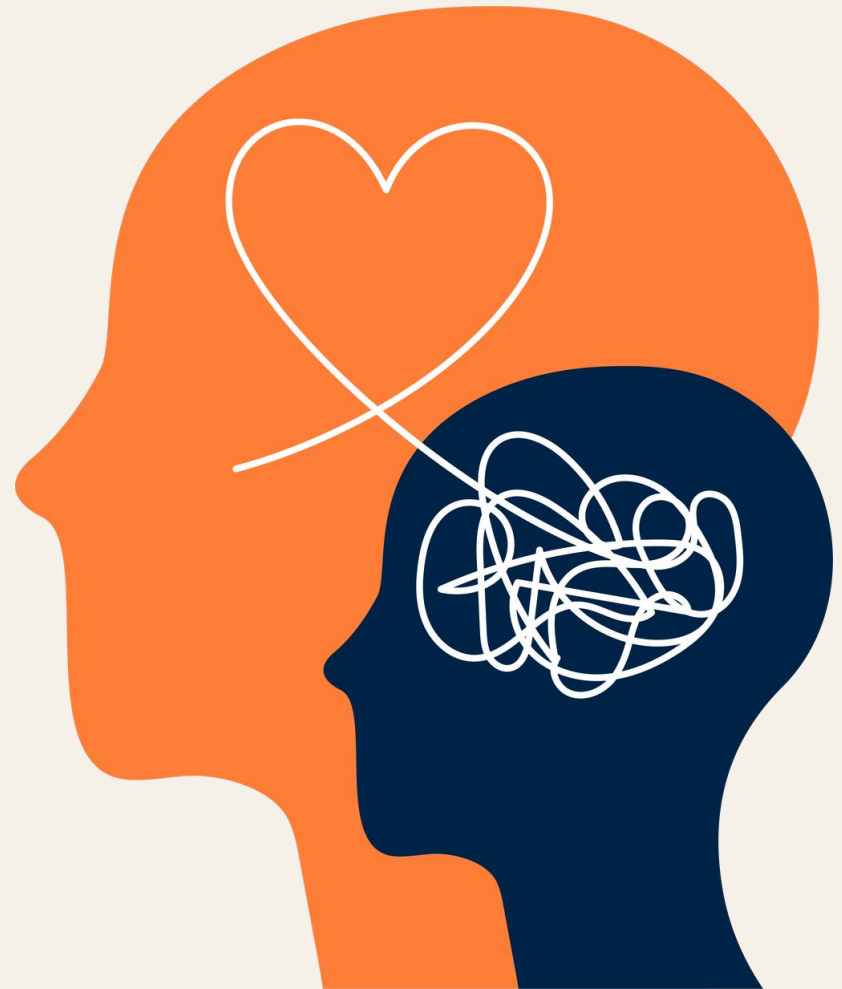
Who broke it?

What consequence is appropriate?



Restorative Practice

Who was harmed?
What is the impact?
What would repair look like?



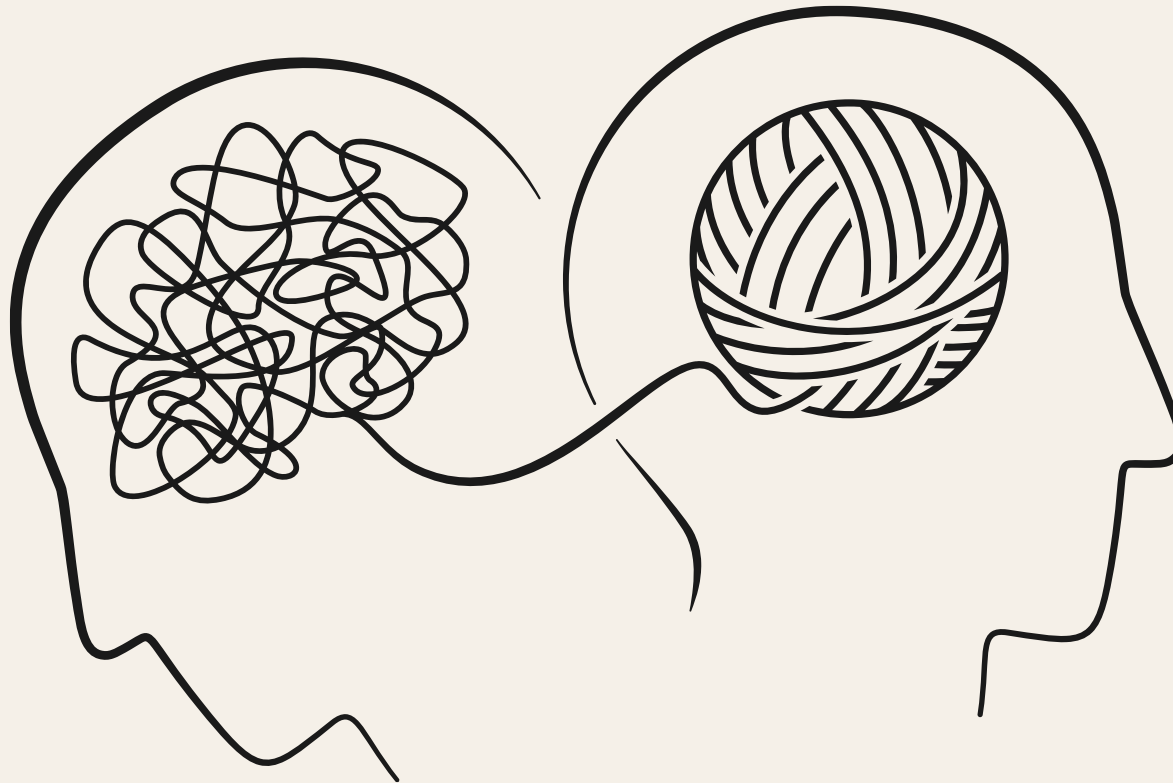
Victim Perspective

“I no longer feel safe in my own home.”



Transformation

“I did not understand what I had done until just now.”



Internal Accountability

Behavior changes when accountability becomes internal.



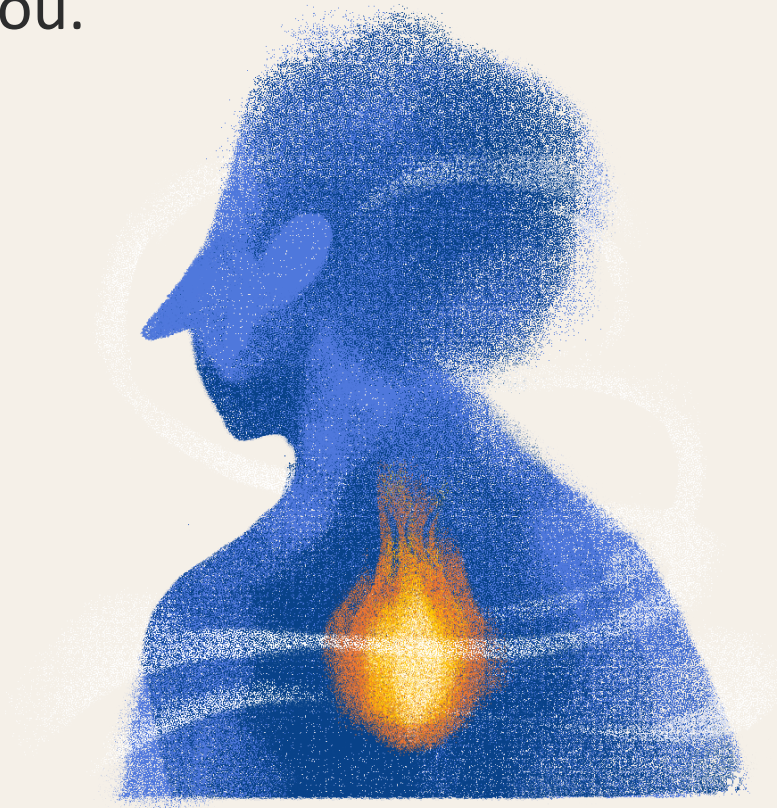
Community Partnership

Judges create space.
Community carries the work.



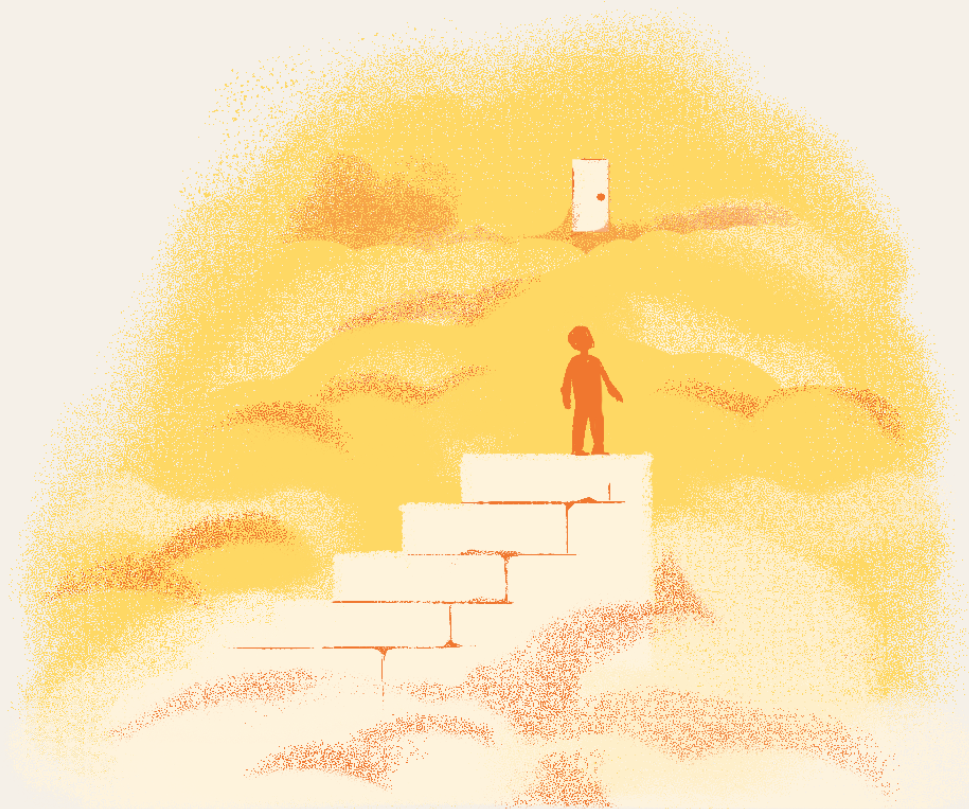
Listening Exercise

Tell your partner about a moment from the bench that has stayed with you.



Reflection

What did you notice after the silence?



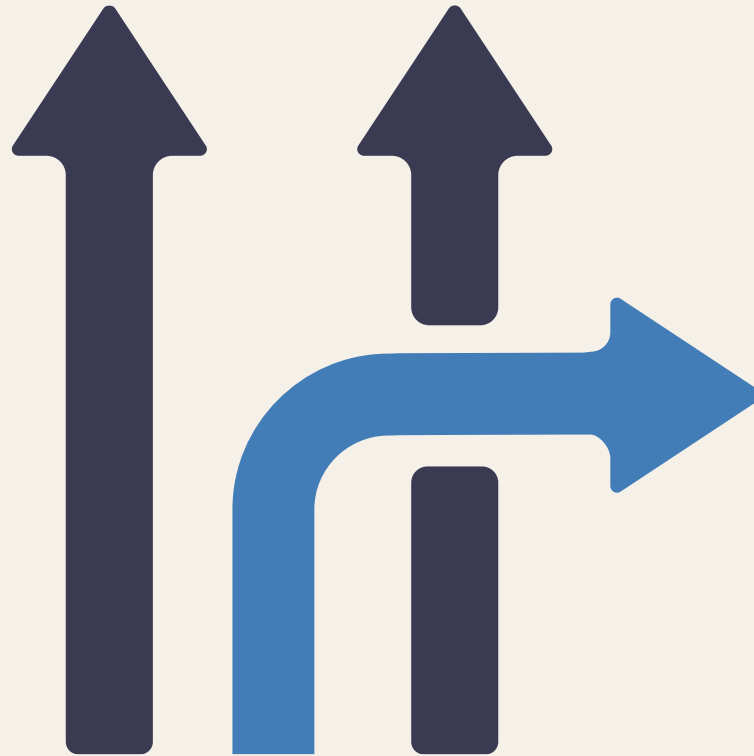
Film Reflection

What changed?



Lived Experience

What actually changes outcomes?



Notice One Thing

What question have you not yet asked?



Closing Question

What response today reduces the likelihood of harm tomorrow?





Restorative Practices Judicial Framework™

Bench Book Chapter

Criminal Legal System

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National Leader in Legal and System Reform through Restorative Practices and Principles

Version 1.0 · 2026

A companion to the Restorative Practices Bench Card™. This chapter provides the underlying context for the bench-level decisions those cards are designed to support.

I. Introduction

This chapter is intended to serve as a companion to the *Restorative Practices Bench Card*[™], providing judges with a framework for considering when and how restorative practices may be integrated into the criminal legal system.

The bench card is designed for use in real time — during calendar, hearings, and decision-making. This chapter provides the underlying context for those decisions. It does not replace the legal process. It expands the set of tools available to the court in responding to harm, accountability, and future safety.

The criminal legal system is structured to determine whether a law has been violated and, if so, what consequence should follow. That function remains essential. But legal resolution does not always resolve harm.

Courts see this regularly.

Cases move through the system, conditions are imposed, and matters are closed. Yet the underlying issues often remain — unaddressed conflict, unanswered questions, and behavior that returns in a different form. The legal outcome may be correct, but incomplete.

Several questions tend to persist:

- Who has been impacted, and in what ways?
- Has the harm been acknowledged beyond the legal elements of the offense?
- What would repair look like from the perspective of those affected?
- What response is most likely to reduce the likelihood of future harm?

These are not peripheral concerns. They go directly to whether the system's response is effective.

Restorative practices provide a structured way to engage these questions, where appropriate. Rather than focusing solely on the violation of law, they focus on the impact of behavior on individuals and relationships, and create opportunities for accountability that is understood, not just imposed (Zehr, 2002).

This distinction matters.

Accountability that is imposed may result in compliance. Accountability that is understood is more likely to result in change.

The question for the court is not whether restorative practices should replace the legal process. They should not. The question is whether, in appropriate cases, the court can create the conditions for a response that more fully addresses the harm, supports meaningful accountability, and reduces the likelihood of future harm.

That inquiry is consistent with the court's role. It reflects an interest not only in resolving cases, but in achieving outcomes that hold over time.

II. The Judicial Decision Point

Every case requires a decision on how the system will respond to the conduct at issue. This responsibility extends beyond the legal judgment; it includes the very form the response takes.

Judges exercise this discretion daily. Decisions regarding diversion, release conditions, and sentencing are not merely administrative — they are the primary tools for shaping a case’s long-term impact. Within this discretionary space, two questions are fundamental:

- **Is the court the best venue to resolve this specific harm?**
- **Which path offers the greatest positive impact for the community?**

These are not abstract inquiries. They go to the heart of judicial effectiveness.

While the court is well-equipped to establish legal responsibility and ensure due process, these essential functions often fail to resolve underlying harm. We see this in the familiar cycle of recidivism: individuals who comply with every technical requirement of a court order but return to the system because the original behavior was never addressed.

The experience of those harmed is often equally incomplete. Many leave the courtroom feeling like spectators. They have seen a case resolved on the record, yet they leave with their questions unanswered and the harm they experienced unacknowledged.

This gap is a failure of substance.

Research on procedural justice confirms that legal legitimacy — and long-term compliance — depends on whether participants feel they have been heard (Tyler, 2006). Restorative practices build on this reality by moving beyond procedural “checklists” to address the actual impact of the behavior.

The traditional legal response may be correct, but it is often insufficient.

Utilizing restorative practices is not a departure from the court’s role. It is an exercise of existing authority within the current legal framework. The question is not whether the court retains its power — it does. The question is how that power is used to achieve outcomes that actually hold: responses that address harm, demand genuine accountability, and prioritize future safety.

III. Centering the Harmed Party

Restorative practices shift the court’s focus from the technical relationship between the state and the defendant to the actual experience of the person harmed.

In the traditional structure, the person harmed is often a peripheral figure. Their role is usually limited to reporting the incident, testifying, or offering a victim impact statement. While these are essential legal components, they are information-gathering tools for the court; they rarely provide the person harmed with a sense of resolution.

Courts see the result of this daily.

Cases are resolved, but the personal and relational dimensions of the harm remain. Individuals leave the process with unanswered questions or a sense that the impact of the crime was only partially recognized. The legal elements were met, but the experience was ignored.

The unaddressed needs in these cases are consistent:

- They need to know what occurred and why.
- They need acknowledgment that the harm mattered.
- They need to describe the impact in their own words.
- They need an assurance of future safety.

These are not peripheral concerns. They determine whether the system's response is actually effective.

Where appropriate, restorative practices provide a structured way to bridge this gap. Unlike the traditional process, which gathers information *from* the person harmed, restorative practices allow for engagement *with* the responsible party. This may include direct questions, a description of impact in a controlled setting, and a voice in what repair should look like.

Research confirms that this shift in participation leads to higher satisfaction and, crucially, a reduction in trauma-related symptoms compared to traditional proceedings (Sherman & Strang, 2007).

However, the court must remain the guardian of voluntariness.

Not every person harmed wants to engage. Some prefer no contact; others find the process inappropriate for their circumstances. These decisions must be respected without qualification. The absence of participation is not a failure of the restorative process — it is an exercise of autonomy.

This distinction is critical for the bench. Any perception that participation is expected, or that declining it might influence the legal outcome, undermines the integrity of the process and the court itself.

Centering the person harmed does not require the judge to become an advocate. It requires a professional recognition that a complete response to harm often involves more than a formal adjudication. Restorative practices are not a requirement; they are a tool for cases where the traditional process is insufficient to address the harm or provide the necessary path toward repair.

IV. Accountability, Empathy, and Behavioral Change

The fundamental question for any court is whether its response to a case will actually influence future behavior.

The traditional legal process excels at establishing responsibility and enforceability. Findings are made, orders are signed, and consequences are imposed. This structure is essential for the rule of law, but we must be honest about its limits: **legal accountability does not automatically produce behavioral change.**

Courts see this daily. We see individuals who satisfy every court-ordered condition and complete every required program, yet return to the well of the court with the same conduct. The prior response was

legally correct and lawfully imposed, but it was incomplete. It achieved compliance, but not a change in character.

The distinction between compliance and accountability is critical.

Compliance is simply adherence to an external requirement — doing what you are told to avoid a penalty. True accountability requires an internal recognition of the harm caused and an acceptance of responsibility for that impact. These are not the same thing.

While a judge cannot force an individual to develop internal understanding, the court can choose a process that makes that understanding more likely. This is a practical inquiry, not a theoretical one:

- Does the process force the individual to confront the human impact of their actions?
- Is there an opportunity to hear how others were actually affected?
- Is there acknowledgment of the harm that goes beyond the technical elements of the charge?

When these elements are missing, the court is often settling for mere compliance.

Restorative practices are designed to bridge this gap. They move the responsible party out of a passive role and into a structured encounter with the human consequences of their behavior. This often includes hearing directly from the person harmed, engaging in dialogue about the fallout of the conduct, and taking an active role in repair.

This is how empathy is developed. In a courtroom context, empathy is not a vague sentiment; it is a practical mechanism. It is the moment an individual begins to understand the effect of their actions on another human being. That realization influences future decision-making in a way that an imposed fine or a generic probation condition cannot.

The court cannot impose empathy, but it can create the space for it to emerge.

Research on desistance supports this. Individuals are more likely to stop committing crimes when they develop a personal sense of responsibility and begin to see themselves differently in relation to their community (Maruna, 2001). These shifts are rarely produced by sanctions alone; they require reflection and connection.

This is particularly true for younger individuals. Adolescent judgment and social awareness are still forming. Research shows they respond far better to relational and reflective interventions than to purely punitive ones (Steinberg, 2014).

None of this suggests that consequences are unnecessary — they are often vital. The question is whether they are *sufficient*.

The court's role is to determine which response is most likely to hold over time. Accountability that is merely imposed results in temporary compliance. Accountability that is understood results in lasting change. This is not theory; it is what we observe in our courtrooms every day. The true measure of a successful judicial response is not just whether the file was closed, but whether the behavior was stopped.

V. Appropriateness of Restorative Practices

Restorative practices are not a universal fix. Their use depends entirely on the specific circumstances of the case and the court’s ability to ensure the process remains safe, voluntary, and substantive.

The court is not evaluating restorative practices in the abstract. The question for the bench is whether a restorative path in *this* case can address harm and support accountability without compromising the integrity of the legal proceeding.

The Nature of the Harm

The character of the harm is the starting point. Restorative approaches are most effective when the conduct has a relational or community dimension — situations involving ongoing relationships, shared environments (schools, workplaces, neighborhoods), or effects that ripple beyond the immediate incident.

In these cases, the legal process often resolves the violation while leaving the underlying conflict untouched. That gap leads to recidivism. Restorative processes provide a structured way to close that gap. This is not limited to low-level offenses; however, more serious harm demands a higher threshold for assessment, preparation, and safeguards. **The level of the charge is less important than the viability of the process.**

The Requirement of Voluntariness

Voluntariness must be real; it cannot be a matter of form. In a courtroom, there is an inherent risk that participants will view “voluntary” engagement as a prerequisite for a favorable legal outcome. This perception alone can distort the process.

The court must be certain that participants:

- Understand that participation is strictly optional.
- Have consulted with counsel.
- Feel they can decline without facing a perceived penalty from the bench.

If participation is coerced — even implicitly — the process will fail to produce genuine engagement.

Readiness and Capacity

A case that is theoretically appropriate may not be ready. Readiness involves more than just a “yes” from the parties. It requires emotional stability, the ability to engage without escalation, and a clear understanding of the process.

Trained facilitators, not the judge, should assess this capacity. The court’s role is to ensure referrals are made to programs capable of performing this vetting. Proceeding with a party who lacks the capacity to engage is counterproductive and potentially harmful.

Necessity of Structure

Restorative practices are not informal conversations. They require skilled facilitation and rigorous preparation. Before referring, the court should confirm the program has established protocols for safety, power dynamics, and documenting outcomes. Without this structure, the process is a liability. In some jurisdictions, the lack of a qualified program will mean that restorative practices are simply not a viable option.

Safety as a Threshold

Safety is a threshold issue. If the history between the parties involves intimidation, domestic control, or a high risk of re-traumatization, direct engagement should be avoided. In such cases, the court might consider alternative communication, such as facilitated messaging. **Where safety cannot be reasonably guaranteed, restorative practices should not be used.**

Substance Over Procedure

A restorative process does not guarantee a meaningful result. There is a constant risk that these practices become “procedural” — tasks completed simply because they are available.

A signed agreement is not proof of accountability. The court must look for evidence of genuine engagement: Did the person acknowledge the impact of the conduct? Are the steps toward repair realistic? If a process appears to be a mere checkbox, it lacks substantive value and should not influence judicial decision-making.

The Judicial Role

The court’s role is not to manage the dialogue, but to act as the gatekeeper. Referring a case to a restorative process is an exercise of the same discretion judges use when granting a continuance or allowing diversion.

The question is not whether the court has the authority to make these calls — it does. The question is whether that authority is being used to produce a response that is appropriate to the harm and effective over the long term. Appropriateness is not a formula; it is a matter of judicial judgment.

VI. Implementation Across the Court Process

Restorative practices are not a separate system; they are tools that fit within the existing points of judicial discretion. The court’s role is limited but pivotal: **the court creates the opportunity for the process to occur without attempting to control the outcome.** Maintaining this distinction is the only way to preserve the integrity of both the court and the restorative work.

Pre-Charge and Diversion

Early intervention occurs primarily through community-based programs, often before a case reaches the bench. While these programs operate outside direct judicial control, the court must be aware of the local landscape. Understanding which cases are diverted and the typical outcomes of those programs informs later decision-making should a defendant reappear or a related matter arise. Early resolution can effectively address harm before it becomes embedded in the litigation process.

Pre-Trial

The pre-trial stage is the court's most direct point of engagement. Here, the court's primary function is managing the case schedule to allow space for restorative engagement. This usually involves granting a continuance or adjusting the calendar.

In making this determination, the court does not assess the *content* of the restorative dialogue. Instead, we focus on practical legal safeguards:

- Is participation voluntary and informed?
- Have the parties consulted with counsel?
- Is there a structured, qualified program ready to facilitate?
- Does the timing protect the defendant's legal interests?

Once a process is complete, the court receives only a status update: whether participation occurred, if the process was finished, and if a repair agreement was reached. The court retains full discretion on how this information influences the case's trajectory.

Sentencing

At sentencing, restorative practices inform the court's understanding of accountability. If a process has already occurred, the court may consider the resulting agreements as evidence of meaningful responsibility.

Judges routinely consider conduct outside the formal record when determining a sentence; restorative work falls squarely within this tradition. In appropriate cases, the court may:

- Incorporate repair agreements into formal sentencing conditions.
- Structure probation to support continued community engagement.
- Credit work already completed as part of a reparative plan.

Post-Sentencing and Reentry

After disposition, the focus shifts from the original conduct to reducing the risk of future harm. Reentry circles and facilitated support systems operate alongside traditional supervision. The court's role here is to facilitate these connections by allowing participation as a condition of probation and recognizing progress made through these community-based channels. Sustained change usually happens in the community, not the courtroom; these practices provide the necessary structure for that change.

Protection of Legal Interests and Role Boundaries

The court must remain the guardian of due process. Restorative practices should never exist in conflict with legal protections. This requires constant attention to the timing of participation, the risk of self-incrimination, and the confidentiality of communications.

The court does not conduct the process. We do not manage the dialogue or dictate the terms of an agreement.

When a court moves from *creating opportunity* to *shaping the outcome*, the process loses its restorative character and becomes just another extension of institutional control. To be effective, these practices must remain grounded in the participants and the community — the court’s role is simply to recognize when that path is appropriate and to provide the space for it to work.

VII. Safeguards and Ethical Considerations

The integrity of restorative practices depends on basic safeguards. Without them, the process is not only ineffective but potentially harmful. These are not theoretical concepts; they are practical hurdles every court must clear.

Voluntariness

Participation must be genuinely voluntary. It is not enough to label it “optional.” In a courtroom, there is an inherent risk that a defendant or a victim will feel that participation is tied to the legal outcome. The court must be explicit: **participation is not required, and declining to participate carries no negative consequence.** If a party feels pressured — even implicitly — the process will not produce a meaningful result.

Protection of Legal Rights

Restorative processes must not compromise due process. This requires specific attention to timing, the risk of self-incrimination, and the role of counsel. Dialogue should only occur when confidentiality is protected and the legal implications are fully understood. Restorative practices should operate alongside the law, not in tension with it.

Safety as a Threshold

Safety is a threshold issue. The court must evaluate the nature of the conduct, the history between the parties, and the risk of coercion or retaliation. If the court cannot guarantee a safe environment for all participants, a restorative referral should not occur.

The Facilitation Gap

Restorative processes are not informal conversations; they require skilled facilitation. The court’s duty is to ensure that any program receiving a referral is capable of preparing participants and managing the dialogue without escalation. Without professional structure, the process is likely to fail.

Avoiding System Co-Opting

A critical danger in integrating these practices into the court system is institutional co-opting. Over time, systems naturally prioritize efficiency, consistency, and “clearing the calendar” over the needs of the parties. When this happens, restorative practices become **performative rather than transformative.**

The court must remain vigilant against this shift. We must ask:

- Is the harmed party actually being heard, or is their presence merely symbolic?
- Is the responsible party engaging with their behavior, or simply completing a requirement?

- Is the process being shaped by the clock or by the community?

This distinction matters. A proceduralized version of restorative justice replicates the same systemic failures it was intended to address. The court’s role is limited but clear: we do not manage the dialogue, but we must ensure the dialogue remains participant-driven and rooted in the community.

VIII. Indicators of Success

We usually measure success by “compliance” or “recidivism.” While these are relevant, they are narrow. Restorative practices require a broader set of indicators.

- **For the Harmed Party:** Success is measured by acknowledgment and a sense of closure. Did they get answers? Do they feel safer? Research confirms that these qualitative outcomes are more likely to reduce trauma than a standard sentence (Sherman & Strang, 2007).
- **For the Responsible Party:** Success is marked by internalized accountability. We look for a demonstrated understanding of the harm caused — not just a willingness to follow a court order.
- **For the System:** Effectiveness is found in increased public confidence and reduced “churn.” Procedural fairness leads to systemic legitimacy (Tyler, 2006).

Outcome vs. Completion. Completion of a program is not success. A signed agreement is worthless if it was reached without engagement. The court should look for **substance, not just a certificate of completion.**

IX. Practical Barriers

Courts will face resistance. These barriers are not reasons to abandon the practice, but they do require a judicial response.

The Time Argument

The most common objection is time. While a restorative process may require more time at the outset, it is a front-end investment. A response that addresses the root cause of behavior is far more efficient than a “fast” resolution that results in a repeat offender.

Counsel and Leniency

Prosecutors and defense counsel have legitimate fears. Prosecutors worry about consistency; defense counsel worry about self-incrimination. These are manageable hurdles if the process is voluntary, informed, and confidential. Furthermore, we must reject the idea that restorative justice is “lenient.” It is often much harder for a person to face the human impact of their actions than it is to pay a fine or serve time in isolation.

Equity in Access

Restorative practices cannot be a “boutique” option for those with resources. The court must ensure that these tools are available consistently, regardless of a defendant’s background. Equity is not an afterthought; it is essential to the system’s legitimacy.

X. Case Examples

The following scenarios contrast traditional court outcomes with restorative pathways. These are not idealized success stories; they reflect the practical patterns and friction points encountered in the field.

Example 1: Juvenile Case — School-Based Assault

The Traditional Path. A youth is adjudicated for assault following a fight at school. The court imposes standard probation: school compliance, a no-contact order, and counseling.

- **The Result:** On paper, the case is a success. The file is closed.
- **The Reality:** Both students return to the same hallways. The underlying animosity remains untouched. The victim has had no chance to express the fear or disruption they feel every morning at the locker. The responsible youth checks the boxes of probation but never confronts the human cost of the altercation. Often, the behavior simply waits to resurface in a different form.

The Restorative Path (Voluntary). Rather than a standard plea, the parties enter a facilitated process involving parents and school staff.

- **The Process:** It begins with rigorous individual preparation. If a joint meeting occurs, the focus shifts from the “charge” to the “impact.” The victim describes the anxiety of returning to school; the youth is forced to listen and respond.
- **The Friction:** This is rarely a smooth exchange. Participants often minimize their actions or withdraw. Facilitators must work through that resistance to reach a point of genuine acknowledgment.
- **The Result:** Even if the relationship isn’t “fixed,” it is stabilized. The agreement includes specific repairs and a community-monitored safety plan. The outcome is more durable because it was negotiated, not just imposed.

Example 2: Adult Case — Property Offense

The Traditional Path. A defendant is sentenced for theft from a local business. The court orders restitution and probation.

- **The Result:** The business owner provides loss documentation and then becomes a spectator. Restitution is paid as a monthly bill to the court, feeling more like a tax than an act of repair. The victim is left with unanswered questions about their safety, and the defendant sees only a financial obligation.

The Restorative Path (Voluntary). The case moves to a restorative conference before final resolution.

- **The Process:** The business owner explains how the theft disrupted operations and shaken their sense of security. The defendant must answer for the behavior beyond the statutory definition of the crime.
- **The Result:** Restitution plans are developed based on the defendant’s actual capacity, often leading to more consistent payments. Because the conduct is now defined by its human effect rather than a case number, the defendant is forced to reconcile their actions with the harm caused

to a neighbor.

Example 3: High-Harm Case — Post-Conviction

The Traditional Path. Following a serious assault conviction and a prison sentence, the legal process ends. The victim provides a statement at sentencing, the judge rules, and the parties are separated by the carceral system. There is no further engagement. The victim is often left with a “sentence” of unanswered questions that outlasts the defendant’s term.

The Restorative Path (Specialized & Extensive). Years later, at the victim’s request, a specialized provider facilitates a dialogue.

- **The Process:** This involves months of preparation. It may never result in a face-to-face meeting, utilizing indirect messaging or written exchanges instead.
- **The Friction:** Emotions are volatile. The process may stop and start as participants hit psychological walls.
- **The Result:** Success here is not a “happy ending.” It is the victim gaining a sense of agency and information that the trial could not provide. The responsible party is forced to carry the weight of the harm they caused into their reentry process.

XI. Conclusion

Restorative practices do not replace the court; they fulfill the court’s deeper purpose.

The court’s role in determining responsibility and ensuring due process is absolute. However, we must recognize the limits of our standard tools. We regularly see outcomes that are legally perfect but substantively hollow — orders followed, but lives unchanged and victims still hurting.

These are not system failures; they are the limits of the law.

Restorative practices offer the court a way to move beyond mere processing. They provide a structured venue for engagement that centers the victim’s experience and demands a level of accountability that simple compliance cannot reach. These tools are not universal, nor do they guarantee a specific result. They require time, professional facilitation, and judicial humility.

But in the right cases, this approach allows us to do more than just “resolve” a file. It allows the court to foster outcomes that actually hold — responses that prioritize human dignity, demand genuine repair, and strengthen the community safety we are sworn to protect.

This is not a departure from the bench. It is a more effective use of it.

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Restorative Practices in the Criminal Legal System: A Judicial Guide

Introduction: What This Chapter Is About

This chapter is for judges who sit on criminal courts and are considering whether restorative practices might have a place in their docket. It is not a how-to manual for implementing programs. It is a guide to thinking about when and how restorative engagement might address what the legal system cannot address alone.

The legal system is designed to respond to violations. A crime was committed. Someone is responsible. What consequence is appropriate? These are the questions the system is built to answer. And it answers them. It identifies violations. It assigns responsibility. It imposes consequences.

But the legal system is not designed to address harm. Harm is what remains after the violation has been identified and the consequence imposed. It is what the victim carries. It is what lives in the person who caused the harm. And the legal system, by design, does not address it.

This chapter is about how a judge can create space to address harm, while the legal system continues to address violation.

The Judicial Decision Point

Every criminal case reaches a point where you, as a judge, have discretion. It is the moment after responsibility has been established. Someone has pled guilty or been found guilty. Now the question is: What is the appropriate response?

At this moment, the legal framework gives you a range. Minimum and maximum sentences. Conditions. Requirements. But within that range, you make a decision. And that decision can take into account something beyond the offense itself.

It can take into account whether this particular person, in this particular case, might be ready to understand impact. Whether addressing harm could be part of the response.

This is not replacing legal consequence. This is asking whether something additional is possible.

Centering the Harmed Party

The first question is always about the person who was harmed.

In the criminal system, the victim is often represented by the state. The prosecutor speaks for them. The victim impact statement may be read. But the victim themselves is often peripheral to the case. They are a witness to the violation. Their role is often finished once they have testified.

Restorative practice centers something different: the actual experience of harm.

What happened to this person? How are they living with the consequence of what happened? What do they need?

These are questions that often do not get asked in criminal court.

I had a case. A man was convicted of stealing a car. The car belonged to a woman who was already struggling. The car was how she got to work. It was how her daughter got to school. When it was stolen, everything fell apart. She missed work. She lost her job. The consequence of the theft was far beyond what a legal analysis of "grand theft auto" would suggest.

But the legal system did not know this. The case was about whether he stole the car. It was not about what that theft cost her.

If you are considering restorative engagement, the first step is to understand the actual harm. Not the legal violation. The lived experience of harm.

This requires asking the harmed person: What happened to you? How has this shaped your life? What do you need?

And it requires being willing to hear answers that do not fit neatly into legal categories.

Once you understand the harm, the question becomes: Does this person want to participate in a restorative conversation? Not: Does the system require them to? But: Would this be valuable to them?

If yes, then the harmed party becomes central to the process.

Accountability: Understanding Versus Compliance

There is a critical distinction that shapes everything about restorative work in the criminal context.

Accountability imposed looks like this: The person broke the law. The court sentences them to five years. They serve five years. The system defines what accountability means and the person complies with it.

Accountability understood looks like this: The person broke the law and served the sentence. But in that time, or afterward, they had a conversation with the person they harmed. They heard what the harm had been. They came to understand, in their body and not just in their intellect, what their action had done. And from that understanding, their entire orientation toward that harm shifted.

The first produces compliance. The second produces something closer to genuine accountability.

I watched a man serve a sentence for assault. When he came out, he was angry. The system had punished him. He had complied with the punishment. But he had not understood impact. Years later, when he had the opportunity to meet with the person he had assaulted, something shifted. He heard—for the first time—what the assault had done to their life. Not in a courtroom. In a room with a skilled facilitator. And he wept. Not because he was forced to. Because he finally understood.

That understanding changed him in ways that incarceration never could.

The criminal legal system assumes that punishment creates accountability. But punishment does not create understanding. Punishment creates compliance at best, and resentment and hardening at worst.

Restorative engagement addresses a different question: Can this person come to understand what their action did? And if so, what shifts as a result?

This is not a replacement for consequences. The person may still serve time. That time serves a function. But it is time during which they have the opportunity to do the work—counseling, treatment, confronting denial—that might move them toward understanding impact.

Appropriateness: The Threshold Questions

Not every case is appropriate for restorative engagement. You need to assess this carefully, because pushing restorative engagement where conditions do not exist creates more harm.

The first question is safety. Can this be done safely? Is there any ongoing threat? Is there power disparity that is so severe that one party cannot engage authentically?

I had a case. A woman asked to meet with the man who had assaulted her. They were considering restorative engagement. In my assessment of safety, I learned that he had threatened to kill her. The threat was not something he had resolved. It was something he still carried.

I stopped the process. Not because restorative engagement is wrong. But because safety did not exist. If I had pushed forward, I would have put her in danger.

Safety is non-negotiable.

The second question is voluntariness. Is participation genuinely voluntary?

Many judges say "You have the option to participate in restorative engagement." But the way they say it, in a courtroom, with the authority they hold, makes it feel like an order, not an option.

I learned to be explicit. "Your participation in this is voluntary. It is not required. Your legal sentence will not change based on whether you do it. Your record will not be affected. This is an opportunity, not an obligation."

And I would watch people's responses. Some said yes. Some said no. The ones who said yes because they genuinely wanted to understand were the ones who engaged. The ones who said yes because they felt pressured by the court went through the motions and the process was empty.

Voluntariness matters because authenticity depends on it. You cannot have genuine dialogue if one party is responding to authority.

The third question is readiness. Is the person who caused harm ready to understand impact?

Have they moved past denial? Can they hear what the harm was without immediately defending themselves or making excuses?

I had a case. A young man had sexually assaulted someone. He was in complete denial about significant parts of what he had done. He was minimizing. He was blaming the other person. He was nowhere near ready to understand impact.

If I had brought him into a conversation with the person he had harmed, it would have become an interrogation. The person harmed would have had to explain and justify and re-explain. That is not restorative engagement. That is re-victimization.

I did something different. I required him to engage in treatment. To be honest about what he did. To move toward accountability over time.

Years later, when he had done that work, when he had moved through denial and was beginning to understand, that is when restorative engagement became possible.

Not before.

The fourth question is relationship. Will these parties continue to interact?

If they will never see each other again, restorative engagement looks different than if they will.

In some cases—stranger crimes, or cases where the people involved will not interact again—the goal of restorative engagement might be different. It might be about the person who caused harm understanding impact, even if the harmed person is not interested in meeting. It might be about acknowledgment and accountability without the other person being present.

But in many cases, if the people involved will continue to interact—if they live in the same community, or work together, or share family—then restorative engagement addresses the ongoing relationship. It is about whether they can coexist with understanding instead of unresolved harm.

These four questions—safety, voluntariness, readiness, relationship—are the threshold. If you cannot answer affirmatively to all of them, restorative engagement is not appropriate.

Implementation Across the Court Process

Pre-charge

Some prosecutors and communities have created space for restorative engagement before charges are filed. If the harm can be addressed early, before the case becomes adversarial, charges might not need to be filed at all.

This requires the prosecutor to ask: Is this a case where harm could be addressed more directly through restorative engagement than through prosecution?

And the victim to ask: Would I rather have this addressed through the legal process or through a conversation?

If both are willing, pre-charge restorative engagement can be powerful.

Pre-trial

After charges are filed but before trial, there might be opportunity for restorative engagement. This is often negotiated as part of a plea agreement. The person agrees to plead guilty, but sentencing is held for a period of time. During that time, restorative engagement happens. Depending on what emerges from that engagement, sentencing might be different.

At sentencing

If restorative engagement has happened and genuine accountability has emerged, the judge can take that into account at sentencing. Not as a get-out-of-jail-free card. But as information about whether the person has understood impact.

During incarceration

For those serving time, there may be opportunity for restorative engagement that was not possible earlier. Treatment and counseling might have moved the person toward readiness that did not exist at sentencing.

Reentry

When a person is being released, there might be opportunity for restorative conversation. Not all of the work can happen in that conversation. But the conversation can shape how the person understands their responsibility as they re-enter the community.

Safeguards and Ethical Considerations

You need to hold certain principles non-negotiable.

First: The person who was harmed is never re-victimized by the process. If they begin to engage and feel unsafe, the process stops. If they are being questioned or challenged in a way that feels harmful, you intervene.

Second: The person who caused harm does not get reduced legal consequence just for participating. Participation is an opportunity to understand impact, not a way to avoid responsibility. This has to be clear from the beginning.

Third: The facilitator is trained and skilled. This is not something that an untrained volunteer can run in a conference room. The facilitator needs to understand trauma, power dynamics, and how to hold genuine dialogue.

Fourth: You remain involved. You do not hand this off and forget about it. You check in. You understand what is happening. You are ready to stop if the process is not serving the people involved.

Fifth: Confidentiality is protected, but you are still the judge. If something emerges in the restorative engagement that is relevant to sentencing or reentry conditions, you can take that into account. The person needs to understand this from the beginning.

Indicators of Success

How do you know if restorative engagement is working?

It is not about whether the victim forgives the person who harmed them. Forgiveness is personal. It is not the goal of the process.

Success looks like this: The person who was harmed feels heard. They have had the opportunity to express the impact of what happened. They have had the chance to be acknowledged by the person who caused the harm.

The person who caused harm has moved from denial or minimization toward genuine understanding of impact. They have heard—directly, not filtered through a lawyer or a judge—what their action did. And they have moved toward accountability based on that understanding.

Both parties have been able to engage without being re-harmed or revictimized.

And there is some movement toward repair. Not undoing what happened. But perhaps apology, perhaps restitution that addresses the actual harm, perhaps acknowledgment, perhaps simply understanding that allows both parties to move forward.

These are not dramatic moments. But they are significant ones.

Practical Barriers

There are real obstacles to bringing restorative practice into criminal court.

Time is one. Court dockets are full. Judges are expected to move cases. Restorative engagement takes preparation, coordination, and the actual conversation. This does not fit easily into a schedule designed for efficiency.

Resources are another. Trained facilitators are not plentiful. Community programs that can handle serious crimes are not everywhere. You need infrastructure.

Adversarial nature of the system is another. Defense attorneys and prosecutors are often trained to see the other side as an adversary. That dynamic is built into the process. Creating a space for something different requires some level of trust and collaboration that does not come naturally to the criminal system.

Skepticism among judges and attorneys is another. Many people see restorative practice as soft, as avoiding responsibility, as something for minor cases only. Changing that perception takes time.

These barriers are real. But they are not insurmountable.

What works is judicial leadership. If you, as a judge, believe in the work and are willing to create the conditions and do the coordination, it can happen.

Case Examples

Case 1: A Property Crime

A young man stole from a small business. The owner was someone who had built the business from nothing. The theft felt like a violation of that effort and accomplishment.

The young man was arrested and charged. He pled guilty. At sentencing, he was assessed for appropriateness for restorative engagement.

Safety: Yes. There was no ongoing threat.

Voluntariness: He said yes. He wanted to understand what the theft had done.

Readiness: He had thought about it. He was not in denial. He was ready to hear.

Relationship: He did not know the owner. They would not interact again.

Despite that last factor, restorative engagement was deemed appropriate. The goal was for him to understand what the theft had meant—not just legally but to the person he had stolen from.

The conversation happened. He heard how the theft had created anxiety. How it made the owner question their security. How it had cost money and time and emotional labor to address.

He had not thought of it that way. He had just taken something. He had not thought about the person whose life was disrupted.

The understanding shifted something in him. Not magically. Not perfectly. But genuinely.

At sentencing, the judge took into account this understanding. The sentence included restitution—not a legal minimum but an amount that reflected the actual cost and impact. And it included a letter of apology that came from genuine understanding, not legal requirement.

Case 2: A Violent Crime

A man had assaulted another man with a weapon. The injury was serious. The crime was serious.

He was arrested and convicted. The legal range for sentencing was significant.

At the time of conviction, he was in denial about much of what had happened. He blamed the other man. He minimized his own actions. He was nowhere near ready for restorative engagement.

The judge sentenced him to a significant prison term. But the judge also made it clear: This institution has counselors. This institution has treatment. If you want to do the work to understand what you did, that work is available.

Years into his incarceration, something shifted. He engaged with a treatment program. He began to understand the harm he had caused. Not completely. But genuinely.

When he was approaching release, the court reconvened. The person he had assaulted was asked: Would you be willing to meet with him?

He said yes. Not because he had forgiven. Because he had questions. And he wanted to ask them directly.

The conversation was difficult. But it was real.

The person who assaulted him heard directly about ongoing consequences. The pain. The trauma. The way it had shaped his life. And he heard it without being able to defend himself or minimize. Just having to listen.

At the end, he said something. Not an excuse. Not a manipulation. Just a statement of responsibility: "I did that. I caused that. And I am sorry."

It did not undo the harm. But it addressed something that years of incarceration could not address. It addressed the actual harm, with actual acknowledgment and understanding.

Case 3: When Restorative Engagement Was Not Appropriate

A man was convicted of sexual assault. The person assaulted was still afraid of him.

Restorative engagement was proposed. The court assessed appropriateness.

Safety: He had made threats. Those threats were not resolved. Safety did not exist.

The court stopped. Not because the person assaulted did not deserve to be heard. But because the safety condition could not be met.

The person received her legal consequence through the system. The person was sentenced.

But separately, the court ordered that he participate in treatment and counseling. And it made clear that after a significant period of time, if he demonstrated genuine change and the threat was resolved, restorative engagement might be possible.

But not now. Not while safety was in question.

This is not a failure of restorative practice. This is appropriate judgment about when it is suitable.

Conclusion: Your Role

You are the gatekeeper. Your role is to assess: Is this appropriate? Do the conditions exist?

If yes, you create space for it. You ensure safety. You coordinate with skilled facilitators. You make clear to all parties what is happening and what is not happening.

But then you step back. You do not direct the conversation. You do not prescribe what accountability looks like or what repair means. Those things emerge from the people involved.

This requires trust. Trust in the people involved. Trust in skilled facilitators. Trust that genuine dialogue will serve justice in ways that the legal system cannot.

It also requires judgment. Knowing when to push forward and when to stop. Knowing when a case is appropriate and when it is not. Knowing when you are helping and when you are creating more harm.

This is not a program you implement because it looks good. This is something you do because you believe that addressing harm is possible—and because you are willing to do the careful work of creating the conditions where it might happen.

RESTORATIVE PRACTICES: FRAMEWORK SUMMARY

For Judicial Decision-Making

THE TRADITIONAL LEGAL QUESTION

What rule was broken? Who broke it? What is the appropriate consequence?

The legal system addresses violation. It identifies responsibility and imposes sanctions. This is essential work. It establishes accountability through the law.

THE ADDITIONAL QUESTION

Who was harmed? What is the impact of the harm? What would repair look like?

Restorative engagement addresses harm—the lived experience of what happened to the person involved. It asks whether genuine accountability (understanding, not just compliance) is possible.

WHEN RESTORATIVE ENGAGEMENT IS APPROPRIATE

All four conditions must be present:

1. SAFETY

Can this be done safely? Are there ongoing threats? Power imbalances that prevent authentic engagement? If safety cannot be assured, do not proceed.

2. VOLUNTARINESS

Is participation genuinely voluntary? Or is the person responding to court authority? The person must understand: participation is optional. Legal consequences do not change based on whether they participate.

3. READINESS

Is the person who caused harm ready to understand impact? Have they moved past denial? Can they hear the impact without immediately defending or minimizing?

4. RELATIONSHIP

Will these parties continue to interact after this case? Restorative engagement addresses ongoing relationships. If they will never interact again, the goal and process are different.

YOUR DECISION POINTS IN A CASE

PRE-CHARGE

Is this a case where harm could be addressed through restorative conversation before prosecution? If yes and the harmed person is willing, pre-charge engagement is possible.

PRE-TRIAL / PLEA

Has the person demonstrated readiness? Before final sentencing, can a restorative conversation happen? If so, genuine accountability might emerge.

AT SENTENCING

If restorative engagement has occurred and understanding has emerged, consider that in sentencing. The person has confronted impact and moved toward accountability.

DURING SENTENCE

Is the person engaging in treatment, counseling, or work that moves toward understanding? Are they moving toward readiness for later engagement?

REENTRY

When a person is coming out, have conditions shifted enough for restorative engagement to be possible now? Many people are not ready earlier but become ready after time and work.

YOUR ROLE

You are the **gatekeeper**, not the manager.

1. **Assess appropriateness:** Do all four conditions exist?
2. **Create space:** Use court authority to bring together skilled facilitators and community partners.
3. **Hold safety:** Ensure conditions are maintained throughout.
4. **Step back:** Let skilled facilitators do the actual work. You do not direct the conversation or prescribe the outcome.
5. **Hold accountability:** If procedure replaces genuine engagement, if voluntariness disappears, if cases become routine—stop and reassess.

WHAT ACCOUNTABILITY LOOKS LIKE

Imposed accountability (legal consequence): The person complies with what the court orders.

Understood accountability (restorative engagement): The person understands what they did, the impact it had, and moves toward repair from genuine understanding rather than fear or coercion.

Both matter. They are not the same.

CRITICAL THRESHOLDS

If you cannot answer affirmatively to these, do not proceed:

- Can I ensure safety for both parties?
- Is participation genuinely voluntary?
- Is the person ready to understand impact?
- Is this case appropriate (not just every case)?

If conditions are not met, use the legal system as designed. That is important work. But do not force restorative engagement where it does not belong.

REMEMBER

Restorative engagement is not:

- A replacement for legal consequences
- Appropriate for every case
- About forgiveness
- A way to avoid accountability

Restorative engagement is:

- A question asked *after* legal responsibility is established
- Possible in some cases when conditions are right
- About whether genuine accountability can be understood
- About addressing harm that the legal system cannot address

The Restorative Frame

A Judge's Reflection on Accountability, Harm, and What Actually
Changes People

Judge J. Wesley Saint Clair (ret.)

Mediator-Arbitrator, JAMS

You received a condensed version of this Frame at the Arizona Judicial Conference. This is the full reflection from thirty years of judicial practice — what works, what doesn't, and what judges can actually do to reduce harm and address accountability in ways the legal system alone cannot.

2026

I have spent thirty years on the bench. I have imposed thousands of sentences. I have terminated parental rights. I have removed children from homes. I have ordered people to comply with the requirements of the system.

And I have watched harm continue.

This reflection is about what I have learned from that experience — about what works and what doesn't, about what a judge can actually do to reduce harm, and about the difference between a system that processes people and a system that changes them.

Stop Pretending That Procedure Is Practice

The first thing I learned is this: You can create a restorative justice program on paper and still be doing nothing different.

I watched courts implement “restorative practices” that were really just new procedures. A referral form. A checklist. A meeting in a conference room that felt like another court hearing, not a genuine conversation. The person who was harmed participated because the system required it. The person who caused harm showed up because the court ordered it. And nothing shifted.

We called it restorative. It was procedural. We had mistaken form for substance.

Real restorative work is not a procedure you can mandate. It is something that happens between people when conditions are right. When voluntariness is genuine. When safety exists. When someone is actually ready to understand impact.

If those conditions do not exist, do not force it. Do something else. But do not pretend that procedure is practice.

Accountability Is Not What the System Imposes

I need to name something I learned on the bench that nobody teaches you in judicial training.

The legal system is very good at one thing: imposing consequences. We identify a violation. We assign responsibility. We sentence. The system works. Cases move. Compliance happens.

But accountability — real accountability — is something different.

Accountability is not something imposed. It is something a person undertakes. It means facing what you did. Understanding the impact of what you did. Participating in repair. And changing the conditions that made the harm possible.

That is not what punishment creates. Punishment creates compliance. Compliance is not the same as accountability.

I have watched people serve sentences without ever understanding what they did. And I have watched people — sometimes after years of work — finally understand impact and move in a completely different direction.

The difference is not magic. It is the difference between obedience and understanding.

The Harmed Person Is Almost Never Heard

One of the most brutal facts of the legal system is this: The person who was harmed is almost never actually heard.

There is a victim impact statement, maybe. Read in a courtroom. Filtered through a legal framework. Translated into evidence.

But the person is rarely in a room where they can actually speak about what happened to them. What it cost them. How it changed their life. What they need.

And the person who caused the harm almost never hears directly from the person they harmed.

I had a burglary case. A woman wrote to the court afterward. She said: “It’s not the things that were taken. It’s that I no longer feel safe in my own home.”

In my courtroom, I never knew that. The case was about what was stolen and who stole it. The impact — the lived impact on that woman — was not part of the legal question.

If restorative engagement happens, something shifts. The person who was harmed gets heard. Actually heard. Not through a lawyer or a system, but directly. And the person who caused harm hears what their action actually did.

That is not a small thing.

This Work Comes From Indigenous Tradition

I need to say this clearly: This work is not something I invented. It comes from Indigenous peacemaking traditions that exist across the world and are centuries old.

Indigenous communities have used circles, conferencing, and community-based accountability to address harm and restore relationships long before the Western legal system acknowledged these practices. The work of Mark Wedge, Judge Barry Stuart, Kay Pranis, and Harold Gatensby — these practitioners have been walking this path, learning from and working alongside Indigenous communities, long before the criminal justice system decided to pay attention.

I am a guest in this tradition. We are all guests.

That means something. It means we approach this work with humility. It means we listen to the people from whom it comes. It means we do not take their intellectual and spiritual tradition and turn it into another court program.

If you are going to do this work, you need to understand where it comes from and honor that origin. The practices belong to Indigenous communities. Our role is to learn from them and support their work — not to adopt their traditions for our systems.

The System Will Corrupt This — And It Will Happen Quietly

Here is what I learned that frightened me most: Government systems are very good at absorbing alternatives and turning them into corrupted versions of themselves. This is not a small problem. This is the primary threat to this work.

I implemented restorative practices in my courtroom. For about six months, it worked. We had real engagements. People moved toward accountability. Harm was addressed. Something genuine was happening.

And then I noticed what was happening.

We were treating participation as a requirement instead of an invitation. We were referring cases as a matter of routine instead of assessing appropriateness. Judges were processing cases through restorative engagement like they were processing them through the regular system. The whole thing was being proceduralized.

We had taken something that was about genuine human dialogue between people who had experienced harm and people who caused that harm — in a space free from government coercion — and we had turned it into another compliance mechanism. Another way to move people through the system faster.

This is what happens when government adopts Indigenous practices and turns them into its own. Government is built on coercion, standardization, and efficiency. It cannot help itself. These are not flaws to be fixed. They are the logic of government.

Government will adopt this work. It will put it in policy manuals. It will create training programs. It will standardize it. Judges will be expected to refer cases. Facilitators will be government employees or contractors. Participation will become another condition of plea agreements or sentencing. And what will be left will look like restorative engagement but will be something entirely different.

The corruption happens quietly. It is not malicious. It happens because the system cannot operate any other way. But the result is the same: the work loses its integrity.

If you are considering bringing this work into your court, you need to understand this threat clearly. You have to be willing to say no to cases that are not appropriate. You have to resist the pressure to refer cases routinely. You have to hold the line on genuine voluntariness — making clear that participation has no legal consequence, that the person's sentence will not change, that this is not a requirement. You have to insist on skilled, independent facilitators who are not beholden to the court. You have to remain vigilant against the creeping proceduralization.

And you have to be honest about whether you can actually do this in a government court system that is built on coercion.

*If you cannot hold that line, you are not doing restorative engagement.
You are doing something the system absorbed and corrupted.*

That matters. Because what gets destroyed is the very thing Indigenous communities have protected for centuries: genuine dialogue between harmed and harmer, outside of government control, where understanding is actually possible.

Look at Your Own Biases First

For fifteen years, I believed I was fair. I listened carefully. I applied the law. I believed I treated everyone the same.

Then I looked at the pattern.

Who was getting warnings and who was getting arrested. Whose credibility I questioned and whose I accepted. What I assumed about different families.

And I realized: I was not being fair. I was reproducing bias that I did not know I had.

My bias was not something I did consciously. It was something that operated through me. Through my own background, my own cultural framework, my own unconscious assumptions.

If you are going to do restorative work, you have to look at this first. You have to examine what you are bringing to the bench. What assumptions you are making. What you are seeing danger in that has nothing to do with actual danger.

And you have to stay engaged with that work. Not once. Continually.

Because if you do not, you will implement restorative practice and reproduce the same bias in a different form.

Curiosity Is a Judicial Discipline

After thirty years on the bench, I have come to believe that curiosity may be the most important quality a judge can bring to a courtroom.

We are trained to know. To decide. To rule. The legal system rewards certainty and treats hesitation as weakness. But what reduces harm is not certainty — it is curiosity.

Curiosity is the willingness to not already know what is happening in front of you.

It is the willingness to set aside the pattern your mind has already assembled and ask: What else is here?

When I stopped assuming I knew what was happening in the cases before me — what the file had told me, what the prosecutor had described, what my own pattern recognition had filled in — I began to see things I had been missing for years. I began to ask questions whose answers actually mattered to the

outcome.

Curiosity asks:

- What is happening in this person's life that I am not yet seeing?
- What story would change my understanding of this case?
- What do I think I know that I have not actually examined?
- What question have I not yet asked?

Curiosity is not naïve. It is not the absence of judgment. It is what comes before judgment — the discipline of being slow enough, open enough, to know what we are actually responding to.

Without curiosity, restorative practice becomes another script. Another set of questions to be asked. Another procedure.

With curiosity, restorative practice becomes what it is meant to be: a way of being in the courtroom that recognizes the humanity — and the complexity — of the people who appear before us.

Curiosity is also the antidote to bias. Bias is what your mind has already decided. Curiosity is the discipline of returning to not-knowing long enough to see the person in front of you, not the category your mind has placed them in.

The judges I have most admired over thirty years all shared this quality. They were not the loudest. They were not the most certain. They were the ones who paused. Who asked. Who genuinely wanted to know.

The Work Is Not About Forgiveness

I want to be clear about something that often gets confused.

This work is not about forgiveness. The person who was harmed does not have to forgive. That is personal. That is their choice.

This work is about whether genuine accountability is possible. Whether understanding is possible. Whether the person who caused harm can come to see what they did and move toward repair.

Sometimes that happens. Sometimes it does not.

But it has nothing to do with whether the person who was harmed forgives them.

What Actually Changes People

Over thirty years, I have seen what changes people. It is not punishment.

Punishment might create fear. Fear might create compliance. But compliance is not change.

What changes people is understanding.

When someone actually understands the impact of what they did. When they hear, directly, what their action did to another human being. When they have to face that impact and cannot hide from it or explain it away.

That understanding can shift something fundamental.

I watched a young man who had committed serious violence sit in a room with the person he had harmed. Not in a courtroom. In a space created for genuine dialogue. And I watched him hear — for the first time — what the violence had done.

His face changed. Not because I made him. Not because the system required it. Because he actually heard something true.

That understanding changed him in ways that fifteen years of incarceration never could.

Your Role Is to Convene, Then Allow the Work to Happen

If you are a judge considering this work, understand what your role actually is.

You are not the facilitator. You are not managing the process. You do not direct the outcome.

Your role is to use your position to ask the hard questions first: Is this case appropriate? Can safety be assured? Is participation genuinely voluntary? Is the person ready? Will genuine dialogue be possible?

If the answer to all of these is yes, then your role shifts. You convene. You bring together the people involved and the skilled facilitators who will hold the space. You make clear that you are stepping back. That this conversation is theirs — not the court's. That they will find what accountability and repair looks like, and you will listen to what emerges.

Then you actually step back. You do not direct. You do not prescribe. You do not manage the conversation.

This is difficult for judges. We are trained to control the courtroom, to direct the outcome, to solve problems. But this work requires something different. It requires that you create the conditions and then trust the people involved to find their own path forward.

Your authority should be used to protect the integrity of the process — to ensure safety, to hold people accountable for genuine engagement, to resist the system's pull toward standardization. But your authority should not be used to direct what happens in the conversation itself.

That is the distinction between a judge who convenes and allows, and a judge who controls.

When the Harmed Party Declines Personal Participation

This needs to be named clearly: What if the person who was harmed does not want to meet face-to-face with the person who caused the harm?

You honor that choice. Their declining to participate personally does not mean restorative engagement ends.

There may be an opportunity for a surrogate process. Someone the harmed party has chosen and briefed — a victim advocate, a trusted community member, a family member — can carry their voice into the dialogue. Can represent their interests and their lived experience of the harm.

The research shows that surrogate processes can work. They can lead to genuine accountability and reparation. But only if certain conditions are met.

First: The harmed party must explicitly authorize the surrogate. They must have met with that person. They must have shared their experience, their harm, their needs. They must understand that this person will represent them in the restorative process.

Second: The surrogate must carry the harmed party's actual voice and experience — not institutional interests. A prosecutor speaking for “the state's interest” is not a true surrogate. A court-appointed advocate whose primary loyalty is to the system is not a true surrogate. A true surrogate is accountable to the harmed party, not to the institution.

Third: The surrogate must have genuine knowledge of what the harm meant. Not a legal description of the crime. Not an institutional summary. The lived experience — what it cost them, how it changed their life, what they need.

Fourth: Voluntariness must be genuine for everyone. The person who caused harm must be willing to engage in dialogue with the surrogate. The surrogate must be willing. The facilitator must have integrity independent from the court.

If these conditions exist, a surrogate process can still be restorative. The harmed party's voice can still be heard. Understanding can still happen. The person who caused harm can still move toward genuine accountability.

But if the harmed party refuses permission, or if you cannot find a true surrogate — someone actually accountable to them, not to the system — then you do something else. You do not force a corrupted version.

You Cannot Do This Alone

You do not have to be a lone actor pushing this in your court.

In fact, you should not be. This is community work.

Your job is to use the authority of the court to bring together people trained in this work. Community organizations. Facilitators. People who understand how to create safety and genuine dialogue.

Accountability is not just the court's responsibility. It belongs to all of us.

The Soil Matters

One more thing. If the conditions that produced the harm are not addressed, the harm will continue.

If a young person comes through the system because of poverty, trauma, instability, and abandonment — and we just impose consequences without addressing those conditions — we will see them again.

And again.

The real work is addressing the soil. The systemic conditions. The poverty. The lack of opportunity. The trauma. The abandonment.

Restorative engagement can happen in that context. But it cannot substitute for addressing root causes.

The Question For You

So here is the question for you as a judge:

- Are you willing to look at your own biases?
- Are you willing to step out of control and let something happen that you are not directing?
- Are you willing to be curious before you are certain?
- Are you willing to say no to cases that are not appropriate, even when the program would like to process them?
- Are you willing to fight the system's pull toward standardization and procedure?
- Are you willing to do this work in community, not alone?
- Are you willing to confront the conditions that produced harm, not just respond to the harm itself?

If you are willing to do those things, then this work might be for you.

If you are not, do the work you know how to do. There is nothing wrong with that. But do not pretend you are doing something else.

Closing

Courts are very good at imposing consequences. This work asks a different question: Can we create conditions where accountability is understood, where impact is faced, where repair becomes possible?

That is not a replacement for law. That is a question that comes after the law has done its work.

And when the conditions are right, when the work is done skillfully, when you step back and let it happen — something shifts.

The person who caused harm understands what they did.

The person who was harmed is heard.

And both move forward differently.

That is the provocation.

That is what I am asking you to consider.

You Are The One:

Restorative Practices in the Judicial System

A comprehensive guide for judges on implementing restorative engagement within existing court systems — grounded in lived judicial experience, addressing what works, what fails, and how to maintain integrity when systems try to absorb the practice into procedure.

Publishing 2026

About This Work

This Frame comes from thirty years of judicial practice — what works, what doesn't, and what judges can actually do to reduce harm and address accountability in ways the legal system alone cannot.

If you are interested in implementing restorative practices in your court, the following resources are available:

Materials

- Four Restorative Practices Bench Cards (Criminal, Juvenile, Family, Dependency)
- Framework Summary
- Bench Book: Criminal Court Judicial Guide
- Research Bibliography

Training

- Multi-day trainings at the National Judicial College
- Presentations at state judicial conferences
- Custom trainings for individual court systems

Contact

For questions, training inquiries, or to discuss implementing restorative practices in your court:

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Acknowledgments

This work draws on the foundational scholarship, practice, and lived wisdom of many people, only some of whom can be named here. Any error of understanding is my own.

Mark Wedge — for decades of Indigenous peacemaking practice and for walking this path long before the courts began to listen.

Judge Barry Stuart — for ancestral jurisprudence and for showing what a judge can become when willing to step out of the chair and into the circle.

Kay Pranis — for the peacemaking circle process and for teaching that the form of a conversation shapes what becomes possible within it.

Harold Gatensby — for keeping the Indigenous roots of this work visible, and for the discipline of being a guest in someone else's tradition.

Dr. Keiko Ozeki — for *Sonomama*, the discipline of radical presence, and for the practice of meeting a moment exactly as it is.

Dr. Ernest Jabali Stewart — for the Peace Industrial Complex critique and for naming, with precision, what happens when systems absorb the practices meant to interrupt them.

Prof. Thalia González — for restorative justice scholarship that holds rigor and humanity in the same hand.

Amy Dallas, *Vera Institute of Justice* — for court-based restorative practice and for translating the work into spaces governments actually occupy.

We are guests in this tradition.

And to the many practitioners, victims, harmed parties, accused persons, family members, court staff, prosecutors, defenders, and community members who taught me — sometimes without meaning to, sometimes against my resistance — thank you. The understanding in these pages is yours. The mistakes are mine.



[Faced With A Violent Killing, A Family Chooses Forgiveness Over Prison | The Guardian](#)

[Boston Globe Series on Restorative Justice](#)

[Opinion: Reckoning with Violence | The New York Times](#)

[Car Crash Victims Seek Justice in a New Way: Talking to the Drivers | The New York Times](#)

[Twelve Experiments in Restorative Justice: The Jerry Lee Program of Randomized Trials of Restorative Justice Conferences.](#)

[St. Louis is a City of Survivors | Freedom Community Center](#)



[Chasing Justice Podcast, Interview with Danielle Sered](#)

[Bias, Decision-Making, & Risk with Seth Lennon Nguyen-Weiner and Richard Cruz](#)



[Restorative Justice in Action: New Approaches in the Most Serious Cases | Institute for Innovation in Prosecution at John Jay College](#)

[The Redemption Project with Van Jones | CNN](#)

[The Prison Within | Directed by Katherin Hervey](#)

Research



[Thalia González | The State of Restorative Justice in American Criminal Law | Wisconsin Law Review](#)

[Thalia González | Restorative Justice Diversion as a Structural Health Intervention in the Criminal Legal System | Journal of Criminal Law and Criminology](#)

[Bruce A. Green and Lara Bazelon | Restorative Justice From Prosecutors' Perspective | Fordham Law Review](#)

[Adriaan Lanni | Taking Restorative Justice Seriously | Buffalo Law Review](#)

[Miriam Krinsky and Taylor Phares | Accountability and Repair: The Prosecutor's Case for Restorative Justice | New York Law School Law Review](#)

[Catherine S. Kimbrell, M.A., Ajima Olaghere, Ph.D., David B. Wilson, Ph.D | Effectiveness of Restorative Justice Principles in Juvenile Justice: A Meta-Analysis | George Mason University](#)

[Tanya Ruggie & Terri-Lynne Scott | Restorative Justice's Impact on Participants' Psychological and Physical Health | Public Safety Canada](#)

[Heather Strang, et al. | Restorative Justice Conferencing \(RJC\) Using Face-to-Face Meetings of Offenders and Victims: Effects on Offender Recidivism and Victim Satisfaction. A Systematic Review | The Campbell Collaboration](#)

[sujatha baliga, Sia Henry, Georgia Valentine | Restorative Community Conferencing: A Study of Community Works West's Restorative Justice Youth Diversion program in Alameda County | Impact Justice and Community Works](#)

[Caitlin O'Neil | Restorative Justice as Diversion in California's Juvenile and Criminal Justice Systems: Potential Impacts and State Policy | California Senate Office of Research](#)

[Katherine Beckett and Marina Kartman | Violence, Mass Incarceration and Restorative Justice: Promising Possibilities | University of Washington](#)

[The Conservative Case for Restorative Justice | The Annie E. Casey Foundation | R Street Institute](#)



Guides

[Pre-Adjudication Restorative Justice: Models and Practices ABA Criminal Justice Section](#)

[A Comparison of Four Restorative Conferencing Models](#)

Resources for Practitioners and System Professionals

Learning Restorative Practice

[Online Trainings at Center for Restorative Justice and Peacemaking](#)
University of Minnesota Duluth

[Circle Keeping 101 by Stronghold](#)

[Workshops and Trainings by Integral Justice](#)

[Circle Keeper's Handbook by Kay Pranis](#)

[Online Circle Keeper Toolkit](#)
Suffolk University Center for Restorative Justice

[Free Webinars from International Institute for Restorative Practices](#)

Victim Advocacy

[Alliance for Safety and Justice](#)

[Ampersands Restorative Justice](#)

[Colorado Coalition Against Sexual Assault](#)

[National Coalition Against Domestic Violence](#)
(with links to state coalitions)

[Restorative Justice & Gender Violence Webinar](#)
[+ Webinar Resource List](#), ABA Commission on Domestic & Sexual Violence

Note: This resource guide offers just some of the many resources on restorative justice and other relevant areas. This is not a comprehensive overview, and there are varied approaches to restorative practices and implementation.