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A summary of: New Zealand Court-Referred Restorative Justice Pilot: Evaluation

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Introduction

New Zealand is internationally recognised as a leader in restorative justice and as such this evaluation of the court-referred restorative justice pilot is an important component of the body of information being collected on this process.

The court-referred restorative justice pilot started at the end of 2001 in Auckland, Waitakere, Hamilton and Dunedin District Courts. The pilot built on initiatives such as the youth justice system's family group conferences and community-based programmes that pioneered restorative justice in this country.

Since the pilot began, the context within which restorative justice operates has evolved significantly, including the statutory recognition given to restorative justice processes in the Sentencing Act 2002 and Victims Rights Act 2002, and through the production of best practice guidelines (*Restorative Justice in New Zealand: Best Practice*, Ministry of Justice, May 2004).

The evaluation examined the extent to which the following objectives were met:

- Increased resolution of the effects of crime for victims who participate in restorative justice conferences;
- Increased victim satisfaction with the criminal justice process; and
- A reduced rate of re-offending by offenders referred to restorative justice conferences compared with offenders dealt with through conventional criminal justice processes.

The extent to which the pilot improved outcomes for Maori and Pacific victims and offenders was to be examined, and the evaluation also aimed to provide information on the operation and other impacts of the scheme.

Methodology

The evaluation covered the 539 cases (577 offenders) referred for restorative justice conferences between 4 February 2002 and 3 February 2003 and the 192 conferences held. It drew data from a wide variety of sources.

- Survey forms were sent to all participants and facilitators.
- Offenders and victims referred to conferences were interviewed after the conference (181 victims and 160 offenders), after the offender's sentence (167 victims and 143 offenders) and 12 months after the conference (154 victims and 102 offenders).
- For 18 conferences, all participants were interviewed and case studies prepared.
- Ninety conferences were observed.
- Questionnaires were sent to around 100 key informants during the first year of the evaluation and a follow-up questionnaire was sent out 12 months later.
- Various documentation and other data was examined (for example, the conference reports, judges' sentencing notes, and costs).
- Ninety offenders and 90 victims whose cases were dealt with in Wellington, Lower Hutt or Porirua District Courts (and who did not take part in a restorative justice process) were interviewed after their court hearing and were re-interviewed 12 months later (referred to in this document as court comparison victims and offenders).



- An initial analysis of reconviction by conferenced offenders and matched control samples was also conducted, as was an analysis of the sentencing of conferenced offenders and matched control groups.

Description of the pilot

The pilot provided restorative justice conferences between victims and offenders, and their support people, in cases of moderately serious offending by adults. The pilot aimed, through restorative justice conferences, to provide an opportunity for victims to have a say and for offenders to take responsibility for putting things right. Agreements reached at restorative justice conferences involved, for example, payment of money to victims, attendance by offenders at courses, or offenders carrying out specific work. The pilot covered all property offences with a maximum sentence of no less than two years imprisonment, and other offences with maximum sentences of between two and seven years. Domestic violence offences were specifically excluded from the pilot.

Where an offender pleaded guilty to an offence in that range, the judge was able to refer the case for restorative justice. A restorative justice coordinator employed by the court met the offender to confirm they were willing and able to participate safely in the restorative justice process. Appropriate cases were referred to facilitators from community-based provider groups contracted by the Ministry of Justice.

A facilitator then met the victim and offender separately, and convened a conference if both victim and offender were willing and able. A report on the conference was provided to the judge at sentencing. Judges chose whether or not to incorporate into the sentence all or part of any agreement reached. The judge could also choose to adjourn the case for the restorative justice agreements to be carried out. In those cases, a report was provided to the judge on completion of the agreements and the offender was subsequently discharged or sentenced.

Participation in a restorative justice conference was voluntary for both victims and offenders, and only 36 percent of the 577 offenders referred by judges had a restorative justice conference. This was primarily because of victims choosing not to participate.

Assessment of effectiveness of the pilot in meeting its objectives

1 Increased resolution of the effects of crime for victims

At the initial evaluation interview 92 percent of victims said they were pleased they took part in a court-referred restorative justice conference and three-quarters felt better as a result of taking part. Close to 90 percent of victims could immediately recall the conference 12 months after it, with 67 percent first recalling positive features.

The evaluation also found that:

- at the follow-up interview, more than half of the pilot victims said that the offence was all behind them (this is similar to the results for the court comparison victims) and half of these pilot victims said that participation in the court-referred restorative justice conference had helped them put the offence behind them
- eighty-three percent of pilot victims said that nothing had happened since the conference to make them regret taking part
- almost three-quarters of the pilot victims said that their offender understood how they felt; and around two-thirds said that their offender had been made accountable and had shown the victim that s/he was sorry for the offending
- almost all the pilot victims said that their needs were met, at least partly, through the conference agreement
- at follow-up interviews 12 months after the conference, most victims were still satisfied with the conference plan, the conference overall and the sentence. Victims became less satisfied with the conference agreement if reparation was not paid in full and they believed that the tasks agreed to at the conference had not been completed.

2 Increased victim satisfaction with the criminal justice process

At the follow-up interview, more than one-third of the pilot victims said they felt more positively about the criminal justice system as a result of participating in a restorative justice conference. Most victims said their conferences enabled them to make clear the effects of the offence on them, they could say what they wanted to, and they felt involved and were treated with respect.

The evaluation also found that:

- many victims said they would recommend restorative justice conferences to others and would attend another such conference
- almost two-thirds of the pilot victims said, at the initial interviews, that they were satisfied with the sentence. However, satisfaction declined at follow-up interviews. Dissatisfaction related to wanting more reparation, a sentence of imprisonment, a longer period of imprisonment and/or the offender to lose his or her driving licence for longer. (Just over half the court comparison victims were satisfied with the sentence initially. Satisfaction with sentences also declined for this group at follow-up interviews.)
- the proportion of pilot victims giving positive ratings or making positive statements was consistently lower than that of offenders; and the proportion of pilot victims giving positive ratings or positive statements declined over time
- at the follow-up stage, 55 percent of key informants viewed the pilot as effective in meeting the needs of victims (at the earlier information collection stage this figure was 71%).

When asked in follow-up interviews if there were any ways in which the conference experience could be improved, 34 percent of victims indicated it could, with many citing follow-up with victims and follow-up to ensure reparation was paid as critical.

3 Reducing re-offending rates

The evaluation found that the reconviction rate of the conferenced offenders (32%) was lower than the average rate for the ten matched comparison groups (36%). Although small, the difference was statistically significant. (Note: A study into reconviction rates after two years is currently being undertaken. The evaluation used a one-year follow up).

Offenders with the following characteristics who attended a conference had significantly lower reconviction rates relative to the same types of offenders from the comparison groups: violent offenders, traffic offenders (driving causing death or injury), and theft/other offenders (i.e. all offenders other than fraud and burglary offenders); offenders with one or two previous proved cases; males; offenders aged 25 to 29 years or 30 to 39 years; and medium and high-risk offenders (i.e. offenders with predicted reconviction rates of 25 percent or more).

4 Other outcomes

Other evaluation findings included that:

- most Māori pilot victims and pilot offenders interviewed were satisfied with their preparation for the conference
- almost two thirds of Māori offenders and more than half of Māori victims said that culture was not an issue in relation to the conference plan. For some it was seen as relevant for the conference process to take account of cultural needs and not so relevant for the plan, however one difficulty was where the victim and offender had different cultural expectations and needs
- almost all Māori victims interviewed and all Pacific victims interviewed felt that the conference had met their needs as victims
- all Pacific victims and most Pacific offenders felt that the conference process had met their cultural needs, but many said that this was not an issue for them
- Pacific victims and offenders interviewed were generally satisfied with all aspects of the conference and sentence. This did not change much over time
- more than two-thirds of the key informants thought the pilot had had a positive impact on them professionally and personally or on their agency/department
- there was strong support among key informants for the pilot to be implemented nationally, but there was also support for changes to be made, such as widening the scope of the pilot in relation to the type of offences considered and increasing judicial and public awareness

- follow-up of conference agreements was identified as an area of concern by two-fifths of key informants including two-thirds of facilitators
- most offenders felt satisfied with their preparation for a conference and found the conference a positive experience

* fewer conferenced offenders (13.7%) were sentenced to imprisonment (this was 19% for court comparison offenders). However, money agreed to be paid by pilot offenders at conferences was in some cases higher than if it had been decided by a court.

Conclusion

The evaluation found that court-referred restorative justice conferences have the potential to increase victims' involvement in dealing with offending, though not all victims are willing or able to participate in such processes. Most of those who did were mainly satisfied with conference agreements, and had an improved understanding of why the offence occurred and its likelihood of recurrence. The report identified areas for improvement that could enhance victim satisfaction, such as improved monitoring of conference agreements and clarifying the relationship between conference agreements and sentencing. It also noted that while restorative justice can promote healing, it should not become a substitute for good support services for victims.

The evaluation also found that conferences had the potential to increase offenders' involvement in dealing with their offending. They had the opportunity to say what they wanted; they understood and agreed with decisions made about how best to deal with the offending; they saw agreements as fair; and they were satisfied with conference processes and agreements reached.

The pilot evaluation concludes that there are many reasons to feel encouraged. Overall, it found a small but statistically significant reduction in reoffending and that restorative justice can more than adequately respond to the human and emotional costs of offending for some victims.

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