

Introduction to Restorative Justice Diversion

Spring 2025

Instructor Information

Instructor Name: Yoana Tchoukleva
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Course Information

Classes: Tuesdays 6:25-8:15 pm (January 14 - February 25)

Prerequisites or Co-requisites: None.

Units: 1 unit

Office Hours

Zoom Meeting Room ID: <https://berkeley.zoom.us/j/3207101160>

Office Hours: Thursdays 6:30-7:30 pm and by appointment

Welcome and Course Description

Welcome to the first ever class on Restorative Justice Diversion at Berkeley Law. Whether you have some background in Restorative Justice (RJ) or none at all, this class will inform, teach and inspire you.

The criminal justice system is changing. Despite the current backlash against progressive prosecutors and electeds, the direction of change nationwide points undeniably toward reform. Whether as a diversion from traditional prosecution, as a component of rehabilitation following traditional prosecution or as a community-based process for addressing harm, restorative justice is the future. Restorative justice processes have been shown to improve victim satisfaction, reduce recidivism, cut racial disparities, and improve public safety.

This course will equip you with a foundational understanding of restorative justice principles and practices—with a focus on the intersection of restorative justice and the law. We will first learn about the indigenous roots of RJ and get a window into the many ways RJ is practiced worldwide. We will then focus on how prosecutor offices around the country are adding RJ to their pathways for the diversion of juvenile and, in some instances, adult criminal cases. We will compare different policies and tease out best practices, including practices for addressing racial inequities in diversion. After experiencing an abbreviated version of a Restorative Community Conferencing process, we will learn to evaluate which cases might be appropriate for RJ diversion and how to track a case from referral to completion or termination. We will then zoom out and look at some influential state and federal laws pertaining to restorative justice that you may interact with as future prosecutors, public defenders, post-conviction attorneys, civil

litigators or advocates. We will close with a reflection practice that will allow you to consider and envision your own role in the movement for a more restorative and healing form of justice.

The homework materials for the course will be a mix of law review articles, government studies, United Nations reports, program evaluations, advocacy pieces and videos.

Course Materials

Course materials will be posted on bCourses.

bCourses

Our class bCourse site is <https://bcourses.berkeley.edu/courses/1540813>.

Learning Outcomes

I expect you to achieve the following Berkeley Law Learning Outcomes in this course:

- Legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context;
- Exercise of proper professional and ethical responsibilities to clients and the legal system;
- Other professional skills needed for competent and ethical participation as a member of the legal profession;
- Ability to critically assess laws and legal institutions, including the ways in which they shape and are shaped by racism and other forms of systemic inequality; and
- Using the law to solve real-world problems and to create a more just society.

Course-Specific Learning Outcomes

I expect you to achieve the following course-specific learning outcomes:

- Gain a foundational understanding of the definition, principles, and indigenous roots of restorative justice;
- Identify the main practices used in criminal law settings, their loci of intervention, and the “United Nations Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters”;
- Study experientially how Restorative Community Conferencing works and why it is a commonly used process for restorative justice diversion;
- Compare and contrast restorative justice diversion programs from jurisdictions around the country, including California, New York, Colorado, Washington, DC and Florida;
- Learn to track a case from assessment of eligibility and suitability, to completion or termination, with focus on United Nations best practices and San Francisco as a case study;
- Examine the codification of restorative justice in state and federal law, as well as the opportunities and drawbacks “legalization” presents.

Assignments/Exams/Experiential Exercises/Papers/Projects

I will evaluate your performance through class participation and the completion of a final assignment. The final assignment will consist of an 8-page research paper on any topic from the class that piques your interest. You can use any font you prefer but limit the paper to 4,000 words.

The topic could be the application of restorative justice to a specific type of crime (e.g., whether restorative justice diversion is appropriate in sexual violence cases), an in-depth look at the failures or successes of a particular jurisdiction's RJ diversion program, or an innovative idea you have for future legislation or project related to restorative justice diversion.

Please confirm your paper topic with me by **February 4, 2025**, the 4th week of class. The paper will be due three weeks after our last class on **March 18, 2025**.

Grading/Evaluation

This 1-unit class will be assessed on a Credit/No Credit basis. Your class participation will count for 20% of this assessment and the completion of a final paper will count for the other 80%.

Class attendancy is mandatory. We only have 7 classes together and each class is critical to the understanding of Restorative Justice Diversion. I expect you to come to class having completed the assigned materials and ready to participate in discussions and experiential learning sessions.

If you must miss a class because of urgent or emergency circumstances, please let me know in advance if possible.

Encouraging Civility and Respect in the Classroom and in the Discussion of Sensitive Issues

This class will touch upon sensitive issues and deeply held beliefs. We will complete readings and watch movies that discuss restorative approaches to incidents of harm and crime, including incidents that are severe and violent in nature. This material may trigger past or ongoing trauma related to personal or generational experiences with violence, crime, police, racism, the criminal legal system, accountability or lack of accountability.

When completing readings at home, I suggest you give yourself some time to process or journal about anything that comes up. I also encourage you to reach out to me for 1-1 support at any time. When discussing topics in the classroom, I expect you to speak with care and respect for everyone present and to follow the classroom guidelines that we will collectively set during our first class. If tension or conflict occurs, I will guide us in practicing the very values and principles of restorative justice that we will be learning about. If at any point you feel uncomfortable beyond the discomfort that comes with learning or experiencing something new, please let me know. We will investigate, learn, and grow together.

Course Schedule

Please note that the materials listed here are subject to change, depending on the needs of the class. The final materials will be posted on bCourses at least one week prior to each class and announced at the end of the prior class.

Class Date	Topic	Assignment	Learning Outcome
Jan 14, 2024	Intro to the Universe of Restorative Justice: Principles, Indigenous Roots and Elements of Circle Practice	Yoana Tchoukleva, <i>Reimagining Oakland: Building the First Restorative City in the Country</i> , MEDIUM (2020) United Nations Office on Drugs and Crime, <i>Handbook on Restorative Justice Programmes</i> (“UN Handbook”), 2nd Ed (2020): Chapter 1	Build a foundational understanding of the definition, principles and indigenous roots of restorative justice.
Jan 21, 2024	Restorative Justice In Criminal Law: Overview of Principles, Practices and Loci of Intervention	UN Handbook: Chapter 2, Annex, Chapter 3 Thalia González, <i>The State of Restorative Justice in American Criminal Law</i> , 2020 Wis. L. Rev. 1147 (2020)	Identify the main practices used in criminal law settings, their loci of intervention, and the “United Nations Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters.”
Jan 28, 2024	A Window into Restorative Community Conferencing With Guest Speaker	<i>The Meeting</i> , Parzival Film (2019), available at https://vimeo.com/ondemand/watchthemeeting . sujatha baliga, Sia Henry, Georgia Valentine, <i>A study of Community Works West’s Restorative Justice Youth Diversion Program in Alameda County</i> , IMPACT JUSTICE (2017)	Study experientially how Restorative Community Conferencing works and why it is a commonly used process for restorative justice diversion.
Feb 4, 2024	Restorative Justice as Diversion: Policies and Practices from Around the Country	<i>Healing Justice</i> , World Trust and Shakti Butler Documentary Film (2020), available at https://vimeo.com/395247138 .	Compare and contrast restorative justice diversion programs from jurisdictions around the country, including California, New York, Colorado,

		Office of Program Policy Analysis and Government Accountability, <i>A Review of Restorative Justice in Florida and Other States</i> , OPPAGA (2020) Note: Confirm paper topic with instructor!	Washington, DC and Florida.
Feb 11, 2024	Diverting and Monitoring a Case: Eligibility, Suitability, Completion or Termination With Guest Speaker	UN Handbook: Ch 5-6 Yoana Tchoukleva and Jackson Gee, <i>Summary of SFDA Restorative Justice Initiatives</i> , Oct. 2022 (not for distribution)	Learn to track a case from assessment of eligibility and suitability, to completion or termination, with focus on United Nations best practices and San Francisco as a case study.
Feb 18, 2024	State and Federal Laws on RJ: Criminal, Civil and School Contexts	Thalia González, <i>The Legalization of Restorative Justice: A Fifty-State Empirical Analysis</i> , 2019 Utah L. Rev. 1027 (2020) UCLA Criminal Justice Program, <i>The Promise and Perils of Restorative Justice Legislation in California</i> , 2023	Examine the codification of restorative justice in state and federal law, as well as the opportunities and drawbacks “legalization” presents.
Feb 25, 2024	Future of RJ Diversion: Reflection, Personal and Collective Visioning	Annie E. Casey Foundation, <i>Talking about Youth Probation, Diversion and Restorative Justice: A Messaging Tool Kit</i> (2022)	Reflect on lessons learned and your own interest in the movement for a more restorative and healing justice system.

School-wide Policies and Resources

1) A “credit hour” at Berkeley Law is an amount of work that reasonably approximates three to four hours of work per week for 15 weeks, including a) classroom time, b) time spent preparing for class, c) time spent in review sessions and studying and taking, final exams, d) time spent researching, writing, and revising papers and other written work, and e) time spent preparing for and completing any other final project, presentation, or performance. For these calculations, 50 minutes of classroom instruction counts as one hour, and the 15 weeks include the exam period. You can expect to spend this amount of time per unit per week on in-class and out-of-class, course-related work as described above. (Note that this total workload will be distributed differently in classes that only meet for part of the semester.)

2) Students who need accommodations for disability or pregnancy or want to discuss the implementation of their accommodations, including accommodated exams, should contact [Chelsea Yuan](#), Director for Student Services, Accessible Education.

Student Services schedules all exams, including accommodated exams, as the law school is committed to anonymous grading. PROFESSORS DO NOT HAVE THE AUTHORITY TO RESCHEDULE EXAMS.

3) Class may be recorded by audio and/or video at the professor's discretion and/or pursuant to a disability-related accommodation authorized by the Law School. By enrollment in this course, each student consents to the recording and use described above. Pursuant to Berkeley Law Academic Rule 7, "Students shall not post online or otherwise distribute video or audio, chat transcripts, screenshots, or other types of class recordings for any reason unless authorized in connection with a disability accommodation."

4) The [Academic Honor Code](#) governs the conduct of all students during examinations and in all other academic and pre-professional activities at Berkeley Law. We expect students to adhere to this code scrupulously. If you have any questions about whether your conduct may violate the code, please contact your professor or the Dean of Students before you act. You may face severe consequences, including a failing grade in this class or removal from the program, and the Bar will receive notification of your conduct.

5) [Berkeley Law Academic Skills Program](#). Every student admitted to Berkeley Law has the ability to succeed in law school and we are committed to fostering an academic environment in which all students can achieve their full potential. To schedule an individual appointment and for handouts on core law school skills and study strategies, free online study aids, information about practice exams and hypos, and much more, please visit and bookmark [the Academic Skills Program website](#).

6) [Student Technology Help](#) As a Berkeley Law student, you are entitled to general software support for your computer from the law school, and certain free software downloads from UC Berkeley, while enrolled. If you have issues with internet access or computer equipment required to participate in classes remotely, contact studentcomputing@law.berkeley.edu. Information, links, and instructions for many common computer/technical questions can be found in the [law library's online computing guide](#). For bCourses, Zoom, and technical support questions, please email studentcomputing@law.berkeley.edu or you can use the [Student Computing chat](#). In both cases, someone will respond to you during our regular business hours.

If you have research-related questions, please contact the reference librarians by filling out the [reference request form](#). You can also reach reference librarians during business hours by using the [law library's chat service](#).

7) If you are in need of economic, food, or housing support, you can find basic needs information [here](#). You may be eligible for money to buy groceries via [CalFresh](#) or our Food Assistance Program. If you need food immediately, please visit our [UC Berkeley Food Pantry](#).

8) The University of California is committed to creating and maintaining a community dedicated to the advancement, application, and transmission of knowledge and creative endeavors through academic excellence, where all individuals who participate in University programs and activities can work and learn together in an atmosphere free of harassment, exploitation, or

intimidation. Every member of the community should be aware that the University prohibits sexual violence and sexual harassment, retaliation, and other prohibited behavior (“Prohibited Conduct”) that violates the law and/or University policy. The University will respond promptly and effectively to reports of Prohibited Conduct and will take appropriate action to prevent, correct, and when necessary, to discipline behavior that violates this policy. For the complete UC Policy, definitions, compliance, and procedures, please access the [Sexual Violence and Sexual Harassment Policy](#).

Resources: If you have further questions or concerns about reporting behavior related to sexual harassment, sexual violence, and/or protected category discrimination, please contact the Office for the Prevention of Harassment and Discrimination (OPHD) by phone 510-643-7985 or email ask_ophd@berkeley.edu.

[Path to Care Center](#) Confidential Advocates provide affirming, empowering, and confidential support for those that have experienced gendered violence, including sexual harassment, emotional abuse, dating, and intimate partner violence, sexual assault, stalking, and sexual exploitation. Advocates bring a non-judgmental, caring approach to exploring all options, rights, and resources. They can be reached by phone at (510) 642-1988.