

TESTIMONY BY JOEL FRIESZ

IN SUPPORT OF HB 1393

TUESDAY, FEBRUARY 2, 2021 | 9:00AM

Chairman Klemin and House Judiciary Committee Members. My name is Joel Friesz. I am providing testimony today in support of adding Restorative Justice to the list of sentencing alternatives for individuals who are convicted and sentenced for an offense. I have worked in the field of Restorative Justice for 16 years through my role at Lutheran Social Services of North Dakota (LSSND). I most recently served as the Director of Youth Interventions until LSSND's closure in January 2021. In addition to my work with LSSND, I currently serve on the ND Juvenile Justice State Advisory Group (since 2014) and the Executive Committee of the National Association of Community and Restorative Justice (since 2017). I am a lifelong North Dakotan and have resided in Fargo for the past 23 years.

North Dakota Court System ("Juvenile Court") and North Dakota Department of Corrections and Rehabilitation ("Division of Juvenile Services") have a long history of utilizing Restorative Justice programs for youth involved in the juvenile justice system. These programs stem from North Dakota's embracing of the 1990s national movement in juvenile justice reform titled Balanced and Restorative Justice (BARJ) Project. LSSND began contracting with the state in 1999 to provide these services. Although LSSND will no longer exist, these programs will continue with different service providers. As I have gotten more involved with justice improvements on a national level through my role with National Association of Community and Restorative Justice, North Dakota's utilization of Restorative Justice is frequently commented on and commended by others across the country working in the justice field.

In addition to sanctions imposed by legal systems, Restorative Justice seeks to hold the person who committed the offense (“offender”) directly accountable to the person and/or community that they victimized. Restorative Justice places emphasis on having the offender accept accountability for their behaviors and make amends whenever possible, moving the offender from a passive role to an active role in reparation. As for crime victims, a Restorative Justice option offers them more opportunities to regain and restore the power that was taken away from them by the offender. Restorative Justice emphasizes the needs of the victim and allows for victim involvement in determining how those needs can best be met. One of the core restorative processes utilized to achieve desired outcomes for both the offender and victim is Restorative Conferencing.

Restorative 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*. 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. From the program I oversaw at LSSND, in any given year 55%-75% of referred victims chose to participate in the process which highlights the need and demand for this type of process for crime victims.

In my work with LSSND, our Restorative Justice program served hundreds of offenders

and victims each year. Restorative Justice programs can receive referrals at all stages of the court process: Diversion, Informal, and Adjudication. The most common offenses referred in the juvenile justice system are Criminal Mischief, Disorderly Conduct, Simple Assault, Theft, and Burglary. In the early years of North Dakota's utilization of Restorative Justice programs, 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, I have personally 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. Additionally, the process was conducted post-conviction and did not lessen or change the terms of sentencing.

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 offenders fully understand how their actions have affected other people. A victim's sense of healing, and an offender'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 people who become engaged with the justice system have experienced previous forms of victimization prior to committing an offense.

Restorative Justice continues to be highlighted nationally as a promising approach to justice that ties together best practices for holding offenders accountable to those they

victimized, meeting the needs of crime victims, decreasing recidivism, 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.

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