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February 27, 2018

Hon. John C. Anderson, Twelfth Judicial Circuit
Illinois Supreme Court Rules Committee, Chair
Administrative Office of the Illinois Courts
222 N. LaSalle Street, 13th Floor
Chicago, IL 60601

Dear Judge Anderson:

I am writing to you on behalf of myself and Cardinal Blase J. Cupich to express our enthusiastic support for the proposed Illinois Supreme Court Rule providing a privilege for parties participating in a restorative justice practice, which will be reviewed by the Illinois Supreme Court Rules Committee.

Shortly after his arrival in Chicago, at the 2015 Annual Lenten Retreat for the Catholic Lawyers Guild of Chicago, Cardinal Cupich asked for the members of the Catholic Lawyers Guild to promote the use of restorative justice practices in the courts, in the schools, and in the community. Specifically, he urged the Guild to provide assistance to the Precious Blood Ministry of Reconciliation in the Back of the Yards neighborhood of Chicago. Founded by members of the Precious Blood religious community, this Ministry sought to serve “as agents of reconciliation and healing with those in our community and our Church who have been impacted by violence and conflict.” Under the leadership of Father David Kelly, the Ministry utilized “Peace Circles” to bring together victims and those accused of crime to engage in dialogue. This process was part of a growing national movement known as the Restorative Justice Project.

Under the leadership of the Honorable Stuart Katz of the Circuit Court of Cook County’s Juvenile Justice Division and Member of the Juvenile Justice Committee of the Illinois Supreme Court, the Catholic Lawyers Guild drafted the proposed rule and accompanying commentary. The proposed rule makes communications during a legitimate restorative justice practice, as well as the fact that the restorative justice practice was convened, inadmissible in any court or tribunal. The proposed rule also delineates exceptions to the privilege and circumstances under which the privilege may be waived, similar to the well-accepted tenets of attorney-client privilege.



By adopting the proposed rule, the Illinois Supreme Court would act as a leader in the development of restorative justice policies in the United States. Even where courts or legislatures have codified restorative justice principles or programs within their criminal, juvenile, or mediation statutes, to date, none of these jurisdictions have provided comprehensive protections for the parties who participate in restorative justice practices as called for by the American Bar Association. Academics who have studied these codified restorative justice policies and programs theorize that restorative justice practices are not being widely employed within these jurisdictions due in great part to the absence of privilege and confidentiality protections. By offering privilege between the parties and making communications issued within a restorative justice practice inadmissible in court, the Illinois Supreme Court would foster the use of restorative justice and empower communities to explore local remedies to legal conflict.

Further, the proposed rule would also allow the courts in Illinois to more readily experiment with the use of restorative justice practices. For example, the Circuit Court of Cook County recently launched the Restorative Justice Community Court in North Lawndale, where youthful defendants take accountability for their actions and then work out an agreement with the person harmed and the community. Cardinal Cupich has been a vocal supporter of restorative justice programs like the one described above “so that perhaps at the neighborhood level we will be able to provide resource hubs so that they can have the pattern of violence broken on the local level.” The proposed rule would inevitably result in more individuals agreeing to participate in this court-sanctioned restorative process.

For all of the above reasons, Cardinal Cupich and I urge the Rules Committee to recommend to the Illinois Supreme Court adoption of the proposed rule providing a privilege for parties participating in a restorative justice practice. We believe that this privilege is a necessary element for meaningful engagement in any restorative justice practice, and we see the adoption of this rule as a significant step toward building more just and peaceful communities.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Kurkel'.

William R. Kurkel
General Counsel of the Archdiocese of Chicago

WRK:dr

cc: Hon. Thomas More Donnelly, President of the Catholic Lawyers Guild of Chicago