

Feb. 28, 2023, Bilmes Goldstein & Walker, Honolulu Star Advertiser, draft

Communities better at restorative justice than governments

For almost 30 years, Hawai'i Friends of Restorative Justice (HFRJ) has been studying restorative justice (RJ). We've developed and provided numerous RJ projects after collaborating with community-based organizations, government agencies and individuals to find RJ practices to fit our community's and individual's unique needs. Our work is supported by *pro bono* efforts, small donations, and grants. We have developed and provided pilot projects, measured the outcomes, and reported the results. Fifty papers have been published on our work, which has been replicated in other states and countries.

We are encouraged that 2023 Legislature has introduced bills concerning RJ and that Governor Green and Chief Justice Recktenwald both mentioned RJ in their annual speeches, but there is a need to understand more thoroughly what RJ is before mandating programs be provided by government.

Modern RJ is a community, grassroots response to the inadequacies of government in helping people address healing after being harmed from wrongdoing. RJ should be community-based, it should not be embedded in government agencies to provide.

Indigenous people worldwide, and in Hawai'i, have provided RJ practices for centuries, while Western cultures adopted modern RJ in the 1970s. There was a need to access justice in response to the government's approach, which mainly relied on punishment, autocratic and adversarial systems to address injustice. Harmed people lack a voice in the Western system where lawyers and judges control who participates in court. Aside from victim impact

statements, there is little opportunity for harmed people to meaningfully participate in the criminal legal system.

At least half of those hurt by crime want to engage in RJ practices and communicate directly with those who harmed them. Embedding RJ in government — and especially prosecutor’s offices — wastes resources on minor offenses instead of the serious ones, for which RJ is most helpful to address healing.

Senate Bill 903 is contrary to what makes RJ successful. If enacted, the state Attorney General’s office, in coordination with all the prosecutor’s offices statewide, would be mandated to provide RJ. This would be a mistake. RJ is currently embedded in the Hilo prosecutor’s office. Unsurprisingly, we understand that over a six-year period Hilo’s law enforcement office received about 1200 referrals; but only 197 were provided RJ. Most of those cases concerned minor offenses, even though RJ is best used for serious offenses.

Our community should be given the opportunity to consider how RJ would best be provided to fit its needs. This is a community question that government cannot answer alone. One way to help our community determine how RJ should be applied could be through the legislature funding of the Ho’okaulike criminal legal institute at the Richardson School of Law, University of Hawai’i, as described in House Bill 877. The funds envisioned for law enforcement offices to provide RJ, which will probably cost over \$500,000, should go to Ho’okaulike instead. This institute should use the funds to create a community grant program and award them to community-based organizations to explore and determine how RJ can work best for our community. The information learned from these projects, generated by the community to discover what will best serve our needs, could help seed robust RJ practices in our state.

Instead of mandating that RJ be provided by law enforcement agencies, whose failure at helping people heal is what led to the modern restorative justice movement, the legislature should respect the grassroots nature of RJ and serve our community in finding the best ways to provide it. Senate Bill 903 is a good first step, but it needs to be amended to reflect this understanding.



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