

# **Advancing Restorative Justice**

## **A Progress Report**

### **for the Joint Legislative Corrections Oversight Committee**

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In response to Act 50, § E338 (a), FY 2014 Appropriations

With

Representation from:

Vermont Association of Court Diversion Programs  
The Community Justice Network of Vermont  
Balanced and Restorative Justice Providers  
The Department for Children and Families  
The Department of Corrections  
The Attorney General's Office  
Vermont Center for Crime Victim Services  
Individual Restorative Justice Practitioners

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## **Overview**

In March of 2014, the Imagine Work Group delivered a report titled **Strengthening Restorative Justice** to the Joint Legislative Corrections Oversight Committee. The report provided a conceptual foundation for a seamless system of restorative justice interventions that encompasses the full scope of the Sequential Intercept Model\*, from prevention to offender reentry services. Specifically, the report offered a vision that would establish:

‘opportunities to more fully integrate restorative justice practice across the structure of our criminal justice system, providing decision-makers in law enforcement, prosecution, judiciary, and human services with viable alternative community mechanisms that produce these outcomes: help people resolve conflict without infringing on the rights of others; tend to the needs of victims; encourage offenders to be accountable; increase public safety; and make optimal use of public resources.’

The Imagine Work Group was the first of a three-phase initiative and was formed in response to a request in the FY 2014 budget (H.530) for a report on how to expand and integrate Vermont’s restorative justice services. Phase two of this initiative—the Practical Steps Work Group (PSWG)—began meeting soon after the presentation of the **Strengthening Restorative Justice** report. In the subsequent nine months, PSWG has identified opportunities to expand Vermont’s restorative services and begun to build the collaborative environment to meet these opportunities. This report, **Advancing Restorative Justice**, provides practical recommendations to move Vermont towards a seamless and equitable system of restorative justice.

**Advancing Restorative Justice** should be read in concert with the attached summary report of the Imagine Work Group. **Advancing Restorative Justice** details the findings of the PSWG and provides specific action steps to enhance statewide restorative justice coordination; address current service gaps; and suggest legislative actions that will ensure equal access to restorative justice services and interventions.

The third phase of this endeavor, Scaling Up Restorative Justice, will begin implementation of these recommendations in the spring of 2015.

\* The Sequential Intercept Model was initially developed for the Mental Health System and has been adapted to highlight intercept opportunities along the criminal justice system.

([http://gainscenter.samhsa.gov/pdfs/integrating/GAINS\\_Sequential\\_Intercept.pdf](http://gainscenter.samhsa.gov/pdfs/integrating/GAINS_Sequential_Intercept.pdf))

## **Findings**

**Practical Steps Work Group Composition and Process-** The Work Group began monthly meetings in April of 2014 with representation from:

- Court Diversion Programs (Including Vermont Association of Court Diversion Programs)
- Community Justice Centers (Including Community Justice Network of Vermont)

- Department of Corrections
- Vermont Center for Crime Victim Services
- Attorney General’s Office
- Department for Children and Families
- Balanced and Restorative Justice (BARJ) Programs
- Individual Restorative Justice practitioners

The early meetings focused on the representation, process agreements, and charge of the Work Group. The group also built consensus on the underlying values of the initiative, including the core belief that restorative justice is a fundamental building block for healthy communities.

***Process and Composition Findings-*** *Expanding Restorative Justice to all points on the Sequential Intercept Model will require the active engagement of educational, law enforcement, legislative, and executive branch stakeholders, among others. One of the first tasks of the next work group, Scaling Up Restorative Justice, will be to build the collaborative infrastructure to enable the implementation of the PSWG recommendations.*

**Mapping Vermont’s Restorative Justice Interventions-** The Work Group recognized that in order to address existing gaps in the Justice System (including youth justice), it was first necessary to understand the current map of restorative justice services and interventions across Vermont’s fourteen counties. With this in mind, the Work Group designed and distributed a survey to gather information on current restorative justice interventions along the Sequential Intercept Model. This mapping exercise proved to be remarkably complex and generated multiple findings.

First, there are several Sequential Intercept Models currently in circulation with distinct sequential intercept points. The original model emerged from the intersection between Mental Health services and the Criminal Justice system and does not include an intercept for conflicts or wrongdoing within schools or neighborhoods. The Work Group’s survey added “Intercept Point 0” to capture these services.

Second, the mapping exercise revealed significant (and hard to capture) variability and access to services across counties. Vermont’s growing landscape of restorative justice services and interventions are to a great extent shaped by local conditions. Each county has its own unique constellation of programs and agencies that deliver restorative justice interventions. Access to restorative justice services is also influenced by local decision-makers—State’s Attorneys in particular have a profound impact on which restorative justice intercepts are available to local residents.

Third, Vermont is currently implementing a number of critical reforms to divert clients from the traditional criminal justice system (*for example, Act 195 Pre-Trial Services*). Such reform initiatives, however, are not necessarily based on restorative justice principles. For an initiative to be included in a system of restorative justice, it must recognize:

1. Crime is a violation of people and relationships.
2. Violations create obligations.

3. Restorative Justice engages victims, offenders, and community members—all those affected by the crime—in an effort to put things right.

**Mapping Findings-** *Vermont has a remarkable diversity of restorative justice service providers and services. This richness is a strength—it is a clear reflection of Vermonters’ commitment to the values of participatory justice.*

*The service diversity, however, also clarifies the imperative of establishing a seamless system with equal access to restorative justice. Today, crime victims and affected communities have disparate opportunities to address the harm through restorative processes. Similarly, offenders face significantly different criminal justice outcomes for the same incident, with varied access to restorative alternatives, such as ‘pre-charge’ and ‘Rapid Intervention.’ These inconsistencies can have a lasting impact on victims and communities sense of well-being and safety, and offenders’ opportunities for employment, housing, and education. This geographic disparity of restorative services also presents fundamental challenges to our core values of equality and fairness.*

*The local diversity in service providers also reveals a vulnerability to the development of a seamless system—most regions do not have a single point of referral for restorative justice services. This has led to understandable confusion on the part of community members and stakeholders.*

*Remedies to the disparity of access and service confusion will require ongoing local and regional collaboration supported by the thoughtful application of statutory authority. Equally important, justice reform initiatives should be infused with the participatory principles and practices of restorative justice, regardless of the intercept point or service provider.*

**Expanding Restorative Intercepts-** The Work Group organized several subcommittees to explore the potential for immediate expansion of restorative processes to new intercepts of the justice system. These new services could be piloted in communities that have both the restorative service infrastructure and collaborative relationships to support the initiative.

The breadth of potential new restorative interventions spans the length of the justice system, including school-based restorative processes and programs, predisposition and presentencing circles, restorative plea-bargaining processes, family group conferencing for multiple DUI offenses, and use of restorative processes within incarcerate settings. These pilot projects are just a sample of potential new interventions—actual implementation will depend upon local priorities, stakeholder commitment, and service capacity.

The use of pilot initiatives highlights the creative tension between localized and statewide implementation of restorative services. In fact, both approaches—local and statewide efforts—have been critical to the growth of restorative services across Vermont. Statewide initiatives, such as the Court Diversion and Restorative Justice Panels for youth and adults, established immediate and equal access even as community implementers worked to enhance the restorative quality of the programs. Local initiatives, such as the Rapid Intervention Community Court in Chittenden County, have first been developed, implemented, and evaluated as pilot programs, and then later expanded to other counties.

The above initiatives are embedded within the justice system. There is also a whole field of non-judicial opportunities for restorative approaches in areas such as health care, human rights, environmental planning, government regulation, education, and others.

***Expanding Restorative Intercepts Findings-*** *There are clear benefits to both local and statewide implementation of restorative justice interventions. Statewide initiatives can further equality of access and are of sufficient scope and scale to measure efficacy of initiatives. Local experimentation encourages innovation and growth of restorative services that may not be possible on a statewide level. Going forward, Vermont will require both state and local initiatives to build a seamless system of high-quality restorative justice services.*

**Building Statewide Coordination-** Vermont currently has several statewide restorative justice member/provider organizations and related stakeholder groups. These organizations collaborate on a regular basis and together have produced some notable recent achievements, including legislative endorsement of new restorative justice interventions; organization of UVM's conference, *Restorative Justice, Responsive Regulation & Complex Problems*; co-implementation of Act 195; and the ongoing work of the PSWG and its predecessor, the Imagine Work Group.

No existing organization, however, encompasses the full spectrum of Vermont's restorative justice service providers and stakeholders. With this in mind, the Work Group identified multiple strategic benefits of a single statewide restorative justice council, including among others:

- Provide enhanced training and technical support resources.
- Offer statewide support for local implementation of restorative justice services.
- Establish a single resource point for Vermont's restorative justice community of organizations, practitioners, and volunteers.
- Provide a unified voice in public policy discussions.
- Ensure high quality restorative justice practices across organizations and communities.

***Building Statewide Coordination Findings-*** *Vermont needs a single statewide restorative justice council. The new council will provide critical support to the expansion of both local and statewide restorative justice services. While the council will not replace existing organizations, it will offer unified coordination, collaboration, implementation, and evaluation. The council will also be critical to the development of a seamless system of high-quality restorative justice services.*

## **Recommendations**

**Overview-** The recommendations of the Practical Steps Work Group are contained within a single overarching goal: provide equal access throughout Vermont to a seamless system of high-quality restorative justice services. In order to achieve this goal, the Work Group recommends a series of initiatives that engages stakeholders and decision-makers across Vermont's communities, restorative justice service providers, and government.

Vermont is ready for this next level of justice evolution. Over the past twenty years, Vermont's communities have embraced restorative justice, building both an extensive infrastructure of organizations and a legion of committed volunteers. Every day, all across Vermont, community members and restorative justice practitioners are addressing victim and community needs and effectively engaging justice-involved or at-risk clients. The depth of Vermont's commitment to restorative justice is also drawing national recognition—the state has earned a reputation as a leader in the design, development, and implementation of innovative restorative justice services.

Vermont's remarkable growth of restorative justice services and organizations would not have taken place without the support of local and state government. Locally, restorative justice organizations partner with municipalities, schools, and law enforcement to deliver services and supports. State government has provided funding, administration, and statutory authority to spur the growth of restorative services and interventions. This support extends across all three branches of state government—state agencies and systems collaborate in the referral, administration, and evaluation of restorative services.

For each of these reasons—rich local restorative cultures, maturing statewide collaboration, and a legacy of government commitment—Vermont is ready for a seamless system of high quality restorative justice services. In order to achieve this system, which will ensure equal access across Vermont, the Practical Steps Work Group has the following recommendations.

1. **Establish a single, statewide, restorative justice council:** The Work Group recommends the formation of an initiatory unified organizing council to provide leadership, coordination, and cohesion to Vermont's flourishing restorative justice movement.

The statewide council will have a critical role in establishing the state's seamless system of high-quality restorative justice interventions. Council responsibilities include:

- a. Facilitate a forum for restorative justice organizations and practitioners to foster partnerships, analyze policy and outcomes, and provide strategic leadership. The organizing principle of the body will be the advancement of restorative practices.
- b. Establish and support rigorous standards across Vermont's community of restorative justice organizations and practitioners. Standards will focus on organization and service practices to support high-quality restorative interventions that are based upon fairness, respect, active accountability, and equality of voice.
- c. Provide technical assistance, support, and coordination in the design and implementation of new restorative interventions. The council will track and disseminate research on best practices to local communities that are seeking to develop new restorative services.
- d. Become a leader for the evaluation of restorative justice interventions across the state. The council will take the lead on the development of both qualitative and quantitative outcome measurements and will serve as a repository for data collection and analysis.

- e. Facilitate restorative justice *learning communities* to share successes, challenges, and trainings. The *learning communities* will also offer opportunities for promising local initiatives to gain statewide attention and promotion.
- f. Provide regional initiatives with structure, support, and guidance to engage in effective and sustainable system improvements stemming from the *Request for Collaboration (see below)*.
- g. Provide consistent advocacy for the services of restorative justice in public policy discussions. Determined advocacy will ensure that restorative justice’s participatory and inclusive values remain in the forefront of justice reform.
- h. Serve as a conduit to national and international restorative justice organizations and initiatives. Vermont is widely recognized as an innovator in the implementation of restorative practices—the organizing body will provide a single point of contact for international partnerships and initiatives.\*\*
- i. Secure funding from national foundations for the expansion and evaluation of restorative justice initiatives. The council will have the capacity to propose statewide initiatives that expand services to any intercept of the justice system.

Once formed and established, the statewide council will seek the endorsement of the Vermont legislature.

\*\*Recently, Vermont was invited by Schulich School of Law, Dalhousie University to collaborate on a Partnership Grant from the Social Science and Humanities Research Council of Canada: *Restorative Approach to Peaceful and Sustainable Societies*.

With facilitation from the PSWG and UVM, partners in Vermont have come together to support (1) the development of local and regional learning communities connected to the partner jurisdictions, (2) connection to an International Learning Community, and (3) engagement with experts in collaborative research to contribute to the development of law, policy and practice on restorative approaches to governance. Partners in Vermont are excited to contribute to broader international knowledge about law, policy, and practice and draw from and integrate the international knowledge generated as a result of the proposed project.

2. ***Fund a Request for Collaboration Initiative:*** The *Request for Collaboration Initiative* will support regional restorative justice service providers to identify, develop, and implement new restorative justice partnerships.

The Request for Collaboration will mobilize regional collaborative planning processes that engage restorative justice practitioners, stakeholders, and government representatives. Working together, the local planning teams will plan and develop restorative initiatives that reflect the priorities and collaborative potential of their communities. These new initiatives will address local gaps in the Sequential Intercept Model and expand access to restorative justice opportunities.

Each regional collaborative will be responsible for undertaking the following steps:

- a. Use common Sequential Intercept Model and definitions to map existing restorative justice interventions and service providers.

- b. Identify new restorative initiatives that reflect local priorities and address existing gaps in the Sequential Intercept Model continuum.
- c. Establish and disseminate clear and efficient referral protocols for the new service.
- d. Collaboratively develop and implement pilot restorative initiatives and track outcomes for potential replication in other communities.

The Work Group identified several potential restorative pilot projects. These projects, which span the justice system, include:

- a. Initiatives to promote restorative educational communities.
- b. Restorative Family Group Conferencing as a predisposition option for juveniles.
- c. Presentencing Circle Processes that include victim participation.
- d. Restorative plea bargaining processes that ensure victim participation and voice.
- e. Restorative Family Group Conferences for DUI offenses with injury resulting.

These interventions will serve as potential pilot initiatives for regional collaborations. Final decisions, however, will be made locally and will reflect the strategic analysis, priorities, and strengths of the participating service providers and stakeholders.

The Request for Collaboration will capitalize on Vermont’s flourishing micro-cultures of restorative justice service providers and relationships. The initiative will provide a common framework for communities to map current restorative Sequential Intercept Model interventions. Collectively, these maps will offer a comprehensive view of Vermont’s restorative justice infrastructure and interventions. This initiative will also support the continued growth of Vermont’s laboratories of restorative justice initiatives: local communities. Finally, and most importantly, the Request for Collaboration will expand access to restorative justice.

When readied, the Request for Collaboration will require a financial investment from the State of Vermont.

3. **Ensure that the practice of justice reflects the intent, aspirations, and priorities of Vermont as outlined in statute:** According to Vermont Title 28, Section 2A, “it is the policy of this state that principles of restorative justice be included in shaping how the criminal justice system responds to persons charged with or convicted of criminal offenses... The policy goal is a community response to a person's wrongdoing at its earliest onset, and a type and intensity of sanction tailored to each instance of wrongdoing.”

Similarly, Vermont Title 33, Section 5101, states that “Juvenile Judicial Proceedings shall ensure... balanced attention to the protection of the community; accountability to victims and the community for offenses; and the development of competencies to enable children to become responsible and productive members of the community.”



The state's commitment to restorative justice was reaffirmed in the 2014 legislative session with the passage of Act 195, which stated "these programs shall be reflective of the goals and principles of restorative justice pursuant to 28 V.S.A. §2a."

These are just three examples of legislative endorsement of restorative justice principles and practices in the implementation of adult and youth justice.

The Work Group recommends that the proposed Statewide Restorative Justice Council, working in partnership with local, regional, and statewide stakeholders, undertake an initiative to ensure that the values expressed in Title 28-2A, Title 33-5101, and Act 195 (among others) are being implemented as envisioned. The following steps actions/steps are recommended:

- a. Organize regional and statewide focus groups to clarify and define the desired values and outcomes of the justice system. These gatherings should include representatives from all three branches of government as well as regional stakeholders.
- b. Ensure that these values drive the selection of outcomes and indicators of any state-endorsed Results Based Accountability initiatives.
- c. Develop specific measures that track the values-informed outcomes for the justice system. The measures should seek input from all participants of the justice system, including victims, offenders, and communities.
- d. Track values-informed outcomes across communities and regions to understand discrepancies and commonalities in the administration of justice. This information will be critical to ensure equal access to restorative justice services.
- e. Amend state statute to address any inconsistencies or ambiguities that limit the administration of values-informed justice.

In the interim, the Work Group recommends the following legislative actions to address current ambiguities in statute:

- a. Develop statutory mandate that ensures administration of Victim Rights even when the case proceeds through a community-based alternative program and provides recourse when Victim Rights are not followed.
- b. Extend established protections of information divulged during restorative processes. All information gathered through participation in restorative justice processes at any intercept point shall be held strictly confidential and shall not be released without prior consent. This protects against self-incrimination leading to criminal prosecution, yet allows participants to take responsibility and address harm.
- c. Ensure that state-endorsed risk assessments based on Risk-Need-Responsivity (R-N-R) principles maintain fidelity to the model. Specifically, (1) high criminogenic needs identified in an assessment result in dispositions that address those needs, and do not result in an elevated punitive response. (2) Addressing criminogenic needs shall not preclude victim needs from being addressed. (3) R-N-R principles will be paired with the participatory expectations and values of Restorative Justice Principles.

## **Conclusion**

Each of these mutually reinforcing recommendations—the Statewide Restorative Justice Council, the Request for Collaboration, and Values-Informed Justice—will move Vermont towards a seamless system of high-quality restorative justice services. The initiatives, which by necessity will take place locally, regionally, and statewide, will require participation from all branches of government, restorative justice organizations, justice stakeholders, and citizens.

The planning for implementation of these recommendations will be led by the group tasked with the third phase of this initiative: Scaling Up Restorative Justice Work Group. This group, which could form the basis for the Statewide Restorative Justice Council, will begin meeting in the spring of 2015.