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## The Role of Restorative Justice in Addressing Clergy Sexual Abuse and Helping Its Survivors

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## PANEL TRANSCRIPT

# THE ROLE OF RESTORATIVE JUSTICE IN ADDRESSING CLERGY SEXUAL ABUSE AND HELPING ITS SURVIVORS

TOM JOHNSON, JOHN CHOI, BERNARD HEBDA, TIM O'MALLEY, AND  
STEPHANIE WIERSMA\*

Tom Johnson: My name is Tom Johnson and I'm really excited about moderating this panel. I'm excited because when you think about what happened here and look back five years ago, the parties that are sitting up here were at serious odds; they were involved in some serious litigation both civil and criminal that was begun by the Ramsey County Attorney's Office under John Choi and Stephanie Wiersma. Tim O'Malley was very involved initially and once Archbishop Hebda got on the scene, he was involved as well.

It went from litigation that lawyers on the street thought, "This is going to last for years. This may be up in the Supreme Court before this gets resolved." But it got resolved. It was resolved through a twenty-four-page settlement agreement that is multifaceted; in its totality, it's a roadmap for the archdiocese moving forward.

The provisions in this very, I would say creative, out-of-the-box agreement were written by some lawyers who knew what they were doing. That includes John Choi and Stephanie Wiersma and Tom Ring from the Ramsey County Attorney's Office—who is not here—and Joe Dixon who was

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John Choi is the Ramsey County Attorney. Since taking office in 2011, he has become a state and national leader in progressive justice reform, especially around gender-based violence. John's innovative approach to holding abusers accountable, while working collaboratively with advocacy agencies to help victims, has transformed the way government intervenes in domestic violence and sex trafficking situations in Minnesota. John is the past president of the Minnesota County Attorneys Association, an executive member of the Institute for Innovation in Prosecution, serves on the board of the Minnesota Coalition Against Sexual Assault and is a past trustee for the Women's Foundation of Minnesota.

representing the archdiocese in the litigation and, of course, Tim O'Malley and the archbishop.

Rather than staying the course, the kind of determined Type A, "We've got to get this resolved, this lawsuit here; will there be a winner and there be a loser? We're going to be the winner." Well, they found a way for both sides to win. Within the context of this twenty-four-page agreement are two provisions that relate to restorative justice and those are the provisions that we're going to focus on today.

However, before we do that, I'm curious to know from each of you what did you know about restorative justice and what had been your experience when you entered the negotiating or came to the negotiating table that made you think that, "Hey, we should put something into this agreement that requires the archdiocese to do something about restorative justice?" John, you want to start?

John Choi: Sure, I'd be happy to start. I've had a really privileged career, too. Before I was the county attorney, I was also the St. Paul City Attorney. It was during that time period where I became acclimated to what restorative justice is all about and, more importantly, what it could actually accomplish.

So, as a city attorney, we did a number of things that would replace the traditional criminal justice system with restorative justice approaches. Oftentimes, it's very difficult to exactly put into words what is restorative justice because I think it can mean a lot of different things in very different contexts.

But at the end of the day, what it does provide is a better outcome and that's something in law school we don't talk about enough—is outcomes—and the outcome that we want is justice. For many of us who practice in the area of juvenile justice, criminal justice, we don't oftentimes take the moment to stop that assembly line and reflect on the system that we operate in.

Nobody, actually, that currently works in the system today created that system. In fact, we inherited it from a long time ago, but we presume and assume that somehow that is the way in which we achieve justice and we get better outcomes for the people that are involved. Oftentimes, there's a victim, there's an offender, but also too, for the community because when the prosecutor initiates a criminal complaint, they do it not on behalf of the victim, but actually on behalf of our community.

So, we have that process and the vast majority of everything goes through something like that when there has been harm done where a law has been violated. But there are other ways in which we can achieve justice and get better outcomes.

So, restorative justice is one of them and it's an area that I've been very involved with as a St. Paul City Attorney and then also, just now, very recently, as we're thinking about a different way to achieve justice in the

juvenile context that we're recognizing that sometimes better outcomes can happen when we think outside the box.

That was my orientation in understanding of it and recognizing that the adversarial process in which I've found myself with the archdiocese, could only accomplish so much. We were very creative to utilize the civil child protection statute and the criminal statute together in tandem, working together.

So, we came to some resolutions on the civil side, but on the criminal side, quite frankly, if we had continued to proceed, we'd still be litigating right now. I would be convinced that we would have gotten a conviction and then, that conviction would have been appealed and then, it just kept getting appealed. At the end of the day, let's just say that we did resolve it, and the state's interest won in that particular case. At the end of the day, it was a misdemeanor offense.

Again, we were prosecuting the corporation and there are reasons why we chose to do that. It helped us get to some of the systemic change that we wanted to see, but at the end of the day, a conviction against a misdemeanor corporation would have resulted in nobody goes to jail even though, under our law, corporations are people, but you don't put a corporation in jail, right?

What it would have been would have been in some term of probation—something along those lines—a fine, and for the most part, that would have been it and no opportunities to think about some of the broader things that the current civil settlement has allowed to take place.

But most importantly, as a part of the second revision of that settlement agreement, in lieu of us dropping the criminal charges, restorative justice can only start and can only begin when there's an acknowledgement by the offender that wrong has been committed. As part of that process, Archbishop Hebda said out loud and very publicly that they had failed children; that they had put the interests of the institution, themselves, above the interest of protecting children.

From there, we can start a process by which we can restore people. It's been great for me to see the journey that the victim's family that were victimized by Curtis Wehmeyer and the archdiocese, in terms of their journey into reconciliation and forgiveness. I think it's helped them in many ways.

Then, of course, it wasn't just that family that was victimized: it was the Catholic faithful who put their trust in our institution and were told back in 2002, when the Dallas Charter was put together, that everything was fine, and it wasn't.

Then, the parishioners, faithful, our community, and I would say priests—the clergy, are victims as well—many of whom the vast, vast majority never ever can do anything wrong—only human beings, but I'm talking of running afoul of criminal laws. They're victims too.

As a part of all this, I felt it was really critical to incorporate concepts of restorative justice to ensure that the head of our archdiocese, our archbishop too, was participating in that. Today, I think the provisions of the agreement said only at least three, but quite frankly, Archbishop Hebda and many of the people that have been involved have gone far, far beyond there.

Tom: John, we'll get to this. Archbishop, what did you know about restorative justice when you were at the negotiating table?

Bernard Hebda: Tom, I'm embarrassed to tell you I knew almost nothing. At one point when I was Bishop of Gaylord, I had had a couple approach me about engaging in a restorative justice process—nothing to do with abuse of minors or anything like that. I'd done a little bit of internet research, but I didn't pursue that role.

So, I knew little about restorative justice, but was intrigued by what Mr. Choi was able to describe about his experience. I was very grateful to Hank Shea<sup>1</sup> here at the university who was speaking to us a little about that as we were considering what were our options and very grateful, then, for the introduction that came to Justice Geske who definitely put flesh on the bones of the skeleton of restorative justice.

Even though I knew little about it when it was first suggested, I was intrigued by it and as I was learning more about it, I became more and more committed. That's where I was, Tom.

Tom: Good. Tim?

Tim O'Malley: I was in a similar boat. My recollection is that the idea of this concept and including it came from John Choi. Shortly after that, we knew about Hank's work and Father Dan's<sup>2</sup> work, and they introduced us to Janine Geske, and we learned a lot more about it.

But really, at that point, my world was centered on some of the legal issues, clearly, but then also how to address some of the brutal past—some of the things that happened. We were investigating those; we were dealing with those; we were working with victim-survivors to try and sort some of that out. Then, also how to deal with harm moving forward.

Looking back on it, exactly what we're trying to do with restorative justice, but I didn't have that concept in mind. I do think it fits with, as was mentioned earlier today, some of the foundations of the Catholic faith and other faiths of all the things you've heard from the other panels. That does fit together, but it wasn't a concept that I had in mind at all at the beginning.

Tom: Stephanie, any familiarity on your part of restorative justice when it appears as though John suggested it?

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1. Professor Hank Shea is a Senior Distinguished Fellow at the University of St. Thomas School of Law.

2. Father Daniel Griffith is a Wenger Family Faculty Fellow at the University of St. Thomas School of Law, Chaplain of the University of St. Thomas's Terrence J. Murphy Institute for Catholic Thought, Law, and Public Policy, and the pastor of Our Lady of Lourdes parish in Minneapolis.

Stephanie Wiersma: I joined the “I knew very little club.”

Tom: But you agreed with your boss?

Stephanie: I did. I did what my boss told me to do like a good employee; he deserves all the credit for the restorative justice in the settlement agreement, but I did come from a background of community organizing and working with communities to overcome problems.

I understood the concepts of restorative justice, and I understood what we were trying to achieve in the settlement agreement. What Jeanne Bishop said about an eye for an eye not being sufficient went to what we were doing. The aspirational goal that’s listed at the top of our settlement agreement is that no child would ever be the victim of child sexual abuse ever again. To do that, we had to do more than just have criminal justice in the terms of probation or an \$18,000 fine.

Tom: So, the two provisions that are in the agreement—one calls for a day-long conference for restorative justice reconciliation. The other provision calls for or requires the archbishop to conduct mutually-agreed-upon restorative justice sessions. This question will evolve into a longer discussion, but I’m curious when you decided on those words and added them to the agreement, did you have any “mutually-agreed-upon restorative justice sessions,” in mind? What were you thinking that might look like? Who wants to take that on first? John, you probably put those words out there.

John: I did, at least on the conference.

Tim: The conference, we’re going to plan that now. It’s changed over time. I think, as we mentioned, there’s an aspirational goal here and it’s twenty-four-pages long. There’s a lot that we put in there that we continue to interpret ourselves, to be honest.

But the conference will happen. It’s going to be very much victim-survivor focused and it’s coming up soon. There’ll be another conference that we’re going to host here—this archdiocese, in April that will have hundreds of people here from around the country and that will be more on lessons learned, which is part of what we talked about making that, but we split it into two.

Your first mention of restorative justice sessions, at least from my perspective—I’m a little bit new to this, and what we wanted to do was set the stage for us to prove to each other—at least give the archdiocese the opportunity to prove to the county attorney and others, our sincerity and our efforts to correct some wrongs, but also to do it in a way that it was measurable somehow. We said, “Okay, we’ll do this restorative justice thing,” but rather than just saying, “Alright, we’ll do it,” I think it even says you’ll do a certain number within a certain period of time. It was very specific.

As John mentioned, we kept working at that. A lot of people, between the two offices, and then that evolved into much more of a practice that got played out in a lot of ways that we might get to this afternoon or not.

Tom: Archbishop, I know that you've pretty much set aside Friday afternoons to be available to victim-survivors if there [are] any that want to come to visit with you. Is this part of what you consider to be the language or implementation of the language in the agreement? Then, maybe talk about how those sessions are going.

Bernard: Thank you. Initially, when I still had a little bit of a lawyer's hat on and when I was hearing about—

Tom: The Archbishop is a graduate of Columbia Law School.

Bernard: —when I was hearing about the three sessions that we had committed ourselves to, I was thinking in a much more formal way about facilitated sessions. We had engaged a professor from the University of Minnesota<sup>3</sup> who was able to help us with those.

As we engaged in that process and as we came to know more about restorative justice, it certainly has extended beyond those facilitated sessions to those opportunities to have discussions, to have conversations. Initially, I had said that from February through April I would leave Friday afternoons open for those meetings.

We had a good number of people who were, themselves, survivors who would come in to speak. That wasn't the first time that I had encountered survivors, nor was it the last. We've had people who have been asking since then, so we try to always honor that time.

It's a little bit what Jeanne Bishop said today, that somehow, when you know the stories, that's what changes everything. Whether it be in the facilitated restorative justice session or in those opportunities to have somebody share their experience and then, to have the opportunity not only for me to listen, but also for me to express, that somehow or another takes the whole matter to another level.

Because it's not just statistics; it's not just something that I've read about, but it's somebody that I've shared an experience with. I know their stories; we can cry together; we can get angry together. That has really changed the whole way in which we've been able to address not only the immediate difficulties that were before us, but also as we try to plan for moving forward beyond a time that the settlement agreement binds us.

Those encounters—and I feel so blessed by the number of people who have stepped forward to have those discussions with me—those encounters have really had a lasting impact on the way in which our archdiocese will be approaching these matters in the future, how it is that we are able to improve what we're doing, and how most especially, that our own outreach

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3. Professor Mark Umbreit, Ph.D., is the founding director of the University of Minnesota's Center for Restorative Justice and Peacemaking.

to those who are survivors—those who have been hurt—will be improved or enriched, giving all of us an opportunity for greater healing.

Tom: I think all of the panelists here, have had an opportunity to sit down with a victim-survivor and to hear their story. From that story, you very quickly realize just how deep the hurt, the harm is and how trust-devastating it is. To that extent, it's unique, where you've got not just an interpersonal trust that's violated, but when that trust is violated, someone's faith can also be violated. That's really elevating what's happening here to a very unique and different level.

Based on your experiences, what is your level of confidence that restorative justice will work with victim-survivors of clerical sexual abuse, given the depth of the harm, the uniqueness of the harm, and maybe you can comment on that?

John: I think one thing that's really important for people to understand is that we would never ever force a victim to be a part of the restorative justice session, nor would we ever have restorative justice in the context where the offender is not at a place where they're recognizing the harm that they have caused.

So, if we're talking about a very narrow, specific example of how a restorative justice session could work, oftentimes, we'll think about it in the person who was directly harmed and an offender. For instance, in the case that we were involved with, it would be someone like Curtis Wehmeyer and the family that was involved.

I don't think necessarily that could possibly take place right now; maybe it could. I don't know. That's not necessarily what this is about, Tom. I think it's important for people to understand that it goes beyond that, that victims are not just the persons that are directly impacted or the family, but it can also include an entire parish that was harmed.

Think about [the] parish in which the context of this abuse occurred; there was tremendous harm that was done. We need to restore that; trust was broken, right? It can also be in the context of broader populations as well, so we shouldn't limit ourselves to believe that restorative justice happens in that very compact way. It can be a very broad way. At the end of the day, what we're trying to accomplish is recognizing that these types of processes can bring healing to victims.

Let's go back to this very singular, compact example. It can bring healing for those victims who have been directly affected; it can bring healing for—

Tom: The example we're talking about now is the Curtis Wehmeyer [case]?

John: Right, but it could also be that entire parish or whatever it might be. Also, too, it allows for opportunities for the person who did the wrong to atone for those things. That means so much for victims; it's also an op-



portunity for people—restorative justice is a lot about listening more than it is—it eliminates any type of power differential. Getting into that type of process, we're focused on trying to undo that harm, address those harms that have been caused, and help the people heal and come out of that in a better way, a more productive way.

Tom: Archbishop, Tim, have comments? The question relates to the depth of the harm that's done and your confidence level that there is a role for restorative justice to play and taking into account what John just said, that there's different levels, different types of groups of victims.

Bernard: I wish I could say that when we have a restorative justice session that a person is healed. I'm always so grateful for Justice Geske who talks about it's an "-ing" process, right? It's something that continues into the future. But it's been my experience that even those encounters, when they go deep, open up the possibility of further healing.

Whether it be in terms of a person's relationship to the church, that's often—I can't speak to restorative justice in other situations—but often for somebody just to have the opportunity to speak to a representative of the church and to share their story, allows them to at least begin to test the waters about their own faith or about going back to church, for example.

Just one little story, there was a gentleman who shared with me and he really had not faced much of the abuse that had happened in his own life. He was waking up in the middle of the night screaming. A married man with adult children. And his wife was obviously a little concerned because it was something that repeated itself.

He found himself in therapy and that was very helpful for him and that was when he first began to talk. The therapist helped him to speak with his wife. But it wasn't until he was able to talk to a representative of the church that the screaming stopped.

For whatever reason, that's there. By no means was that the end of the process, but in terms of it being a step, I think that's the kind of story that gives us some hope that what we're doing is worthwhile.

One of the things that's been amazing for me is that there have been so many people who, when they've come forward to tell their story, also commit themselves to wanting, somehow or another, to improve what the church does, to make sure that kids aren't going to be hurt, and to make sure that we do a better job with outreach. Tim could speak about the specifics there, but it's phenomenal the generosity that comes from the hearts of those who have been hurt by the church and are survivors of that who then become more engaged in assisting.

That doesn't mean that they're necessarily going to be practicing Catholics; that's not the aim right then and there, but in terms of being willing to engage with the church in improving the situation, that's been phenomenal.

Tim: Tom, I think the more profound the harm, the greater the good that can come out of restorative justice. Point one. Point two, is that it's inaccurate—in fact, it's stupid—to stereotype and categorize victim-survivors. What's the remedy? We talk about what could happen out of this. Stephanie talked about, “Yeah, you could have gotten a misdemeanor conviction and where would we be?” What would actually help somebody and individualize it?

I'll give you an example. First, maybe just a quick hypothetical. Imagine you go away for the weekend and you fly back on Sunday night; you're walking up to your house; you're pulling your suitcase; you're mumbling about the lack of legroom on the airline. You get up to the door, and you go to unlock the door, and the light's out.

You think, “Geeze, I bought one of those ten-year bulbs. They burn out. This is stupid.” You go in; you walk in and find out you've been burglarized. The house is trashed. You will never be the same again. There are people that would talk about that being very profoundly harmful that somebody came in their home; they felt invaded; they felt all that kind of stuff. I guarantee you will never approach the house the same again, through no fault of your own.

You're going to walk up; maybe walk around the house and see if the window's kicked out; you're going to notice if a light is out; you're going to notice those things. Now, apply that analysis to sexual abuse of a child and the harm that can result from that.

What's the remedy? We talk about restitution. Maybe you get \$10,000 from your insurance company to take care of the jewelry that was taken and the electronics. Or maybe the deterrent—maybe neighbors are more aware. There's actually a good thing about that. Neighbors feel bad; they're victims in the community, but they're more aware so, maybe they're actually safer today.

What about for a person who was sexually abused and the harm that results from that? Here's the example I'll give you. We had a gentleman, and it's in part from the work of John and Stephanie, and also Mike Finnegan in Anderson's office. We have a standing offer to any victim-survivors that, if they want to meet with us, we'll examine their case.

For the lawyers in the room, in the bankruptcy, have you filed a proof of claim, which has all the information on it. There is a protective order. We cannot even acknowledge that that exists. We would violate the law if we did that so, we can't act on that.

So, we said, “If you want to come in and talk to us, we'll examine it and we'll try to do whatever we can to make it right by you. I don't know what that'll be, but we'll do something.”

There's a gentleman; he's seventy-eight years old. He came to us through his attorney and met with us and told us what happened. It was well

over sixty years ago that he was abused. But everybody in this room, I think, would look at him externally and objectively and say that he's very successful. He's happily married; that's unusual—he's happily married; he's got a couple of wonderful kids. He's one of the richest guys I've ever met in my life. He's from out of state; he flew in here on his own plane to meet with us. Money's not an issue and all that kind of stuff.

We meet with him and he tells us what's going on. The priest's name has not been disclosed at this point. We said, "Here's what I promise you. I will listen to you; we'll investigate it, and we'll do what we can, and I'll get back to you." "Thank you."

We investigate it; we determine that, yeah, this is a substantiated claim under the standards we've established. About two months later, we call him and say, "I want you to know that today, we're going to put this priest's name up there. He's going to go up on our website. We owe it to tell you that before it goes up. I know you don't look at our website, but just so you're aware of it."

Tom: Is the priest still alive?

Tim: The priest is dead. He doesn't do this to punish the priest. The priest is dead. If you believe in an afterlife, he's maybe being punished, right? He didn't need the money; he's got money for counseling. He does all those other kinds of things, but he starts crying on the phone.

He says, "I just have to tell you that after sixty-five years," and he didn't tell anybody for thirty or forty years, whatever. He said, "After all that time, for me to know that somebody in authority in the church listened, didn't automatically believe but investigated and then, believed me. This is the most peace I've felt in sixty-some years. And very importantly, not only did you nod and say the right things, which a good actor can do, you actually acted on it. You put the son-of-a-bitch's name up on the website. Thank you."

That's an individualized remedy for that guy that cannot come in any other way. I think that's a form of restorative justice; it's not passing the talking stick, which I've done with the archbishop with victim-survivors. He acted as the surrogate. "I'm mad at the church." A number of victim-survivors I say, you can't categorize them; a number of them aren't necessarily mad at the actual abuser. They realize there's an ill—whatever it might be—but, "How could the church have let this happen? How could that have happened?"

They want a bishop to sit there and look them in the eye and talk to them, but there's a wide range of what can be embraced by restorative justice and how it can actually help people in some of the worst situations in their life.

Tom: Thank you. Let's go back to the two provisions, which were quite specific. A day-long conference, restorative justice sessions over a

two-year period. I think it would be valuable—so, they were specific. You are in the planning stage of the conference; there's been sessions, so that sounds all pretty good under the agreement.

There certainly are many indications that this has gone, in fact, I know that it's gone further than those two provisions. Maybe it would be useful for you to talk, Archbishop and Tim, about how that's evolved. Then, for Stephanie and John to respond to what you know is going on or have heard now that's going on and whether that's something that you had in mind at the time the agreement was signed or are just happy that it's happened. You want to start, Archbishop?

Bernard: Yes. I'll leave the details to Tim. When we went into some of those difficult negotiating sessions with Mr. Choi and his team, we had in the forefront of our intention to be able to correct situations that had existed in the past and, really, to try to do better. So, certainly, we wanted to be able to resolve the matters at hand, both criminal and civil, but we also knew that that wasn't enough. We needed to be willing to do whatever it took to change the institution locally in a way that would both show our commitment to change but also actually help the situation.

We were hoping as we went into negotiation that if we would show that we were willing to go beyond what we thought that the Ramsey County Attorney's Office would require from us, that would establish grounds for good faith and we would be able to talk to one another in that way. It wasn't something that was extracted from us, but rather, it was a desire to collaborate in a way that would make our system better, that would make children more safe, and that would begin that process of bringing justice as well.

That was the mindset at least of those who were negotiating on the part of the archdiocese. Tim can give you some details of how we had already begun some of those processes before that.

Tim: We had—I think if there's one difference-maker—and I'll try to tie this in, Tom. I think it does—and John Choi, I can recall us having discussions in smaller groups during the mediation and the groups when we got together in the bigger groups about what is our real goal here? It was to affect an institution; to hopefully change a culture for the better.

There was a certain secretiveness, certainly, maybe a clericalism you hear, an arrogance. How is it that this could have happened in an institution that's a religious [sic]—any religion—how could this happen? How could people turn a blind eye to it?

So, we started thinking about how can you change the culture. I think the one difference-maker between years ago and today is the role of laity. The role of laity—not that clergy isn't important—it's very important—but the partnerships that are developing and that's going to be the movement

that was talked about. That's where it's going to come from, not from an archbishop or one or two other people saying, "We mean this."

It's going to be a movement; it's going to take hold, and I think that the restorative justice efforts that are going on, meeting with people, developing those relationships, forming some committees—we've done a lot of different things to try and spread that, if you will.

But the role of laity from the very beginning, when you even think of it, when the bankruptcy, the criminal and the civil were resolved, there was really a core group of six people that were there that night until whatever it was at the law firm until midnight or so. We're in our separate rooms: there were six people in the archdiocese room. There was the archbishop and five lay people.

There was [Brian] Short and Tom [Abood] and Karen Rauenhorst, three members from the board. Those are the Catholics; that's the church and that's a different image than people had from "the archbishop can do no wrong" from twenty, forty, sixty, eighteen-hundred years ago, right? There's a role there, but it's the partnership; it's having different mindsets around the table rather than all like-minded people going, "Yeah, this would be good; we'll pray and it's all going to be fine."

No, we need certain expertise, and I think having laity involved at the seminary, in restorative justice, and in some of the outreach programs, and his one-on-ones, when he meets with victims. Often Janelle Rasmussen from our office meets too, so that there's a safety to it, which, as an aside, I heard this one time at one of our parish meetings. "You know what went wrong?" one of the people got up, "there wasn't a mother in the room." That's a pretty telling comment really. Well, Janelle's a mother, and she's in the room.

Bernard: And we hired her.

Tim: Yeah, we did, and she's teaching at the seminary. When I tell people this in other areas of the country, they're kind of stunned. She is not only teaching at the seminary now, she's part of the formation committee to decide if men who are in there are moving forward from year-to-year and should progress to be priests. It used to be all collars, and that wasn't that long ago. Again, they add a lot to it, but they're going to leave the seminary and go into the real world. We have to prepare them for that.

I think the role of laity was the emphasis, and I think there is a lot that can still continue from that.

Tom: Stephanie, does what's happening add up for you? I know you've spent quite a bit of time monitoring the agreement and, more recently, looking at whether or not the changes that have occurred are resulting in culture change within the institution. Where do you come down on this?

Stephanie: Yes, I think the archdiocese deserves a lot of credit for going above and beyond what was outlined in our settlement agreement. I think that we all knew at the time that we drafted it that it was the floor that we hoped, and we thought that the archdiocese would take it further than what we outlined in the agreement.

Whenever we talk about how this came about and what happened and what different ways it could have gone, everyone in the room can acknowledge that, if the right people had not been at that table, this would not have happened. So, when we were looking at what do we put into this agreement, we looked at our aspirations and what we were hoping to achieve; we looked at what was best practice; what were other places doing, other organizations, the Catholic church itself? How could we hold the Catholic church to its own standards?

Then, we had to have some sort of confidence that they would take what was put on paper and run with it, and they have. As Tim laid out for everyone, they've done so much more than three restorative justice sessions. I know that Justice Geske is going to Assumption tomorrow for a session if anyone wants to join.

I think you've heard too that they've really taken on restorative justice in many different forms; it's not just three listening sessions where folks can come and hear about what happened. You can sit down with the archbishop; you can go to a session with Justice Geske. There are many different ways you can go to talks like this.

Then, the role of the victim coordinator as well. There's an acknowledgment that one person's restoration and healing is not the same for the next person as we go out, and we do talk to people about the impact that this has had and whether or not there's been a change. There is. There is a divide as to whether or not people feel that restorative justice is the answer, and so, the archdiocese is open to hearing that, and they're not just putting all their faith into the restorative justice aspect.

Tom: John, anything to add?

John: No, I think that was perfect, Stephanie, thank you. I think that I had an opportunity to participate in one particular session at a parish at St. Odilia, which is one of the larger Catholic parishes in my jurisdiction in Shoreview, and Father Dan Griffith was a big part of that—and Justice Geske.

I know a lot of people that go to that parish and that were a part of that particular event where they had an opportunity to listen to some speakers and then, they went into some discussions at their table that was modeled after a restorative justice model. People took from that, I think, some great comfort to have this intentional way that they were going to talk about these things that they had been experiencing as Catholic faithful.

What people have experienced is that they felt betrayed by their institution, that their faith had been shaken in some ways, and they were very disappointed and hurt in many ways. There were opportunities for people to discuss that and for people who needed to hear that to hear that.

But then, also for the people that were not involved directly with any of these clergy sex abuse, but just a part of the institution to also be able to express their sadness and sorrow and recognizing that what had happened was wrong and that it shouldn't have happened and that we're all committed to wanting to have this change and making this lasting change. That type of dialogue and that time and that intentional way to talk about that as a community was really meaningful to a lot of people. So, that's a big part of it.

Tom: I'd be curious to know how well you think you're doing, Archbishop and Tim, walking the line between affirmatively providing direction to the healing process from top-down, here are the services that we have available versus allowing and encouraging things to happen organically at the parish level or even more broadly within the community. Can you talk a little about what your philosophy is on walking that line?

Bernard: We Catholics are big on "both/and," right? We certainly want to do what we can, bring resources that we're able to bring and stimulate the thoughts of others. We've been very grateful for the work that's come out of our parishes as well. We mentioned Father Dan Griffith earlier and the beautiful work he is undertaking at Our Lady of Lourdes. That's where I first had the opportunity to hear Jeanne Bishop, and that was very instrumental for me.

We recognize we had parishes that were stepping forward to be part of a test group to see how we could move forward. It took a commitment of time on their part; we're very grateful for that. Our hope here, in terms of philosophy, is to be able to present options, but options that also empower our parishes to take things where they see would be best.

Obviously, a place like St. Odilia's is a very different experience from a little rural parish where you have eighty people in the church on a Sunday. So, we leave it to the pastor to be able to figure out how we do that, so it is significant.

It's not even just coming from our parishes, but also from other groups. We've formed a body called "the LAB," the Lay Advisory Board.<sup>4</sup> They, for example, are very interested in this question. I know that we'll be getting suggestions from them. We're engaging in this process of a synod in the archdiocese. We've had so far four of the large prayer and listening events, and we're getting some ideas from that group as well. I know they're going to continue to percolate.

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4. The Lay Advisory Board, composed of lay representatives from each territorial deanery of the Archdiocese of Saint Paul and Minneapolis, was established in 2019.

Tim could give more of the details, but where we've really been blessed has been with the collaboration of a small group of survivors who have, from the very beginning, been invested in helping us to get this right. So, some of the ideas that might seem like they're coming from top-down were actually ideas that came from them. We're happy to be able to facilitate that and feel blessed with the ideas that have come from that group.

Tim: Tom, I'd offer two practical thoughts on the role we should play in terms of driving this or collaborating or how it should be. One is short-term and one is long-term. There are two victim-survivors in the audience today whom we have known now for four or five years, Paula and Frank. I'm not outing them; they're known. In fact, Paula works for us now.

Early on we met and a group of us started talking about what can we do, and we had these great ideas. I remember we even planned a couple events, and nobody showed up, right? We all dressed up for the prom, and there was no band; it was just nothing. We thought, "What are we doing wrong?" Part of the problem was that nobody trusted the archdiocese.

Three or four years ago, we said, "We need to establish a certain level of credibility if people are going to be involved with us in any way," and we tried to do that through very concrete actions rather than just words.

At the beginning, we could say something, and there were ones who would call others and say, "Listen, who's behind this? Is the archdiocese?" "Well, they're involved." "I'm not coming." Short-term, there's that practice. Long-term, this cannot be run by any one entity.

We have partnered with the government; we have some nonprofits—the Zero Abuse group. We're working with them on long-term solutions. We need to have more than 325 people in this room; we need to have this be something that takes hold, and it is organic, and people do it. We should play a role; we should absolutely play a role, but I think it's irresponsible for us to over-control—in fact, if you go back and you want to start getting to the root cause—we don't have time to do all that.

Maybe it's that there was an entity or a couple bishops that had too much authority and were driving too much. Maybe we don't need a dictatorship; maybe what we need is a group of people that complement each other and work collaboratively and have a true partnership-relationship and let it take off in that way.

Tom: I was going to start questions at 2:35, but boy do I have questions. Maybe we should get a running start on it. I'll ask one of them because I think we've got a lot of lawyers in the audience, and even if you're not lawyers, this may be of interest.

The question is, what do you see as the largest challenge from a legal perspective to the successful use of restorative justice in providing healing and serving as an option for healing to victim-survivors of clerical sexual



abuse? Are we still dealing with legal challenges here, or have we moved beyond that? John?

John: I think it's just in the context of—not in the context of the settlement agreement, but more so just current—overall in general. I think the biggest challenge would be that you would never want to impose restorative justice on anyone that didn't want to do it because there are people who have been victimized, and we would be revictimizing them if we suggested something that the person was not ready for.

Obviously, it should come from a genuine deep desire of that person to maybe take that journey. Of course, then you have on the other side, restorative justice is of no value if the person who was the perpetrator has absolutely no ability to understand that what they have done is wrong or any type of remorse. If it's not even possible, I think restorative justice can't even really start.

When the conditions do exist, and I think a lot of what Jeanne Bishop was talking about when your heart is open, the highest forms of justice can be achieved. Those concepts of love and mercy and the way that God intended us to be can be achieved.

So, I guess it's understanding that these conditions can only exist in the right set of circumstances involving the victim and the offender, but when they do, if we have a culture and an openness as the society and as people who might be in charge of systems to allow for these things to not necessarily replace traditional systems, but maybe can act alongside of them or after them. Maybe we'll see a world—I know that in Ramsey County, we're working on a world where it can replace the juvenile justice system not in the context of sexual abuse, but in other contexts.

I think as we evolve as human beings, those things are possible, but ultimately, that's what I think is the biggest challenge and appropriately so because I don't think we should ever force this on anyone.

Tom: Let me ask one of the questions as a follow-up to that. Do you know if there's been any connection found between restorative justice and recidivism? Any research out there with findings as to whether or not it's helpful?

John: There is some data.<sup>5</sup> We've been employing it; I think the Minneapolis School District has done some work and there's data that would show that utilizing a restorative justice type of approach would be just as good as doing any type of other response or diversion. We're working on a big project right now in our juvenile justice system, but that's one of the things that we are going to be as we launch our project.

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5. BARBARA J. McMORRIS, ET AL., *APPLYING RESTORATIVE PRACTICES TO MINNEAPOLIS PUBLIC SCHOOLS STUDENTS RECOMMENDED FOR POSSIBLE EXPULSION: FINAL REPORT* (Dec. 2013), [https://www.legalrightscenter.org/uploads/2/5/7/3/25735760/lrc\\_umn\\_report-final.pdf](https://www.legalrightscenter.org/uploads/2/5/7/3/25735760/lrc_umn_report-final.pdf).

That's the million-dollar question that we actually want to answer and actually want to prove, that you don't have to accept what we inherit as a part of our traditional system, that we can design something different and actually get better outcomes around public safety and justice.

Tom: Archbishop Hebda, a question for you. How has hearing people's stories changed you as a person?

Bernard: Can I go back just one question, in terms of legal obstacles, and then I'll get to this question too. Allow me to mention one of the things that will no longer be relevant here in the archdiocese, but may be relevant for those of you who will be working or living in other dioceses that might still be addressing these things.

One of the obstacles to restorative justice that was very difficult for us at the archdiocese was the bankruptcy litigation. I think especially of the number of survivors who have come in to speak since that was resolved and who said, "We really didn't feel like we could enter into that kind of a discussion while the bankruptcy was continuing."

We have to find some way in terms of the system to be able to facilitate those kinds of discussions that the law or the lawyers—and I'll let other people decide which that is—didn't allow during the bankruptcy. That would be the first thing.

In terms of how I have been personally changed, I think that any time that you have an exposure to someone who is willing to share very intimate details about their lives and the ways in which they've been hurt, it so often reflects years of reflection upon an experience—you just feel so privileged to be able to sit with them.

That always prompts in me that recognition of what each one of us carries in one way or another, and how what's on the surface isn't always what's down deep. Certainly, in terms of leading a local church and leading a diocese, just to recognize the severity of the harm that's caused by abuse in a very personal way is going to affect any decision that I would make.

We've been blessed; we haven't had to deal with that recently, but when the questions arise about returning somebody to ministry, I'm a lot more cautious now than I would have been before I started listening to people talk about how an event that took place seventy years ago continues to have a daily impact on their lives, and it's real.

I'm certainly much more conscious of that as a church leader; that might not go to the personal level, Tom, but it certainly goes to that aspect. Just always recognizing that those experiences bring to light the complexity of human life and how things aren't always exactly what they seem and how little decisions that we make can have such a huge impact in someone's life for good or for ill. That's not just in terms of somebody who's physically abusing, but also the way in which a church responds to somebody who comes forward with a claim.

I'm always amazed that people can tell me the exact words that they heard when they first came forward. Something that's etched in their brain, and that's pretty grave.

Tom: Tim, did you have a comment?

Tim: I had one comment on the earlier question about what obstacle could there be in law or lawyers. While I agree with you that we can't let bankruptcy or the adversarial nature of some proceedings [*sic*], we've got to figure out how to still do restorative justice in that regard. And John's talk about the system not necessarily embracing restorative justice, but I talk from a broader perspective of keeping in mind the role of attorneys. They are tools; that's all they are. They are not the decision-makers, and I'm speaking to the law students in here and attorneys and those who are going to hire attorneys.

It's not a win to write the most persuasive brief or to win a motion. What's your real goal here? What are you listening to your client about? We made some decisions early on, as did John and Stephanie on both sides of this, that were very nontraditional. There was an easy path—I shouldn't say easy.

There was a traditional path that each of these two men [Mr. John Choi and Archbishop Hebda] could take, and they showed some real where-with-all, some real leadership to not just take that. They wouldn't have been criticized, and there's a chance that we'd be before the U.S. Supreme Court right now; that would have been the predictable way to go.

One of the very early decisions we made; we had attorneys come in and interviewed them and some well-known, reputable, very talented attorneys. In simplistic terms, their answer was, "Paper the hell out of them. File motion after motion. Take them out of their comfort zone. This is the Ramsey County Attorney's Office. They don't deal with bankruptcy. They don't deal with First Amendment, constitutional, or religious issues. They don't deal with corporate law that much. They mostly charge individuals. We could fight this; we could win this." At what cost though?

So, we ended up hiring Joe Dixon, who is a very talented attorney in all those arenas, but that wasn't the goal to win that one motion or win that one thing. It was something that John brought up. Don't break the law and don't not listen to the advice of attorneys. But the law isn't designed to be an obstacle.

There are often ways, if you open your mind to it, you can stay within the law and accomplish a lot of good things. You can listen to your attorney, but it's your decision, not your attorney's decision, as to what you want to do.

John: If there are any future prosecutors out there, the duty of a prosecutor is not to merely seek convictions, but is to seek justice. We are ministers of justice and achieve positive and good outcomes for our public.

Tom: Stephanie, do you have anything to add on some of the legal challenges? I threw the question out, and John answered it very well, and I'm in the sea of questions here, and I don't want to go onto the next question without allowing others to comment. What do you have to say?

Stephanie: I think it's been answered very well. It's a tool in the toolbox, and you have to be willing to be creative. There's no statute that's going to prescribe it. You have to be willing to think outside of that and think creatively within the law.

Tom: Archbishop, there are a number of questions that, in one way or another, relate to how are things here being affected by what might be going on in the Vatican or with the Conference of Bishops that may impact what you can do or can't do going forward? Any quick thoughts on that? Also, there was a question on what's your responsibility or authority now, vis-à-vis other diocese either within Minnesota or Minnesota, North and South Dakota?

Bernard: We certainly have enough work just dealing with our archdiocese. That has to be my first priority. At the same time, as part of a larger church, we realize that there's an impact on us by legislation that affects the whole world, that is, universal legislation that would come from Rome. There also can be legislation that might come from the United States Conference of Catholic Bishops in pretty specific areas.

Our response, my response along with Bishop Cozzens,<sup>6</sup> has been both to engage the tools that are handy for us to be able to have some broader impact, especially with the United States Conference of Catholic Bishops, by sharing there a little bit of our experiences, for example, and speaking about things that have seemed to have borne good results here.

I think we continue to look for those opportunities on the national level. We don't have as much of an opportunity to do that internationally, but I think the work that we do here in the National Bishops Conference does have an impact. The legislation that came out from Rome in June concerning accountability measures for bishops,<sup>7</sup> for example, very much reflected the presentation that was given by an American bishop speaking at a conference in February in Rome.<sup>8</sup>

I think there is that opportunity to have some impact, but it's much more indirect. I'm very grateful I have a very talented staff. A number of people around the country have been watching what they have been doing,

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6. Most Reverend Andrew N. Cozzens is the Auxiliary Bishop of the Archdiocese of Saint Paul and Minneapolis.

7. Pope Francis, Apostolic Letter, *Vos Estis Lux Mundi* (May 7, 2019), [http://www.vatican.va/content/francesco/en/motu\\_proprio/documents/papa-francesco-motu-proprio-20190507\\_vos-estis-lux-mundi.html](http://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio-20190507_vos-estis-lux-mundi.html) (issued motu proprio).

8. Cardinal Blase Joseph Cupich, *Synodality: Jointly Responsible* (Feb. 22, 2019), [http://www.vatican.va/resources/resources\\_card-cupich-protezioneminori\\_20190222\\_en.html](http://www.vatican.va/resources/resources_card-cupich-protezioneminori_20190222_en.html) (this was a presentation given by the Archbishop of Chicago at the world meeting on the protection of minors in the church).

whether it would be Tim's office or our Chancellor for Canonical Affairs, Susan Mulheron, or our Chancellor for Civil Affairs, Joseph Kueppers. Because of the work that they're doing, they're being invited to be part of panels like this and to speak creatively about how we as a church might be able to address these matters.

Even though my focus has been very much here in the Archdiocese of St. Paul and Minneapolis, you have Tim and Susan Mulheron who have been speaking to a much broader forum and who have had an impact in that way.

Tom: Some questions that might lend themselves to quick answers. Have circles among priests been considered?

Tim: I didn't hear what you said.

Tom: Have circles among priests—has restorative justice for priests been considered?

Bernard: Yes—Justice Geske came a few weeks back and we had an event just for priests. That, of course, was just the first step as well. It modeled for how that might happen; it was a smallish [gathering]—maybe twenty priests who came and took part in that. I was really pleased with that, and it was a very moving experience for the priests who were there. Tom, as you've reflected, they've had an impact in their lives through all of this too. It has been tried, and it considers to be something that's contemplated.

Tom: Next question with a quick answer. Has a restorative justice process been created in the archdiocese for the healing of an entire parish, and they cite the Wehmeyer parish of Blessed Sacrament?

Tim: We've had a number of—with the Wehmeyer victims themselves, so a number of us including the archbishop and myself have met with the victims and with the victim's mother in a—I wouldn't call it a formal restorative justice, but along those lines. Then, we probably held at least ten that you've been at, that Justice Geske's been at, and the archbishop and I have probably been at another ten parishes where we've had some type of a session about the history, what's happened, where we're at, and how restorative justice plays a role in the future.

There's got to be twenty, twenty-five parishes that have been directly requesting that and we put together sort of a menu of options for parishes and for victim-survivors to get involved if they want. Like the archbishop said, we went to one in a small farming community and talked about that Canvas Health was available to them, that anybody who might want to talk to them. A guy came up at the break, a couple of seventy-eight-year-old farmers and they said, "We're farmers; we don't go to counseling." "Okay, alright." "We just go out and work." "Alright. If that's your way to do it, that's your way to do it."

We lay those options out to people. For some, something's good and something else is good. We're trying to give those options to address individual parishes, also depending on what's happened at their parish. Weh-meyer's a good example, and there are a couple of other parishes where there were priests who were notorious, who were repeat offenders and that has had a great effect. St. Odilia with some of the Crosiers, so we addressed that very specifically at that parish.

John: Just on the victim family at Blessed Sacrament, one of the greatest joys that I've had is to get to know that family and to see their journey around their own healing. It's not to say that it was necessarily because of any particular restorative justice session, but it was an orientation towards the fundamentals around restorative justice. It's been a complete joy to see the healing that's starting and getting better. It will never ever be completed, but it's an orientation that can achieve those things in terms of the healing for victims.

Tom: Does the church plan to keep the restorative justice methods as part of their culture after the interaction with Mr. Choi and Stephanie end? The real key here is when the court's jurisdiction ends, which is February 1, 2020, so it's coming up in a few months.

Bernard: I'm happy to answer that one. It's "yes." What we're doing now is we're trying to put in the building blocks, so that's going to be a long-term tool for us to address issues. Certainly, we see that in this area of sexual abuse of minors by clergy or church personnel, but we see all kinds of other opportunities.

We've had Justice Geske speak as well to our lay ecclesial ministers, so I think that makes it a much broader application. We've had her speak to our staff at the archdiocese, so it's teaching the tools that we think will continue to serve the archdiocese not just in terms of the structure, but the people of the archdiocese far beyond the termination of the settlement agreement.

John: When that settlement agreement<sup>9</sup> was first entered into back in December of 2015 and then, amended again in the summer of 2016,<sup>10</sup> it's been in place for a really long time. It's been a long journey of trying to ensure that the promises that were made in the settlement agreement were fulfilled. I can tell you that the archdiocese is well on their way of doing right by every one of those promises.

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9. Stipulation to Stay Proceedings and Settlement Agreement, In the Matter of the Welfare of Victim 1, Victim 2, and Victim 3, (Minn. Ramsey Cnty. 2015) (No. 62-JV-1674), [https://www.ramseycounty.us/sites/default/files/County%20Attorney/12.18.15%20RCAO-Archdiocese%20Settlement%20Agreement\\_0.pdf](https://www.ramseycounty.us/sites/default/files/County%20Attorney/12.18.15%20RCAO-Archdiocese%20Settlement%20Agreement_0.pdf).

10. Second Report by the Archdiocese on Its Status and Progress of the Implementation of Settlement Agreement, (Minn. Ramsey Cnty. 2016) (No. 62-JV-1674), <https://www.ramseycounty.us/sites/default/files/County%20Attorney/Second%20Report%2012.20.16.pdf>.

The more important thing is about embedding that cultural change. If we had to focus on what is the overall theme of what we were trying to accomplish in the settlement agreement, a really big part of it is the engagement of the laypeople in the church as a part of how the archdiocese would make decisions about clergy who had run afoul of certain policies and that concept has been very much furthered and is part of these restorative justice sessions.

These are really values and principles that are developing as part of the archdiocese and I have absolutely no doubt that these things are going to continue. As we get close to the end date for the settlement agreement, which is February of 2020, we're working on wrapping up that work. I think another fundamental principle is it's that cooperation with civil authorities that's very much alive and well. We've developed a relationship where we're going to continue to work on things together. We'll be talking about that more as we get closer to that end date for the settlement period.<sup>11</sup>

Tom: A couple of quick questions and, Frank, I'll ask you to come up. These are the last two, so we've got to be quick here. We've moved through a lot of these questions, but there's still a lot here.

There's a question about was there a definition of restorative justice that people were working from? If so, what is it? I don't think there is one in the agreement, but was there some discussion at the negotiating table about what was meant by that? Is it what's been talked about throughout the day where there are a lot of different forms it takes?

Tim: John Choi had all the leverage. He thought it was a good idea; I didn't know a lot about it, but we embraced it at the time.

John: It was a part of a journey to define what that meant. There are obviously some understandings of generally what it meant, but I think it's a work in progress.

Tom: The last question is what is the role of the clerical sexual abuse ombudsman, and is it a condition of the settlement?

I am the ombudsman for clerical sexual abuse; it is a provision in the settlement agreement as well. I believe it came from John Choi? Is that right?

John: Tom Ring.

Tom: Tom Ring, alright. It provides for the creation of an independent person to serve as an advocate for clerical sexual abuse victims if they want to seek advice about how they're perceiving a problem and whether there is an issue with how things are being addressed; what could be done to change that; if they're seeking counseling to help them get counseling etcetera.

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11. *State of Minnesota v. Archdiocese of Saint Paul & Minneapolis*, RAMSEY COUNTY ATTORNEY'S OFFICE, <https://www.ramseycounty.us/your-government/leadership/county-attorneys-office/news-updates/case-updates/state-v-archdiocese-saint-paul-minneapolis> (last visited June 08, 2020).

Then, the last question is how is that going?

It is one of the most rewarding things I've done in my career. The archbishop has spoken to how meaningful it is for him to sit down with victims. Many of you have done that, and so, you have a sense for it. It is really hard to grasp how emotional it is to have a person lean into you, "I haven't told anyone."

Bernard: Can I answer that question?

Tom: Yes.

Bernard: Just a little bit because you, Tom, can't toot your own horn. You've done a fabulous job of that. Just the way in which you keep my feet to the fire—and my office's as well—is very important. You're always bringing your own perspective and that interest in justice that makes all the difference.

We asked the question before, are we having an impact beyond maybe in the archdiocese? At least with the dioceses in Minnesota, North Dakota, and South Dakota, we've talked, in particular, about how Tom has served as ombudsman. We recognized it was something that was required for us in the archdiocese, but how the role has really served. That's an idea that will continue to gain traction if we can only find more Tom Johnsons.