

Looking Beyond Bars to Meet Crime Survivors' Needs

People harmed by crimes want more than punishment. Restorative justice programs deliver.

By Sam McCann

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In the winter of 2021, Jane* sat in a Virginia courtroom listening as attorneys reconstructed the night of her son's death. The driver of the motorcycle that struck him, John*, stood in silence; he didn't say a word to Jane, nor did he look at her. Neither did John's attorneys. The cold calculus of criminal prosecution dictated his silence.

Jane's son, Jack*, had moved back to his mom's home in Charlottesville, Virginia, two weeks prior to the crash, having spent most of his twenties living in Germany. He had gone to visit some friends the night of the accident. As he walked across the road to return home, he was hit by John. By the time help arrived at the scene, Jack was dead, and John was rushed to the hospital to save his life.

"The irony is he and my son were both heading home to the same apartment development," said Jane. "[John] lives right near me."

In the aftermath of her son's death, Jane wrestled with unanswered questions. What exactly happened leading up to the crash? The road didn't have a crosswalk near the crash site; could that or other pedestrian-friendly infrastructure have prevented the accident? Was alcohol at play? (It's unclear if John was above the legal limit that night. Blood drawn hours after the crash was inconclusive, and he maintains that he was not drunk.) And, most importantly, how could Jane help prevent something like this from ever happening again?

But instead of answers, she heard only John's silence in the courtroom, and her resentment boiled. "[If we had stopped there], I would have gone away really angry at him," said Jane.

Rather than pursue traditional prosecution—a trial could drag on for months, or even years, not answer her family's questions, and seal an enduring silence—Jane, her ex-husband, her surviving son, and John reached an agreement through the Commonwealth Attorney's office. John would plead guilty to a misdemeanor with stipulations such as a suspended license and attending a driver alcohol safety course. Primarily, though, he and Jane's family would pursue a restorative justice program through the Charlottesville Commonwealth Attorney's partnership with [Central Virginia Community Justice \(CVCJ\)](#).

Today, Jane is glad to have gone that route. "The process was 'day and night' compared to prosecution," she said. "I felt that we really listened, we really opened up our hearts. I could see that we understood each other better. [Now I just want to] support him."

What is restorative justice?

Jane is far from alone in feeling that justice stretches beyond punishment. By a nearly two-to-one margin, most people harmed by crime [prefer](#) that the legal system focus more on “crime prevention, crisis assistance, and strong communities,” rather than punishment. [Seventy-five percent](#) of harmed parties want to give people credit toward reducing their prison sentence if they participate in programs like mental health treatment, education, and job training.

Restorative justice is a broad term, but it generally [refers](#) to practices that place healing, reintegration, acknowledgment of harm, and forms of restitution at the heart of “justice.” That’s a departure from how the United States criminal legal system typically functions, which almost exclusively uses [punishment](#) as its version of justice.

That shift in framework makes an enormous difference in cases like Jane and John’s. Had they remained confined to a criminal courtroom, Jane would have been relegated to the role of a bystander. The questions she wanted to ask John and the emotions she wanted to work through would have taken a backseat to questions that proved or disproved John’s guilt and, potentially, about how long he would be incarcerated if found guilty. She would likely have had no direct interaction with John at all and little to no voice in influencing the outcome of John’s case. In fact, the criminal case would have made it more difficult for John to show remorse, as the legal system [disincentives](#) honest expressions of guilt or apology. Doing so, even during sentencing, could put the person accused of a crime at a legal disadvantage.

Restorative justice processes ask different questions—ones that place people at their center. Instead of lawyers volleying evidence and plea bargains back and forth, Jane, her family, and John spoke frankly—first with facilitators, and then with each other—to decide how to move forward with their lives. And the process was led by Jane and her family. That’s common in restorative justice programs, which are typically only initiated with the consent of the people harmed by the crime.

What does the restorative justice process look like?

Jane and John’s case shows how a restorative justice practice can work as a [diversion program](#) that offers an alternative to traditional criminal prosecution.

One of the prosecutors working the case against John knew that court appearances were not delivering Jane what she needed to heal. They approached Jane about working with CVCJ, and she was immediately interested—a critical first step. The consent of the harmed people is a necessary component of most restorative justice programs. John was interested, too, so the prosecutor contacted Erin Campbell, CVCJ co-director and facilitator, to help guide them through the process.

The first step for Campbell and her two co-facilitators was to get all five parties—the prosecution and defense attorneys, the harmed party, the responsible person, and the facilitators—to agree on how the process would be structured. Campbell says she makes sure everyone involved is aligned on what the intended ultimate resolution of the case will be, including the legal outcome of the case once the restorative process is completed.

“We make sure that [everyone] understands the restorative process, what it requires of them, and its goals,” said Campbell. “For the harmed person, that . . . involves listening to contributing factors, being able to hear from the other person’s perspective. . . . And for the responsible person, they need to be

able to [acknowledge] their contribution to the [harm] and take firm accountability. . . . If all participants are not willing to do a lot of deep self-reflection and take action, then the process won't be very fruitful."

Once everyone agreed on the desired outcomes and was prepared to engage in the process, Campbell held individual meetings with both Jane's family and with John. There, they worked through the fundamental questions that they could not reach in a courtroom, which was solely concerned with what laws were broken and who broke them. But in a restorative justice setting they were able to ask: Who was harmed and who is responsible? What were the impacts? What were the root causes and how can future harm be prevented? What does repair and justice look like to everyone? For harmed parties, being able to steer the process towards the questions that matter to them can [afford a measure of control](#) in a situation that is otherwise disempowering.

These meetings are designed to prepare people for the core of the restorative justice process: joint sessions between the responsible person and the survivors of the crime. Ten weeks after starting the process, Jane, her family, and John met face to face. John also brought a loved one to support him. Jane was not entirely sure what to expect at the first meeting, but she was quickly disarmed by John's vulnerability. Even months after the accident, his arm remained in a sling, and he had physical scars from his injuries.

With guiding questions from facilitators, John bore his emotional scars as well. He shared how sad he was for Jack's death, and Jane could see his anguish was genuine. In response to her questions, he walked her through everything he could remember about that night, but lamented he could not remember the accident itself, a fact he attributes to the traumatic injuries he sustained. And he shared with Jane stories about his own family, trying to relate to her pain. To Jane, it was a total departure from the man she had seen in court.

"I felt pretty resolved, but I also felt sorry for him, going through the rest of his life [having caused this accident]," she said.

This basis of mutual understanding allowed Jane's family and John to chart out a plan to address Jack's death. They met with facilitators roughly every other week for a period of four months, about eight sessions in all, and twice directly with each other. In restorative justice processes, participants build their agreements together, with the guidance of facilitators. Facilitators are trained to keep the agreements realistic and grounded with the agreed-upon objectives.

"[Responsible people] might want to pay more per month than they can actually afford, or they might want to say that they can do this big community service thing when they actually don't have [capacity] to do so," said Campbell. "Our facilitators are trained to really 'reality check' the agreement and, through good questioning, to help the participants come up with creative solutions that meet everyone's needs."

Ultimately, Jane's family and John reached an agreement that has allowed them both to move forward. Campbell says that in a typical CVCJ process, facilitators use these agreements to continuously check in on progress toward fulfillment, which will ultimately allow the case to be dismissed. If circumstances drastically change, the agreement can be collectively amended or, if collective resolution is impossible, the case can be returned to prosecution.

How does restorative justice build justice and community?

A few months after their last joint session, Jane spotted John near their shared apartment complex. She didn't hesitate; she gave him a warm hug and invited him to coffee.

"I felt such genuine care and concern from him," said Jane. "Our conversation was deep and revealing about family and [life]. We cried and laughed with each other like old friends, then hugged hard and went on with our day."

That interaction was the culmination of intense work on both Jane's and John's part, allowing healing that was impossible in the confines of a criminal courtroom. Thanks to everyone's commitment to the process, John is thriving as a member of his community. And Jane is advocating for traffic safety measures that would prevent other pedestrian deaths, while also discovering new depths in her relationship with her family.

"I felt that my son, my ex, and I really had the space to say everything we wanted to," she said. "Sharing that process brought our family a lot closer."

That's not to say the process was perfect. Jane wishes John was still seeing a counselor. Moreover, in crafting the agreement, Jane and her family purposefully decided to encourage— but not require— John to take several actions. They are unaware if he has completed them. But Jane is unequivocal on how much she benefited from the restorative justice process itself and how much more effective it was for her than traditional prosecution. She now volunteers to speak with people throughout Virginia who are considering a restorative justice program as an alternative to incarceration, sharing her personal experience.

Restorative justice's impact stretches beyond healing and relationship-building. Multiple studies [show](#) that both people harmed by crimes and the responsible parties feel they were treated better in restorative justice programs than in the criminal legal system. Harmed parties have higher satisfaction rates following a restorative justice program than would be expected from other processes and many feel they [saw](#) greater accountability. They are more likely to [forgive](#) the responsible parties—who, in turn, are more likely to apologize. Survivors of crime also [report](#) an increased sense of control, a reestablishment of their sense of security, and a sense of empowerment after going through a restorative justice process that reckons with traumatic situations.

And, critically, a number of [studies show](#) that recidivism rates are lower for people who participate in restorative justice programs than for those who remain in traditional criminal prosecution.

More jurisdictions should consider listening to people harmed by crime, like Jane, who want options that extend beyond a punitive approach to justice and that help build strong and safe communities.

"I am just blown away by the . . . heart folks have to deeply reflect on what they actually need, as opposed to a knee-jerk vengeance reaction," said Campbell. "For the bravery of harmed people to step outside of themselves and listen to another person's story, and the bravery of those responsible to come face to face with what they've done."

*Names changed to protect identity.