

**North Dakota Legislative Council
Commission on Alternatives to Incarceration
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**Testimony Submitted by:
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Chairman Heitkamp, Commission members and guests, thank you for the opportunity to come before you this morning to provide a brief overview of some of the current services provided by Lutheran Social Services of North Dakota to juvenile and adult offenders.

Lutheran Social Services of North Dakota is a private not for profit faith based organization serving all of North Dakota since 1919. Our agency served 64, 154 people this past fiscal year – more than 1 in 10 North Dakotans, through our 20 program offerings. Our agency's services are available to all. Many of our services are targeted toward youth involved in the juvenile justice system and their families. This has been a primary focus of our agency dating back to the late 1980's. As an agency we are involved in many program initiatives that provide to this client group across a broad continuum – ranging from prevention, early intervention for first time and early offenders, methods of supervision and programming addressing criminogenic factors to both moderate and high risk offenders and now, most recently, to adults re-entering the community following incarceration.

I am fortunate to have been involved in these endeavors within my organization from the beginning, having been a staff member these past 21 years, in many cases being responsible for the development and implementation of a variety of models of service. It is with these experiences as a service provider that I would like to share with you a snapshot of our programmatic offerings in order to increase a broader understanding of the innovative services currently available, what challenges we face and further promise these services may hold if the opportunity to expand were available. In a review of the Commission's purpose and the directive to study alternatives as well as other related issues, it seemed important to assure that your group was aware of these services and related needs.

One notion that is important to hold up is the need for continuing a strong and effective base of programming for juvenile offenders, so as to reduce the progression into the adult system. North Dakota has a strong juvenile justice system with a lower rate of recidivism than other parts of the country. A 12 year average recidivism rate was 18%, with recidivism defined as a return to the

Division of Juvenile Services on a new crime, placement into adult prison or placement into adult parole or probation. Our juvenile justice system could be further strengthened by assuring that diversion programs are accessible in *all* areas of the state. Keeping those not likely to reoffend out of the juvenile justice system, yet still holding them accountable for their actions by having some form of sanctions and services available to meet their needs, is an important part of the system. Our agency currently provides two very different forms of diversion programs. In Cass County, a Youth Court model where first time offenders come before a jury of their peers for sentencing; and in Grand Forks and Nelson counties where the DIVERT program employs a family level casework and counseling approach that works to bring together the family's strengths and the community's resources in a way that brings possible solutions to light and strengthens the family unit. Both of these models have very successfully diverted youth away from the juvenile justice system through individually tailored services based on the youth's needs and allowed the courts to focus more of their energies on the higher risk juvenile offenders. These programs and others offered by other providers as a means of diversion are typically low cost but difficult to fund. For example the Youth Court program can serve up to 200 youth per year, with 95% of cases of first time and early offenders successfully being served as indicated by completing the dispositional agreements handed down, for an annual budget of \$60,000. Besides the direct services provided to youth referred, the Coordinator of the program also spends time in local schools providing presentations to student groups with an anti-gang and other prevention related topics related to destructive behaviors message, with 800-1000 students typically reached.

Services like DIVERT are more time intensive, and therefore serve less youth but are especially helpful in getting at underlying issues of parent/child conflict or mental health issues, all of which are better served outside of the juvenile justice system. This program has an annual budget of \$80,000. Typically 80 youth per year are referred. Most recently 91% of youth who successfully completed the DIVERT program were not involved in the court system 90 days post service.

The challenge with providing these diversion programs is not in delivering the programs, but in finding a way to make them fiscally sustainable. The courts are strong supporters, by working jointly with us as providers, in referring cases and working collaboratively with those cases where court intervention is ultimately called for. As a private agency we use a blended model of funding, counting on private funds primarily to carry them out. We have chosen to not charge a fee for services, as the courts prefer we do not and we find that many families referred are the working poor. Funds secured include United Way, county, church related grants, service clubs, federal grants (Project Safe Neighborhood), in some cases Community Development Block Grants, and private foundations. Funds from private foundations comprise approximately 30-60% of these diversion program budgets. By nature these are very volatile funds – never knowing year to year whether they will be available. Many of these sources are only available as a one

time grant or place limitations on the number of years we may receive access. This is further compounded by the fact that our state has very few private foundations in comparison to other states where corporations are located and therefore provide funding support.

As a state we need to legitimize these methods of diversion. They are effective in keeping kids out of the system, thus allowing the courts to focus their energies on the most serious offenders. These services should not be offered on such a limited geographic basis nor should they be allowed to squander or be shut down when private funds cannot be secured to assure their continuation. I urge you to consider providing adequate funds from state government to allow for their continuation and expansion.

Besides early intervention, we also need to focus on prevention. Healthy Families is a voluntary home visiting program that serves highly challenged families either pre-natal or at birth until the child reaches age 3. The service is provided at no cost to the families currently in Grand Forks and Nelson counties by Lutheran Social Services, and just recently expanded to Burleigh/Morton counties. A federal grant was recently applied for that would add another site in Ward & Mountrail counties if successful.

The ultimate goal of Healthy Families is to prevent child abuse and neglect and the long term effects it causes. We all pay for our failure to prevent child abuse. We pay as taxpayers for the high cost of prisons, children in foster care, and for increased special education needed for the scars left behind from abuse already experienced. Research shows that primary prevention programs like this can ultimately save our state millions of dollars. Children ages 0-3 are the most likely to experience abuse. About 1 in 50 U.S. infants are victims of nonfatal child abuse or neglect in a year, according to the first national study of the problem in that age group as done by the Centers of Disease Control and Prevention along with the Federal Administration for Children and Families. 14.4% of all men in prison in the USA were abused as children; 36.7% of all women in prison were abused as children. Children who experience child abuse and neglect are 59% more likely to be arrested as a juvenile, 28% more likely to be arrested as an adult and 30% more likely to commit violent crime (National Institute on Drug Abuse 2000 Report & Child Abuse Neglect Study by Arthur Becker-Weidman PhD). Here in North Dakota almost 1500 children are indicated as being abused or neglected each year.

The two locations currently offering this programming is a good start at assuring we work hard to prevent problems before they occur, but is only that – a start. The current project in northeastern North Dakota is for the first time in its 8 year history, receiving state funds from the Department of Human Services. Given the strong outcomes this project has shown since its inception, with only 2% of those highly challenged families served, progressing into the child protection system with a services required outcome, it would be a worthy investment for North

Dakota to make, an investment that would ultimately pay off fiscally as well as it simply being the right thing to do, to stop problems before they occur when proven methods are available.

On the other end of the continuum, Lutheran Social Services has been offering a Day Report Center for juvenile accountability and skill building since 2000 in the Grand Forks community. Day Report provides this program in a manner different from typical centers that are often geared toward adults in other states. In those setting offenders might be required to check in daily to be drug tested or to report in on their activities. Day Report as we designed it for high risk juvenile offenders, those with a history of serious delinquent offenses, is an atmosphere where youth come each week day right after school and stay into the evening. During the summer months it provides structure and supervision in the afternoon hours. The program offers an alternative to placement at the Youth Correctional Center (YCC) by increasing supervision and services within the home community as well as a means of community reintegration for those youth returning home from placement at YCC.

Violent crimes by juveniles peak between 3 p.m. and 4 p.m. and then generally decline hour by hour until the low point at 6 a.m. At 10 p.m. when the number of adult violent crimes peaked, the number of violent crimes involving juveniles was about half the number at 3 p.m. This data was collected nationally from the FBI's National Incident-Based Reporting System in calendar year 2001. This makes programs like Day Report an intervention taking place at the right time of day for the right group of offenders.

Day Report utilizes a strength based approach, teaching skills and competencies to this group of high risk young people in order to help them better cope with life's stressors and to learn to make better choices. The program also works to connect these often disconnected and isolated youth, to their community through meaningful community service, positive recreation and with assistance with their school studies. A small ratio of staff to youth of 3:10 provides strong structure as well as support, as this can often be a difficult group of young people to effectively manage. In the course of a year approximately 35 are effectively served, at an annual cost of \$142,000. This program is more efficiently provided when the center can be used for alternative purposes during the school day when the regular Day Report clients are in school, by serving another group of youth who have been suspended or expelled. These youth are offered a structured environment in which to keep on track with school work and to give back to the community through service work. This cross utilization helps keeps the cost of service delivery at about \$50/day/juvenile for those in the Day Report program, much less than the \$182.85 daily rate of having a youth in the Youth Correctional Center. The program's outcomes are measured by assessing their ability to cope via a standardized measurement tool, the ACOPE. This tool is administered at various times within the framework of this level system program, with 70% of youth typically showing an increase in coping skills. Also measured

is the recidivism rate of those in the program, comparing offenses committed three months prior to service delivery, to offenses while engaged in the program, with 75% not committing a new delinquent offense once they have entered the program.

Day Report is a program worthy of replication, but currently funding limitations have curtailed any growth. The one location now in operation is funded through a variety of funds, which includes, county support, CDBG funds from the city, private foundations, Project Safe Neighborhood federal funds, and \$20,000 from the Division of Juvenile Services. In order for this current location to stay viable over the long term more public funds are needed, and expansion would not be realistic without public funds.

Restorative Justice is a process whereby all the parties that have a stake in a particular offense come together to resolve collectively how to deal with the offense and its implications for the future. It looks at who has been hurt by the event, what are their needs and what are the obligations and whose are they? The fundamental premise of restorative justice is that crime is a violation of people and relationships rather than merely a violation of the law. Our agency began to offer restorative based services in 1999, and continue to do so today due to the leadership and funds provided jointly by the Division of Juvenile Services and the Supreme Court. Initially our organization began to deliver these services through Accountability Conferences, the face to face dialogues between juvenile offenders and those they have harmed. Since the program was initiated nine years ago, 2,340 juvenile offenders and more than 2,400 victims have participated. Primary offenses where this has been employed include criminal mischief, theft, disorderly conduct, simple assault, shoplifting and burglary. This process has also been successfully used in more serious offenses such as vehicular manslaughter and others. We later added Victim Empathy Seminars and Restorative Councils to our menu of related services, to better serve those who are not able to proceed to conference, either because the victims are unwilling or not able to participate, or because the offender is not appropriate to do so. Another 650 juvenile offenders have participated in this manner.

The impact of these services has been great. Increased victim participation contributes to positive outcomes – not just for youth, but for the victim as they have a say and can feel a sense of being healed through this process. Increased volunteerism, which often stems from these meetings between the parties, contributes to the well being of the community as a whole, increased restitution payments due to personal connection with victims and the victims say in what is needed is apparent. In fiscal year 2008, LSS/ND collected \$24,747 for victims, with agreements to pay \$31,876. In fiscal year 2009 agreements have been reached to repay \$55,551. In many cases a sense of community has been able to be maintained or re-established as well, which can help deter future crime. Such services can and are offered at different points in the juvenile justice process, with some cases being sent as diversions, and others coming through

as a part of the informal process or formal adjudication. This past year 45 referrals were of a diversion nature and 97% successfully completed their Accountability Agreements and therefore needed no further court action.

A recent study conducted by Latimer, Dowden and Muise published in 2005 looked at the effectiveness of restorative justice practices. These researchers reviewed the restorative justice literature over the past 25 years for a meta-analysis, looking at victim and offender satisfaction, recidivism and restitution compliance. It is widely intuitively known that these services are effective, but this meta-analysis was looking for empirical knowledge. Some of the findings included:

- Compared to victims who participated in the traditional justice system, victims who participated in restorative practices were significantly more satisfied.
- Offenders engaged in restorative practices are significantly more likely to complete restitution agreements.
- Restorative justice programs on average, yielded reductions in recidivism compared to non-restorative approaches.

These services are currently adequately funded on a statewide basis for youthful offenders through the joint cooperation of the courts and corrections, at an annual cost of approximately \$200,000. These practices can and should be offered through the adult system as well, as many states use these similar restorative practices in both the juvenile and adult systems.

Recently, Lutheran Social Services began to provide a variety of adult reintegration services on a pilot basis in the Bismarck area under a competitive contractual arrangement with the United States Probation and Pretrial Services Office. These services include:

- Testing & Work Skills Evaluation
- Pre-Employment Training (1on 1 and classroom)
- Job Placement & Job Placement Follow up
- Cognitive/Behavioral Groups

We have not yet had the opportunity to work with any significant numbers of offenders. To date eighteen have been referred for these related services, with 83% successful in obtaining and maintaining employment. Research has shown that a major predictor associated with recidivism is employment. Therefore reentry initiatives that focus on employment are a vital part of the equation.

As a commission, you are fully aware of the fiscal costs of incarceration of adults as well as juveniles. I know that you also know of the human costs as well.

We are fortunate that here in North Dakota, we have pockets of innovative and effective community based services already in place. The challenge and dilemma

is that these services, in spite of their positive outcomes, often find them self in jeopardy to continue, and do not have the opportunity that they should have to expand due to a lack of stable resources.

As a commission I urge you to commit funds to support these innovative community based endeavors and grow them.

We need a well thought out and comprehensive plan, that not only focuses on incarceration options, but equally important, one that supports a myriad of community based services that are already in place and work across the continuum to prevent the contributing factors that lead to violence and crime, provide a means to divert offenders out of the system rather than get them involved when possible, and look for increased opportunities to offer ways to repair relationships and community ties while holding offenders accountable.

I am truly proud of the collective work we do here in North Dakota to serve these populations, but there is the potential for us to do so much more, to be held up as a model for the nation and to take some important next steps. We have the unique ability to be able to do so due to our scale and the current financial health of our state. On a national basis, prisons have been a tremendous growth industry, but as an industry it has not been shown to be particularly effective in terms of outcomes, with high recidivism rates being a perpetual revolving door in some of the most populated areas of the country.

Please consider ways to offer additional funds to further support the juvenile justice system, specifically effective diversion and community based services; to move some of these effective models across service lines, such as implementing restorative justice services within the adult corrections populations, and to make a commitment to prevention, recognizing the long term positive impact it can have.

Thank you so much for your time and attention.