

## **Pretrial Restorative Justice Circles**

(April 2016)

### **Providing the Opportunity for Pre-entry Healing for Defendants and their ‘Ohana**

#### **Background Information**

In 2005, Hawai‘i Friends of Restorative Justice (HFRJ) developed a group process for reentry planning which involves the incarcerated person, his or her family and friends, and prison representative(s). This process, named *Huikahi* Restorative Circles, signifies individuals coming together (*hui* means group and *kahi* means individual) for the purpose of repairing harm and taking responsibility for the future. The *Huikahi* Restorative Circles are facilitated prior to an incarcerated individual’s release from prison to prepare the inmate for successful reentry and strengthen his/her support system. Through this process, the incarcerated individual and loved ones find healing from the harm created by the crime and imprisonment. Each participant in the circle has the opportunity to give voice to their own experience and to collaborate with the inmate on the development of a reentry transition plan. Feedback from the *Huikahi* Restorative Circles, have been deemed positive based on the collection of data from the participants.

See [\*Huikahi Restorative Circles: A Public Health Approach for Reentry Planning\*](#), Walker & Greening, *Federal Probation*, June 2010.

#### **What are Pretrial Restorative Justice Circles?**

In 2015, the *Huikahi* Restorative Circle was extended to federal pretrial defendants prior to sentencing and/or the commencement of a term of incarceration. This is a “pilot” program made possible by a grant to the HFRJ.

Similar to reentry circles, the defendant, family and/or friends, and court representative(s) gather for a facilitated process that promotes healing, encourages accountability, and results in collaboration toward the development of successful transition plans - both into and out of imprisonment. Pre-entry circles allow for defendants to mend relationships with their loved ones early on in their case which can strengthen the bonds and support so critical during the physical separation. Pre-entry circles encourage defendants to plan for their entry into prison which may result in the completion of prerequisites to Bureau of Prisons (BOP) programming. Pre-entry circles also enable defendants to engage in goal setting which can frame the prison experience in a productive and constructive manner. In addition, pre-entry circles encourage the defendant and circle participants to look forward to eventual release from prison and help them see beyond where they are now in order to formulate a hopeful vision of the future.

## **Who Should Participate in a Pretrial Restorative Justice Circle?**

- A defendant who is pending sentencing or BOP self-surrender/incarceration who
  - holds him/herself accountable for their behavior;
  - wants to repair harm caused to others; and
  - wants to create a plan for successful preentry and reentry.
- Family members, friends, and loved ones
- Court representative(s) (Pretrial Services Officer)
- Other support members from the community

## **How To Apply for the Pretrial Restorative Justice Circle**

A pretrial defendant pending sentencing or self-surrender/incarceration will complete the application. The defendant will specify the person(s) with whom healing is sought and any professional support members who may contribute to the restorative process.

## **What is the Approval Process?**

For incarcerated defendants, applications can be obtained from the Reentry Coordinator at the Federal Detention Center – Honolulu. Otherwise, applications can be obtained from the U.S. Pretrial Services Office.

The application is completed by the defendant and forwarded/returned to the Pretrial Services Office for the initial review.

The Pretrial Services Office will contact the defendant's attorney to obtain his/her consent to proceed.

The Pretrial Services Office will obtain the approval of the judge when defendants are pending sentencing or on pretrial release. If the defendant has already been sentenced and remanded to custody, the Pretrial Services Office will provide notice to the judge.

The Pretrial Services Office will contact the Assistant U.S. Attorney to provide notice of the request. If the circle potentially includes a named victim, the Victim-Witness Coordinator will be consulted.

Depending on the timing and location of the circle, the Pretrial Services Office will provide notice to the Federal Detention Center (FDC), U.S. Marshals Service (USMS), and/or any other agency or person as needed.

If approved for participation in the circle, the application is forwarded to the Hawai'i Friends of Restorative Justice (HFRJ) for review.

### **What Happens Next?**

A defendant approved to participate in a Pretrial Restorative Justice Circle will be contacted by a facilitator from HFRJ.

The HFRJ facilitator may conduct a pre-circle interview with the defendant if feasible to explain the process, the defendant's role, and the "healing" to be accomplished. The facilitator will also confirm who the other participants of the circle will be and their relationship to the defendant.

The date and time of the circle will be scheduled taking into consideration any logistical or coordination requirements. The circles take about three hours and include food and drink when allowed.

The location of the Pretrial Restorative Justice Circle will be determined by the Pretrial Services Office. For released defendants, the circle will be held at a venue in the community. For detained defendants, the circle will be held at the FDC or other facility. When mandated by the respective facility or venue, community participants will be required to submit to a background check and/or possess valid government identification. The participants will be required to comply with any other requirements of the facility such as dress code.

The HFRJ facilitator will inform the defendant and other participants of the date, time, and location of the circle. Family members or community/professional supporters who cannot attend are invited to provide information to be read at the circle on their behalf.

### **The Pretrial Restorative Justice Circle**

The Pretrial Restorative Justice Circle will be led by trained facilitator(s) with experience working with defendants, family members, and others who have been impacted by crime and substance abuse.

In a respectful, safe, and facilitated manner, the format of the pretrial restorative justice circle is as follows:

### Welcome and Opening

The defendant opens the circle in a manner of his/her choosing and all in attendance introduce themselves.

### Purpose and Guidelines

The facilitator will explain that the purpose of the circle is for reconciliation and healing. Participants will be asked to speak one at a time and respect confidentiality.

### Accomplishments

The defendant shares what they are most proud of having achieved, especially since commencement of their federal case.

### Strengths

Participants share what they like and admire about the defendant.

### Reconciliation

The group discusses who was affected by the defendant's behavior and charges, how they were impacted, and what might be done to repair the harm.

### BREAK

### Future (Goals)

The defendant shares how they would like their life to be different from the past.

### Identifying Resources

The group brainstorms options for housing, finances, continued learning, employment, transportation, documents, emotional and physical health, leisure time, and other needs for successful pre-entry and reentry.

### Creating the Pre-entry and Reentry Transition Plans

The group works together to create a plan for the defendant's transition into prison in order to make the experience as positive and productive for the defendant and family members/loved ones. The group also identifies reentry goals and timetable.

### Determining Follow-up

The defendant and facilitator will schedule a follow-up circle/contact if desired.

### Circle Closing

The group compliments the transitioning person. The defendant is asked to share how the circle process was for her/him. Participants are asked to complete a circle survey for research purposes.

## **Written Plan**

Upon conclusion of the Pretrial Restorative Justice Circle, the facilitator completes a written plan that includes a description of the defendant's strengths, and the pre-entry and reentry goals and timelines. A copy of the plan is provided to the defendant and Pretrial Services Office. If incarcerated, the plan will be forwarded to the defendant through the Reentry Coordinator at the FDC.

A copy of the report is generally also provided to the participant(s) of the circle considered to be the defendant's primary community support resource(s). The HFRJ facilitator will verify with the defendant to whom the report should be released.

Due to the confidential nature of the report, a copy will only be provided to other parties such as defense attorney, judge, or other agency at the defendant's request.

## **Disclaimer**

Due to limited resources, Pretrial Services will not be able to accommodate all requests to participate in a Pretrial Restorative Justice Circle.

Participation in a Pretrial Restorative Justice Circle is voluntary and for the benefit of the defendant and their loved ones. Participation or non-participation has no impact on the sentencing recommendation or decision, BOP designation, or any other legal outcome.