



## FAQS – Restorative Justice & Human Trafficking



### 1. What is Restorative Justice?

Restorative justice is a set of principles and practices that offer a different approach to addressing harmful actions and their consequences. In the context of criminal legal system (CLS), restorative justice is an alternative or complementary response to the CLS' punitive approach. Restorative justice programs provide a facilitated process that focuses on the unique needs of human trafficking victims, the specific actions of offenders, and a deeper understanding of the harm caused and how it affects both the survivor and the broader community. These programs aim to foster healing for survivors by offering a means for responsible parties to take accountability and commit to meaningful change.

### 2. Why is Restorative Justice important for human trafficking survivors?

- **Simply put, piloting a restorative justice program means we are responding to what human trafficking survivors are asking for.**
  - A 2018 DOJ study found that **75% of trafficking survivors** surveyed did not want their trafficker to go to jail but instead wanted accountability and assurance that they would not harm anyone again.
  - The *Global Action Plan* Developed by the Survivor Alliance - the largest international coalition of human trafficking survivors – prioritizes the need to: “Explore and implement restorative and transformative justice practices...”<sup>1</sup>
  - One survivor shared her perspective on why she would have wanted a restorative justice process for her trafficker:



*“As a survivor of child trafficking, many prosecutors and judges have asked me how I could possibly not want my trafficker to go to jail. But to me, it’s simple: The man who trafficked me until I was 10 years old went to prison and was incarcerated many times throughout my childhood. Each time he was released, he became more violent than before. When I was a homeless teenager, the people who trafficked me faced significant barriers to employment after their incarceration. I doubt they would have preyed on me and exploited others if they hadn’t faced the insurmountable odds that post-prison life imposes, from employment to housing, and other basic needs for survival. I also saw how my little sister was trafficked after experiencing incarceration and homelessness. She was sentenced to prison when she defended herself for the first time against her trafficker.*”

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<sup>1</sup> Survivor Alliance, Action Plan for Survivor Leadership in the Next Decade: 2023-2033), 18 (2023)  
<https://static1.squarespace.com/static/5ee517995ce62276749898ed/t/661d80d8649a162cb8c1ce6a/1713209571268/Survivor+Alliance+Action+Plan+%282%29.pdf>

*Incarceration, and the way people with criminal records are treated in the U.S., creates desperation and vulnerability – conditions that fuel exploitation and human trafficking. I wish the money spent on prisons was invested in the things that trafficking survivors [and other crime victims] truly need. Incarcerating 33% of the population is obviously not making us safer.”<sup>2</sup>*

### **3. Is this pilot program aimed at survivors of human trafficking who have been wrongfully arrested?**

- **No** - Survivors of trafficking should never be arrested or criminalized. This pilot program is designed to provide an alternative path for accountability after a responsible party has been arrested and charged. Victims of the crime will have the option to pursue traditional prosecution **or** participate in a two-year restorative justice process.
- If the victim chooses a restorative justice process - and the responsible party voluntarily agrees - both will be referred to a community-based organization for support and rehabilitative services. These services will focus on healing and empowering the victim(s) while also facilitating the rehabilitation of the individual (s) who caused the harm.

### **4. Can Restorative Justice programs work with individuals who have been harmed physically or sexually, or individuals harmed as children?**

- To date, pilot programs addressing violent crimes - including sexual assault, domestic violence, and child abuse - have been implemented and evaluated in the U.S. for both adult and juvenile offenders, and their victims.<sup>3</sup> The success of these programs demonstrates that alternative pathways *can* be effective in violent crimes involving sexual and/or physical abuse, and violence against minors. Given this, we believe that restorative justice programs can be applied to human trafficking crimes, which often involve intimate relationships between the abuser and victim(s), individual harmed as minors, as well as physical, sexual and/or other forms of abuse.
- Restorative justice practices for gender-based violence are gaining increasing acceptance, as evidenced by the 2022 reauthorization of The Violence Against Women Act (the “Act”).<sup>4</sup> For the first time since its passage in 2000, the Act authorized new grant programs focusing on victim services that incorporate

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<sup>2</sup> Boyd, Sabra. “Re: so nice to meet and connect in Seattle.” Received by Stephanie Richard. 9/5/2022. Sabra Boyd is a journalist and lived expert.

<sup>3</sup> Mary P. Koss, The Restore Program of Restorative Justice for Sex Crimes: Vision, Process, and Outcomes, 29 J. of Interpersonal Violence 1623, 1641 (2014), <https://journals.sagepub.com/doi/abs/10.1177/0886260513511537>.

<sup>4</sup> Congressional Research Service, “The 2022 Violence Against Women Act (VAWA) Reauthorization,” (May 22, 2023), <https://crsreports.congress.gov/product/pdf/R/R47570/2#:~:text=women%20in%20particular.-,The%20act%20authorized%20grants%20to%20state%2C%20local%2C%20and%20tribal%20law,of%20specified%20federal%20sex%20offenses>.

restorative practices to ‘prevent or address’ VAWA-related offenses,”<sup>5</sup> including domestic violence, sexual assault, dating violence, and stalking.

## 5. Who is eligible for this pilot program?

- The goal of this budget advocacy is to secure funding to pilot this approach over 5 years, not to build the structure of the pilot program itself. Once funding is secured, implementation will begin, with input from restorative justice experts, community-led programs, a survivor advisory board, and feedback from accountable parties.
- **Eligible Accountable Parties:** The specific details regarding the administration of this program have not been fully finalized. This includes determining eligibility for this alternative process, with careful consideration to ensure safety for impacted communities and meaningful rehabilitation for responsible parties.
- **Eligible Survivor-Victims:** This pilot program does not focus on restorative justice for survivors who are minors. However, it is our intent that all adult survivors of sex and/or labor trafficking will be given the option to choose the type of justice they wish to pursue.

## 6. What happens if the accountable party does not recognize the harm they have caused or is not rehabilitated?

- The primary goal of this alternative pathway of accountability is to empower and support survivors by giving them control over how they seek healing and justice. As such, survivor(s) will determine the rehabilitation and accountability plan for the offender(s) with the support of professional restorative justice programs.
- Like other restorative justice programs, the survivor retains control over the process. If at any point the survivor changes their mind about participating in the process, or the accountable party violates the terms of their rehabilitation, as set forth by the impacted community member(s), the responsible individual(s) would be referred back to criminal prosecution.
- Community programs focused on restorative justice are well-equipped to handle such situations safely. Staff members are trained to help survivors make informed decisions about how they would like to proceed throughout the duration of the process.
- Criminal prosecution remains an option at all times. This proposal seeks to offer an alternative to the current criminal legal system for individuals who would like to choose a different model of justice.

## 7. How can the program protect against the accountable party coercing the survivor and/or family members into participating in the Restorative Justice process to avoid prison?

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<sup>5</sup> *Id.*

- This is a very valid concern, and one that arises frequently in discussions about restorative justice programs, particularly focused on sexual assault, domestic violence, and other similar violent crimes.
- Restorative justice programs working with individuals involved in coercive power relationships are equipped to handle these situations safely. Staff and facilitators are trained to identify and navigate these dynamics. If coercion is found, the accountable party will be referred back to the traditional prosecutorial process, as outlined above.
- While it's impossible to completely eliminate the possibility of coercion, it is important to acknowledge that many survivors of violence face immense pressure to drop charges against their abuser. In some cases, survivors avoid the current legal system entirely because reporting the crime could place them or their family in greater danger, or because participating in criminal proceedings could be re-traumatizing and harmful to their healing. As noted earlier, 75% of survivors of sex and/or labor trafficking reported they did not want their abuser to go to jail, but did want accountability and assurance that they would not harm others again.
- In building alternative pathways to justice, this program seeks to help survivors regain their autonomy and define justice on their own terms. The choice to engage in restorative justice will be supported by the resources and services offered throughout the restorative justice process, which are designed to help them become less dependent on coercive relationships.

## **8. How does a Restorative Justice program benefit survivors of trafficking?**

- Restorative justice programs center the victim by empowering them to reclaim their voice and actively participate in the decision-making process regarding their healing and justice. In contrast, the current CLS does not represent the victim - it represents the local, state, or federal jurisdiction. Human trafficking victims are given little, if any, input in legal proceedings. Shifting from a system where victims often feel excluded to one where they help design accountability plans and work with their communities to reduce future opportunities for trafficking restores the control taken away by their traffickers.<sup>6</sup>
- Furthermore, 87% of survivors of violent crime report receiving no financial aid or other support from the current CLS.<sup>7</sup> Survivors and providers have long emphasized that the lack of comprehensive support and limitations on the duration of available services are major barriers to survivor recovery.<sup>8</sup> This pilot program will provide

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<sup>6</sup> Ana M. Nascimento et al., The Psychological Impact of Restorative Justice Practices on Victims of Crimes- a Systematic Review, 24 Trauma, Violence & Abuse 1929 (2022), [https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10240635/pdf/10.1177\\_15248380221082085.pdf](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10240635/pdf/10.1177_15248380221082085.pdf).

<sup>7</sup> Alliance for Safety and Justice, Crime Survivors Speak (2022) at pg 5. Available at <https://allianceforsafetyandjustice.org/wpcontent/uploads/documents/Crime%20Survivors%20Speak%20Report.pdf>

<sup>8</sup> 2023 Trafficking in Persons Report: United States, <https://www.state.gov/reports/2023-trafficking-in-persons-report/united-states> Advocates noted funding for victim services remained inadequate to cover the

survivors of Human Trafficking who opt into this process with wrap-around services tailored to meet their specific needs.

**9. How can Restorative Justice programs benefit the community?**

- **By reducing arrests and detentions of trafficking victims, money can be reinvested in support services for survivors and prevention efforts in the community.**
- **For example,** the budget for a *Restorative Justice Model*, which provides comprehensive services to survivors AND accountability programs for defendants, could save California **48% in resources annually. Furthermore, if just five traffickers (each with an average 10-year sentence) are not incarcerated, the state could use those savings to fund restorative justice services for 180 individuals - 90 survivors and 90 traffickers.**

**Restorative Justice Model Budget**

<b>Annual Cost of Accountability Program for Each Responsible Party</b>	<b>Annual Wrap-Around Support Per Survivor</b>	<b>Annual Cost to Rehabilitate 90 Responsible Parties</b>	<b>Annual Cost to Provide Wrap-Around Support for 90 Survivors</b>	<b>Annual cost per 90 Survivors &amp; 90 Responsible parties</b>
<b>\$22,000</b>	<b>\$44,555</b>	<b>\$990,000</b>	<b>\$4,009,950</b>	<b>\$4,999,950</b>

**Current Criminal System Model Budget**

<b>Annual Support for Each Survivor Allocated in Criminal System</b>	<b>Annual Cost of Incarcerating One Trafficker in CA Prison</b>	<b>Annual Cost to Support 90 Survivors in Criminal System</b>	<b>Annual Cost to Incarcerate 90 Traffickers</b>	<b>Total Cost of Punishing Traffickers in the Criminal Justice System without Supporting Survivors</b>
<b>\$0</b>	<b>\$106,131</b>	<b>N/A, but the cost to each victim is ongoing, as well as impact on society</b>	<b>\$9,551,790</b>	<b>\$9,551,790</b>

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high cost of providing services and the increased demand for services. Federally funded services and organizations' programs continued to focus on time-limited and immediate crisis intervention rather than long-term, holistic care.

## 10. How do Restorative Justice programs measure success?

- While data on restorative justice programs remains limited, existing research shows that survivors of violent crimes who engage in these programs report high levels of satisfaction. These survivors often feel that justice has been achieved and experience a reduction in PTSD by the end of the program.<sup>9</sup>
- Additionally, restorative justice programs have demonstrated positive outcomes in terms of the behavior of accountable parties, with low rates of recidivism following program completion.<sup>10</sup>
- Finally, restorative justice programs are significantly more cost-effective than traditional incarceration, costing roughly one-third to one-half the price of incarcerating an individual for one year in California.<sup>11</sup>
- In sum, restorative justice programs measure success by promoting the healing and empowerment of victims, while also reducing the likelihood of reoffending by responsible parties, all at a lower cost to the state.

## 11. How can justice be achieved if the accountable party is not subjected to traditional punishment?

- The current criminal legal system often fails to ensure true accountability, as responsible parties are typically required to deny culpability during the prosecutorial process. Admitting responsibility can lead to harsher punishments, which discourages accountability. As a result, even when found guilty, offenders rarely take full ownership of the harm they have caused. In many trafficking cases, criminal trials can last years and still end without a guilty verdict.
- In contrast, restorative justice programs focus on helping the accountable party understand the harm they have caused and the impact it has had on the victim(s) and the community. This program aims to ensure that the responsible party takes full ownership of their actions and commits to making changes to prevent future harm.

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<sup>9</sup> J. Hussemann et al., *Bending Towards Justice: Perceptions of Justice among Human Trafficking Survivors*, OFFICE OF JUSTICE PROGRAMS' NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE (April 2018).; The participants of RESTORE, a federally funded pilot program in Arizona, created a program for misdemeanor and felony sexual assault offenders. By completing the program, the victim participants suffering PTSD dropped from 82% to 66%. Additionally, 90% of all participants believed that “justice was done.”

<sup>10</sup> In New York, “Common Justice” report that offenders who engaged in their restorative justice program had a recidivism rate of only 6%. Additionally, from 2012- 2018, Common Justice expelled only one participant from the program for committing a new crime; In Oakland, California, the “Community Works West Organization” conducted a program that “diverted 102 youths for crimes that would have otherwise been addressed through the juvenile justice system.” The youths that participated in the program were 44% less likely to recidivate compared to similarly situation probation youths, and the program yielded a cost savings of \$18,500. The program has a one-time cost of \$4,500, compared to probation in Alameda County, which costs \$23,000 per year. California Victims Legal Resource Center, *Restorative Justice and Victims’ Role and Interests*, VIMEO (Apr. 17, 2023), <https://vimeo.com/user41578990/review/818492117/9be3546e9a>.

<sup>11</sup> *Id.*

## 12. How are communities safer if those who have harmed are not incarcerated?



- There is no evidence-based data to show that lengthy carceral sentences prevent human trafficking or deters traffickers from reoffending. In contrast, restorative justice programs have been shown to reduce recidivism, with participants who complete the process being less likely to reoffend or re-harm, thus ensuring greater safety for both the direct victims and the community at large.
- Practitioners working with trafficking survivors are aware that, for every 1-2 criminal cases prosecuted annually for their clients, hundreds of perpetrators go without consequences. Most human trafficking victims choose not to report their experiences to the traditional criminal system. Even for those who come forward, criminal cases are often declined due to the high burden of proof required in criminal proceedings.

## 13. Why should this model be adopted for crimes involving human trafficking?

- We must amplify the voices of survivors, the majority of whom suffer harm under the current criminal process, in advocating for a new approach to accountability on their terms. Their voices have long been co-opted by prosecutors and lawmakers pushing for longer prison sentences and enhanced penalties, when in reality, victims of violent crime have no alternatives to the existing punitive system.
- By piloting alternatives to mass incarceration, we can use evidence-based data as a powerful tool to demonstrate to both the public and lawmakers that viable alternatives exist. These alternatives not only facilitate healing and provide resources for survivors but also prevent future harm and criminal acts.

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