Jasmyn Elise Story is one of those rare people whose rape case got as far as consideration by a prosecutor.

She was 18, about to move from her home in Atlanta to London to attend a first-year college abroad program.

Over the course of the investigation, she says, she had to tell at least five different officials what had happened: How a man who knew some of her friends took her behind a house during a party when she was incapacitated by narcolepsy, how she left in shock and the next day went to the police and the hospital to get a rape kit.

After one year, that “came to nothing,” she says of the criminal case.

A female prosecutor told her they had decided not to go forward because they didn’t want her to be subject to a “he-said, she-said” trial, with the defense dragging her through the mud, Ms. Story says.

She had reported the crime out of a sense of duty, hoping to prevent future assaults. “I was hurt that she didn’t see that I was doing it for something bigger than myself.”

In college, Story started learning about restorative justice, and a light turned on.

Restorative justice encompasses a range of practices – from facilitated conferences between someone who’s been harmed and the person who did it, to community circles weighing in on how that person can make amends.

“All about it spoke to the needs that I had,” Story says. She and fellow survivors she got to know – many of whom had never reported the crimes – saw in it so much promise.

An option, but complicated
Restorative justice can be “a process that truly meets the need to be heard, the need for accountability, the need for some type of attempt at repair... not just for us but for our family members, for our partners ... because it does ripple out,” Story explains.

She is among a small but growing number of survivors, advocates, and researchers who are pushing to explore restorative justice as a tool to respond to sexual assault on college campuses. It’s an idea that brings together two currents in today’s society: that of alternative forms of justice and the growing awareness and intolerance of gender-based harassment and violence – punctuated by this week’s news of mounting accusations against former Miramax head Harvey Weinstein.

For about six years, most college officials have considered restorative justice off limits because it fell under strict restrictions placed on “mediation” or “informal resolution” for many forms of sexual misconduct, as outlined in guidance to Title IX enforcement by the US Department of Education.

A door opened to reconsider such practices last month when, in a controversial move, Secretary of Education Betsy DeVos lifted much of the Title IX guidance on sexual misconduct. (On Oct. 12, Democrats in Congress introduced a bill to reverse that move, and turn the previous Obama-era guidance into law.)

The issue is still complicated for sexual assault survivors: Advocacy groups, such as End Rape on Campus and Know Your IX, argue that opening the door to options other than a formal investigation and disciplinary hearings is one of numerous shifts that could signal to campuses that they are free to take sexual violence less seriously.

At the heart of the debate are several questions: Is an adversarial campus discipline process the only way to symbolize that sexual violence won’t be tolerated? Or has higher education made enough progress toward taking it seriously that it can now consider new forms of justice? Can different approaches operate side-by-side and start to get more at the roots of the problem?

**Mediation's mixed reviews**

Colleges’ former track record of wanting to handle sexual misconduct quietly is what led people like Laura Dunn to fight for the Title IX restrictions in the first place.

“I was encouraged to write a letter to two men who gang-raped me about how I felt,” says Ms. Dunn, founder of SurvJustice, a nonprofit in Washington that offers legal assistance to people reporting campus sexual assaults.

She’s concerned that the current federal administration will “allow a variety [of informal responses]... whether supported by research and best practice or not, which is dangerous. That puts us back over 20 years.”

The Education Department did not respond to Monitor requests for comment.

Colleges had problems trying to mediate sexual assault, because “mediation is a process where there’s no assignment of guilt,” says David Karp, a sociology professor at Skidmore College in Saratoga Springs, N.Y., and head of the Campus PRISM Project, a collaboration of researchers and practitioners interested in restorative justice for sexual misconduct.

By contrast, he says, “restorative justice’s starting place is, How do we create the conditions in which it’s possible for an accused student to admit responsibility for the harm they have caused?”
Professor Karp knows restorative justice is often perceived as “soft.” It actually “does disapproval in a different way,” he says.

It's not just about a quick-fix or an apology. It can take months for participants to prepare with the help of a trained facilitator, and those who have admitted responsibility have to listen to how the lives of victims and others have been impacted and collaborate with the group on what the remedies will be.

Participants “often say, ‘I would rather have gone to jail than sit face to face with the person I have harmed and truly acknowledge what I’ve done. I would rather hide from the truth,’ ” Karp says.

**Broader impacts addressed**

Story is now a restorative justice facilitator with middle-schoolers in Brooklyn, N.Y., and a participant in Campus PRISM. She wonders how different her life could have been if restorative justice had been an option in her case.

Knowing nothing about her attacker’s history, she got tested every three months for HIV for years. Her family had to visit her in other cities because she was afraid of spending time in her hometown where he could be. Some of her relationships, including with the best friend who had brought her to the party, were broken almost permanently, she says.

The criminal justice system offers very little opportunity, if any, to address those broader impacts, she says. “The only support was a victim advocate handing you a sheet of paper telling you what the state of Georgia would pay for.”

Researchers have had few opportunities to see restorative justice applied to sexual assault. One exception was a project called RESTORE in Pima County, Ariz. Prosecutors screened cases – both misdemeanors and felonies – and allowed some victims and “responsible persons” (their term for perpetrators) to opt in. RESTORE took place between 2003 and 2007 and was studied by Mary Koss, a public health professor at the University of Arizona, Tucson, and a participant in Campus PRISM.

Out of 22 cases in which both parties volunteered, 20 made it to the conferencing stage after extensive preparation. Other people impacted by the crime were able to share their experiences as well, and the plans for how the responsible person would redress the harm were supervised for one year.

Professor Koss found that 80 percent of responsible parties completed the program and only one reoffended during the follow-up year – an older person showing signs of dementia. Victims felt safe and highly satisfied, although not all of them felt that justice had been done.

Prevention or naiveté?

At colleges, people also have to think about what happens when a suspended student comes back, says Michelle Carroll, director of campus projects for the New York State Coalition Against Sexual Assault.

Restorative justice circles could “address community-wide issues that lead to sexual violence,” Ms. Carroll says – with people examining gender norms, consent, or a culture of binge drinking. “In that sense, restorative justice can be preventative as well as responsive.”
Yet some consider that perspective naive, and say sex crimes are so different from other types that a restorative model won't transfer.

It would be “dangerous to the survivor as well as to the college community at large, and it certainly sends the wrong message to the perpetrator,” says Michael Dolce, a survivor of childhood sexual assault and a Florida-based lawyer who heads up the sexual assault practice group for the law firm Cohen Milstein.

Sex offenders are often skilled at manipulating their victims and others into believing that they are remorseful, Mr. Dolce says, but the dehumanizing nature of their crime, and the high rates at which they reoffend, should prompt deep skepticism. Instead, there has to be a zero-tolerance message, he says.

Story acknowledges she’s not an expert on sex offenders, but in response to such concerns she poses a question: “With the current system that we have, with low reporting rates ... are we actually catching these people anyway?” Maybe, she says, “providing a process that is encouraging and inviting to survivors [could be] a shift in our culture,” and could lead to better ways of reforming offenders. Restorative justice, she says, "is about the community coming together to consider what those sanctions are.”