

# Restorative Justice

## INVESTMENT BRIEF

Restorative Justice (RJ) is a process where offenders and victims meet to discuss the impact of the offence on the victim and how to right the wrong. While preventing reoffending is not the primary aim, there is clear evidence that RJ reduces reoffending.

### OVERVIEW

- The latest reviews of high quality international evidence have found that restorative justice (RJ) conferencing reduces reoffending.
- This conclusion is supported by robust research from New Zealand.
- The latest results from New Zealand research show that for every 15-20 low-risk offenders participating in a conference, one fewer will be reconvicted.
- RJ can be cost-effective, particularly when used as a substitute to the relatively more costly traditional court process.
- The international evidence shows that RJ also provides benefits for some victims.
- Provision in New Zealand is growing, but there remains extensive scope for expansion.
- The combination of strong evidence and unmet demand suggest that this is a good area for new investment.
- The key questions for those seeking to expand RJ relate to the scale and pace of expansion, and the kind of market settings best suited to delivering RJ at scale while maintaining quality.

- Any expansion would also need to take care to avoid pressuring victims to attend, or expanding to cover victims or offenders for whom RJ is inappropriate.

### INVESTMENT CLASS SUMMARY

Evidence rating:	Strong
Unit cost:	\$2,500 average per completed pre-sentence conference
Effect size (number needed to treat):	For every 15-20 low-risk offenders participating in a conference, one fewer will be reconvicted, on average
Current spend:	\$9.084m per year (15/16 budget)
Unmet demand:	Large

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## WHAT IS RESTORATIVE JUSTICE?

### International evidence

Restorative Justice is a broad concept with no agreed definition, and significant overlap with other concepts such as community justice. Some definitions include:

*‘a process that brings together all the parties affected by an incident of wrongdoing to collectively decide how to deal with the aftermath of the incident and its implications for the future’.*<sup>i</sup>

*‘a focus on repairing relationships between victims, offenders, and the community in a way that is responsive to considerations of justice.’*<sup>ii</sup>

In its broadest conception, some supporters of RJ see it as a platform for total reform of the justice system.

In a more limited sense, RJ is also a type of service that is provided, either as a complement or substitute for traditional justice processes.

This Investment Brief only considers the narrow view of RJ services, without providing comment on the more complex issues posed by RJ as a general policy concept.

More specifically, the most common form of RJ service provided in New Zealand is the RJ conference. In RJ conferences, offenders and victims are brought together with their support networks and perhaps community representatives to discuss an offence and attempt to arrive at a shared view of how to right the wrong.

One of the main purposes of this form of RJ is inviting an offender to express remorse so that victims can gain a sense of closure.

Internationally, RJ services are delivered in many forms including:

- Offender-victim mediation (direct or indirect), and offender-victim reconciliation meetings
- Reparative panels
- Community justice panels and circle sentencing
- Restorative reintegration services, such as Circles of Support and Accountability for sex offenders.<sup>iii</sup>

Problem-solving courts, such as drug courts and domestic violence courts, can also be seen as a form of hybrid between restorative and traditional court-based models, by attempting to open up court processes to a more informal and inclusive mode of operation.

This diversity of approaches reflects the range of viewpoints held regarding RJ. Some see RJ as a way to more effectively meet the needs of victims, others as a way to improve offender rehabilitation and reintegration, and still others a way to improve community engagement and moral authority.<sup>iv</sup>

This Investment Brief focuses on the effect that RJ conferences have on reoffending, but crime prevention is only one of the many aims of RJ conferencing. This brief should not be read in a way to suggest there are not broader reasons to invest in RJ beyond the effect on reoffending.

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## DOES RESTORATIVE JUSTICE REDUCE CRIME?

### International evidence

Until recently, researchers have disagreed about whether RJ reduces reoffending due to concerns about the quality of the evidence base.

Four meta-analyses prior to 2008 demonstrated that RJ conferencing leads to lower rates of reoffending than standard processing through the courts system without RJ.<sup>v</sup> However, three other meta-analyses prior to 2008 came to the opposite conclusion.<sup>vi</sup>

Since 2008, several randomised controlled trials of RJ have been conducted, commissioned by the United Kingdom Home Office.<sup>vii</sup> These studies have substantially increased the amount of high-quality research about RJ, rendering the conclusions of the older meta-analyses out-of-date.

The first meta-analysis to take advantage of these new randomised controlled trials has been released by the Campbell Collaboration.<sup>viii</sup>

This new meta-analysis was based on ten randomised controlled trials, seven of which were from the UK, one from the US, and two from Australia. The programmes in all but three had restricted their sample to adults. There was a mixture of violent and property offenders across the studies.

The main finding from this meta-analysis was that in comparison to standard criminal justice processing without RJ conferencing, assignment to a restorative conference reduces subsequent offending, with an average effect size of  $d=0.155$ .

This means that for a typical group of offenders of whom 20% will reoffend, RJ reduces the proportion who reoffend to 16%.

Because the researchers who conducted this meta-analysis limited their study to randomised studies evaluated on an intention-to-treat basis, these findings can be considered quite robust.

### New Zealand Evidence

The New Zealand literature on RJ is relatively generous in quantity and quality in comparison to that for many other investment types. There have been several detailed reports published about the effectiveness of RJ in New Zealand.

The most recent report was published by the Ministry of Justice and compared the reoffending rates of adult offenders who completed a RJ conference with statistically matched controls.

The main results from this report were that for offenders who participated in a Police or court-referred RJ conference, 34% reoffended over the following 12 months. This is in comparison to 39% of otherwise similar offenders who did not participate in an RJ conference.<sup>ix</sup>

This reduction in reoffending is in line with the international evidence. The reduction in reoffending was larger for those offenders who had committed property damage and dishonesty offences.

The general conclusion that RJ reduces reoffending is echoed in previous studies produced or commissioned by the Ministry of Justice.<sup>x</sup>

In combination, the international and New Zealand research allow us to safely conclude that RJ conferences for adult offenders reduce reoffending.

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## WHEN IS RESTORATIVE JUSTICE MOST EFFECTIVE?

The most recent evidence shows that:

- RJ is potentially more effective at reducing reoffending among violent offenders than among other offenders.<sup>xi</sup>
- RJ is less effective at reducing reoffending among young offenders.<sup>xii</sup>

Further, older studies showed that:

- Compulsory (court-ordered) RJ is ineffective at reducing reoffending
- RJ is effective only for low-risk offenders.<sup>xiii</sup>

The point about low-risk offenders is counter-intuitive, because in general treatment programmes tend to be more effective for high-risk offenders.<sup>xiv</sup>

James Bonta suggests two reasons why low-risk offenders may be better suited to RJ.<sup>xv</sup> First, the effectiveness of RJ on reoffending may be better explained by these individuals avoiding the harm of formal justice system processing. There is some evidence that contact with the formal sanctioning system can increase risk of reoffending.<sup>xvi</sup>

Second, the theory of reintegrative shaming suggests that restorative approaches are effective because they reconnect offenders to positive sources of social support. To the extent that lower risk offenders have stronger social supports, it may be easier to reconnect them with those supports than for higher-risk offenders who lack social support.

RJ conferences can be delivered by social workers, court employees, community organisers, police, teachers, and many other individuals. The evidence does not conclusively identify which professionals are most effective in delivering these services. However, there are

some indications that the police-delivered services may be more effective.<sup>xvii</sup>

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## WHAT OTHER BENEFITS DOES RESTORATIVE JUSTICE HAVE?

### Victim satisfaction

In New Zealand and elsewhere, RJ is often framed as primarily about providing an improved service to victims.

Survey evidence from both NZ and overseas suggests that a majority of victims who participate in RJ conferences find it a satisfying experience, feel better afterwards, and would recommend the process to others in a similar situation.<sup>xviii</sup>

Further, the recent Campbell Collaboration meta-analysis found that RJ increases victim satisfaction and reduces desire for revenge.<sup>xix</sup>

In a limited number of cases victims can feel worse after attending an RJ conference. Survey evidence from NZ suggests that this is more likely when the conference is poorly run, particularly when the:

- victim's concerns and questions are not treated seriously
- facilitator is perceived as not being fair to everyone in the conference
- facilitator does not contact the victim after the conference
- offender fails to complete the plan agreed at the conference.<sup>xx</sup>

International evidence suggests that additional factors that can lead to victim dissatisfaction include:

- the victim being pressured into attending
- the victim being offered insufficient support to feel safe and not intimidated by the offender
- the offender not accepting responsibility for his or her actions

- the victim being offered insufficient information about the process.<sup>xxi</sup>

While negative outcomes appear relatively uncommon, these findings underline the importance of maintaining high levels of service quality in order to protect individuals against revictimisation. It also seems important that participation is fully voluntary.

Close involvement or delivery by police may also be a way to improve victim satisfaction, although careful management is needed to ensure that this is not a barrier to developing appropriate involvement from the offender.

### Health outcomes

There has been limited research on the impacts of RJ on victims. Recent trials of RJ conferences led by police officers between burglary and robbery victims and their offenders found that post-traumatic stress symptoms were significantly lower among victims assigned to RJ in addition to conventional justice treatment than to customary criminal justice processing alone.<sup>xxii</sup>

The experiment demonstrates that the justice sector, as well as having a role in preventing crime and harm, can also play a part in remedying harm that has occurred. It also suggests an area of focus for RJ worthy of exploration.

### Other outcomes

RJ has not been evaluated for its effect on any other social outcomes such as educational achievement, employment and earnings, or family functioning.

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## CURRENT INVESTMENT IN NEW ZEALAND

### Scale and type of provision in New Zealand

Judge Carruthers provided a recent and thorough overview of RJ in New Zealand. He describes its initial development in the field of youth justice through the landmark 1989 Children, Young Persons and Their Families Act, through expansion into the adult jurisdiction and into the education system.<sup>xxiii</sup>

This brief considers only the adult system, as Family Group Conferences are not solely a restorative conference.

The adult system is small in scale, though is being gradually expanded. Conferencing can happen at the pre-trial stage, pre-sentence, and post-sentence, though pre-sentence is most common.

It can be offered alongside a police caution, as part of a sentence, or after a sentence. New Zealand is also beginning to trial a small amount of restorative reintegration, primarily for high-risk sex offenders, through a programme called 'Circles of Support and Accountability'.<sup>xxiv</sup>

In the year to 30 June 2015, 1,569 pre-sentence conferences were completed. In the year to 30 June 2016, this figure is projected to increase to 3,500, at which point the annual investment will be about \$9.084m. The average total cost for a conference is approximately \$2,500, with specialist conferences for family violence estimated to cost about \$2,900 and sexual offending conferences costing an average of \$4,500.

Recent legislation creates an expectation that judges refer all eligible cases for RJ conferencing to be assessed for suitability, which appears to have increased demand. RJ has also been used for cases of domestic violence and sexual offending.

The Department of Corrections provides post-sentence conferences on an ad-hoc basis, but has found it difficult to recruit more than a very small number of offenders to participate. This suggests that any effort to expand the use of RJ may be limited by the number of offenders willing to participate.

It is difficult to estimate the size of unmet demand in the adult system, because relatively few cases are currently considered for conferencing and eligibility rules can be complex.

It is estimated that only about 6% of cases that are before the courts and that could be referred for RJ actually are referred.<sup>xxv</sup> International survey evidence suggests that up to half of victims would be interested in a restorative meeting with the offender.<sup>xxvi</sup>

Applied to the annual figure of over 100,000 prosecutions in New Zealand, this suggests that if all victims were offered a restorative conference by default in New Zealand, demand would be much greater than can be met by the current scale of provision, even after the planned expansion.

In any expansion of RJ conferencing, it would be important to maintain the principle of voluntariness that is considered vital both here and internationally.<sup>xxvii</sup> Not all victims and offenders will want to participate in RJ conferencing.

## Sector capability

There are likely to be operational barriers to further expansion of RJ conferencing. For example, commonly cited issues include:

- awareness and support from key stakeholders such as lawyers and judges
- the importance of integrating restorative processes smoothly into court proceedings so as not to slow them down
- maintaining quality of provision

- ensuring that an expanded service does not pressure victims into participate
- ensuring that a presumption of RJ does not lead offenders to participate in the expectation of more lenient treatment, if this results in worse outcomes for victims.



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## BROADER CONSIDERATIONS

### Offence type

One of the main controversies about RJ concerns the types of offending for which it is appropriate.

RJ is mostly used for less serious offending, but many advocates suggest it is perhaps even more suited to serious violent crimes.<sup>xxviii</sup>

One systematic review of suggested that RJ appears to work more effectively at reducing crime when applied to more serious offences.<sup>xxix</sup>

As RJ is starting to be applied to family and sexual violence, care is being taken to reinforce principles such as the emotional and physical safety of victims.

Although there is potential for revictimisation in these cases, local qualitative research provides some indication that services can be delivered safely in these circumstances.<sup>xxx</sup>

Another issue is whether RJ is appropriate for offences with no named victim, such as drink driving and drug dealing. Although it is fairly common for restorative practices to be applied without a victim present, particularly in the case of Family Group Conferences for young offenders, we did not discover any evidence as to the effectiveness of RJ in these circumstances.

### Procedural protections and consistency

One major downside with RJ, as with community justice more generally, is the potential for insufficient protection of offenders' rights by sidestepping the legal processes that provide many protections against both wrongful conviction and disproportionate punishment.<sup>xxxi</sup>

To some extent these concerns can be met with appropriate service design, such as allowing an offender to bring a lawyer to the conference, and

by making any agreement from a conference subject to ratification by a court.

The voluntary nature of conferencing can also improve protection, by providing an offender the opportunity to walk away at any time and use more traditional processes.

However, if concern remains after allowing for these protections, then a trade-off may need to be acknowledged and confronted between the crime reduction and other benefits offered by RJ on the one hand, and legal protection of rights on the other.

### Other benefits

Advocates of RJ have identified other potential benefits of RJ. These include the possibility of:

- increasing the rate at which cases end in a finding of guilt<sup>xxxii</sup>
- being more responsive to Māori by meeting the need to restore an offender's mana<sup>xxxiii</sup>
- reducing the costs associated with traditional processing and punishment of offenders.<sup>xxxiv</sup>

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## EVIDENCE RATING AND RECOMMENDATIONS

Each Investment Brief provides an evidence rating between Dubious and Very Strong.

According to the standard criteria for all Investment Briefs<sup>1</sup>, the appropriate evidence rating for RJ is Strong.

As per the standard definitions of evidence strength outlined in our methodology, the interpretation of this evidence rating is that:

- there is robust international and local evidence that investment tends to reduce crime
- the investment is likely to reduce crime if implemented well
- the investment could benefit from additional evaluation to confirm the investment is reducing crime and to support fine-tuning of the investment design.

Combined with the high-level of unmet demand, the strong evidence base makes this a good area for new investment.

The challenge for New Zealand is one of implementation; moving beyond the boutique scale of delivery that has characterised delivery in the adult justice system to date.

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<sup>1</sup> Available upon request from the author



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## FIND OUT MORE

### Email

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### Recommended reading

Braithwaite, J. (1999). Restorative justice: Assessing optimistic and pessimistic accounts. In M. Tonry (ed). *Crime and Justice: A Review of Research*, 25. University of Chicago Press.

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### Citations

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- <sup>i</sup> Marshall 1999  
<sup>ii</sup> Ward and Langlands 2009  
<sup>iii</sup> Menkel-Meadow 2007, Bazemore and Maruna 2008.  
<sup>iv</sup> Fox 2013a, b  
<sup>v</sup> Nugent et al 2004, Latimer et al 2005, Bonta et al 2006, and Lipsey 2007, and the systematic review of Sherman and Strang 2007  
<sup>vi</sup> Farrington and Welsh 2005, Aos et al 2006 and Strang and Sherman 2007,  
<sup>vii</sup> Shapland et al 2008  
<sup>viii</sup> Strang et al 2013  
<sup>ix</sup> MOJ 2016  
<sup>x</sup> Triggs 2005, Paulin et al 2005a,b, Maxwell et al 1999, MOJ 2011, 2014  
<sup>xi</sup> Strang et al 2013  
<sup>xii</sup> Strang et al 2013, Livingstone et al 2013  
<sup>xiii</sup> Bonta et al 2006  
<sup>xiv</sup> Gendreau et al 2006  
<sup>xv</sup> Bonta et al 2006  
<sup>xvi</sup> Petrosino et al 2010  
<sup>xvii</sup> Sherman and Strang 2007  
<sup>xviii</sup> MOJ 2011, Wemmers and Canuto 2002 and Umbreit et al 2002

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- <sup>xix</sup> Strang et al 2013  
<sup>xx</sup> MOJ 2011  
<sup>xxi</sup> Wemmers and Canuto 2002  
<sup>xxii</sup> Angel et al 2014  
<sup>xxiii</sup> Carruthers 2012  
<sup>xxiv</sup> van Rensburg 2012  
<sup>xxv</sup> Internal communication  
<sup>xxvi</sup> Wemmers and Canuto 2002  
<sup>xxvii</sup> De Mesmaecker 2013  
<sup>xxviii</sup> Sherman and Strang 2007, Wemmers and Canuto 2002  
<sup>xxix</sup> Sherman and Strang 2007  
<sup>xxx</sup> Julich et al 2010 and Kingi et al 2008  
<sup>xxxi</sup> Marshall 1999  
<sup>xxxii</sup> Sherman and Strang 2007  
<sup>xxxiii</sup> Fox 2013b  
<sup>xxxiv</sup> Sherman and Strang 2007, Shapland et al 2008

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## SUMMARY OF EFFECT SIZES FROM META-ANALYSES

Meta-analysis	Treatment type	Reported average effect size	Number of estimates meta-analysis based on	Percentage point reduction in offending (assuming 50% untreated recidivism)	Number needed to treat (assuming 50% untreated recidivism)
Bradshaw and Roseborough (2005)	Mediation and conferencing for juveniles	d=0.26(NS)	19	0.12	9
Bonta et al (2006)	Community Forum	$\Phi$ =0.11*	5	0.10	10
Nugent et al (2004)	Victim-offender mediation for youth	OR=1.43*	15	0.09	11
Bonta et al (2006)	Adult	$\Phi$ =0.09*	16	0.08	12
Bonta et al (2006)	Family Group Conference	$\Phi$ =0.09*	16	0.08	12
Bonta et al (2006)	Victim offender mediation	$\Phi$ =0.08*	40	0.07	14
Bonta et al (2006)	Restitution	$\Phi$ =0.08*	55	0.07	14
Strang et al (2013)	Face-to-face conferencing <sup>2</sup>	d=0.155*	10	0.07	14
Latimer et al 2005	All RJ	$\Phi$ =0.07*	32	0.06	16
Bonta et al (2006)	Community service	$\Phi$ =0.07*	57	0.06	16
Bonta et al (2006)	All restorative	$\Phi$ =0.07*	67	0.06	16
Lipsey (2007)	Restorative mediation (juveniles)	$\Phi$ =0.062(NR)	14	0.06	18
Bonta et al (2006)	Juvenile	$\Phi$ =0.06*	50	0.05	18
Lipsey (2007)	Restorative programs (restitution - juveniles)	$\Phi$ =0.045(NR)	32	0.04	25
Farrington and Welsh (2005)	All restorative	d=0.08(NS)	10	0.04	28
Strang and Sherman (2007)	All restorative justice	d=-0.05(NS)	2	0.02	44
Farrington and Welsh (2005)	Restorative conferences	d=0.03(NS)	6	0.01	74
Livingstone et al (2013)	Conferencing for youth	OR=1 (NS)	4	NA	NA
Aos et al (2006)	Restorative justice for lower risk adult offenders	d=0.00(NS)	6	NA	NA

\* Statistically significant at a 95% threshold

OR=Odds ratio

d=Cohen's d or variant (standardised mean difference)

$\Phi$ =phi coefficient (variant of correlation coefficient)

NA=Not applicable (no positive impact from treatment)

NS: Not significant

NR: Significance not reported

RRR: Relative risk

<sup>2</sup> Most reliable study to date