



Funding Proposal: California Restorative Justice Proposal for Human Trafficking

We are requesting **\$25 million in a one-time budget request** to pilot the first restorative justice¹ program for human trafficking survivors in California over 5 years.

WHY A RESTORATIVE JUSTICE PROGRAM SHOULD BE DEVELOPED FOR HUMAN TRAFFICKING SURVIVORS AND ACCOUNTABLE PARTIES IN CALIFORNIA

Since the passage of the California Trafficking Victims Protection Act (CTVPA) of 2005,² there has been a push to punish accountable parties through incarceration, deter this form of commercial exploitation through enhanced sentencing, and provide survivors of human trafficking ("survivors") with justice through the criminal justice system in California. This approach in California, and across the nation of enhancing prosecutorial efforts to arrest and convict traffickers has dominated the resources devoted to combating human trafficking³. For too long successful outcomes in justice have been counted exclusively as the conviction of a human trafficker and subsequent jail time. This approach is costly and proven to do little to prevent and deter human trafficking or ensure that responsible parties are rehabilitated and do not reoffend.

Furthermore, this approach does very little to ensure survivor stability and provide justice on their terms. A 2018 Department of Justice-funded study showed that justice achieved through the traditional legal system may not be what trafficking survivors want and may actually cause more harm than healing.⁴ Human trafficking survivors often suffer physical, psychological, and psychosocial harm as a result of varied and multiple traumatic events suffered over a period of time at the hands of their traffickers.⁵ Requiring survivors to relive their circumstances repetitively as they prepare for trial re-traumatizes these survivors⁶. In addition, prosecution in trafficking

¹ See Appendix C for a comparison of Restorative Justice vs. Punitive frameworks.

² AB 22 (Lieber) 2005. California's Trafficking Victims Protection Act ("CTVPA")

³ See Scott Graves and Chris Hoene, "How much does California Spend on Law Enforcement, the Criminal Legal System and Incarceration?" California Budget & Policy Center (June 2020), available at

<https://calbudgetcenter.org/resources/california-spending-on-law-enforcement-the-legal-system-incarceration/>

⁴ 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).

⁵ Farrell, A., C. Owens, & J. McDevitt (2013). *New laws but few cases: Understanding the challenges to the investigation and prosecution of human trafficking cases*. Boston, MA: Northeastern University.

⁶ Latinx individuals, Immigrants, Disabled Individuals and LGBTQI individuals are disproportionately affected by this re-traumatization. *Support Every Survivor: How Race, Ethnicity, Gender, Sexuality, and Disability Shape Survivors' Experiences and Needs*, Free Form, <https://www.freefrom.org/wp-content/uploads/2022/10/Support-Every-Survivor-PDF.pdf>



cases can take up to 3X longer than other criminal cases,⁷ which can further delay the healing process. Many trafficking survivors report being treated more like a criminal⁸ than like a victim⁹ and are often threatened by police with potential charges of prostitution or drug offenses in order to secure their cooperation at trial.¹⁰ In other instances, trafficking survivors have been arrested multiple times for crimes their traffickers have forced them to commit.¹¹ This leads to trafficking survivors' inherent distrust in the current criminal justice model. Some survivors even report that incarceration allows traffickers to improve their trafficking tactics and build a larger trafficking network with other inmates.¹²

Given the potential negative impacts the judicial system inflicts on a survivor, the lack of evidence that incarceration actually reduces the prevalence of trafficking or prevents trafficking in the long-run, and the commitments in California to reduce prison populations, the time is right for California to lead the nation and fund the first community based restorative justice program for human trafficking survivors.

In supporting funding for the first restorative justice pilot program for trafficking survivors, California will be listening to what survivors report they want. In a 2018 study, which interviewed 80 sex and/or labor trafficking survivors, researchers found that over 75% of the survivors of trafficking *did not* want to see their trafficker incarcerated. The research team further found that survivors expressly criticized incarceration because they did not feel it was a valuable way to achieve accountability for traffickers' wrongdoing. Although survivors interviewed agreed on the importance of holding traffickers accountable, across the board labor and sex trafficking survivors saw justice primarily in terms of stopping traffickers from harming others.¹³

Sabra Boyd, a journalist and lived experience expert perhaps most compellingly summarizes the reasons for taking a survivor-oriented, restorative justice approach:

Many prosecutors and judges have asked me how I can possibly not want my trafficker to go to jail as a child trafficking survivor. But 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. And each time he was released more violent than before. My little sister was trafficked after she was incarcerated and homeless. She was sentenced to prison when

⁷ Clawson, H.J., N. Dutch, S. Lopez, & S. Tiapula, *Prosecuting human trafficking cases: Lessons learned and promising practices*, U.S. DEPARTMENT OF JUSTICE, (2008).

⁸ *In Harm's Way - How Systems Fail Human Trafficking Survivors: Survey Results from the First National Survivor Study*, Polaris Project (January 2023), available at: <https://polarisproject.org/wp-content/uploads/2023/07/In-Harms-Way-How-Systems-Fail-Human-Trafficking-Survivors-by-Polaris-modified-June-2023.pdf>.

⁹ 72% of sex trafficking victims involved in a 2018 study indicated they had been a defendant in a criminal case prior to participating in a criminal case as a witness against their trafficker. National Survivor Network Members Survey: Impact of Criminal Arrest and Detention on Survivors of Human Trafficking August 2016 chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://nationalsurvivornetwork.org/wp-content/uploads/2017/12/VacateSurveyFinal.pdf

¹⁰ Please see reports: Latinx Individuals (<https://transequality.org/sites/default/files/docs/usts/USTSLatinReport-Nov17.pdf>), Black Individuals (<https://transequality.org/sites/default/files/docs/usts/USTSBlackRespondentsReport-Nov17.pdf>), American Indian Individuals (<https://transequality.org/sites/default/files/docs/usts/USTS-AIAN-Report-Dec17.pdf>), and Asian American Individuals (<https://transequality.org/sites/default/files/docs/usts/USTS-ANHPI-Report-Dec17.pdf>)

¹¹ Beth Jacobs, *National Survivor Network Members Survey: Impact of Criminal Arrest and Detention on Survivors of Human Trafficking*, NATIONAL SURVIVOR NETWORK (August 2016) <https://nationalsurvivornetwork.org/wp-content/uploads/2019/08/NSNVacate-Survey-2018.pdf>.

¹² J. Hussemann, *supra* note 13 at p. 13.

¹³ See J. Hussemann, *supra* note 13 at p. 14.



she defended herself for the first time against her trafficker. My traffickers when I was a homeless teenager faced barriers to employment after incarceration. I doubt they would have preyed on me, and exploited people had they not faced the insurmountable odds that post-prison life imposes in terms of employment, housing, and countless other aspects of their lives and needs to survive. Incarceration and the way people with criminal records are treated in the U.S. makes people desperate and vulnerable, which creates the conditions for exploitation and human trafficking. I wish the money spent on prisons was invested in the things that trafficking victims [and other crime victims] actually need, because incarcerating 33% of the population is obviously not making us safer.¹⁴

Given the findings in the 2018 report, the time for California to take a new approach is well overdue.

Trafficking survivors should be afforded an alternative to the traditional criminal justice system. By giving them this choice, California will provide survivors in our state with greater autonomy and involvement in the type of justice they seek. Evidence based research has shown that restorative justice models better help survivors heal and move on from their trafficking experience by prioritizing the safety, rights, and dignity of the survivor over the punishment of the trafficker. Additionally, the state as a whole¹⁵ may benefit as well from piloting a restorative justice model given emerging evidence-based data supports that such approaches contribute to lower rates of recidivism and can prevent more crime in the long-run.

California must listen to survivors and follow the documented evidence and research by forging a new path to justice in the state for survivors of human trafficking.

WHY RESTORATIVE JUSTICE SHOULD BE USED FOR SURVIVORS OF VIOLENT CRIME

Many feel that survivors of violent crime, especially gender-based violence like human trafficking, should not be included when considering alternative approaches to criminal justice. However, restorative justice practices for gender-based violence are increasingly accepted as can be seen through the passage of the 2022 Reauthorization of The Violence Against Women Act (the "Act").¹⁶ For the first time since its passage in 2000, The Act authorized new grant programs related to victim services to focus on "restorative practices to 'prevent or address' VAWA-related offenses,¹⁷" which includes domestic violence, sexual assault, dating violence, and stalking. The text of this enacted statutory funding authorization can be found in *Appendix A* and should serve

¹⁴ Bending Towards Justice: Perceptions of Justice among Human Trafficking Survivor, at pg 10. Sabra Boyd, Journalist/Human Trafficking Survivor, email on file, dated Sept. 5, 2022.

¹⁵ Restorative justice practices may also facilitate changes in contexts that support behaviors valued by the community. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8385698/>

¹⁶ It is important for resources to account for the unique experiences of survivors. Resources that do not account for these groups will exclude large groups of survivors from accessing effective support. For example, simply sending all survivors a stimulus check won't be effective for folks who don't have safe access to a bank account. Instead, survivors need multiple options for how to receive these payments and extra support in opening and protecting a safe account. <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.>

¹⁷ Id.



as a model in California for restorative justice practices for human trafficking survivors. The Act specifically requires allocating funding to “community-based” providers unaffiliated with any civil or criminal legal process¹⁸ and requires voluntary engagement in the program by the survivor. Although there are currently, no programs in the United States offering restorative justice programs for survivors of human trafficking, California can build upon restorative justice programs based on models that have been piloted for survivors of other violent crimes.¹⁹

A few examples of restorative justice programs that serve survivors of violent harm are outlined below:

- (1) Common Justice, based in New York, is an alternative to incarceration for participants who have committed extremely serious crimes, including shootings, stabbings, and other violent assaults. If the victims agree to participate, they will come together, or use a surrogate to represent them - with the individual who caused harm or “and family and community members with a stake in the outcome.”²⁰ The survivors are free to reject the Common Justice alternative, in which case the accountable party will go through the typical court process, and if convicted, serve prison sentences. However, when offered Common Justice’s alternative model, ninety percent (90%) of survivors chose the alternative over the traditional criminal justice process understanding that accountable parties will not be sent to prison and will have their felony conviction removed following their successful completion of the program. Evidence based research showed that accountable parties who engaged in this program had a recidivism rate of only 6%. Additionally, from 2012-2018, Common Justice only expelled one participant from the program for committing a new offense.

- (2) RESTORE, a federally funded pilot program in Pima County, Arizona addresses felony sexual assault cases. Results from an evidence-based study of this program found that the percentage of (1) survivors suffering from PTSD dropped from 82% to 66% after completing the program, and (2) participants who “felt safe, listened to, supported, treated fairly, treated with respect, and not expected to do more than they anticipated” exceeded 90%. Further the report analyzed found that two-thirds of felony-referred responsible parties completed the program and that approximately 83% of all participants believed that “justice was done.”²¹

¹⁸ Based on a report conducted by Free Form, a financial security and safety for survivors-based organization, when they asked survivors who they would ideally want to call in a crisis 40.4% said they would not call the police in a crisis, whereas 40.4% said they would call a community crisis intervention team. <https://www.freefrom.org/wp-content/uploads/2022/08/Beyond-Crisis-PDF.pdf>. These statistics demonstrate shifting towards community-based forms of restorative justice will meet the needs of many survivors.

¹⁹ In Oakland, California, the Community Works West Organization conducted a program that “diverted 102 youth for crimes who would have otherwise been addressed through the juvenile justice system.” Ninety-one percent of the victim participants reported they would participate in another conference and recommend the process to a friend. 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>.

²⁰ *Our Work*, COMMON JUSTICE, https://www.commonjustice.org/our_work (last visited June 26, 2023).

²¹ Mary P. Koss, Ph.D., *The RESTORE Program of Restorative Justice for Sex Crimes: Vision, Process, and Outcomes*, 29 J. OF INTERPERSONAL VIOLENCE, 1, 26 (2013).



- (3) “Re:Store Justice” is a 5-year program that launched in 2019 geared towards both the survivors and accountable parties in Richmond, California.²² In lieu of filing criminal charges, the program sends those who have been arrested to substance abuse treatment, counseling, education, and job training. In this model, the the accountable party, survivor, members of community groups, law enforcement, and defense attorneys work together to create a plan based on the survivor and community’s needs for safety and accountability.²³

COSTS AND COST SAVINGS

The Governor’s budget for 2023-2024 has allocated \$14.5 billion to operate the California Department of Corrections and Rehabilitation (CDCR). An additional \$5.3 billion is allocated for the judicial branch for criminal proceedings. This money - nearly \$19 billion- is allocated from the General Fund²⁴. The 2023-24 budget reflects the first time this budget has decreased in over 10 years. Despite the slight decrease compared to 2022-23, costs of imprisoning individuals have risen steadily over the years. Today, it costs approximately \$106,131 to incarcerate one individual in California, a number that has increased by 117% since 2011.²⁵

Considering the high crime rates which plague nearly every region of the state and evidence which demonstrates the significant correlation between poverty and crime, California response to these crises by enhancing sentencing and attempting to combat crime through increased arrest has failed. **If spending money on carceral approaches actually made our communities safer we should indeed be living in the safest place in the world given the large amount of money the state and each of its municipalities spends on law enforcement²⁶. However, all evidence points to the contrary and California must**

²² Aron Kumar Roy, *Re:Store Justice starts 5-year restorative justice pilot program*, [HTTPS://SANQUENTINNEWS.COM](https://SANQUENTINNEWS.COM) (Sept. 11, 2019), <https://sanquentinnews.com/restore-justice-starts-5-year-restorative-justice-pilot-program/>.

²³ Don Thompson, *California diversion program lets victims confront offenders*, AP NEWS (July 8, 2019) <https://apnews.com/article/c17f8077b29b41ffa9b698f886217412>.

²⁴ THE 2023-24 CALIFORNIA SPENDING PLAN: JUDICIARY AND CRIMINAL JUSTICE (2023), <https://lao.ca.gov/Publications/Report/4805> (last visited Oct. 25, 2023)

²⁵ California State Legislature, Legislative Analyst’s Office, *How much does it cost to incarcerate an inmate?*, LAO (updated Jan. 2022), https://lao.ca.gov/policyareas/cj/6_cj_inmatecost. These high costs have urged California to reduce the budget for the California Department of Corrections and Rehabilitation. The budget is down 3% from last year and there is a push to increase funding for restorative justice programs. In 2022-2023, \$4 million of the budget went to community providers to deliver restorative justice programs in prison and \$2 million per year has been budgeted for 2023-23 and 2024-25. Gabriel Petek, *The 2023-24 Budget: The California Department of Corrections and Rehabilitation*, LAO (Feb. 2023), <https://lao.ca.gov/reports/2023/4686/CDCR-Budget-021623.pdf>. California State Legislature, Legislative Analyst’s Office, *The 2022-23 California Spending Plan, Judiciary and Criminal Justice*, LAO (Sept. 26, 2022), <https://lao.ca.gov/Publications/Report/4625>.

²⁶ California’s 482 cities and 58 counties spent more than \$20 billion from all revenue sources on city police and county sheriff’s departments as recently as 2017-18, when the most recent statewide data was available. Cities spend nearly 3 times more on police than housing and community development. Counties spend more on their general revenue on sheriff’s departments than on social services by a substantial



consider and adopt new approaches to deter, rehabilitate and address societal problems like human trafficking within our state. This is especially pertinent in the wake of the Governor’s pledge to close state prisons and overwhelming evidence which strongly demonstrates that lengthy prison sentences are costly and are not effective in deterring perpetrators or preventing individuals from falling prey to human trafficking.

Perhaps most noteworthy in the findings for restorative justice programs is that for nearly a third²⁷ of the cost of incarceration, restorative justice programs offer wrap-around support to survivors **AND** a facilitated process for the accountable party to better ensure the prevention of future harm. Currently, 87% of survivors reported not receiving **any** financial or economic assistance to help recover.²⁸ Human trafficking service providers and survivor leaders have voiced for years that inadequate comprehensive services for survivors of human trafficking and time limitations on services are some of the greatest barriers to survivors recovery.²⁹ Survivors who are often dependent on their trafficker to meet all their basic needs must have access to long-term wrap around services to address the socioeconomic factors which make them vulnerable to re-trafficking. California should invest in a restorative justice framework that assures this support for survivors and provides more assurance that offenders are less likely to harm again.

From a cost-savings perspective alone, it would be beneficial for California to take the important step of adopting a pilot restorative justice program for human trafficking survivors as an alternative to traditional criminal justice prosecution. This pilot program would (i) be in line with documented research regarding human trafficking survivors’ wants and needs, (ii) reduce costs to taxpayers in the short and long-term who bear the high cost of incarceration, and (iii) decrease the accountable parties’ likelihood of recidivism.

The table below provides a breakdown of the proposed \$5,000,000 annual budget for a pilot human trafficking restorative justice program in California. This money will be used to develop capacity to provide comprehensive support to 90 survivors and rehabilitative support to 90 responsible parties over a 2 year period, or 360 individuals over a 5 year grant assuming one year of start-up costs. It would be administered through a competitive grant process through Cal-OES.

(A)	(B)	(C)	(D)	(E)
------------	------------	------------	------------	------------

margin. Beyond this, California and its cities and counties spend roughly \$50 billion annually on local law enforcement, the criminal legal system, and incarceration in state and county jails. This is 3X what California spends from its general fund on higher education. See Scott Graves and Chris Hoene, “How much does California Spend on Law Enforcement, the Criminal Legal System and Incarceration?” California Budget & Policy Center (June 2020).

²⁷ Statistic based on the \$18,000 its cost for a restorative justice fellowship program annually in Richmond, California. See COST BENEFIT ANALYSIS: OPERATION PEACEMAKER (2017) at pg 14. https://www.advancepeace.org/wp-content/uploads/2017/04/6-USC_ONS_CBA.pdf. Further the average cost of operating a Restorative Justice Program in California is about \$1,719,739 annually. This average cost was generated based on the reported expenses of California-based restorative justice non-profits, gathered from tax form 990s including; Restorative Justice Partners Inc., Restorative Justice Resource Center, Center for Restorative Justice Works, Restorative Justice for Oakland Youth, Communities United for Restorative Youth Justice.

²⁸ 2022 Alliance for Safety and Justice, Crime Survivors Speak pg 5. Available at <https://allianceforsafetyandjustice.org/wp-content/uploads/documents/Crime%20Survivors%20Speak%20Report.pdf> 87 percent of victims did not receive financial or economic assistance to help recover pg 5

²⁹ 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 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.



Annual Cost per Responsible Party	Annual Cost per Survivor	Annual Cost per 90 Responsible Parties	Annual Cost per 90 survivors	Annual cost per 90 survivors & 90 Responsible parties
\$20,555	\$35,000 *	\$1,849,950	\$3,150,000	\$4,999,950

Column A in the Table shows the annual cost per responsible party is \$20,555. Based on our findings from other restorative justice programs, this number is well within the average range of costs for providing rehabilitative services. For example, Advance Peace, a Sacramento-based non-profit organization, organizes a program for individuals who are involved in gun violence to receive mentorship and life coaching. This is an 18-month program for 50 fellows who are individuals who have been arrested for crimes. The total cost of the program was \$1,384,836, or approximately \$18,464 per year per fellow.³⁰

Column B shows the annual cost per survivor is \$35,000.³¹ This number includes the costs for wrap-around services for survivors, including case management, shelter, legal services and other direct cash assistance support. Access to these types of services is now extremely limited given the resource focus on incarceration. Yet these services are vital for survivor safety and protection for many reasons. For example evidence based research shows that often survivors rely on harm-doers for financial security and they therefore must choose between their immediate safety and potentially losing access to the financial resources they need to support their kids if a harm-doer is incarcerated.³²

Column E reflects the total cost annually to provide services to 90 accountable parties and 90 impacted survivors. This number was extrapolated from data provided from the LA County District Attorney’s Office detailing the number of human trafficking filings and arrests in LA County between 2020-2022. This information is available in *Appendix B*. Based on our review of the data, there was an average of 89 filed cases against accountable parties annually. Our annual budget therefore is based on the cost of facilitating a restorative justice process for 90 accountable parties, and 90 impacted survivors. Given the Los Angeles based data we believe community-based programs in two-three counties across the state would be afforded the appropriate resources to fully launch new model programs and ensure a critical number of survivors of trafficking have a choice in what form of justice they wish to seek in providing funding at this level.

³⁰ For more information about this program visit Microsoft Word - Corburn and F-Lopez Advance Peace Sacramento 2 Year Evaluation 03_2020.docx

³¹ <https://www.castla.org/policy/2018-policy-priority-documents-archive/> Cost estimates are provided from a survey of 17 direct service providers for victims of human trafficking serving Los Angeles County, San Diego County, Riverside County, Fresno County, Ventura County, Orange County, Kern County, San Bernardino County, South Bay, San Francisco Bay Area, and the Sacramento Region. The cost of providing wrap-around services to one survivor per year is \$21,450.40. These estimated costs were provided in 2018 (pre-Covid-19 pandemic), and therefore, we have increased the cost per survivor based on the inflationary pressures COVID-19 has placed on our society.

³² Before and Beyond Crisis: What Each of us Can do to Create a Long-Term Ecosystem of Support for All Survivors, Free Form, <https://www.freefrom.org/wpcontent/uploads/2022/08/Beyond-Crisis-PDF.pdf>



Based on the above data, we believe implementing a restorative justice program would approximately yield at least a 5-to-1 cost benefit ratio.³³ This means for every dollar spent on a restorative justice program for survivors and those who have harmed them, the criminal justice system would save \$5. Under this proposal, California would save approximately \$23 million dollars if they implemented such a program over five years.

This cost savings is illustrated in the administration of current restorative justice programs. For example, in Alameda County, California, research shows that implementing restorative justice programs over probation programs will save \$18,500 per responsible party.³⁴ In Richmond, California, the Peacemakers program reviewed four categories of costs and seven categories of benefits. The final calculations produced a net present value of over \$500 million (roughly \$535,997,354) for the first five years of program impact. Another program, RED, costs on average \$7,500 per program participant, and according to the RED Program Informational, "based on 135 program graduates this program would have saved taxpayers \$1.69M, not including prosecutorial savings."³⁵ In addition, RED generated an economic benefit to the state of Georgia of over \$2.97 million."³⁶ Utilizing this data, over a three-year period, programs like RED could potentially save state taxpayers and economically benefit the state almost \$14 million.³⁷ California, can implement programs focused on alternatives to incarceration, like RED, and obtain similar, if not greater, costs savings and benefits.

The savings offered by restorative justice programs in comparison to traditional criminal justice procedures are even greater when accounting for the long-term cost of incarceration. Under California law, those convicted of human trafficking can be sentence to anywhere between 12-20 years in a California state prison³⁸. Assuming a trafficker receives a sentence somewhere in the middle of this range, or 16 years, incarcerating a single trafficker costs the state \$1,698,096.

CONCLUSION

Restorative justice initiatives expand the potential for real change in communities, the justice system, and the realization of justice for survivors of human trafficking. Restorative justice programs have proven to be more effective in both reducing the likelihood of reoffending by perpetrators and saving taxpayers money compared to the current justice system. In allocating

³³ This is calculated by the average cost to incarcerate an individual in California (**\$106,131**) multiplied by 90 divided by the average cost of a defendant in the restorative justice program (**\$20,555**) multiplied by 90. See also *Crime Prevention & Criminal Justice Module 8 Key Issues: 3. How Cost Effective is Restorative Justice?*.

<https://www.unodc.org/e4j/en/crime-prevention-criminal-justice/module-8/key-issues/3--how-cost-effective-is-restorative-justice.html>. Based on a study conducted in 2008, researchers concluded restorative justice results in an 8 to 1 cost benefit ratio over the traditional criminal justice system.

³⁴ Restorative Community Conferencing: A study of Community Works West's restorative justice youth diversion program in Alameda County (2017)

<https://impactjustice.org/resources/restorative-community-conferencing-a-study-of-community-works-wests-restorative-justice-youth-diversion-program-in-alameda-county/>.

³⁵ RED: *Rehabilitation Enables Dreams*, *supra* note 1.

³⁶ *Id.*

³⁷ 5.07 million in taxpayer savings and 8.81 million in the economic benefit for the state.

³⁸ Cal. Pen. Code 236.1



the first funding for a restorative justice pilot program, California would be taking an important first step toward affording justice to survivors of human trafficking on their own terms. In doing so, California would also provide new pathways for increased community safety and save taxpayer money in the short, and long-term.

Contact Information

Aradhana Tiwari Esq. | | Senior Policy Counsel

Email: aradhana.tiwari@lls.edu

Office: 213-736-8377

Sunita Jain Anti-Trafficking Initiative

Social Justice Law Clinics | | Loyola Law School



APPENDIX A

The 2022 Act defines restorative practices as “a practice relating to a specific harm that—

- (A) is community-based and unaffiliated with any civil or criminal legal process;
- (B) is initiated by a victim of the harm;
- (C) involves, on a voluntary basis and without any evidence of coercion or intimidation of any victim of the harm by any individual who committed the harm or anyone associated with any such individual—
 - (i) 1 or more individuals who committed the harm;
 - (ii) 1 or more victims of the harm; and
 - (iii) the community affected by the harm through 1 or more representatives of the community;
- (D) shall include and has the goal of—
 - (i) collectively seeking accountability from 1 or more individuals who committed the harm;
 - (ii) developing a written process whereby 1 or more individuals who committed the harm will take responsibility for the actions that caused harm to 1 or more victims of the harm; and
 - (iii) developing a written course of action plan—
 - (I) that is responsive to the needs of 1 or more victims of the harm; and
 - (II) upon which 1 or more victims, 1 or more individuals who committed the harm, and the community can agree; and
- (E) is conducted in a victim services framework that protects the safety and supports the autonomy of 1 or more victims of the harm and the community³⁹.

Emphasis on community is integral to the definition of restorative justice practices. For instance, the United Nations Office on Drugs and Crime published a handbook on restorative justice programs, which included the following definition of restorative justice:

"There are at least four critical ingredients for a fully restorative process to achieve its objectives: (a) an identifiable victim; (b) voluntary participation by the victim; (c) an offender who accepts responsibility for his/her criminal behavior; and, (d) non-coerced participation of the offender. Most restorative approaches strive to achieve a specific interactive dynamic among the parties involved. The goal is to create a non-adversarial, non-threatening environment in which the interests and needs of the victim, the offender, the community and society can be addressed.⁴⁰

³⁹ 34 U.S.C. §12291(a)(31)

⁴⁰ https://www.unodc.org/pdf/criminal_justice/Handbook_on_Restorative_Justice_Programmes.pdf p. 8



APPENDIX B

PC 236.1 FILINGS AND DECLINES
CALENDAR YEARS 2020 - 2022

Unique Defendants By Agency/Charge	By Action/ Action Year			Filed Total	Declined			Declined Total	Total
	Filed				2020	2021	2022		
	2020	2021	2022		2020	2021	2022		
LAPD	27	59	16	102	22	33	22	77	179
PC 236.1(A)	2	3		5	1	2		3	8
PC 236.1(B)	10	12	3	25	13	17	9	39	64
PC 236.1(C)		3		3					3
PC 236.1(C)(1)	13	42	12	67	7	12	13	32	99
PC 236.1(C)(2)	8	5	3	16	1	2		3	19
PC 664/236.1(B)	3			3					3
LASD	10	2	3	15	13	4	6	23	38
PC 236.1(A)	1			1					1
PC 236.1(B)	6	1	2	9	4	2	4	10	19
PC 236.1(C)(1)	5	1	1	7	9	2	2	13	20
PC 236.1(C)(2)	2		1	3					3
OTHER	15	12	4	31	10	5	3	18	49
PC 236.1(A)	2			2	1	1	1	3	5
PC 236.1(B)	3		1	4	5	1	2	8	12
PC 236.1(C)(1)	10	8	3	21	3	3		6	27
PC 236.1(C)(2)	2	5		7	1			1	8
Total	52	73	23	148	45	42	31	118	266



APPENDIX C

Restorative justice refers to “an approach to justice that seeks to repair harm by providing an opportunity for those harmed and those who take responsibility for the harm to communicate about and address their needs in the aftermath of a crime.”⁴¹ This facilitated, cooperative process involves all the stakeholders, including the impacted party and the responsible party, voluntarily coming together to understand the harm, make amends, and develop a plan which focuses on understanding why the crime occurred, and what can be done to reduce the crime from reoccurring⁴².

Restorative justice offers a different approach to crime and victimization and an alternative process of accountability to traditional models of criminal justice which are focused on retribution and deterring crime by removing those who transgress rules from society through incarceration. Traditional criminal justice systems operate under the assumption that the only way society can be safer is if individuals who have violated the law are imprisoned. This approach yields a system that is dependent on an increasing amount of taxpayer dollars annually to ensure that offenders are incapacitated from committing further crimes vis-à-vis imprisonment. These expenditures become even more pronounced when accounting for the high cost of judicial proceedings and high rate of recidivism upon release. Restorative justice offers a complementary approach to traditional criminal justice systems that requires less economic resources and provides avenues for justice and rehabilitation.

Many different practices have been developed that meet restorative justice requirements, including, but not limited to, victim-offender mediation, restorative conferencing, peace-making circles, and peer mediation. These practices are being utilized in response to property and violent crime, adult and youth offending, school bullying and workplace conflicts, cultural conflicts and mass victimization. Evidence-based data shows that restorative justice is the theory that has the most positive impact on survivors of crime, communities, and perpetrators.⁴³ In the human trafficking context, research shows this understanding of harm is far more important to victims of human trafficking than traditional forms of punishment, such as incarceration. However, to date, no program in the United States has offered this model to survivors of human trafficking. Given the success of restorative justice programs for domestic violence and child abuse, the state should take steps towards seeding a program that would

⁴¹ Dept. of Justice, Government of Canada, Restorative Justice (2021), available at <https://www.justice.gc.ca/eng/cj-jp/rj-jr/index.html> (last visited Oct. 25, 2023).

⁴² Centre for Justice & Reconciliation at Prison Fellowship International, *What is Restorative Justice?*, UNIVERSITY OF MINNESOTA, DULUTH, 2 <https://www.d.umn.edu/~jmaahs/Correctional%20Assessment/rj%20brief.pdf#:~:text=Restorative%20justice%20is%20a%20theory%20of%20justice%20that,in%20several%20ways.%20First%2C%20it%20views%20criminal%20acts> (last accessed June 26, 2023).; *Restorative Justice: Breaking the Cycle of Crime*, FIRST STEP ALLIANCE (updated Sept. 23, 2022), https://www.firststepalliance.org/post/what-is-restorative-justice?gclid=EAIaIQobChMIy8a4nrS4_gIVJCitBh3V2gwwEAAAYiAAEgKQXfD_BwE.

⁴³ HENRY E. BRADY, PH.D., ET AL., CRIMINAL JUSTICE REFORM AND PUBLIC SAFETY: AN IN-DEPTH ANALYSIS OF THE FACTS, ORIGINS AND TRENDS OF CRIMINAL JUSTICE REFORM AND PUBLIC SAFETY IN CALIFORNIA 1, 10 (2022).



lessen the burden on an over-taxed criminal justice system by offering victims and accountable parties a different, less costly, pathway towards justice and rehabilitation.

Theory	Goal	Method	Impact	Impacts on the System of Incarceration
Retribution	Revenge/Justice	Prison as punishment. Victims face criminal justice trial and ordeal of constitutional protections for defendants in criminal court where standard is proof beyond a reasonable doubt.	Extremely harmful to mental and physical health on both victims and defendants ⁴⁴	Prisons and the carceral system are costly and limit investment into other programs and services for both victims and defendants
Rehabilitation	Identify and fix criminogenic risks	Prison changes people by changing their circumstances. Victims still face the same criminal justice process and receive limited services due to investments in the carceral system.	May reduce crime going forward as defendants are offered supportive services	Prison becomes a place of rehabilitation
Restorative Justice	Rectify harm to victims	Apologizing and providing restitution to those harmed and provides a plan for accountability that is victim and community centered. Has been shown to be a place of healing for both victims and defendants.	Increases understanding of harm to victims and emphasizes change going forward. Prevents crime by community engagement and involvement and investment into systemic change to prevent violence.	Prison at cross-purposes as they only amplify harm.

⁴⁴ “Decades of research show that many of the defining features of incarceration are stressors linked to negative mental health outcomes: disconnection from family, loss of autonomy, boredom and lack of purpose, and unpredictable surroundings. Inhumane conditions, such as overcrowding, solitary confinement, and experiences of violence also contribute to the lasting psychological effects of incarceration, including the PTSD-like Post-Incarceration Syndrome.” Wendy Sawyer and Peter Wagner, *Mass Incarceration: The Whole Pie 2023*, <https://www.prisonpolicy.org/reports/pie2023.html> (March 14, 2023).