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TO: Rep. Alice Emmons and the Committee on Corrections and Institutions

Cc: Danielle Bean, Committee Assistant, DBean@leg.state.vt.us

Cc: Auburn Watersong, Policy Director, The Vermont Network Against Domestic and Sexual Violence

Thank you for this opportunity to speak to the importance of House Bill 718.

As I reviewed the proposed membership of the Study Committee, I am optimistic that this group will fully explore ways victims can be supported to safely leverage restorative justice options that protect from excessive intrusion into their lives while enabling them to play active roles in halting violence and healing.

I have organized my comments around two themes:

- Vermont needs to change the legislation that denies access of victims to restorative justice processes.
- Thoughts on moving forward.

Change in Legislation: This recommendation is based on the preponderance of evidence that supports the efficacy of restorative justice (RJ) processes overall but also on the growing ethical concerns that restorative options in matters of interpersonal violence and abuse are safer and less harmful for victims than exposure to interventions driven by criminal justice interventions. This leaves Vermont, and the victims who might want to engage with a restorative approach, in an awkward position.

Vermont's legislation blocks referral of victims to restorative justice options except under the terms of a Practice Guidance that was vetted by leadership from The Vermont Network Against Domestic and Sexual Violence and the Department of Children and Families (rev. 2006 and 2008) to guide the use of family group conferences in situations where both child protection and domestic violence are present.

- Overall, research shows positive outcomes with RJ in a range of settings;
- RJ processes are seen as fair and more satisfying than court and criminal justice driven processes;
- Gap in research findings on RJ with Intimate Partner Violence (IPV) is largely explained by victims being excluded from accessing RJ especially in large, well-funded and robustly- researched programs and pilots;
- Human research boards have gone along with the research designs that exclude domestic violence abuse, but there is growing concern that RJ is a better option than "criminal justice business as usual".

The disproportional results of the lopsided investment in criminal justice responses are probably well understood by members of the Committee, so I will not repeat them here. What I do want to underscore is more recent findings accumulating from longitudinal research that focus on the fates of

domestic violence victims who were exposed to criminal justice interventions (e.g. their partners arrested rather than warned for common assault). How have the criminal justice options served them? Badly. Indications are so concerning that researchers and research review boards are confronted with the ethical dilemma that denying victims of violence access to restorative justice or leaving them exposed to vested criminal justice responses is quite likely exposing them to greater harms.

It would be disingenuous of me to fail to point out that this research is not without its critics, including from those who want to see more and better research on criminal-justice driven interventions that emanate from practices like no-drop policies, mandatory arrest, coerced separation, and batterer intervention programs. For good reason, many advocates and researchers now rightfully challenge the use of further resources in this way, and have greater interest in working closely with evaluators to design culturally-secure and safe restorative justice offerings that combine safety and accountability measures with empowerment and healing. My concern is what do we tell women who are in these circumstances in the meantime, knowing that some current responses are likely to disadvantage them further?

It is with this ethical concern in mind that I urge you to move this legislation along.

Moving Forward:

Vermont is well-poised to lead in this area. The state has considerable social capital from which to build. This includes a strong coalition of women's leadership, something my own research has underscored as vital to the success of restorative justice engagement with interpersonal violence, willing state partners, and a pool of restorative justice expertise. Vermont's enabling legislation needs tweaking, in addition to removing blocks to RJ, that will foster engagement across justice, health, education and social services. At the local level, emphasis needs to be on:

- Making it easier in local communities for victims to find help and gain access to a greater range of services;
- Reduce practices that expose women to enforcement when they want to reach out for help that is responsive to their current needs. Women's right to privacy should not be subordinated to their rights to safety;
- Increased investment in bringing together a range of state and non-state actors who can hold the state to account in ways that are responsive to victim needs;
- Invest in front end education of restorative justice and interpersonal violence across disciplines including in law and the judiciary – many leaders in Vermont invested heavily in helping bring violence against women to the forefront. The fact the state has a law blocking access to RJ should be seen as a testimony to the success of coordinated efforts and Vermont's leadership.

Restorative approaches require careful oversight. I mentioned earlier the practice of family group conferencing. This often slips under the radar as a restorative practice, which probably explains why its use has been more extensive in situations of domestic violence and child protection internationally. It brings domestic violence advocates, child protective authorities, and services providers together to engage with whole families. While this practice remains available in Vermont through DCF, it is offered on a wholly discretionary basis, hence, very few families get access, largely because of the investment of time the practice requires. One senior administrator in Vermont referred to the practice as the "Cadillac" version. I raise it here to make the point that one of the greatest criticisms of restorative

justice in matters of violence is that indeed by comparison to business as usual in many or most of the human services it requires investment of time in building relationships. Time to plan. Time to oversee and regulate for quality including safety. And this is what I would say to the committee: An investment in restorative justice is very different than what we now have in our largely adversarial systems that grow out of enforcement and separation. The greatest fear about restorative justice in these matters is that these principles get sacrificed.

It is my hope that the Committee can steer the development, implementation and evaluation of a framework that builds on Vermont's extant strengths, keeps victims at the center, while incorporating responsive, non-dominating, mechanisms for safeguarding that take into account local, national and international best practices.

Thank you,

Gale Burford, PhD, MSW

Gale Burford, PhD, MSW is Emeritus Professor of Social Work, University of Vermont and Distinguished Visiting Scholar of Restorative Justice, Vermont Law School, and an Independent Consultant and Researcher. Gale and his colleague, Dr. Joan Pennell piloted and evaluated one of the first uses of one restorative practice, family group decision making in situations involving child abuse and domestic violence in Canada in the 1990s. The protocols developed from that study have been used extensively to train and adapt practice in many jurisdictions. Gale has provided consultation, training and evaluation on the use of family group and other restorative approaches and innovations internationally. His book *Family Group Conferencing: New Directions in Community Centered Child and Family Practice* (edited with Joe Hudson, 2000) has been used extensively to examine the wide range of practices that fall under the umbrella of restorative justice. He is currently editing a book with Valerie and John Braithwaite of Australia National University titled *Restorative and Responsive Human Services* (Routledge) that explores the role of restorative justice in shared governance and regulation in the human services. Gale's recent presentations include a keynote address titled *Restorative & Responsive Approaches with Gendered Violence: Expanding the options for those who have experienced abuse* in February, 2017 to a group assembled at the ACT Legislative Assembly in Canberra, Australia, and presented at the Restorative City of Culture 2017 World Conference, in Hull, UK on the topic of *Restorative & Responsive Cities in the Changing Human Service Landscape: Keeping interpersonal violence at the forefront of safety, accountability, empowerment and healing*. He will present in June of this year on this same theme at the University of Newcastle, AU at the *Newcastle as a Restorative City Symposium*. Gale is co-principal investigator along with A. Cissner, E. Sasson, K. Crank, R. Thomforde Hauser, J. Pennell, & S. Desmarais for the *National Portrait of Restorative Justice Approaches to Intimate Partner Violence. Funded: Office on Violence Against Women*, United States Department of Justice, the initial findings from which will be presented at the Vermont Law School conference on *Global Unity and Healing: Building Communities with a Restorative Approach*, June 28-30, 2018. He and his wife Kathy live in South Burlington.