

INTERIM JUDICIARY COMMITTEE
TESTIMONY RELATED TO RESTORATIVE JUSTICE

WEDNESDAY, JULY 22, 2020

Chairman Klemin and Committee Members. My name is Joel Friesz. I am the Youth Interventions Director for Lutheran Social Services of North Dakota (LSSND) in which I oversee our statewide Restorative Justice program along with several other youth intervention programs. I have worked with LSSND, and in the field of Restorative Justice, for 15 years. I currently serve on the Juvenile Justice State Advisory Group (since 2014) and the Executive Committee of the National Association of Community and Restorative Justice (since 2017). On behalf of LSSND, I am providing testimony today regarding our work with Restorative Justice as it pertains to the study on juvenile justice.

LSSND has operated a statewide Restorative Justice program for the North Dakota juvenile justice system since 1999. This program stemmed from North Dakota's embracing of the 1990s national movement in juvenile justice reform titled Balanced and Restorative Justice (BARJ) Project. Although over half of states across the country embraced BARJ in the 1990s to engage in varying levels of systematic statewide initiatives, to my knowledge North Dakota is the only state who allocated, and continues to allocate, state funding for a statewide Restorative Justice program. I am very proud of our state for this commitment to Restorative Justice philosophy. As I have gotten more involved with justice reform on a national level through my role with National Association of Community and Restorative Justice, North Dakota's investment in Restorative Justice is frequently commented on and commended by others across the country working in the juvenile justice field.

The success of our program over the past 21 years would not be possible without our

state partners. I would like to acknowledge Juvenile Court and Division of Juvenile Services (DJS) for their continual support and partnership of Restorative Justice services. Juvenile Court and DJS serve as both our referral source and planning partners in the rollout of Restorative Justice services across the state. On a financial level, up until the biennium ending June 2015, our program's budget was made up of funds from both North Dakota Court System ("Juvenile Court") and North Dakota Department of Corrections and Rehabilitation ("Division of Juvenile Services"). The DOCR/DJS portion of funds were passthrough Federal grant funds from the Office of Juvenile Justice and Delinquency Prevention (OJJDP). With the passthrough Federal funds coming to a halt in 2015, our funding for juvenile justice services comes solely from North Dakota Court System since the biennium beginning July 2015. Although we no longer have a specific contract with DOCR/DJS, we continue to serve both Juvenile Court referrals and DOCR/DJS referrals through our contract with the Court System.

Our state funding provides for 1 full-time employee (Restorative Justice Team Lead) and 14-18 part-time employees and volunteers (Restorative Justice Facilitators) located geographically across the state. Because of our geographic spread, we are able to serve youth and families in all jurisdictions in all parts of the state. Currently we have facilitators located in towns such as New England, Watford City, Selfridge, Bismarck, Williston, Minot, Bisbee, Cavalier, Grand Forks and Fargo. Our program provides two primary services: Accountability Conferencing and Victim Empathy Seminars.

Accountability Conferencing is a process that provides an opportunity for a face-to-face meeting, in the presence of a trained facilitator, between the victim of an offense and the person who committed the offense. Participation is voluntary for all participants. Upon referral, careful preparation is done with each participant to ensure a safe and neutral setting for the parties to

come together to discuss what happened and the impact it has had on their lives. If a face-to-face meeting is not desired, other options may be available to the parties. An agreement to repair harm, reached by consensus between the parties, is often an outcome of the conferencing process. A signature aspect of the agreement is that it is developed *by the parties*. The facilitator assists the parties in developing the agreement but does not have a say in the agreement conditions. Agreement conditions are unique to every case as the specific needs of the parties vary person by person. Financial restitution is sometimes part of the agreement, but not always. For FY20 (July 1, 2019-June 30, 2020), our program has collected approximately \$7,500 for victims through the conferencing process so far (several restitution agreements are still pending as they are set up on monthly payment schedules).

Victim Empathy Seminar is a four-hour seminar geared to promote empathy and understanding by identifying and discussing the impact an offense has on victims, families, and communities. The seminar provides a supportive environment where youth are encouraged to understand and take accountability for the harm caused by their actions. As part of the seminar, the youth participant is offered an opportunity to write a letter of apology to the victim and/or another person impacted by the offense. The seminar is interactive and includes the youth and their parent/guardian.

In recent months, I am proud of our program's ability to adapt to the restrictions created by COVID-19. Prior to COVID-19, it would have been difficult for me to imagine providing these services via an online/video format due to the deeply personal and sensitive nature of the services, especially when bringing families together in the Accountability Conferencing process. However, I am energized by our team's ability to maintain services during COVID-19 via video format while maintaining fidelity to restorative principles for the youth and families we serve.

COVID-19 catapulted us into the realm of providing restorative services by video but we plan to keep this video infrastructure even after COVID-19 restrictions lessen as a backup plan for families who may experience transportation barriers that prevent them from accessing services.

In FY19 (July 1, 2018-June 30, 2019), our Restorative Justice program served 474 youth and 432 victims. Our program receives referrals at all stages of the court process: Diversion, Informal, Adjudication, and DJS. The most common offenses we see are Criminal Mischief, Disorderly Conduct, Simple Assault, Theft, Burglary, and Disturbance of a Public School. In the early years of our Restorative Justice program, restorative services may have seemed most suitable for low-level, non-violent offenses. While those types of offenses remain suitable, restorative processes have since proven suitable for all forms of crime, even crimes resulting in serious injury or death. Over the years, our program has facilitated numerous cases in which there was a death caused by an offense of Negligent Homicide which typically involved distracted driving or driving under the influence of drugs or alcohol. These types of cases are typically driven by the victim's family requesting the service and require a high degree of preparation of all parties involved.

As our state studies its juvenile justice processes, I would be remiss not to mention next steps/goals our state can work towards to embrace restorative philosophy more closely. One of the defining elements of the balanced approach to justice is its focus on being victim-centered. Restorative Justice aims to 1) put decisions into the hands of those most affected by crime, 2) make justice more healing for all parties involved, and 3) reduce the likelihood of future offenses. Nationally, in the past several decades, restorative processes have shown tremendous promise in helping victims feel satisfied with the justice process and helping youth fully understand how their actions have affected other people. A victim's sense of healing, and a

youth's development of empathy, are both critical when our desired outcome is a true sense of justice for all parties impacted by crime. A victim-centered approach also aligns with research that shows most youth who become engaged with the juvenile justice system have experienced previous forms of victimization prior to committing an offense. With restorative philosophy in mind, below are two specific goals our state may consider working towards:

Goal 1: Offer every victim of crime a restorative process and ensure this option is available to victims at all stages of the justice process from Diversion to when a youth is released from a placement facility. As noted above, our program served over 432 victims in FY19, a number I am proud of. However, to work towards the restoration and empowerment of *all* victims, a justice system needs to respond to the needs of *all* victims *as identified by the victim*. This can only be achieved when the victim is closely listened to and given choices in how to be involved at each stage of the justice process. Not only has this approach shown positive outcomes for the victim, it is also beneficial for the youth who committed the offense in helping them develop empathy and taking full responsibility for the offense which in turn can prevent them from re-offending.

Goal 2: Partner with school districts to provide Restorative Facilitators for school-based offenses. As noted above, a large percentage of our referrals are for situations that occur at school (Ex. Disturbance of a Public School, Simple Assault, Disorderly Conduct, Criminal Mischief). The increase in school-based offenses has been a growing trend throughout the country in the past several decades and is commonly referred to as the "school-to-prison pipeline". As schools look for ways to provide a response to challenging student behavior, we need new supports in place that will provide a helpful, effective response without criminalizing student behaviors. One of the most effective ways to achieve this is to provide Restorative

Facilitators who can respond to offenses occurring at school by working in unison with school administrators and School Resource Officers. Our program is currently partnering with a few school districts on this concept and the results are very promising. For one of our projects funded by United Way, the number of juvenile citations occurring at one project school drastically decreased upon the implementation of Restorative Facilitators combined with other supports (102 citations in 2010 to 13 citations in 2016). In school year 2019-2020, our partnership with this respective school district and School Resource Officers prevented 37 citations being issued by referring the situation to a school-based Restorative Facilitator. When this approach is replicated systematically on a statewide level, the benefits and cost savings can be significant.

Restorative processes continue to be highlighted nationally as a promising approach to juvenile justice that ties together best practices surrounding adolescent brain development, Adverse Childhood Experiences, decreasing racial disparities, preventing the school-to-prison pipeline, meeting the needs of crime victims, decreasing mass incarceration, and creating safe communities.

Thank you for the opportunity to speak with you today. I am happy to answer any questions or provide additional information.

Joel Friesz

Youth Interventions Director

Lutheran Social Services of North Dakota

Email: joelf@lssnd.org

Phone: 701-271-3241



Overview of Restorative Justice: Basic Principles

Zehr (2002). *Little Book of Restorative Justice*. Good Books, Inc.

Definitions:

- Restorative Justice is a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs, and obligations, in order to heal and put things as right as possible. (Source: Zehr, 2002, p. 37)
- Restorative justice is not simply a way of reforming the criminal justice system, it is a way of transforming the entire legal system, our family lives, our conduct in the workplace, our practice of politics. It is a vision of holistic change in the way we do justice in the world. (Source: Braithwaite, 2002 as quoted by Umbreit and Armour, 2010, p. 9)

Goals:

- Restorative justice practices aim to:
 - Put decisions into the hands of those most affected by crime;
 - Make justice more healing, and ideally more transformative; and,
 - Reduce the likelihood of future offenses.

Requirements:

- Achieving these goals requires that:
 - Victims are involved in the process and come out of it satisfied with a sense of healing;
 - Offenders understand how their actions have affected other people and take responsibility for those actions;
 - Outcomes help to repair the harms done and address the reasons for the offense (specific plans are tailored to the specific needs of both victims and offenders);
 - Victims and offenders both gain a sense of "closure" and both are reintegrated into the community.

Guiding Questions:

- Who has been hurt?
- What are their needs?
- Whose obligations are these?
- Who has a stake in this situation?
- What is the appropriate process to involve stakeholders in an effort to put things right?

- What is needed to repair the harms and address underlying needs of victim?
- What is needed to address the needs of offenders to prevent future offending?
- What is the role of the larger community in repairing harms and addressing needs which promote safer communities?

Principles:

- Victim-centered (not offender-centered) processes;
- Focus on the harms of crime rather than the rules or laws that have been broken;
- Show equal concern and commitment to victims and offenders, involving both in the process of justice;
- Work toward the restoration of victims, empowering them, and responding to their needs *as they see them*;
- Support offenders, while encouraging them to understand, accept and carry out their obligations to right the wrongs they have caused;
- Recognize that while obligations for repair may be difficult for offenders, those obligations should not be used as harms (i.e., punishments), and their obligations must be achievable;
- Provide opportunities for dialogue, direct or indirect, between victim and offender as appropriate.
- Find meaningful ways to involve the community and respond to the community bases of crime;
- Encourage collaboration and reintegration of both victims and offenders, rather than coercion and isolation;
- Show respect for all parties - victims, offenders, justice officials and other stakeholders;
- Give attention to the unintended consequences of the restorative practices used.



For More Information

Call: 701.235.7341

Email: lssrj@lssnd.org

Website: www.lssnd.org



Lutheran Social Services
Restorative Justice

LEARN INTERVENTION GR
URE **RESTORATIVE** BEGIN
DGRESS **JUSTICE** UNITY
ACCOUNTABILITY POSIT
COMMUNITY PEACE REL
HELP EMPATHY BUILD NU

LEARN INTERVENTION GROWTH HEALTHY IMPROV
TURE **RESTORATIVE** BEGINNINGS HEALING ENGAG
PROGRESS **JUSTICE** ACCOUNTABILITY HELP ENCOU
STRENGTH POSITIVE UNITY IMPROVE SUPPORT
RELATIONSHIPS CONNECT EMPATHY PROGRESS L
HELP COMMUNITY PEACE NURTURE INTERVENTIO

About

Lutheran Social Services Restorative Justice provides a dedicated team of trained facilitators located across the state. Our staff are guided by the philosophy of Restorative Justice and aim to provide a respectful, compassionate, and healing response to crime and conflict. Restorative Justice seeks to restore, to the extent possible, those harmed by an offense, encourages accountability from the person who committed the offense, and promotes safe, secure, and peaceful communities.

Our program provides a wide array of services and trainings. The restorative processes outlined in this brochure are geared specifically for those referred by North Dakota Juvenile Court and Division of Juvenile Services.



Accountability Conferences

Accountability Conferencing is a process that provides an opportunity for a face-to-face meeting, in the presence of a trained facilitator, between the victim of an offense and the person who committed the offense. Participation is voluntary for all participants. Careful preparation is done with each participant to ensure a safe and neutral setting for the parties to come together to discuss what happened and the impact it has had on their lives. A signed agreement, reached by consensus, is often an outcome. If a face-to-face meeting is not desired, other options may be available to the parties.

Victim Empathy Seminars

This four-hour seminar is geared to promote empathy and understanding by identifying and discussing the impact an offense has on victims, families, and communities. The seminar provides a supportive environment where youth are encouraged to understand and take accountability for the harm caused by their actions. As part of the seminar, the youth participant is offered an opportunity to write a letter of apology to the victim and/or another person impacted by the offense. The seminar is interactive and includes the youth and their parent/guardian.