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Informational Session on Restorative Justice

Thank you, Majority Chair Kinkead for this opportunity to speak to the subcommittee on crime and corrections regarding restorative justice. Thank you, Representative Rabb, for the invitation and Representative Rabb and Representative Williams for bringing this topic before the subcommittee.

My name is Barbie Fischer and it has been my privilege to serve as a restorative justice practitioner for nearly 25 years. Currently, I am the Restorative Services Director for the Delaware Center for Justice. I am also the Executive Director of Restorative Encounters, a non-profit consulting firm that provides technical assistance to jurisdictions and agencies seeking to implement restorative practices nationally and internationally and to practitioners seeking to continue or enhance their skills. I have been a proud Philadelphia resident for almost eleven years. For the past four years, I've split time between Philadelphia and Lancaster, PA where my partner and I are raising his four children.

I first became involved with what we in the west refer to as 'restorative justice' working with former child soldiers in Northern Uganda during the height of the Lord's Resistance Army (LRA). Following this, I received my Master's in Conflict Transformation with an emphasis in Restorative Justice and Trauma from the Center for Justice and Peacebuilding at Eastern Mennonite University. During this time, I had the honor of being a student of the world-renowned restorative justice practitioner and author, Howard Zehr, who is credited by some as being the "grandfather of restorative justice" in the United States. While you may not be familiar with his name, his legacy continues to impact Pennsylvania's juvenile justice system today. He along with Lorraine Stutzman Amstutz authored, "Victim Offender Conferencing in Pennsylvania's Juvenile Justice System" as part of the passing of the Balanced and Restorative Justice (BARJ) act which amended Act 33 in 1995 to include restorative approaches within Pennsylvania's Juvenile Justice System.

My education in Restorative Justice and opportunity to study under Howard Zehr provided me with the much-needed language to translate the work I had been doing in Uganda in the early 2000s. At that time, the Acholi people of northern Uganda were in Internally Displaced Person (IDP) Camps because their government was at war with the LRA. Acholi children were often kidnapped and trained to be child soldiers. Kidnapped girls were often forced to become child brides to the rebel commanders. Many of these girls as young women later escaped from the LRA with their small children. But few had the skills necessary to parent successfully since they themselves were abducted as children and endured severe mental, emotional, and sexual trauma. Because they had served - and in some instances fought - in the LRA, or been married to their commanders, these women were viewed by some in the camp, who had endured significant losses at the hands of LRA, as rebels. They often faced ridicule and even sometimes violence from their own people upon their return to their communities. In western judicial terms they were both victims and offenders.

I felt called to work with the Acholi women in the IDP camps. There my colleague Sarita Hartz and I worked with elder Acholi women to develop a model for rehabilitation that was based on the

Acholi's culture much of which had been lost or suspended by being in IDP camps. We formed an intergenerational home comprised of elderly women who had lost their children to death or abduction by the LRA, the young women who escaped from the LRA and their children. This structure recreated the intergenerational home that was typical in the culture prior to the IDP camps and provided the elder women with the opportunity to mother the young women who escaped the LRA and grandmother their children. We offered services based on their indigenous practices to help heal the trauma the young women had experienced and provided them with access to education and vocational training. The elderly women also found healing for the trauma they to experienced.

When I spoke in the United States about what was happening there, often I would hear, "Oh, you are doing Restorative Justice." To which my response was, "In Uganda, this is just how we do life." It was not uncommon to see rebels ask to be returned to the community after the atrocities they did and for the community to welcome them back through various processes, what we call restorative justice.

The term Restorative Justice was coined in the United States and Canada around practices that are rooted in indigenous ways of life from around the world. The values harken us to live justly and provide frameworks for how to address injustice when it occurs. It has been utilized in the United States largely as an alternative to the punitive legal system, allowing victims more of a voice in the process and the offenders who have caused harm the chance for accountability and to learn from their actions. Having seen the practice largely develop in the 1960s and 1970s, it is now becoming more common in crimes of severe violence, even cases of sexual violence.

Restorative practices are not just an abstract professional concept for me. In my twenties I faced firsthand the dichotomy that is restorative justice and the criminal legal system. Not once, but twice, I was the victim of sexual violence. Having been raped by an acquaintance and then a year later having my apartment broken into, at which time I was violently sexually assaulted. My experience with the legal system only caused further trauma. Having knowledge of how the Acholi work through such situations in a restorative manner, I was able to find great healing in a restorative process with the acquaintance, a healing that I definitely did not find in the legal system. As for the other offender, the one who broke into my home, I wanted to make sure he had consequences within the legal system so others would be protected from him. At the same time, I wanted answers and restorative justice processes were the only way I was going to find the answers I needed to heal from that situation, a situation I continue to heal from today.

I have had the privilege of talking about my personal and professional experience of crime and restorative justice, specifically as it relates to crimes of severe violence and sexual abuse to various audiences including young legal minds at universities such as the University of Pennsylvania, Drexel, James Madison University, and the University of Michigan. In my personal and professional experience restorative justice processes not only offer victims of crime more of a voice, but also provide space for those who commit crime to not just walk through a logical process but to face the emotional impact of their crime. Their participation in the restorative practices leads to an increase in empathy which, in my experiences, greatly reduces recidivism. Crime is complex and restorative justice processes allow for mitigating circumstances to be considered for all parties as they work toward resolution.

While I myself have been the victim of violent crime, over the past 25 years, I have also had the honor of walking alongside incarcerated people in Virginia and Pennsylvania as they prepare to return to their home communities. I've presented about this topic -utilizing restorative practices as a tool to reduce barriers to re-entry - at Philadelphia Fight's Institute for Community Justice Prison Summit on numerous occasions. My work incorporating restorative practices into re-entry led to my invitation to sit on the Pennsylvania Re-Entry Council, which was started by then Governor Wolf and Attorney General Josh Shapiro. My time on the Council has revealed how little resources are currently directed to restorative practices throughout the Commonwealth.

For the past ten years I have provided technical support and assistance to a group of residents at then SCI-Graterford, now SCI-Pheonix, on their Let's Circle Up program. This program, developed by incarcerated men, provides restorative education to their fellow residents. This space has provided residents with the opportunity to reflect on their own victimization, how this may have led to their criminal offenses, and what it means to truly be held accountable for their actions. The curriculum developed by these men has been endorsed by outside restorative justice practitioners. It has now been utilized in prisons in Washington, Georgia, Virginia, and Delaware. But sadly is not offered in any Pennsylvania correctional institutea aside from SCI-Phoenix.

I was also part of a team to host Ubuntu Philadelphia, an idea brought forward by Kempis Ghani Songster, who was serving Juvenile Life Without Parole at the time. This event worked restoratively with crime victims and survivors in Philadelphia and those sentenced to Juvenile Life Without Parole to prepare the community for the return of several of those sentenced to Juvenile Life Without Parole. This was a profound time for the community to come together for accountability, healing, and preparation for how neighbors would live peaceably and justly alongside one another. I've stayed in touch with those involved in these practices and continue to cite the success of this program in historically low rates of recidivism.

I've also presented about my work in Restorative Re-Entry at the Delaware Center for Justice's Visions of Justice Conference in 2018. Following my presentation, I was invited to be on staff to oversee Restorative Services. In 1996, Delaware amended their criminal code to include that "The General Assembly finds and declares that: The resolution of felony, misdemeanor and juvenile delinquent offenses can be costly and complex in a judicial setting where the parties involved are necessarily in an adversary posture and subject to formalized procedures; and Victim-offender alternative case resolutions can meet the needs of Delaware's citizens by providing forums in which persons may voluntarily participate in the resolution of certain criminal offenses in an informal and less adversarial atmosphere," Delaware Title 11. VII. Ch. 95.

The Restorative Services offered by the Delaware Center for Justice (DCJ) is the primary alternative case resolution programs under this code. These programs continue to grow and adapt with the justice needs of Delawareans and the oversight of the Victim-Offender Alternative Case Resolution (VOMP) Committee. In my five years with DCJ, I have had the honor of expanding the types of offenses referred, reinstating restorative conferencing for juvenile and adult cases in Family Court, and starting a preventative program in Delaware Schools. We have built relationships with our police departments where they actively engage in not only referring cases but participating in

restorative process as well. It is unfortunate that as a Pennsylvania resident my neighbors are not eligible for similar programming.

Since the 1960s there has been a host of publications on the positive impact of Restorative Justice for those who have the privilege of engaging in restorative processes. Both personally and professionally I can attest to the higher satisfaction rates among all participants in comparison to the criminal legal system. These processes also help to ease the burden on the court systems, along with communities at large, given that they have proven to reduce recidivism and increase healing for victims. (See attached Fact Sheet for specifics).

While I have had the privilege of assisting others around the globe in expanding access to restorative practice throughout all parts of the legal system and as preventive measures in schools, as a proud Pennsylvania resident, I look forward to seeing more Restorative Justice in the Commonwealth I have chosen to call home.

Restorative Justice (RJ) Fact Sheet

What is RJ?

When there is a crime (harm), what follows is often a deep wound (trauma) for the parties involved, their communities, and society overall. When the responsible party does not accept accountability, there needs to be a system that protects the victim and the community. The criminal legal system does this. However, when there is acceptance of accountability as well as consent from the impacted party, there is a more effective approach that leads to reduced crime rates and greater healing for the victim and community. That approach is Restorative Justice.

Restorative Justice (RJ) is a voluntary process that gives impacted parties a voice while promoting healing and accountability. The RJ processes often include a facilitated conversation amongst the remorseful person responsible for the harm and the impacted parties.

RJ asks: 1) What happened? 2) What are the root causes? 3) Who has been impacted and how? 4) What can be done to repair the harm to the extent possible?

How RJ fosters healing:

- Considers and responds to the needs of the impacted parties
- Allows the responsible person to be reconnected to the community

How RJ fosters accountability:

- The responsible person faces and hears how the impacted parties were affected
- Individuals co-create RJ agreements to repair the harm

Evidence for RJ

1. Impacted parties express high levels of satisfaction and healing through RJ (Strang et al., 2013; Fulham, 2018). In particular, impacted parties appreciate pre-conferencing, agency in developing a restitution agreement, and the opportunity to share their experience of the harm (Umbreit et al. 2004). Furthermore, Wagland et al. (2013) found that 90% of victims who participate in RJ recommend it over the criminal legal procedures. Lloyd and Borrill (2020) examined seven studies and found restorative justice helped victims decrease post-traumatic symptoms of avoidance and intrusion compared to traditional justice procedures. Angel et al. (2014) found similar results that impacted parties assigned to RJ conferences scored 49% lower ($t(190)=2.163$; $p=.03$) for clinical levels of post-traumatic stress symptoms compared to victims who went through traditional justice procedures.

2. RJ lowers recidivism and reduces crime rates. Innovative communities across the nation are adopting Restorative Justice Practices and making real change in their communities. Recidivism is lower when the person meets and speaks with the person they harmed (Maryfield et al. 2020). For example, St. Croix Valley Wisconsin RJ Program reports a low recidivism rate of 7.3% for driving while intoxicated related offenses (Miner, K. 2014), and Vermont Community Justice Center reports a low, 8.9% recidivism rate (Wicklund, P. & Halvorsen, T. 2014). Furthermore, the Longmont Community Justice Partnership in Colorado reports a low 10% recidivism after one year; in comparison, Colorado's state-wide recidivism after one year is 32% (Amour 2018). A systematic review of

10 experimental studies of RJ programs found that the programs reduce recidivism two years after random assignment into the program by 7% to 45% (Strang et al., 2013). Kennedy et al. (2019) followed probationers over a 2-to-6-year period and found the group who participated in a brief restorative justice intervention had lower recidivism of 35.3% (n=127, 33.16%; $z=7.04$, $p<.001$) than those who did not participate in the program (n=89, 68.46%). Those who do reoffend do so at a lower severity Fulham (2018). Offenders who participate in RJ are also more likely to complete restitution obligations (Latimer et al., 2005).

3. RJ reduces costs. Research supports the cost-effectiveness of restorative justice conferencing. Strang et al. (2013), found RJ programs provided up to 14 times as much benefit in costs by crime prevention. Another study shows that every one dollar spent on RJ saves the community eight dollars in preventing crime (Sherman et al., 2015).

Restorative Principles

1. Crime is impactful and harmful to individuals and the community. While a law may have been broken, the harm is centered around relationships and people rather than a violation of the law and the state.

2. Those most impacted are meaningfully involved and empowered. The restorative approach is collaborative and rooted in dialogue and consensus on the restorative agreements to repair harm, centering the needs of the impacted parties. Giving impacted parties a voice in the process is an empowering hallmark of RJ, and something that does not typically happen in the criminal legal system.

3. Crime creates harm, needs, and obligations. The responsible person takes accountability for what happened and both the impacted and responsible parties, along with community members, are engaged in the entirety of the process to address the harm, needs, and obligations.

Citations

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