

Review of the Delivery of Restorative Justice in Family Violence Cases by Providers funded by the Ministry of Justice

by

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Executive summary

As described in Chapter 1, in June 2006, the Ministry of Justice contracted researchers from the Crime and Justice Research Centre, Victoria University, to undertake a review of the delivery of restorative justice in family violence cases.

The objectives of the review were to describe the nature and extent of the delivery of restorative justice in family violence cases across the restorative justice programmes operating at five sites including the following:

- how selection of cases occurs;
- assessment of appropriateness of each referral;
- how the consent of participants is obtained;
- detail of the restorative justice processes;
- safety of participants;
- the outcomes for individuals (both victim and offender) from the processes – e.g. participation in therapeutic programmes, sentencing outcomes, etc); and

Methodology

A mixed methods approach was utilised for the review (see Chapter 2) that included analysing a national survey of restorative justice providers, reviewing and analysing reports from providers, interviewing key informants and victims and offenders, observing restorative justice processes, and collating information on referrals. Qualitative and quantitative data were triangulated to assess the appropriateness of the use of restorative justice processes in family violence cases.

National survey of restorative justice providers

Chapter 3 presents an analysis of a national survey of restorative justice providers carried out by the Ministry of Justice in 2006. Twenty-four of the 30 providers surveyed responded about their use and practice of restorative justice processes in family violence cases. The main findings were:

- Twenty one (or 88%) of these providers accepted referrals for restorative justice cases in family violence cases. Fifty-two percent used a victim-offender process, 29% used a community panel process, and 10% used a combination of victim-offender and community panel processes.
- Family violence did not make up the majority of their caseloads. Approximately one half estimated that 1-10 percent of the cases referred to them involved family violence and one quarter estimated that 11-25 percent of the cases referred to them involved family violence.
- Providers who had accepted restorative justice cases in family violence cases had received referrals which included sexual assaults/violation (including against children), physical assaults, threats, and wilful damage.
- Most commonly the Court (n=17), defence lawyers (n=15), and the Police (n=9) referred family violence cases to restorative justice providers.

- Most restorative justice providers (86%) required victim consent before a case went to a conference or panel.
- Providers thought that particular care needed to be taken with the screening of referrals, pre-conference preparation, and conference facilitation in order for a restorative justice meeting to happen safely in family violence cases.
- Providers said they worked appropriately cross culturally through recruitment of facilitators, community panel members, support people and Board members from a range of ethnic backgrounds, including from tangata whenua, Pacific peoples and from peoples of other ethnic groups.
- Most providers (81%) indicated that their conferences or plans usually recommended that offenders be referred to other programmes or services.
- Most commonly the coordinator took responsibility for monitoring offenders' compliance with their plans, including attendance at programmes or services and payment of agreed reparation to the victim.
- Two-thirds of providers who accepted referrals for family violence cases sought feedback from conference participants as to their satisfaction with processes.

The programmes at five sites

The restorative justice programmes at the five sites selected for the review are described in Chapter 4.

The programme providers at the five sites chosen for the review were: Nga Whare Waatea Trust in South Auckland, the Horowhenua Restorative Justice Programme in Levin, Nelson Restorative Justice Services located in Nelson, Restorative Justice Services in Christchurch and Project Turnaround in Timaru.

The following is a brief overview of the number of meetings held at each of the five sites during 2005/2006 and the stage at which the restorative justice process took place

- **Nga Whare Waatea:** six meetings; five pre-sentence and one post-sentence to inform a parole board hearing;
- **Horowhenua Restorative Justice Programme:** 15 meetings; all pre-sentence;
- **Nelson Restorative Justice Services:** 14 meetings; all pre-sentence;
- **Restorative Justice Services Christchurch:** 15 meetings; 12 pre-sentence, three community referrals – two for historic sexual abuse (no charges laid) and one to arrange the division of property after a relationship break-up; and
- **Project Turnaround:** 19 meetings; all pre-trial community panel diversion.

The processes followed at the five sites are briefly described below.

- At two of the sites, Levin and Nelson, the restorative justice process used is a community panel pre-sentence model which involves two panel members and a facilitator. At two other sites, Nga Whare Waatea and Christchurch, the restorative justice process is a victim-offender meeting with a facilitator and a co-facilitator. At Nga Whare Waatea the process takes place either pre or post-sentencing. In the case of Christchurch the restorative justice

process can take place pre or post sentencing or where there is no formal charge. At the fifth site, Timaru, the process is one of community panel diversion and involves the Police, panel members and a facilitator.

- Referrals come to programmes from a variety of sources. Referral sources include lawyers, Judges, Community Probation Officers and Victim Advisers. Christchurch accepts referrals from the community.
- All five programmes approach family violence referrals with caution and assess referrals on a case-by-case basis. Nelson and Horowhenua will not accept referrals where there has been a breach of a protection order.
- All programmes require the victim's consent before the restorative justice process can go ahead and encourage the participation of victims. Horowhenua and Nelson require the victim to be present at the meeting.
- All programmes address cultural issues by endeavouring to match the ethnicity of facilitator and or panel members with the ethnicity of participants and referring participants to culturally appropriate violence prevention programmes where possible.
- Facilitators consider safety at referral time, where they assess referrals on a case by case basis. Christchurch has a specific protocol setting out the areas for the facilitators to discuss with family violence victims and offenders in preparation for the meeting.
- All programmes encourage the victim and offender to bring support to the meeting. However, Nelson requires both victim and offender to have support at the meeting for the restorative justice process to go ahead.
- All five programmes advise victims and offenders of the rules for the meeting and what would happen if these were breached. At Christchurch, participants are required to sign an agreement which sets out the rules for the meeting. In all cases the meeting would be stopped if anyone felt unsafe and did not want to carry on with the process.
- During 2005/2006 all five programmes used restorative justice processes for the offences of male assaults female and assault/common assault. Other offences for which restorative justice processes were used at specific sites included: arson, grievous bodily harm; assault with intent to injure; assault on a child; an historical sexual offence, conspiracy to murder, assault with a weapon and dangerous driving causing injury.
- The restorative justice meetings held for family violence cases in Horowhenua, Nelson and Timaru resulted in agreements which offenders are required to complete before the disposition of their case.
- At Nga Whare Waatea agreements take the form of suggestions of what the offender needs to do to 'heal the harm' within the whānau or family. At Christchurch agreements reached in family violence cases take the form of suggestions or ideas as to what 'should happen' for the best outcomes. In both of these sites, if cases have been referred from the Court and take place pre-sentencing, the outcomes or agreements are included in a report to the sentencing Judge.

- Agreements arrived at with which offenders had to comply, commonly included attendance at a violence intervention programme and sometimes community work or donations. Monitoring of tasks was predominantly carried out by the restorative justice facilitator.
- Where recommendations for programmes are taken up by the sentencing Judge the monitoring of programme completion takes part through the Court process (ie either through delaying sentencing until the offender has complied with requirements or making programme attendance part of the sentence to be monitored by the Department of Corrections.)
- Sentences for offenders in family violence cases where restorative justice process had been used commonly included discharge without conviction or charges being withdrawn by Police Prosecutions for those cases referred as part of the community panel diversion programme.

Views of victims and offenders

A small number of victims and offenders who had participated in a restorative justice meeting for family violence at one of the five sites were interviewed. These interviews are described in Chapter 5. The main findings were

- Most victims and offenders said that they took part in restorative justice meetings voluntarily for a variety of reasons which included to: sort out the issues that had led to the offending; be able to discuss their differences in a safe environment; and to get closure if they were no longer in a relationship
- In particular, victims wanted the offender to get help to change their behaviour and offenders wanted to take responsibility for their actions and make amends to the victim.
- Most victims and offenders found the restorative justice meeting was a positive experience. They generally understood what was happening and felt involved; felt that they had been treated with respect; had had the opportunity to express their views; and were not too scared to say what they wanted to.
- Where participants had support at the meeting (50% of offenders and 37% of victims) they found this useful.
- Few victims or offenders had anything bad to say about the meeting.
- The good features of the restorative justice meeting most commonly reported by victims were: the open dialogue and the healing process and being able to meet the offender in a safe supportive environment.
- The good features of the meeting most often referred to by offenders included: being able to put things right, and feeling supported and being treated with respect.
- A few victims (21%) and offenders (16%) felt that it was important that the restorative justice meeting meet their cultural needs. All bar one of this group reported that this had happened.
- Agreements reached at meetings usually included some form of counselling or programme attendance and sometimes community work or a fun social activity. Most participants said that they were satisfied with the agreement reached. However, offenders were more likely to report this than victims (93% compared with 79%).

- Offenders (68%) were more likely than victims (32%) to say that they had understood how the victim felt about the offending
- Most victims (63%) felt that the offender had been made accountable for their actions. However, approximately one half of victims felt that the offender had not been able to 'repair the harm' or make up for what they had done and a few felt that the offender had got off too lightly.
- Most victims and offenders were pleased that they had taken part in the restorative justice meeting. All offenders and most victims (84%) said that they would recommend restorative justice processes to other victims and offenders to deal with family violence. Almost four fifths (79%) of victims said that they would take part in the process again should they need to.
- Victims were slightly more likely to think that offenders still needed help to address their violent behaviour, than offenders themselves. Most (84%) offenders said that they had got help or were involved in the process of getting it
- Only two victims said they felt safer as a result of taking part in the restorative justice meeting. Most victims said that this was not an issue for them: they had either ended the relationship or they had never felt unsafe.
- Victims' views were mixed on whether or not the violence or abusive behaviour had stopped since the meeting. One third said it had whereas another third said that the violence had just changed in nature: from physical to psychological violence.
- More than one half of offenders said that they had learnt something about their behaviour and its effects on others and that they needed to change.
- Victims and offenders generally agreed that restorative justice meetings were a good way to deal with family violence, although some qualified this by saying it depended on those involved and the circumstances relating to the violence.
- Offenders were slightly more likely than victims to think that their relationship with the other party had improved since the restorative justice meeting (63% compared with 53%).

Views of key informants

A number of key informants from stakeholder groups including violence intervention programme providers, Victim Advisers, Judges, Police and lawyers across the five sites were interviewed. Their views are presented in Chapter 6. The main findings were:

- Key informants were divided in their views as to the appropriateness of using restorative justice processes with victims and offenders in family violence cases: 33% expressed unconditional support; 38% expressed conditional support, and 29% were against the use of restorative justice for family violence cases
- Key informants felt that the use of restorative justice for family violence cases was appropriate for: less serious offences; offenders who showed remorse; offenders who accepted responsibility for their offending; and victims and offenders in ongoing relationships.

- Key informants felt that the use of restorative justice for family violence cases was inappropriate for: rape and other sexual offences; serious assaults; and cases where victim was coerced into taking part by offender.
- More than one third (38%) of key informants considered that they did not know enough about the restorative justice processes used by their local programme when dealing with family violence cases to be able to comment on their performance.
- Key informants who were familiar with their local programme gave them the following ratings for their work with family violence cases: 46% working *well* or *very well*; 4% *neither well nor poorly*; and 12% *poorly* or *very poorly*
- Opponents of the use of restorative justice processes in family violence cases continually referred to the futility of a one-off meeting.
- Supporters of the use of restorative justice processes in family violence cases felt that these could provide some victims and offenders with an opportunity to come together in a less pressured environment than the Court, allow for victims to have a voice and for offenders to start to address their offending.

Summary and discussion

The objectives of the review were to describe the nature and extent of the delivery of restorative justice in family violence cases. These are discussed in turn in Chapter 7.

Selection of cases

The selection of family violence cases for restorative justice processes occurs at several levels. At the referral level, Judges, lawyers, Police, and some other criminal justice representatives, may suggest to the Judge that the offender might be a suitable candidate for restorative justice. At the restorative justice provider level, it is usually the coordinator who decides whether to proceed with the use of restorative processes by typically considering the types of offences the provider accepts, the suitability of the victim and the offender to participate and the facilitator's ability to hold a meeting in a supportive and safe environment.

Eighty-three percent of offenders reported that their first contact about restorative justice was from the restorative justice provider. Court Victim Advisers were usually the first to contact victims about restorative justice. Fifty-eight percent of victims reported this.

Almost three-quarters (71%) of key informants interviewed were in favour of the use of restorative justice processes in family violence cases, although over half of this number added caveats to their support such as the importance of facilitators skilled in the dynamics of family violence relationships and the need for clear safety protocols/guidelines.

Assessment of appropriateness of each referral

The coordinator/facilitator assesses, on a case by case basis, the appropriateness of the offender and the victim to participate in restorative justice processes. Restorative justice meetings were more likely to be held for family violence cases in circumstances where the victim wanted to continue in the relationship with the offender.

Victims and offenders said they had decided to take part in the restorative justice process because they wanted to sort out the issues that had led to the offending and they wanted to be able to discuss their differences in a safe environment; to get help for the offender and those who were no longer in the relationship, wanted closure.

Consent of participants

The offender's verbal consent to participate in restorative justice processes is usually obtained at a pre-meeting, as is that of the victim once the provider has explained their processes. Written consents are not usually obtained by coordinators/facilitators at the five sites.

Most victims and offenders said that they were comfortable being contacted about their potential participation in the restorative justice process.

Detail of the restorative justice processes

The restorative justice processes used by providers for family violence cases did not appear to differ significantly from the processes they would usually use to deal with other types of cases.

At some sites, such as Nelson, the victim must agree to be present at the meeting whereas at others, such as Timaru, this is not a requirement.

It was a common theme for offenders to offer an apology at the meeting, although they were not formally required to do so

Most victims and offenders had expectations about what would come out of the restorative justice process. These included: for the offender to realise the impact of what he had done and be made accountable and to help both parties so that this would not happen again.

Victims and offenders generally understood what was happening and felt involved, they felt they had been treated with respect and had had the opportunity to say what they wanted. Offenders had been given the opportunity to explain their actions and victims had been able to make clear the effects of the offending on them. Victims and offenders had been able to meet in a safe, non judgemental environment

In general, levels of satisfaction with the process and agreements reached were high, although offenders were consistently more likely than victims to report this. A few victims and offenders said that it was important that the restorative justice process meet their cultural needs. Only one offender said his/her needs had not been met.

Key informants also generally felt that the local restorative justice programme was effective: in involving the victim; in holding the offender accountable and in addressing the needs of the offender in relation to his/her violent behaviour.

Safety of participants

The safety of participants at the restorative justice meetings is of paramount concern to the coordinators/facilitators. The providers' consideration of safety issues begins with their assessment of the suitability to take part in a restorative justice meeting of the offenders and victims who cases are referred. If the coordinator/facilitator has any safety concerns the meeting will not go ahead.

At the meeting, additional safety elements at Timaru include the presence of a Police representative, and at Nelson include support people for the victim and offender. In Christchurch all participants are required to sign an agreement saying that they will abide by the rules set down for the meeting and there is a specific protocol setting out the areas to discuss with family violence victims and offenders prior to the restorative justice process taking place. The facilitator's experience and ability in dealing with these sorts of cases is also key. If the victim says she or he feels unsafe, the facilitator will stop the meeting, and the offender will be returned to the court to be dealt with in the usual way.

In preparation for the restorative justice meeting, approximately a third of victims and a small number of offenders said that they had been asked by the coordinator/facilitator whether or not they had any concerns for their safety if they participated. More than two-fifths of offenders said that they had been informed of the safety rules under which the meeting would be conducted - zero tolerance of abuse of any type.

A few victims said there had been a direct reference to how they would be kept safe during the meeting and how they could take a break or leave at any time if they felt things were getting out of hand. Not all victims appeared to be concerned about their safety – most assumed that they would be safe during the restorative justice process due to the general rules set down for the meeting.

Key informants generally felt that their local programme was effective in keeping the victim safe during the meeting. No key informants specifically mentioned having any concerns about the safety of participants when asked to identify the strengths and weaknesses of their local restorative justice programme.

Agreements reached at meetings)

During 2005/2006 all five programmes used restorative justice processes in family violence cases. The restorative justice meetings held for such cases in Horowhenua, Nelson and Timaru resulted in agreements which offenders are required to complete before the disposition of their case. In the case of Horowhenua and Nelson a report is provided for the sentencing Judge, who may choose to incorporate all or part of the agreement into the offender's sentence. In community panel diversion cases- ie Timaru – a report goes to Police Prosecutions who may withdraw charges if the agreement is fulfilled by the offender.

Typically, these agreements commonly included the offender's attendance at a violence intervention programme. Written apologies or community work featured less frequently. Although at Levin community work was invariably a feature of the agreement. An additional feature of Nelson agreements was that they usually included a fun element or social activity.

Although most participants interviewed said that they were satisfied with the agreement reached at their meeting, offenders were more likely to say this than victims. Most victims felt that the offender had been made accountable for their actions. Despite this almost one half of victims felt that the offender had not been able to 'repair the harm' or make up for what they had done and a few felt that the offender had got off too lightly.

Approximately two-fifths of key informants had an opinion on the nature of agreements reached at the meetings held in their area. These opinions were fairly evenly divided. Three thought that the agreements were soft; four thought they were about right and three thought they were harsh.

Sentences for family violence offenders who have participated in restorative justice processes at the five sites and who have completed their agreements, have included discharges without conviction,

convictions and discharges and orders to come up for sentence if called upon. Most of the offenders who had been sentenced said that the Judge had referred positively to the reports from the restorative justice meetings provided by programme facilitators.

Twelve key informants rated their local restorative justice programme in terms of meeting the needs of the Judges. Three quarters rated them as being effective. Judges interviewed generally concurred with this view.

Experiences of participants

The good features of the restorative justice meeting most commonly reported by victims were the open dialogue and the healing process that occurred in a non-judgemental environment and being able to meet the offender in a safe supportive environment. Good features of the meeting most often referred to by offenders included being able to put things right, feeling supported and being treated with respect. Few victims or offenders had anything bad to say about the meeting. Offenders were more likely than victims to be satisfied overall with the meeting.

Victims' views were mixed on whether or not the violence or abusive behaviour had stopped since the restorative justice meeting. Although a third said it had another third said that the nature of the violence had just changed. However, more than one half of offenders said that they had learnt something about their behaviour and its effects on others and thought that they needed to change. Some victims thought that offenders still needed help with their violent behaviour.

All offenders and most victims said that they would recommend restorative justice processes to other victims and offenders to deal with family violence. And most victims said that they would take part in the process again should they need to. All participants generally agreed that restorative justice meetings were a good way to deal with family violence, although some qualified this by saying it depended on those involved and the circumstances relating to the violence.

In conclusion

Family violence offences span the continuum from less serious offences (such as wilful damage) to the most serious offences (such as rape and murder). Based on the findings of this review we think that the use of restorative justice processes in family violence cases is appropriate for the types of cases currently being accepted by providers at the five sites. That is, mostly offences in the less serious to medium seriousness range such as male assaults female offences that have not required the victim's admission to hospital.

The findings of this review indicate that restorative justice meetings for couples who want to continue their relationships, combined with offenders' participation in violence intervention programmes, may lead to positive change for some couples. Similarly, restorative justice meetings may enable couples who are no longer together gain some resolution and end the relationship on amicable terms. This may be particularly relevant where there are children involved.

Only one of the five sites included in this review had specific guidelines on issues that should be discussed for the use of restorative justice in family violence cases. The other four providers felt that their generic restorative justice protocols based on the Ministry's principles of best practice were sufficient for them to accept referrals of family violence cases on a case-by-case basis. Particular care was taken by providers at all sites in the preparation of the victim and offender, the selection of appropriate panel members, the safety of participants and the development of appropriate agreements.

We consider that restorative justice processes, as one of a suite of potential responses to family violence, need to continue to be offered. Therefore, there may be value in the Ministry of Justice developing specific guidelines for the use of restorative justice processes in family violence cases to assist providers operating in an area characterised by complex relationships and often entrenched patterns of violent behaviour.

Chapter 1 Introduction

1.1 Background

In conventional criminal justice systems, professionals representing the State make the decisions on how to respond to an offender's behaviour. Restorative justice processes, in contrast, aim to involve victims, offenders and their 'communities of care' in the decisions.¹

Among common law jurisdictions, New Zealand has been at the forefront of delivering and expanding restorative justice processes. Expansion of restorative justice processes among community-based providers has continued to the point where, at the time of this review, the Ministry of Justice funded 32 such providers.² These offer community panel or victim-offender conferences (i.e. facilitated meetings) in a wide range of cases. Some of these providers deliver restorative justice processes in family, domestic and sexual violence cases. Twelve have contracts that do not allow them to deliver restorative justice processes in cases involving family violence or sexual offending. They may, nonetheless, accept such cases outside of that contract.

1.2 Definition of family violence

The Domestic Violence Act 1995 provides protection for people in a wide range of relationship types. These encompass married and de-facto couples, same sex couples, children, extended family or whānau and anyone in a close personal relationship, including flatmates or caregivers.

Family violence is defined by the third section of the Domestic Violence Act 1995 as 'physical abuse, sexual abuse, and psychological abuse, including, but not limited to intimidation, harassment, damage to property, threats, and causing or allowing a child to see or hear physical, sexual or psychological abuse'.

1.3 The delivery of restorative justice in family violence cases

'The use of restorative justice processes in cases of family violence and sexual violence must be very carefully considered' (Ministry of Justice, 2004; p. 19). One of the Principles of Best Practice for Restorative Justice in Criminal Cases is the use of experienced skilled facilitators and stringent safety and support mechanisms. Processes of restorative justice should be underpinned by voluntariness and place an emphasis on safety for participants at all times.

There is a much contested debate around the use of restorative justice processes in partner, family and sexual violence.³ Some advocates envisage them as having the potential to increase women's choices, provide women with a voice, and draw on the support of family/whānau and friends in a way that may increase their safety.⁴ Opponents draw attention to the unequal power relationships

1 See, for example, Braithwaite (1989) and Hudson (2003).

2 Twenty are funded through the Crime Prevention Unit (CPU) and 12 through the Courts.

3 See, for example, Braithwaite & Daly (1994), Carbonatto (1995), Morris & Gelsthorpe (2000), and contributors to Strang & Braithwaite (2002).

4 See, for example, Morris & Gelsthorpe (2000). Daly (2006) has also recently argued, based on a study of victims of young sexual offenders, that restorative justice processes may be less victimising than the court process for victims.

between victims and perpetrators, and raise concerns that restorative justice processes may compromise women's safety and expose them to further victimisation.⁵ In any event, firm research evidence on the effectiveness of restorative justice processes in family violence cases is scant, and such pointers as exist are somewhat contested.⁶

1.4 The review

In June 2006, the Ministry of Justice contracted researchers from the Crime and Justice Research Centre (CJRC), Victoria University, to undertake a review of the delivery of restorative justice in family violence cases. The review is part of a larger project being undertaken by the Ministry and aims to further investigate the nature and extent of the use of restorative justice processes in family violence cases by focussing on five selected sites/providers. The results will contribute to a Ministry of Justice consultation process concerning the nature, extent and effectiveness of use of restorative justice processes in family violence cases.

1.5 The structure of this report

This report presents the findings of the review. Chapter 2 provides a detailed account of the methods used in this study and their limitations, ethical and safety issues, and the demographics and other characteristics of the sample. Chapter 3 provides an analysis of the national survey of Ministry of Justice funded restorative justice providers in relation to family violence cases. Chapter 4 describes the five sites that were the focus of the review. Chapter 5 presents the views of victims and offenders who have taken part in a restorative justice meeting for family violence offending at the sites. Their opinions of their experiences of the use of restorative justice as a means of helping address an incident of family violence, and their general views of such use are provided. Chapter 6 describes the views of key informants on the use of restorative justice processes with family violence cases. Chapter 7 summarises the findings of the review and provides some concluding observations.

Appendix A contains tables of additional data on. Appendix B contains the interview schedules, information sheets and consent forms for the interviewees.

5 See for example, Lewis et al. (2001), Busch (2002) and Stubbs (2002).

6 See Stubbs (2004) for example.

Chapter 2 Methodology

2.1 Objectives

The objectives of the review were to describe the nature and extent of the delivery of restorative justice in family violence cases including the following:

- how selection of cases occurs;
- assessment of appropriateness of each referral;
- how the consent of participants is obtained;
- detail of the restorative justice processes;
- safety of participants;
- the outcomes for individuals (both victim and offender) from the processes – e.g. participation in therapeutic programmes, sentencing outcomes, etc); and
- the experience of individuals who have participated in restorative justice processes in family violence or domestic violence cases.

2.2 Ethical issues

An application for ethical approval for the review was submitted to the Victoria University of Wellington Human Ethics Committee detailing procedures for fully informing those being asked to take part in interviews about the research, for obtaining their consent, for providing feedback at the conclusion of the study, and for procedures for storing and maintaining the confidentiality of information. Ethics approval was granted in August 2006.

The provisions of the Privacy Act 1993 with respect to confidentiality and methods of obtaining, storing and destroying information were adhered to in this study.

Safety procedures

CJRC researchers have had considerable experience in interviewing related to sensitive topics such as family violence and have established procedures for contacting and interviewing victims and offenders. These procedures have been designed to ensure researcher and interviewee safety.

Protocols for interviewees included:

- fully informing them as to who would have access to their data;
- ‘protecting’ them and/or supporting them during the interview process; and
- informing them of the issues surrounding confidentiality: that they did not have to answer any questions they did not want to and that no information would be included in the report which would enable them to be identified in any way.⁷

7 Such protocols acknowledge the importance of respecting a participant’s right to privacy and her / his right to refuse to answer certain questions, or indeed to be interviewed at all (see for example, Oppenheim, 1992).

Interviewees were also advised that confidentiality would only be breached if the interviewer received information that suggested the research participant or another person was at risk of harm.

In addition, the safety of interviewers was addressed by:

- putting in place debriefing procedures;
- safety protocols that required researchers to take a cell phone with them when conducting fieldwork; and
- putting in place safety measures during the interview process for example requiring them to always inform someone of their whereabouts.

Cultural safety

The CJRC recognises the importance of undertaking research in a culturally appropriate manner, and appropriate Māori and Pacific cultural protocols and processes guided this research.⁸ The aim was to treat all participants courteously and with respect and to respond sensitively so as to neither offend those who are more culturally conservative nor embarrass those are less so.

Our approach was one that acknowledges and is sensitive to the needs of Māori as primary participants – programme providers, key informants and victims - in the review. Our review team included a highly respected and experienced Māori researcher. The review team also included Māori and Pacific consultants in a quality assurance role.

The effect of the research on those being studied

As researchers we are always aware of the effect the interview process may have on research participants, especially where questions involve personal or sensitive issues, and put in place processes to mediate any unintended outcomes. In general, in previous research carried out by the CJRC, participants have reported that their involvement in the research has been positive; it has given them an opportunity to reflect on their experiences and to express their feelings – both positive and negative (for example, Maxwell et al, 2004 and Kingi & Poppelwell, 2005). Steps were taken to ensure, as far as possible, that there were no negative effects from participating in the research. Interview guidelines address issues such as: reminding participants that they need not answer any particular question and how to respond should a participant become distressed. Informants were also able to have support people present if they wished.

2.3 Research methodology

A mixed methods approach was utilised for the review that included analysing the national survey, reviewing and analysing reports from restorative justice providers, interviewing key informants and victims and offenders, observing restorative justice processes, and collating information on referrals. Qualitative and quantitative data were triangulated to assess the appropriateness of the use of restorative justice processes in family violence cases.

8 For example, see Anae et al (2002), Cunningham (2000) and Te Puni Kokiri (1999).

2.4 Data sources

Data sources for the review included:

- the Ministry of Justice survey of Crime Prevention Unit (CPU) and Courts' contracted restorative justice providers;
- interviews with victims and offenders
- interviews with key informants;
- provider documentation on policies and procedures;
- provider information on panels/meetings held for family violence cases; and
- observations of restorative justice meetings;

2.5 Interview schedules and information sheets

Interview schedules and information sheets were based on those used by the CJRC in previous restorative justice evaluations.⁹ These were adapted for this review in consultation with the review advisory group.

2.6 Sample selection

The five sites

The selection of the five sites was informed by the Ministry's national survey and a stock take of Ministry of Justice Restorative Justice Programmes undertaken in 2005/2006 (Wilde & Baker, 2006). Taken together these information sources provided a rough estimation of the potential number of restorative justice meetings undertaken over a six month period, and over the proposed three month observation period for the review.¹⁰

The criteria for selection was decided in consultation with the Review Advisory Group and were primarily based on the volume of family violence cases handled by providers. Secondary considerations were geographical spread and the inclusion of Māori provider groups.

The five restorative justice providers chosen were as follows:¹¹

- Nga Whare Waatea Trust – Mangere;
- Horowhenua Restorative Justice Programme – Levin;
- Nelson Restorative Justice Services – Nelson;
- Restorative Justice Services – Christchurch; and
- Project Turnaround – Timaru.

9 See Crime and Justice Research Centre (2005) and Paulin, Kingi and Huirama (2005).

10 See Table A2.1 in Appendix A.

11 One site originally chosen was withdrawn from the review due to the unavailability of information on family violence cases dealt with during the period January 2005 to June 2006. A replacement site/provider was proposed by the Ministry in mid 2007.

Initial visits were made by the review team to the five sites to facilitate a collaborative working relationship with the programme providers and to ensure that the data collection requirements of the review had minimal impact on the day-to-day workings of the programme.¹² The review team also drafted a letter to all the restorative justice providers who had been involved in the Ministry's national survey, informing them of the review taking place and the sites that had been selected for this.

National survey of restorative justice providers

In March 2006, the Ministry surveyed 30 restorative justice providers contracted through either the CPU or Courts about their use and practice of restorative justice process in family violence cases. A standard questionnaire was used for the survey (see Appendix B1). Providers were asked whether or not they accepted referrals for family violence cases and about the type of restorative justice process used (i.e. community panel or victim and offender). They were also asked about the types of family violence referred, source of referrals, consent processes, assessment of suitability of referrals, and how participants' safety was addressed. Information was sought on the facilitators' qualifications, training and experience relevant to dealing with family violence cases and in working cross-culturally. Providers were also asked to describe the recommendations or plans arising from restorative justice meetings, how compliance with these was monitored and whether or not they had protocols to seek feedback from participants.

Responses were received from 24 (80%) out of the 30, 16 were based in the North Island and eight in the South Island. Twenty one of these providers reported accepting referrals for cases involving family violence. The analysis of this information is reported further in Chapter 3.

Volume of family violence cases

We extracted information on meetings held for family violence cases in all five sites from available programme records. In four sites (i.e. Mangere, Levin, Christchurch, and Timaru) the period covered January 2005 to June 2006. In Nelson, however, the period differed; it was October 2005 to June 2006 – due to changes in staff/practice prior to October 2005.

The following is a brief overview of the number of meetings held at each of the five sites during this period and the stage at which the restorative justice process took place. These data are described in more detail in Chapter 4.

- **Nga Whare Waatea:** six meetings; five pre-sentence and one post-sentence to inform a parole board hearing;
- **Horowhenua Restorative Justice Programme:** 15 meetings; all pre-sentence;
- **Nelson Restorative Justice Services:** 14 meetings; all pre-sentence;
- **Restorative Justice Services Christchurch:** 15 meetings; 12 pre-sentence, three community referrals – two for historic sexual abuse (no charges laid) and one to arrange the division of property after a relationship break-up; and
- **Project Turnaround:** 19 meetings; all pre-trial community panel diversion;

12 Visits to the four original sites took place in August 2006 and to the replacement site in June 2007.

Victim and offender interviews

The providers identified victims and offenders who had participated in a restorative justice meeting relating to a family violence offence who they considered would be suitable to interview.¹³ The process for contacting victims and offenders was to obtain their names and contact details (address and phone numbers) from the relevant provider, and post them information sheets telling them about the research. They were invited to participate, asking that they return a slip in a reply paid envelope if they did not wish to take part.

In three areas (Levin, Timaru and Nelson) the providers made the initial contact with potential interviewees by posting out the information letters. At this stage, the researchers were provided with the contact details. In the other two areas (Auckland and Christchurch) providers were happy for the researchers to identify potential interviewees from providers' records and make this initial contact by mail. In all cases, the researchers then contacted victims and offenders (by phone or in person) who did not indicate that they wished to decline from taking part, to explain more fully what their participation in the review would involve.

Attempts were made to contact 40 offenders in total. Nineteen (or 48%) were interviewed, 14 (or 35%) could not be contacted¹⁴ and seven (or 18%) declined to take part, either in person or by returning the 'opt out' reply slip. Attempts were made to contact a similar number of victims (n=37). Twenty (or 54%) were interviewed,¹⁵ 11 (or 30%) could not be contacted and four (or 11%) declined to take part, either in person or by 'opting out' by mail.

Informed consent was obtained from all interviewees (see Appendix B2). They were told about the aims of the review, that participation was voluntary and that they could refuse to answer questions or withdraw from the research at any time. They were informed about what participation would involve and about confidentiality, including who would have access to their information. They were told that they would not be able to be identified in any subsequent research reports.

Victims were asked about the restorative justice process, including why they decided to attend (or not), preparation for the conference, the procedures followed, the extent of participants' involvement, the attitude of the offender, the nature of the agreements reached, and whether or not their needs (including their safety) were met. The questions offenders were asked broadly mirrored those victims were asked (see Appendix B3).

Interviews with victims and offenders progressed slowly. The main problem was the difficulty in locating people rather than refusals. Victims interviewed came from across the five sites: Nelson (n=5), Timaru (n=5), Christchurch (n=4), Levin (n=4) and Auckland (n=2). Offenders interviewed also came from across the five sites: Nelson (n=5), Timaru (n=4), Christchurch (n=4), Levin (n=3) and Auckland (n=3). The demographic characteristics interviewees are presented in Table 2.1.

13 This was predominantly for the period from January 2005 through to June 2006. However, in some cases more recent restorative justice meeting participants were identified to boost potential interviewee numbers.

14 Where we were unable to contact offenders or victims this was usually because the contact details were out of date and we did not have any other method of tracing them.

15 All except one of the victims interviewed had attended the restorative justice meeting. The one who had not was a teenager who had been represented by a social worker.

Table 2.1 Demographic characteristics of victims and offenders interviewed: numbers

Characteristics	Victims(n=20)	Offenders(n=19)
<i>Gender</i>		
Female	16	5
Male	4	14
<i>Ethnicity</i>		
NZ Māori	7	8
NZ European	9	6
Pacific	1	3
Other ¹	3	2
<i>Age</i>		
<20	1	0
20-29	5	6
30-39	7	7
40-49	3	3
50-59	3	3
60 or over	1	0
<i>Employment status</i>		
Employed	9 ²	7 ³
Beneficiary ⁴	6	8
Other ⁵	5	4

Notes:

- 1 This included those who identified for example, as Australian and Irish.
- 2 This included a sales representative, a farmer, two factory process workers, two education professionals, two clerical/administrative workers, and an agriculture/fishing industry worker.¹⁶
- 3 This included a health professional, a construction trades worker, a carer, an engineering worker, a stores person, an agriculture/fishing industry worker and a hospitality industry worker.
- 4 This included those on the Domestic Purposes Benefit, Unemployment, Invalids and Sickness benefits.
- 5 This included a student, a retiree, a prison inmate, a 'pensioner' and those supported by a partner.

Victims were predominantly female (16 or 80%) and offenders were predominantly male (14 or 74%). Similar numbers of victims and offenders were Māori whereas more victims than offenders were New Zealand European.¹⁷ The two groups also did not differ markedly in terms of age or employment status. However, slightly more victims were employed and conversely, slightly more offenders were beneficiaries. Ten (or 50%) of the victims had dependent children (whose ages ranged from 7 months to 14 years) and half (n=5) of this number still lived with the offender.¹⁸

16 These descriptions are based on the Australian and New Zealand Standard Classification of Occupations (2005).

17 Interviewees who identified as Māori or as Māori and one other ethnicity have been described as Māori.

18 This included one couple who had been jointly charged with common assault and who were both interviewed as a victim and an offender.

The nature of the relationships between victims interviewed and 'their' offenders was often that of a current (10 or 50%) or ex-partner (5 or 25%). Other relationships included siblings, children, parents and in-laws. These relationships are described in Table 2.2. The nature of the most serious offence included: Conspiracy to commit murder/injures with intent to injure (n=1), male assaults female (n=10),¹⁹ common assault (n=5), grievous bodily harm (n=1), threatening act/behaviour (n=2),²⁰ wilful damage (n=1).

Table 2.2 Nature of the relationship between victim and offender: numbers

Characteristics of offender	Victims (n=20)
<i>Relationship</i>	
Brother	1
Son/Daughter	2
Mother	1
In-law	1
Current partner	10
Ex-partner	5
<i>Living together</i>	
At time of offending	11
At time of interview	7
<i>Protection order</i>	
At time of offending	4
At time of interview	2

The nature of relationships between offenders interviewed and 'their' victims was similar and is described in Table 2.3. Again, most were either current (7 or 39%) or ex-partners (6 or 33%). The nature of the most serious offence included: arson (n=1), assault with intent to injure (n=1), male assaults female (n=9),²¹ common assault (n=6), threatening act/behaviour (n=2).²²

19 In two cases of 'male assaults female' there were additional charges. One was breach of a protection order and the other was unlawful possession of a firearm.

20 In one case involving a 'threatening act' there was also an additional charge of intentional damage.

21 In two cases of 'male assaults female' there were additional charges. One was breach of a protection order and the other was unlawful possession of a firearm.

22 In one case involving a 'threatening act' there was also an additional charge of intentional damage.

Table 2.3 Nature of relationship between offender and victim: numbers

Characteristics of victim	Offenders (n=19)
<i>Relationship</i>	
Sister ¹	3
Son/daughter	2
In-law	1
Current partner	7
Ex-partner	6
<i>Living together</i>	
At time of the offending	10
At time of interview	7
<i>Protection order</i>	
At time of the offending	4
At time of interview	1

Note:

- 1 This included one offender whose victims were his sister and mother.

The sample of victims and offenders interviewed included 11 matched 'sets', that is, they had been involved in the same incident/offending. Most were current (n=5) or ex-partners (n=4) others were siblings (n=1) and 'in-laws' (n=1). Most victims were female (10 out of 11) and most offenders were male (10 out of 11).

Interviews with victims and offenders were undertaken between October 2006 and August 2007. The time between their interview and their attendance at a restorative justice meeting varied and is described in Table 2.4.

Table 2.4 Time since restorative justice meeting and interviews with victims' and offenders: numbers

Time since meeting	Victims (n=20)	Offenders (n=19)
Less than 6 months	4	7
6 – 12 months	12	8
More than 12 months	4	4

Twelve (or 60%) victims were interviewed six to 12 months after their meeting. Similar numbers of offenders were interviewed less than six months (7 or 39%) or six to 12 months (8 or 44%) afterwards. A small number of victims and offenders were interviewed more than a year after their restorative justice meeting.

Most interviews were conducted face-to-face (two victims were interviewed by phone) and took place at a time and venue that suited the interviewee. The majority of interviews took place during the day (16 out of 20 victims and 17 out of 19 offenders), usually in the interviewee's home (17 out of 20 victims and 14 out of 19 offenders).²³ Interviews took on average between 30 and 45 minutes. Interviewees were given a \$20 koha and after the interview asked if they would like a summary of the review findings.

23 One offender was interviewed in prison.

Key informant interviews

We identified key informants at each site in consultation with programme providers. Those identified included: District Court Judges, Police prosecutors, Police Family Violence Coordinators, Police Iwi Liaison Officers, Court Victim Advisers, lawyers, and family violence intervention programme providers.

As mentioned previously, interview questions (see Appendix B3) were adapted from those we had developed previously and used successfully for similar work. Topics covered varied depending on the role that the particular informant had in relation to the restorative justice programme. Core questions included:

- their views of the suitability of the use of restorative justice processes for family violence cases;
- their views on the provider's practices and their effectiveness for victims and offenders of family violence; and
- an assessment of the provider's strengths and weaknesses; and critical factors relating to success or failure in family violence cases.

In addition to the core questions Judges were asked how they decide which family violence cases to refer and how they decide whether to accept all, part, or none of the plans/agreements reached in a restorative justice process.

Interviews were undertaken with 24 key informants during the period November 2006 to August 2007. These took place over the phone (n=8) or face-to-face (n=16) at a time and place suitable for them. Six of those interviewed were from Timaru, five from Nelson, five from Levin, four from Manukau and four from Auckland. The roles of the various key informants interviewed are presented in Table 2.5.

Table 2.5 Roles of key informants interviewed: numbers

Roles	Number (n=25)
Family violence intervention programme providers	5
Judges	4
Victim Advisers	4
Police prosecutors	4
Police Family Violence Coordinators	2
Lawyers	2
Other	2
Probation Officer	1

Observations

The aim was to observe at least two restorative justice meetings at each of the five sites. However, this proved to be an ongoing challenge despite the best attempts of the providers. This was due to two factors: the shortage of suitable cases or the lack of any cases involving family violence. However, we managed to observe two panel meetings at both Project Turnaround in Timaru and the Horowhenua Restorative Justice Programme and one at Nelson Restorative Justice Services, with the consent of all parties involved. This consent was obtained by the providers prior to the meeting.

The researchers explained the nature of the review to those present at the meeting and undertook to leave at any stage if anyone wished them to do so. All of the charges dealt with at the meetings observed were 'male assaults female'.

2.7 Data Analysis

Interview schedules were structured and included a mixture of closed and open-ended questions which were analysed qualitatively and quantitatively. Quantitative data were entered into a Microsoft Excel 2003 spreadsheet for checking and analysis. Frequencies were produced for numerical data and qualitative data (e.g. the responses to open-ended questions) were coded around key themes. Quotes are used to illustrate these themes.

Data presented in tables are usually self explanatory, however, at times these data will be summarised in the body of the report. In general, throughout the report data have been presented as proportions or percentages – raw data have only been reported where the numbers involved are very small and it is misleading to report percentages.

2.8 Limitations of the research

Some caveats should be noted in relation to the findings from this research. Firstly the five sites varied in terms of the procedures and types of agreements reached. Secondly, we were reliant on restorative justice providers to provide us with the contact details of victims and offenders. Therefore, the experiences of victims and offenders that we describe may not be typical of all those who participate in restorative justice processes in relation to family violence offending. Those who agreed to participate in the research might have been influenced in one way or another by the degree and nature of their experiences – good or bad. Thirdly, only a small number of victims and offenders interviewed were able to be interviewed. For these reasons, the extent to which the findings from this research can be generalised is limited - to all participants at a particular site, across all five sites or to other restorative justice providers accepting family violence cases.

Chapter 3 National survey of restorative justice providers

3.1 Introduction

Ministry of Justice funded restorative justice providers offer community panel or victim-offender conferences (i.e. facilitated meetings) in a wide range of cases, including family violence offending.

Victim-offender conferencing is the process used in the court-referred restorative justice pilot and in a number of the CPU-funded community-managed programmes. Following a guilty plea offenders are referred to facilitators from community-based restorative justice provider groups. The facilitators meet with the victim and the offender, and convene a conference if the offender appears suitable, and both victim and offender are willing to participate. A report on the interactions of the conference, and any agreements reached, is provided to the Court at sentencing. Agreements may include reparative and reintegrative elements, such as offers of payment or attendance at programmes designed to address the underlying causes of the offending. The Court will take the report and any agreement into account when sentencing.

Community panel processes differ in that the offender meets with a facilitator, a panel of community members, and where possible the direct victim (if there is one), to discuss the impact of their offending. Usually a plan will be agreed to address the impact of the offending, through for example, reparation or community service. Plans frequently also incorporate rehabilitative activities. These processes are sometimes used as diversion programmes, where compliance with the plan may result in a withdrawal of the charges.

The Ministry of Justice surveyed 30 restorative justice providers in March 2006 to assess their use and practice of restorative justice processes in family violence cases using a standard questionnaire.

Twenty four restorative justice providers (or 80%) responded to the survey. Six were based in Auckland, 10 were based in other parts of the North Island (Gisborne, Hastings, Levin, New Plymouth, Rotorua, Tauranga, Thames, Wanganui, Wellington, and Whangarei) and eight were based in the South Island (Ashburton, Blenheim, Christchurch, Dunedin, Greymouth, Nelson, Oamaru, and Timaru).

3.2 Survey findings

Twenty one (or 88%) of the restorative justice providers who responded to the survey accepted referrals for restorative justice cases involving family violence. Three (or 13%) did not.

Of the 21 providers surveyed who accepted referrals for restorative justice cases involving family violence, 11 (or 52%) used a victim-offender process, six (or 29%) used a panel process, two (or 10%) used a combination of victim-offender and panel processes, and two (or 10%) responded 'not applicable' (NA).²⁴

24 These two providers had not yet had any family violence referrals at this stage.

Percentage of total referrals involving family violence offences

Restorative justice providers were asked what percentage of the total number of cases referred to them involved family violence offences. Their responses are set out in Table 3.1.

Table 3.1 Percentage of total cases referred to providers (n=21) involving family violence offences

Percentage of cases	No of Providers
1-10	10
11-25	5
26-50	2
51-75	2
NA ¹	2

Note:

- 1 Two providers had not yet had any family violence referrals.

Ten (or 48%) restorative justice providers who accepted restorative justice cases involving family violence estimated that 1-10 percent of the cases referred to them involved family violence. Five (24%) estimated that 11-25 percent of the cases referred to them involved family violence. Two (or 10%) providers estimated that 26-50 percent of the cases referred to them involved family violence and another two (or 10%) estimated that 51-75 percent of the cases referred to them involved family violence; Two (or 10%) providers responded NA.²⁵

Types of family violence

In the year prior to the survey, restorative justice providers who accepted restorative justice cases involving family violence received referrals for a range of types of family violence. These are described in Table 3.2 below.

Table 3.2 Types of family violence offending referred to providers (n=21) during the previous 12 months

Types of family violence	No of Providers
<i>Physical assaults</i>	
No medical attention needed	16
Causing injury treated by doctor or nurse	16
Requiring admission to hospital	5
<i>Property damage</i>	13
<i>Threats</i>	12
<i>Sexual assaults</i>	
Child	4
Adult	3
<i>Sexual violation</i>	
Adult	3
Child	2

25 These were the two providers who had not yet had any referrals.

Sixteen (or 76%) providers had been referred cases involving physical assaults where no medical attention was needed. Sixteen (or 76%) had been referred cases involving physical assaults causing injury treated by a doctor or nurse, five (or 24%) had been referred cases involving physical assaults requiring admission to hospital and thirteen (or 62%) providers had been referred cases involving damage to property. Twelve (or 57%) providers had been referred cases involving threats. Four (or 19%) had been referred cases involving sexual assaults against children and three (or 14%) had been referred cases involving sexual assaults against adults. Three (or 14%) had been referred cases involving sexual violation against an adult, and two (or 10%) had been referred cases involving sexual violation against a child.

Referral sources and stages

Restorative justice providers reported that most family violence referrals came to them via the Court (n=17), defence lawyers (n=15), and the Police (n=9).²⁶ Other referral sources included Victim Support, Victim Advisers, Youth Justice, Community Probation, the Child and Adolescent Mental Health Service, Legal Aid, and Child, Youth and Family.

In general, cases referred for a restorative justice process can be categorised into two main groups:

- Police Diversion cases: cases that meet Police Diversion criteria;
- Pre-sentence cases (two types): lower²⁷ and higher seriousness²⁸ cases that do not meet the criteria for Police Diversion.

Family violence referrals from the Court were generally made at the pre-sentence stage. Nineteen (or 90%) restorative justice providers indicated this, and two (10%) indicated NA.²⁹

Not all family violence referrals made to providers resulted in a conference or panel being held (see Table 3.3).

26 The numbers in brackets refer to the number of providers who reported particular referral sources.

27 These are low level seriousness offences where the maximum penalty is less than 2 years' imprisonment.

28 These are more serious offences where the maximum penalty is 2 or more years' imprisonment.

29 These were the two providers who had not yet had any referrals.

Table 3.3 Percentage of family violence referrals to providers (n=21) which resulted in a conference or panel meeting

Types of family violence	No of Providers
<i>General</i>	
50% or less	4
51-99%	8
100%	7
NA ¹	2
<i>Sexual offending</i>	
50% or less	5
51-99%	3
100%	0
NA ²	13

Notes:

- 1 Two providers had not yet had any family violence referrals.
- 2 Thirteen providers had not had any family violence referrals involving sexual offending

Four (or 19%) restorative justice providers estimated that 50% or less of family violence referrals would result in a conference or panel meeting, eight (or 38%) estimated that 51-99% of family violence referrals would result in a conference or panel meeting, and seven (or 33%) estimated 100% of family violence referrals would result in a conference or panel meeting. Two (10%) responded NA.

Five (or 24%) restorative justice providers estimated that 50% or less of family violence referrals involving sexual offending would result in a conference or panel meeting, and three (or 14%) estimated that 100% of such referrals would result in a conference or panel meeting. Thirteen (or 62%) responded NA.

Consent processes

Eighteen (or 86%) restorative justice providers required victim consent before a case went to a conference or panel. One did not require victim consent, and two indicated NA. Providers described a variety of ways in which they obtained victims' consent. Most involved providers obtaining victims' consent face-to-face. Other ways included providers obtaining victims' consent directly by phone, or indirectly through Court Victim Advisers, Victim Support or through the conference or panel meeting facilitator.

Suitability of referrals

In assessing the victim and offender's suitability for use of restorative justice processes in family violence cases, providers (or facilitators on their behalf) described various screening criteria. In relation to victims, providers mentioned:

- the victim's consent to participate in a conference (or their genuine desire for a conference to proceed in their absence);
- the victim's views about what led to the offending and the victim's role (if any) in it;
- the victim's attitude towards the offender;

- what the victim hoped to achieve through the conference;
- the level of contact the victim had with the offender;
- whether the victim wanted to continue in the relationship with the offender;
- whether the victim was continuing to be offended against;
- the victim's support structures;
- the extent of the victim's vulnerability and fear of the offender; and
- the extent of the impact of the offence on the victim.

Providers' considerations in relation to the offender included:

- whether or not the offender admitted the charges;
- the offender's consent to participate in a conference;
- the offender's attitude (e.g. judged to show genuine remorse or insight into their own behaviour, took responsibility for their offending behaviour, wanted to put things right or repair the harm, wanted to change expressed through a desire to participate in programmes);
- what the offender hoped to achieve through the conference;
- the offender's history of use and level of violence;
- any history of attempts at restorative justice to resolve the violence;
- what the offender had done to take responsibility for his/her violent behaviour;
- offender's ongoing needs such as mental health, drug and alcohol issues; and
- reasons the offender gives as to why they should not go to prison.

Providers had to make judgements based not only on considerations in relation to victims' and offenders' suitability for restorative justice conferences, but also whether they as facilitators had:

- the skills to facilitate the particular case;
- the ability to provide support for the victim and the offender at the conference; and
- the ability to ensure the victim's safety from re-victimisation or threats of violence at the conference and following the conference.

Participants' safety

Providers who accepted referrals for family violence cases were asked to identify the mechanisms or processes they had in place to ensure victims' and offenders' safety at conferences. They tended not to make a distinction between the processes they used to ensure the victims' safety and those they used to ensure the offenders' safety. Rather, for both parties they stressed the need for particular care in the screening of referrals, pre-conference preparation, and conference facilitation. For some providers the presence of support people at the conferences was mandatory, while for others their presence was encouraged but discretionary. The mechanisms or processes providers identified included:

- rigorous screening at the referral level to assess the offender's suitability (e.g. through discussions with the Court Victim Advisers or through referrals of cases to other agencies working in the family violence area) and the victim's suitability and circumstances;
- extensive pre-conference preparation with the victim and offender, and sometimes with support people. Preparation may include the coordinator/facilitator³⁰ explaining the conference aims and processes and gaining their in-depth informed consent to proceed, informing the victim and offender of who else will be at the conference, preparing the victim and offender for how to handle strong emotion safely (including taking time out), and reassuring them of what will happen should their feelings look to be getting out of control;
- ensuring the facilitator is qualified and specifically trained in facilitation of family violence cases, and has access to professional supervision and ongoing training. (Some providers indicated they used an additional co-facilitator for conferences of family violence cases.);
- facilitating the conference in line with best practice principles (Ministry of Justice, 2004) for facilitation of restorative justice meetings;
- careful selection of the conference venue and seating arrangements. (One provider mentioned that they held conferences in a Court building around a table with a Police officer present. Another provider mentioned that conferences were held in surroundings where other staff/people were in close proximity.) Easy access to a phone was also mentioned as being a consideration;
- a panel member being specifically assigned the role of ensuring the victim's safety at the conference and their arrival and departure to and from the conference;
- the presence of support people and a balanced number of participants at the conference; and
- extensive post conference follow-up with the offender and victim (including their linking with support agencies).

Facilitators' qualifications, training and experience

Providers were asked to identify the qualifications, training and experience their facilitators had of family violence cases. In terms of qualifications, some providers responded by identifying the tertiary qualifications (including in counselling and law) held by their facilitators. One responded that their organisation was approved under the Domestic Violence Act to provide programmes for Māori women and children.

In terms of training, providers mentioned specific training related to family violence delivered by a range of social service organisations (e.g. Women's Refuge, Rape Crisis, Victim Support, Dove in Hawke's Bay, Safer Community Violence Intervention, STOP) together with more general training in restorative justice principles and practice (e.g. former Department for Courts training).

All providers identified their facilitators' often extensive experience in dealing with family violence. Some providers also mentioned that their community panel members invariably had training and experience in the family violence area. Indeed, that was the reason they had recruited them in the first place.

30 The coordinator is primarily the manager of the restorative justice programme. Sometimes coordinators also act as facilitators of restorative justice meetings – these two terms are used throughout the report.

None of the 21 providers who accepted referrals for restorative justice cases involving family violence responded that they were accredited family violence service providers to other organisations.

Cultural issues

Providers were also asked to identify the skills and knowledge they had to work appropriately cross culturally. The main way in which providers said they did this was by attempting to recruit facilitators, community panel members, support people and Board members from a range of ethnic backgrounds, including from tangata whenua,³¹ Pacific peoples and from peoples of other ethnic groups.

Some providers had found it difficult to recruit facilitators from diverse ethnic backgrounds. However, facilitators regardless of their ethnicity were expected to have an understanding of different cultures. As one provider put it:

An understanding of the tikanga³² of whatever ethnic groups are involved in the violence is part of a facilitator's preparation and planning for the conference.

Some providers mentioned that their facilitators and community panellists were provided with some ongoing training to develop their cultural knowledge (e.g. in Māori language and culture, Treaty of Waitangi courses).

Others mentioned that they canvassed victims and offenders regarding their preferences for cultural support at the conference and accessed the support of local kaumatua³³ or support people from other cultures where this was the desire of particular victims or offenders. Victims and offenders might also be asked whether there were particular practices that would make the conference better for them, in which case they would try to accommodate these practices.

Recommendations or plans³⁴

Seventeen (or 81%) of the 21 providers indicated that their conferences or plans usually recommended that offenders be referred to other programmes or services, two (or about 10%) did not, and two (or about 10%) responded NA.³⁵

Providers listed a range of different types of programmes or services that were usually recommended in the plans of family violence cases. Types of programmes or services most commonly mentioned were:

- living without violence programmes (e.g. stopping violence programmes for male offenders, women in safe environments programmes for female victims);

31 That is, Māori.

32 These are customs.

33 That is, the elders of the community.

34 The terms 'recommendations', 'agreement', 'outcome' and 'plan' are often used interchangeably to refer to agreements reached between the parties at restorative justice conferences for some actions to be undertaken. For simplicity, all outcomes of restorative justice meetings at the five sites have been referred to throughout this report as 'agreements'.

35 These recommendations are included in a report to the Court to inform sentencing.

- free relationship counselling through the Family Court (6 sessions);
- individual counselling;
- anger management programmes; and
- drug and alcohol assessments, counselling and treatment programmes.

In some areas, programmes were available for offenders from specific ethnic groups (e.g. Living Without Violence for Pacific Island Men in Nelson). Mental health services, gambling addiction programmes, literacy assistance and employment related assistance were also mentioned as elements of some plans.

Monitoring compliance

Usually the coordinator takes responsibility for monitoring offenders' compliance with their plans, including attendance at programmes or services, payment of agreed reparation to the victim or other aspects decided upon. The Court may adjourn the case for sentencing until the completion of the plan. The monitoring is usually done in liaison with the providers of the programmes or services to which offenders have been referred. Towards the end of the plan, the coordinator will usually phone the providers and any other relevant people to check the offenders' compliance, and provide a report for the Court prior to sentencing.

Where the offender fails to comply with his/her plan, the case is referred back to Court (along with a report from the restorative justice provider detailing the offender's non-compliance) and processed in the usual way. In some instances, an offender may be given a second chance to complete a programme or service prior to this happening.

Feedback from participants

At least 13 of the 21 providers who accepted referrals for family violence cases sought feedback from conference participants. Feedback took various forms, but most usually involved victims and offenders being posted an evaluation form with a freepost return. A minority of coordinators also sought feedback on a regular basis from Victim Advisers and other court staff, Judges, lawyers, Police, programme providers and their community panellists.

Other comments

Of the 24 restorative justice providers who responded to the survey, 21 who currently accept referrals for family violence cases indicated they intend to continue doing so and one provider indicated they intended to accept referrals in the future. Two providers indicated they would continue to not accept referrals for family violence cases in the future.

Providers generally used the space provided for 'Other comments' to expand or qualify the responses they had given earlier in the questionnaire. No particular themes emerged from this section of the questionnaire.

3.3 Summary

In 2006, 24 restorative justice providers responded to a Ministry of Justice national survey about their use and practice of restorative justice processes in family violence cases.

Twenty one (or 88%) of these providers accepted referrals for restorative justice cases in family violence cases. Eleven (or 52%) used a victim-offender process, six (or 29%) used a panel process, two (or 10%) used a combination of victim-offender and panel processes, and two (or 10%) responded 'not applicable'.

Most commonly the Court (n=17), defence lawyers (n=15), and the Police (n=9) referred family violence cases to restorative justice providers. Ten (or 48%) estimated that 1-10 percent of the cases referred to them involved family violence and five (24%) estimated that 11-25 percent of the cases referred to them involved family violence.

Providers who had accepted restorative justice cases in family violence cases had received referrals for a range of family violence cases, including sexual assaults/violation (including against children), physical assaults, threats, and wilful damage.

Eighteen (or 86%) restorative justice providers required victim consent before a case went to a conference or panel. Providers used a wide range of factors in the assessment of the victim and offender's suitability for use of restorative justice processes in family violence cases.

These providers thought that particular care needed to be taken with the screening of referrals, pre-conference preparation, and conference facilitation in order for a restorative justice meeting to happen safely in family violence cases. None who accepted referrals for restorative justice cases in family violence cases responded that they were accredited family violence service providers to other organisations.

The main way in which providers said they worked appropriately cross culturally was through recruitment of facilitators, community panel members, support people and Board members from a range of ethnic backgrounds, including from tangata whenua, Pacific peoples and from peoples of other ethnic groups.

Seventeen (or 81%) of the 21 providers indicated that their conferences or plans usually recommended that offenders be referred to other programmes or services. Most commonly the coordinator took responsibility for monitoring offenders' compliance with their plans, including attendance at programmes or services, payment of agreed reparation to the victim or other aspects decided upon.

At least 13 of the 21 providers who accepted referrals for family violence cases sought feedback from conference participants as to their satisfaction with processes.

Chapter 4 The programmes at five sites

4.1 Introduction

Programme providers at five sites were chosen for the review of the use of restorative justice processes in family violence cases. Under the terms of their contracts with the Ministry of Justice, all were required to deliver services in a manner consistent with the *Principles of Best Practice for Restorative Justice in Criminal Cases* and to have a code of ethics and a complaints procedure. Within these parameters each programme operated in a somewhat different manner, in terms of referral processes, at what stage the restorative justice process took place, and in whether or not agreement was reached at the meeting.

This Chapter provides a brief overview of each programme. This includes a description of the demographic characteristics of the population in the area where the programme operates, information on the history, infrastructure and operation of the programme, and information on family violence cases processed during 2005/2006. None of the programmes were accredited family violence service providers to any other organisation under the Domestic Violence Programmes Regulations 1996.

The following is a brief overview of the number of meetings held at each of the five sites during this period and the stage at which the restorative justice process took place. The five sites are described in more detail below.

- **Nga Whare Waatea:** six meetings; five pre-sentence and one post-sentence to inform a parole board hearing;
- **Horowhenua Restorative Justice Programme:** 15 meetings; all pre-sentence;
- **Nelson Restorative Justice Services:** 14 meetings; all pre-sentence;
- **Restorative Justice Services Christchurch:** 15 meetings; 12 pre-sentence, three community referrals – two for historic sexual abuse (no charges laid) and one to arrange the division of property after a relationship break-up; and
- **Project Turnaround:** 19 meetings; all pre-trial community panel diversion.

4.2 Nga Whare Waatea

Demographic characteristics of the Manukau population

Nga Whare Waatea Marae³⁶ is an urban marae located in the heart of Mangere. One of the social services provided is a Restorative Justice programme. Mangere is in the densely populated Auckland region in the north of the North Island of New Zealand and is part of the Manukau Territorial Local Authority. At the time of the 2006 population census 328,968 people were living in Manukau. Thirty-five percent of the people were aged under 20 and 57% aged from 20 to 64. Only 8% were aged 65 and over.³⁷ The people who live in Manukau are ethnically diverse. Thirty-eight

36 A marae is a Māori community facility that usually consists of a carved meeting house, a dining hall and cooking area as well as the marae ātea (sacred space in front of the meeting house).

37 Of the total estimated resident population 29% were aged under 20, 59% aged 20 to 64 and 12% aged 65 and over (Statistics New Zealand Demographic Trends 2007 see www.stats.govt.nz)

percent of residents self-identified as being of NZ European/Pakeha ethnicity, 26% as Pacific Peoples, 20% as Asian, 14% as Māori and 2% as being of Other ethnicities.³⁸ Forty-four percent of residents of working age earned less than NZ\$20,000 per year.

Description of the Crossing Bridges programme

History

The Nga Whare Waatea Trust is part of an urban Māori organisation³⁹ and operates the *Crossing Bridges* restorative justice programme which accepts some referrals for family violence. The programme has been operating since 2003.

Infrastructure

The Trust employs a part-time coordinator/manager (who is also the Operations Manager of the marae) to run the *Crossing Bridges* programme. The Trust is funded by the Ministry of Justice to run 36 restorative justice meetings annually.

The coordinator/manager⁴⁰ acts as the facilitator for the *Crossing Bridges* programme. The coordinator/manager is an experienced facilitator and has access to a number of similarly experienced co-facilitators including violence prevention programme tutors.

The programme operates from an office on the Nga Whare Waatea complex and is supported to some extent by the infrastructure of the marae. Most restorative justice meetings are held on site in an adjacent meeting room.

Type of restorative justice process

The *Crossing Bridges* programme uses a victim-offender meeting process.

The victim must agree to the process going ahead before a restorative justice meeting can take place. The focus of the restorative justice meetings and agreements is on 'healing the harm' within whānau. Consequently, these may be held at any stage of the criminal justice process – pre or post sentence.

Participants at the restorative justice meeting are typically a facilitator and co-facilitator, the victim and offender and any support people.

The facilitator meets again with the victim and offender two weeks after the restorative justice process has taken place. Feedback on the process is sought from victims and offenders either verbally or in written form.

38 Of the total estimated residential population 15% were Māori, 9% were Asian and 7% were Pacific Peoples. Seventy-nine percent identified as New Zealand European or a New Zealander. Categories are overlapping. (Statistics New Zealand 2006 Census see www.stats.govt.nz)

39 This is Manukau Urban Māori Authority.

40 The coordinator is primarily the manager of the restorative justice programme. Sometimes coordinators also act as facilitators of restorative justice meetings – these two terms are used throughout the report.

Cultural issues

The programme is located within an urban Māori organisation and located on a marae. Special consideration is given to cultural issues. Gaining an understanding of the tikanga⁴¹ of whatever ethnic groups are involved in the violence is a part of the facilitator's preparation and planning for the meeting.

Culturally relevant protocols (e.g. karakia⁴² at the beginning and end of the meeting) are incorporated into processes associated with the restorative justice meeting.

Types of family violence cases accepted

The decision whether or not to accept family violence referrals is made on a case-by-case basis. No offence types are excluded. To date the numbers dealt with have been small and encompass a variety of charges including arson, male assaults female and common assault.

Over an 18 month period, January 2005 to June 2006, *Crossing Bridges* used restorative justice processes in six family violence cases. Five were pre-sentence and one post sentence. The most serious offences for which restorative justice processes were used were common assault (n=2) arson (n=1), male assaults female (n=1), assault with intent to injure (n=1) and grievous bodily harm (n=1).

The offenders comprised five men and one woman. They were aged from 21 to 56 years. Their self-identified ethnicities were Māori (n=4), NZ European (n=1) and Samoan (n=1). Their victims were partners (n=2), sisters (n=2),⁴³ a son (n=1) and whānau member/friend (n=1). Victims were present at five out of the six restorative justice meetings.

Referral processes

The *Crossing Bridges* programme services referrals from the Manukau District Court. Referrals of offenders to the programme come via lawyers, the Community Probation Service or Judges. A common scenario is that a referral form is faxed through from a lawyer along with a copy of the Summary of Facts (SOF).⁴⁴ Referrals can take place pre and post sentencing.

A facilitator assesses the offender's suitability for the process based on an admission of guilt, a willingness to participate in the process and motivation to seek change or a solution.

Consent processes

After the referral form has been received the facilitator will meet face-to-face with the victim and offender separately. The voluntary nature of the procedure is stressed throughout. The victim's details are usually obtained from the referral source or Police Prosecution. Victim consent is required before the process goes ahead.

The meeting with the victim takes place first. The victim is asked whether or not he/she is prepared to meet the offender and what he/she wants from the meeting/offender. They are also informed

41 That is customs, rules or principles.

42 A prayer.

43 In one case the victims were the offender's sister and mother.

44 This is the police report on facts relating to the incident/offence.

about the restorative justice process and safety protocols procedures for the conduct of the conference are explained. This process is then repeated with the offender. A meeting will not take place if there is any indication that the victim may be re victimised or under threat.

Participants' safety

As far as we could ascertain, the programme does not have a written safety protocol for dealing with family violence cases. However, the facilitator considers safety at referral time, where s/he assesses each referral on a case by case basis, and at the restorative justice meeting itself.

The facilitator takes precautions in relation to the safety of the victim and offender. There are a balanced number of participants and all are given a clear indication of their responsibilities and the conduct expected of them during the meeting. An experienced facilitator maintains control over the process and will adjourn or halt the meeting at any sign of trouble.

Restorative justice agreements

Agreements were reached in five out of six cases held between January 2005 and June 2006. These agreements consisted of from two to six tasks or 'suggestions'. Attendance at programmes (n=5) was the most common suggestion. Verbal apologies (n=3) and reparation (n=1) featured less frequently in agreements.

Monitoring compliance with agreements⁴⁵

Tasks included in agreements such as apologies and reparation are usually completed before the offender reappears in Court. Little monitoring is, therefore, required by the facilitator.

Outcomes

A report of the meeting is provided to the Court 48 hours before sentencing detailing a summary of the pre-meeting discussions with the victim and offender, what happened at the meeting and the outcomes and recommendations. Recommendations for programmes can be approved by the sentencing Judge. If this is the case, the monitoring of programme completion takes part through the Court process. In such cases the offender's programme attendance is monitored by the Department of Corrections.

The outcomes were varied for the six family violence offenders whose cases were held between January 2005 and June 2006. In the post sentence case the meeting was held to aid a parole application. In one of the pre-sentence meetings the offender had been remanded in custody and a term of imprisonment was inevitable. No information on sentencing outcomes was available for the other four offenders.

45 As mentioned in Chapter 3, the terms 'recommendations' 'agreement', 'outcome' and 'plan' are often used interchangeably in the literature to refer to agreements reached between the parties at restorative justice conferences for some actions to be undertaken. For simplicity, all outcomes of restorative justice meetings at the five sites have been referred to throughout this report as 'agreements'.

4.3 Horowhenua Restorative Justice Programme

Demographic characteristics of the Levin population

The Horowhenua Restorative Justice programme is in Levin. Levin is in the south-west of North Island of New Zealand and is part of the Horowhenua district which is one of the smaller territorial authorities in the country. At the time of the 2006 population census 29,866 people were living there. Twenty-eight percent of the people were aged under 20 and 52% aged 20 to 64 years. Twenty percent were aged 65 and over. Seventy-two percent of Horowhenua residents self-identified as being of NZ European/Pakeha ethnicity, 20% as Māori. Pacific Peoples, Asian, and Other ethnicities make up the remaining 8%. Fifty-four percent of residents of working age earned less than NZ\$20,000 per year.

Description of the Horowhenua Restorative Justice programme

History

The Horowhenua Restorative Justice programme operates under the Horowhenua District Council. The programme began operation in 1999 as part of the then local Safer Community Council.⁴⁶

Infrastructure

The programme employs one full-time coordinator/facilitator who is the only staff member and who has been in the position for the length of time the programme has been in operation. The programme is funded by the Ministry of Justice to run a specified number⁴⁷ of restorative justice conferences annually.

The coordinator facilitates all panels. His background includes 30 years in the Police where he participated in domestic violence training courses.

The coordinator is supported by a pool of 10-12 volunteer panel members whose backgrounds and occupations reflect those of the local community and include some who work for Victim Support.

The programme operates from a 'rent free' office (originally set aside for the use of the Police Community Constable) in the local shopping mall. Most restorative justice meetings are held in the adjacent board-room or in local community rooms. The office equipment is limited, consisting of a computer and printer, some filing cabinets, and a phone.

Type of restorative justice process

The Horowhenua Restorative Justice programme uses a community panel process.

46 Towards the end of 2006 the Horowhenua District Council decided that when the current contract with the CPU expired, it no longer wanted to be involved in the delivery of restorative justice programmes in the area. Consequently, the Horowhenua Restorative Justice programme ceased to operate at the end of June 2007. Restorative justice services in the wider area will now be managed from the Palmerston North District Court. In July 2007 the Ministry of Justice issued a request for proposals from restorative justice providers in the area to provide these services.

47 The programme's funding was \$50,000 per annum to cover all costs.

A restorative justice meeting only takes place if the victim consents to the process and agrees to be present, although this latter condition had not always been the case.⁴⁸ The victim is encouraged to bring a support person along to the meeting.

Participants at the restorative justice meeting are typically the victim, the victim's support person, the offender, the offender's support person, two community panel members (one male and one female) and one facilitator (i.e. the programme coordinator).

Feedback is obtained verbally from participants at the end of the restorative justice meeting.

Cultural issues

Cultural issues are addressed by making attempts to include panellists of the same ethnicity as those involved in the violence. Where appropriate, meetings may be held on a local marae.

The programme has the support of local kaumatua⁴⁹ and panel members include representatives from the local iwi.⁵⁰

Types of family violence cases accepted

Except for breaches of protection orders, which are excluded, the Horowhenua Restorative Justice programme has no strict rules as to which types of offences it will accept. The programme is available for those offenders charged with a criminal offence who acknowledge their guilt, and have few recent convictions. The facilitator must also feel that the offender exhibits genuine remorse. The aim is to prevent re-offending particularly in the area of family violence.

Over an 18 month period, January 2005 to June 2006, the Horowhenua Restorative Justice programme used restorative justice processes in 15 family violence cases. Victims were present in nine (or 60%) restorative justice meetings, and agreements were reached in all cases. The most serious offences for which restorative justice processes were used were male assaults female (n=6), common assault (n=7), assault on a child (n=1) and wilful damage (n=1).

The offenders comprised 11 men and four women. They were aged from 20 to 52 years. Their self-identified ethnicities were NZ European (n=9), Pacific (n=4) and Māori (n=2). The victims involved included partners (n=7), ex-partners (n=3), daughter/step-daughters (n=3), a step-son (n=1) and a mother (n=1). Victims were present in nine (or 60%) restorative justice meetings.

Referral processes

Referrals to the programme are made via the Levin District Court. Lawyers (including duty solicitors), Police and Victim Advisers may suggest to the Judge that the offender might be an appropriate candidate for restorative justice. Referrals take place at the pre-sentencing stage.

The facilitator assesses the offender's suitability for a restorative justice meeting based on his or her genuine remorse and a lack of recent convictions.

48 At one stage restorative justice meetings for family violence could take place without the victim present. Two examples include charges of assault where the victims were teenagers and the offenders their parents. This changed when the Court expressed disapproval of this practice.

49 That is, elders.

50 This is the local Māori tribal group.

Consent processes

The facilitator meets with the offender, usually at the Court, and obtains the offender's verbal consent to participation in restorative justice processes. The case is then remanded for two weeks for contact to be made with the victim. The Victim Adviser is always the first point of contact for the victim. Victims are asked if they agree for their contact details to be released to the restorative justice provider. If they agree the facilitator then contacts and meets face-to-face with the victim to explain the process.

The facilitator makes contact by phone or in person with the victim and offender separately in preparation for the meeting. Both are encouraged to bring support people to the restorative justice meeting (although this rarely happens) and briefed on what will happen there. It is stressed that the meeting is to find a resolution to the issues between victim and offender, not to decide on guilt as a guilty plea has already been entered at Court and the facts of the incident admitted.

Participants' safety

As far as we could ascertain, the programme does not have a written safety protocol for dealing with family violence cases. However, the facilitator considers safety issues on a case-by-case basis, and at the restorative justice meeting itself. The process would not go ahead if the facilitator felt that the victim had been coerced or bullied into participating.

The facilitator's precautions to ensure the safety of victim and offender include setting out the ground rules for participation at the beginning of the meeting. The victim will be asked if s/he has any concerns for his/her safety at this point. If at any stage it becomes apparent that any participant is feeling unsafe the meeting will be adjourned to ask them if they want to continue. If a participant decides that s/he wishes to stop the meeting the facilitator will make sure that s/he can leave safely. Although the coordinator had initial concerns about accepting family violence referrals, there has never been a situation where safety has been an issue.

Restorative justice agreements

All participants sign the agreement reached at the restorative justice meeting. Usually offenders agree to undertake a stopping violence programme and/or some community work. The local stopping violence programme is subsidised by the community and runs on a koha⁵¹ basis for offenders.

Agreements for the 15 family violence cases for which restorative justice meetings were held between January 2005 and June 2006, consisted of from one to four tasks each. Community work (n=8) and promises not to be violent (n=8) were the two most common tasks, followed by attendance at programmes (n=7). Reparation (n=2) and donations (n=2) featured less frequently in agreements.

Offenders charged with violence against a partner are required to attend the Horowhenua Family Violence Intervention programme. The programme will only accept those who are currently living with their partner. If appropriate, offenders are also referred to relationship counselling through the Family Court, alcohol and drug services or gambling anonymous.

51 This is a donation.

Monitoring compliance with agreements

The facilitator usually undertakes most of the monitoring of the offender's compliance with the tasks in the agreement.

Where an offender is required to attend a programme as part of his/her agreement the case is usually adjourned for about 23 weeks to allow the offender to complete the programme. However, the offender may be required to make an appearance in court during this period to report to the Judge as to progress.

The facilitator will liaise with programme providers and any failure to attend by the offender will result in the case being returned to court.

Sentencing at Court

On completion of the agreement the facilitator advises the Judge by way of a written report. The offender must return to Court for sentencing regardless of whether or not s/he completes his/her agreement. All participants are informed of the final Court outcome.

Thirteen of the fifteen family violence offenders whose cases were held between January 2005 and June 2006 completed all the tasks in their agreements. All of these thirteen offenders received a discharge without conviction at Court.

4.4 Nelson Restorative Justice Services

Demographic characteristics of the Nelson population

The Nelson Restorative Justice Service operates in the city of Nelson, in the north of the South Island of New Zealand. At the time of the 2006 population census, 42,888 people were living there. Twenty six percent of the people were aged under 20, 59% were aged 20 to 64, and 14% were aged 65 years and over. Seventy eight percent of Nelson residents self-identified as being of NZ European/Pakeha ethnicity, 8% as Māori, 3% as Asian, and 11% as being of 'Other' ethnicities. Forty four percent of residents of working age earned less than NZ\$20,000 per year.

Description of the Just Right programme

History

The Nelson Restorative Justice Trust operates two programmes. One of these, *Just Right*, accepts some referrals for family violence. The *Just Right* programme has been operating since late 2005.

Infrastructure

The Trust employs two staff members to run the *Just Right* programme, along with a community panel of volunteers. The Trust is funded by the Ministry of Justice to run 110 restorative justice conferences annually.

The coordinator/facilitator is funded to work on the programme for 35 hours/week and a second facilitator is funded to work for 20 hours/week. Both staff members have been in their positions since early 2006.

One of the facilitators has a counselling diploma and both facilitators are experienced in the community sector in dealing with family violence.

The facilitators are supported by 28 volunteer panel members whose backgrounds and occupations are wide ranging.

The Trust rents some office space from a local church. Most restorative justice meetings are held in this venue or in local community rooms. The office equipment is basic, consisting of a couple of laptops and printers, some filing cabinets, and a phone.

Type of restorative justice process

The *Just Right* programme uses a community panel process.

A restorative justice meeting only happens if the victim agrees to be present. The victim is encouraged to bring a support person along to the meeting. If the victim has no support person in mind, the facilitator will assist in organising an appropriate person (e.g. a person from the local Women's Centre).

Participants at the restorative justice meeting are typically the victim, the victim's support person, the offender, the offender's support person, two community panel members and one facilitator.

Just Right seeks written feedback from participants as to their satisfaction with the restorative justice meeting and the processes.

Cultural issues

Panel members come from a range of cultural backgrounds. The facilitator may consider the cultural background of a support person or panel member as a factor in the selection of volunteers to participate in a particular restorative justice meeting. Where appropriate, meetings may be held on a local marae and participants are referred to culturally appropriate stopping violence agencies wherever possible.

Types of family violence cases accepted

Except for breaches of protection orders, which the coordinator excludes, *Just Right* has no blanket rules as to which types of offences it will accept. Staff do, however, take the offender's recent history of offending into account.⁵²

Over a nine month period, October 2005 to June 2006, *Just Right* used restorative justice processes in 14 family violence cases. The most serious offences for which restorative justice processes were used were male assaults female (n=6), common assault (n=5), threatening act (n=1), threatening behaviour (n=1), wilful damage (n=1).

The offenders comprised 12 men and two women. They were aged from 25 to 55 years. Their self-identified ethnicities were NZ European (n=9), Māori (n=2), Samoan (n=2) and 'Other' ethnicity (n=1). Their relationships with the victims were that of partner (n=12) or ex-partner (n=2). Victims were present at all restorative justice meetings.

52 The offender must sign a release form for the programme providers to access the offender's criminal history.

Referral processes

All referrals of offenders to *Just Right* go through the Court. The offender must plead guilty. Lawyers (including duty solicitors) and prosecutors may suggest to the Judge that the offender might be a suitable candidate for restorative justice. Referrals take place at the pre-sentence stage.

A *Just Right* facilitator assesses the offender's suitability to take part in a restorative justice meeting on the basis of whether the offender displays remorse, wants to put things right and accepts fault.

Consent processes

A facilitator meets with the offender, usually at the Court, and obtains the offender's verbal consent to participation in restorative justice processes. A facilitator then contacts and meets face-to-face with the victim to explain *Just Right* processes and assess the victim's suitability. Considerations include the victim's safety, level of vulnerability, fear, and support structures. At this pre-meeting the victim may provide verbal consent to participation. If so, the facilitator will also ask the victim who s/he might bring along to the restorative justice meeting to support her/him. If the victim has no support person in mind, the staff member will assist in organising an appropriate person (e.g. a person from the local Women's Centre).

The same facilitator will also have a pre-meeting with the offender to ensure the offender has a support person to accompany him/her, and to set the scene for the restorative justice meeting.

Participants' safety

As far as we could ascertain, the programme does not have a written safety protocol for dealing with family violence cases. However, the facilitator considers safety at referral time, where s/he assesses each referral a case by case basis, and at the restorative justice meeting itself. Support persons are seen as crucial in this process and the meeting will not go ahead if either the victim or the offender does not have support.

The victim and offender may choose their own seats at the meeting. The facilitator and the community panel members are primed for body language or innuendo that may alert them to any safety risks for the victim and offender. If the victim says they feel unsafe at any time in the restorative justice meeting, the facilitator would call for time out, and after speaking further with the victim, either abandon the meeting or arrange to re-convene it.

Restorative justice agreements

The victim and offender sign the agreement reached at the restorative justice meeting. Usually offenders agree to organising a fun social activity (e.g. a mid week social outing with the victim, or taking the children to a fast foods outlet) and attend a violence intervention programme as part of the agreement. Offenders must pay personally for participation in such an intervention programme.

Agreements for the 14 family violence cases for which restorative justice meetings were held between October 2005 and June 2006 consisted of from two to nine tasks each. A fun social activity (n=13) and attendance at programmes (n=12) were the two most common tasks. Reparation (n=5), work for the victim (n=3), community work (n=2), apologies (n=1) and donations (n=1) featured less frequently in agreements.

Programmes/agencies that offenders are referred to include relationship counselling through the Family Court, and violence prevention programmes such as - Living without Violence (Nelson), Get

Safe (Motueka), Te Puawaitanga o Te Aroha (Nelson) and Living without Violence for Pacific Island Men.

Monitoring compliance with agreements

The facilitator usually undertakes most of the monitoring of the offender's compliance with the tasks in the agreement. A referral is sent to the appropriate agency, where appropriate, setting out the task required.

Where an offender is required to attend a programme as part of his/her agreement, the case is usually adjourned for 18 to 21 weeks to allow the offender to complete the programme. However, the offender may be required to appear in court at some point during the 18 to 21 weeks to report to the Judge as to progress.

The facilitator will liaise with the programme provider or agency and request feedback on progress and at completion. Any failure by the offender to complete a task/attend a programme may result in an extension of time being negotiated or in the case being returned to court.

Sentencing at Court

The offender must return to Court for sentencing regardless of whether or not s/he completes his/her agreement.

Ten of the fourteen family violence offenders whose cases were held between October 2005 and June 2006 completed all tasks in their agreements. Of these 10, four offenders subsequently had their charges withdrawn, four offenders were convicted,⁵³ and for two offenders the sentence was unknown.

4.5 Christchurch Restorative Justice Services

Demographic characteristics of the Christchurch population

Restorative Justice Services are located in the city of Christchurch. Christchurch is situated at the mid point of the South Island of New Zealand, on the east coast. At the time of the 2006 population census, 348,435 people were living there. Twenty-six percent of the people were under the age of 20, 60% aged 20 to 64 years, and 14% were aged 65 and over. Seventy three percent of Christchurch residents self-identified as being of NZ European/Pakeha ethnicity, 8% as Māori, 8% as Asian, 3% as Pacific Peoples, and 8% as being of 'Other' ethnicities. Forty-four percent of Christchurch residents of working age earned less than NZ\$20,000 per year.

Description of the Restorative Justice Services programme

History

Restorative Justice Services is a Charitable Trust and has been in operation since 1998. The Trust provides restorative justice victim-offender conferences both within the criminal justice system and from community referrals (such as historic sexual abuse).

53 Two were convicted and discharged, one was convicted and to come up for sentence if called upon in the following 12 months, and one was fined \$400. Two were given name suppression.

Infrastructure

The Trust is funded by the Ministry of Justice to run 35 pre-sentence restorative justice conferences annually. They also receive funding from other sources including Christchurch City Council, Canterbury Community Trust, New Zealand Post and Telstra Clear.

The Trust employs a part-time coordinator who works 30 hours a week and a part-time administrative support person who works 12 hours a week.

The role of the coordinator is to manage and coordinate the restorative justice services provided by the Trust. The current coordinator has been in this position for the last four years.

There is a pool of 13 facilitators who preside over restorative justice meetings. All have had training in restorative justice practice and principles and receive professional supervision outside the Trust. They include school teachers, mediators, lawyers and counsellors. They hold monthly peer review meetings.

The Trust is also supported by a small number of volunteers who, along with the coordinator, provide a 'presence' on behalf of the Trust in the Christchurch District Court several times a week.

The Trust rents an office in Christchurch Community⁵⁴ where most restorative justice meetings are held in an adjacent board room. The rent is subsidised. The Trust owns basic office equipment including computers, printers, a fax machine and filing cabinets.

Type of restorative justice process

Restorative Justice Services use a victim-offender meeting process.

A restorative justice meeting will only take place if the victim consents to it taking place. The process is victim focussed and participant led. The aim is to get victims and offenders together and to conduct a process whereby they can communicate and come up with an agreement of some sort. Facilitators are there to guide this process and will not contribute ideas unless specifically asked.

Participants at the restorative justice meeting are typically the victim, the offender, any support people, a facilitator and a co-facilitator/recorder.

Facilitators make contact with victims and offenders a few days after the meeting to see how they are and answer any questions they may have about the process or outcomes.

Cultural issues

The Trust has Board members and facilitators who are Māori, Pacific and of other cultures. Cultural issues are addressed by ensuring that there is a cultural match wherever possible between facilitators and those involved in the violence and referring participants to culturally appropriate stopping violence agencies.

There is a commitment by the Board to ongoing education and the structuring of policies and practice to ensure that services are delivered appropriately cross culturally.

54 Christchurch Community House is a joint project of The Christchurch City Council and The Community Trust.

Types of family violence cases accepted

Restorative Justice Services accepts referrals for family violence offences but only proceeds with these after a vetting process (see below).

Over an 18 month period, January 2005 to June 2006, Restorative Justice Services used restorative justice processes in 15 family violence cases. Twelve were pre-sentence, and three were community referrals (no charges laid). The most serious offences for which restorative justice processes were used in pre-sentence cases were sexual violation (n=1), conspiracy to murder (n=1), male assaults female (n=5), assault with a weapon (n=1) assault with intent to injure (n=1), dangerous driving causing injury (n=1), and common assault (n=2).

The offenders comprised 10 men and five women. They were aged from 17 to 56 years. Their self-identified ethnicities were NZ European (n=7), Māori (n=6), Pacific (n=1) and other ethnicity (n=1). Their victims included partners (n=4), sisters (n=3), aunts (n=2) mothers (n=2), cousins (n=2), a father (n=1) and an ex-partner (n=1). Victims were present at all restorative justice meetings.

Referral processes

The coordinator receives referrals in three main categories: from the community where there is no formal charge; pre-sentence; and post-sentence. Referral sources include: Judges, lawyers, and community probation officers. Once a referral is received the coordinator contacts the victim and offender by mail outlining what the service offers and advising them that a facilitator will be in contact. If the case has been referred at the pre-sentence stage via the Christchurch District Court there will be a strict timeline for the convening of the meeting.

Facilitators assess the offender's suitability for a restorative justice on a case-by-case basis. Particular caution is used when assessing family violence referrals. Although the offender need not have entered a guilty plea at Court s/he must accept responsibility for the offending, be willing to take part and be able to meet safely with the victim.

Consent processes

Facilitators' practice is guided by a policy and procedure manual based on material sourced from the Court-referred Restorative Justice Pilot Facilitator Training Manual.⁵⁵ In addition, a specific protocol setting out the areas to discuss with family violence victims and offenders is included (see Appendix B4).

The first meetings with the victim and offender are crucial. The aim of these is to provide the potential participants with a clear indication of what will happen if the restorative justice process goes ahead. The facilitator first meets with the offender. Support people can also be present. If the offender is willing to participate and is able to meet safely with the victim the facilitator will then contact the victim. The facilitator then meets with the victim and any support people that are available. During this meeting the facilitator explains the process, seeks the victim's view of the offending, including whether the abuse is still going on. The victim's needs and views of what led to the offending are also sought. If the victim is willing to meet with the offender and can do so safely, the meeting will go ahead.

Participants' safety

As far as we could ascertain, the programme does not have a written safety protocol for dealing with family violence cases. However, the facilitator considers safety at selection time, where s/he selects cases on a case by case basis, and at the restorative justice meeting itself.

At the beginning of the meeting participants are required to sign an agreement which sets out the rules for the meeting. Facilitators take precautions to ensure the safety of the victim and offender. If any participant is perceived to be at risk the meeting will be terminated and the victim allowed to leave before the offender.

Restorative justice agreements

Consensus was reached in 13 out of the 15 family violence cases for which restorative justice meetings were held between January 2005 and June 2006. Apologies were frequently given (n=10), victims and offenders offered support to each other or to work together to solve their differences (n=6) and programme attendance was often talked about (n=4). No outcomes were formalised and no monitoring was required.

Restorative Justice Services has links with culturally appropriate stopping violence agencies and can provide offenders with this information if required.

Monitoring compliance with agreements

Agreements reached in family violence cases take the form of suggestions or ideas as to what 'should happen' for the best outcomes. The facilitator writes a report which includes a summary of the pre-meeting discussions with the victim and offender, what happened at the meeting and any agreement/consensus reached. This is sent to all participants and the Court if applicable. Suggestions that programme attendance might benefit the offender can be taken up by the sentencing Judge and made part of the sentence. If this is the case, the monitoring of programme completion takes part through the Court process and is carried out by the Department of Corrections.

Sentencing at Court

Sentencing information was available for 10 of the 12 family violence offenders who had taken part in pre-sentence meetings between January 2005 and June 2006. Eight were convicted at Court,⁵⁶ one had his/her charges withdrawn and one was discharged without conviction.

4.6 Project Turnaround, Timaru

Demographic characteristics of the Timaru population

Project Turnaround is located in Timaru, in the more populous east coast of the South Island of New Zealand. At the time of the 2006 population census, 42,870 people were living there. Twenty six percent of the people were aged under 20, 56% were aged 20 to 64 years, and 18% were aged 65 years and over. Eighty percent of Timaru residents self-identified as being of NZ European/Pakeha

56 Two were sentenced to supervision, two were sentenced to supervision and community work, one was sentenced to 15 months imprisonment and one was fined \$450. One was ordered to come up for sentence if called upon and one was convicted and discharged.

ethnicity, 6% as Maori, and 14% as being of Other ethnicities. Forty eight percent of residents of working age earned less than NZ\$20,000 per year.

Description of the Project Turnaround programme

History

Project Turnaround consists of two programmes. The first, a community panel adult pre-trial diversion programme, was formally evaluated in 1999.⁵⁷ The evaluation findings were very positive in that offenders who participated in this programme were found to have reduced their re-offending over one year compared to offenders dealt with by conventional Court processes. In addition, for those who were reconvicted, the seriousness of the major offence was not as great among offenders in the programme as it was among comparison offenders. The second, a newer programme used for more serious cases, is modelled on New Zealand Court-referred restorative justice pilot processes.⁵⁸ *Project Turnaround* accepts referrals for family violence into both programmes, although at the time of the data collection for this evaluation (August 2006), it had accepted referrals for family violence into its first but not its second programme.

Infrastructure

A Trust oversees the operation of *Project Turnaround*. The Trust is funded by the Ministry of Justice to run 80 community-panel meetings annually.

It employs one full-time coordinator/facilitator, a part-time facilitator and a part-time administrative support officer. The coordinator/facilitator has been in this position for over ten years. The Trust also employs a contract case worker (who is also a case worker for Women's Refuge) to support clients where needed.

The staff members are supported by a pool of approximately 20 volunteer panel members. The panel has a good retention rate.

Training of staff and panel members has included a session where representatives from South Canterbury Violence Intervention and South Canterbury Women's Refuge spoke about issues from both the offenders' and victims' perspectives. Many of the facilitators and community panel members have relevant vocational skills (e.g. counsellor, Women's Refuge case worker, Stopping Violence facilitator).

The Trust is based at the Timaru District Council Safer Communities office; the use of basic office equipment (e.g. computers, photocopier, printers) is included in this arrangement. Most restorative justice meetings are held at this venue or in local community rooms if there are a large number of participants.

57 Maxwell G, Morris A, Anderson T. (1999). Community Panel Adult Pre-Trial Diversion: Supplementary Evaluation. Wellington: Crime Prevention Unit, Department of Prime Minister and Cabinet.

58 New Zealand Court-Referred Restorative Justice Pilot: Evaluation (Crime and Justice Research Centre, 2005).

Type of restorative justice processes

As mentioned above, *Project Turnaround* consists of two programmes: a community panel adult pre-trial diversion programme, and a programme modelled on New Zealand Court-referred restorative justice pilot processes.

Participants at a community panel pre-trial diversion restorative justice meeting are typically, the offender, two community panel members, the Police Family Violence Coordinator, and one facilitator. In about half the cases the victim is also present.

At a restorative justice meeting based on Court-referred restorative justice processes and occurring post the offender's conviction are typically the victim, offender, and two facilitators. While victims and offenders are encouraged to bring support people, it is *Project Turnaround's* experience that victims and offenders of family violence cases are more likely to wish to attend by themselves.

At the conclusion of the restorative justice process, victims and offenders are invited to provide feedback on their experiences of restorative justice processes via a questionnaire.

Cultural issues

Issues of culture are addressed by the inclusion of Māori panel members where appropriate or seeking guidance and support from the particular cultural community as relevant. *Project Turnaround* has three Māori panel members.

Culturally relevant protocols (e.g. karakia at the beginning and end of the meeting) may be incorporated into processes associated with the restorative justice meeting. Where appropriate, meetings may be held on a local marae.

The facilitators and community panel members have undertaken a four week training course covering basic Māori language and cultural issues.

Types of family violence cases accepted

The facilitator decides whether to accept family violence cases on a case by case basis. To August 2006, *Project Turnaround* has dealt mainly with male assaults female offences where the assaults have not resulted in the victims being admitted to hospital.

Over an 18 month period, January 2005 to June 2006, *Project Turnaround* used restorative justice processes in 19 family violence cases. The most serious offences for which restorative justice processes were used were male assaults female (n=14), assault on a child (n=1) and common assault (n=4).

The offenders comprised 17 men and three women. They were aged from 18 to 50 years. Their self-identified ethnicities were NZ European (n=17) and Māori (n=3). Their victims included partners (n=14) and ex-partners (n=2), children (n=2), a father (n=1), a friend (1), and a sister (n=1). Victims were present at 10 (or 50%) of the restorative justice meetings.

Referral processes

Lawyers (including duty solicitors), Police, Victim Support, and Victim Advisers may suggest to the Judge that an offender might be a suitable candidate for restorative justice. An offender must plead guilty. Referrals take place at the pre-trial stage.

A *Project Turnaround* facilitator assesses the offender's suitability for a restorative justice meeting based on his or her motivation to make positive changes, for example by demonstrating a willingness to participate in programmes such as stopping violence courses.

Consent processes

The facilitator meets with the offender and obtains the offender's verbal consent to participation in restorative justice processes.

The facilitator then usually contacts the victim by phone to explain *Project Turnaround* processes. The facilitator obtains the victim's verbal consent to either, the restorative justice meeting proceeding in her/his absence, or to her/his participation in it. The facilitator assesses the victim's suitability to participate taking first and foremost into consideration the victim's wishes, plus whether s/he wants to continue in the relationship,⁵⁹ and whether s/he is owning any of the issues surrounding the violence. The facilitator will often also have a pre-meeting with the victim at which she will encourage the victim, if the victim agrees, to bring along a support person to the restorative justice meeting.

Participants' safety

As far as we could ascertain, the programme does not have a written safety protocol for dealing with family violence cases. However, the facilitator considers safety at referral time, where s/he selects cases on a case by case basis, and at the restorative justice meeting itself.

The presence of a Police person at the community panel pre-trial meetings helps create feelings of safety.

The facilitator gives special consideration to the selection of the panel members (usually one woman and one man).

Agreements

The victim and offender sign the agreement reached at the restorative justice meeting. Usually offenders agree to undertake some counselling and/or stopping violence programmes. Some counselling (e.g. relationship counselling through the Family Court) and programmes (e.g. Men's stopping violence programme) are free to offenders, while others the offender must fund. Less frequently agreements contain donations or community work since these sorts of sanctions are thought to be less relevant in family violence cases.

Agreements of the 20 family violence cases dealt with between January 2005 and June 2006 consisted of from one to six tasks each. Attendance at programmes (n=18) was the most common task. A written apology (n=5), community work (n=4), reparation (n=3), and donations (n=2) featured less frequently in agreements.

Programmes/agencies that offenders are referred to include: relationship counselling through the Family Court, Stopping Violence programme, personal counselling, alcohol and drug counselling, parenting programmes.

59 Project Turnaround mostly deals with couples who want to stay together.

Monitoring compliance with agreements

The offender's case is usually adjourned while the offender is carrying out the tasks in the agreement.

The facilitator usually undertakes the monitoring of the offender's compliance with his/her agreement by liaising with programme providers.

Outcomes

Providing the offender completes his/her agreement, the outcome for the offender who has participated in a community panel meeting, is usually that the case is withdrawn. In this way, the process operates similarly to Police Diversion.⁶⁰

4.7 Summary

The programme providers at the five sites chosen for the review were spread throughout the country: three in the North Island and two in the South Island.

At two of the sites, Levin and Nelson, the restorative justice process used is a community panel pre-sentence model which involves two panel members and a coordinator/facilitator. At two other sites, Nga Whare Waatea and Christchurch, the restorative justice process is a victim-offender meeting with a facilitator and a co-facilitator. At Nga Whare Waatea the process takes place either pre or post-sentencing. In the case of Christchurch the restorative justice process can take place pre or post sentencing or where there is no formal charge. At the fifth site, Timaru, the process used to date is one of community panel pre-trial diversion and involves the Police, panel members and a facilitator.

Referrals come to all programmes via the Court. Referral sources include lawyers, the Judge, Community Probation Officers and Victim Advisers. Christchurch accepts referrals from the community.

All five programmes approach family violence referrals with caution and assess referrals on a case-by-case basis. Nelson and Horowhenua will not accept referrals where there has been a breach of a protection order. All programmes require the victim's consent before the restorative justice process can go ahead and encourage the participation of victims. Horowhenua and Nelson require the victim to be present at the meeting.

All programmes address cultural issues by endeavouring to match the ethnicity of facilitator and or panel members with the ethnicity of participants and referring offenders to culturally appropriate violence prevention programmes where possible. Facilitators inform themselves of the tikanga of the particular cultural group of the participants involved as part of the preparation for the meeting.

60 At the time this research was undertaken, the process undertaken at Project Turnaround was that cases were referred back to the Police Prosecution Service for charges to be withdrawn upon successful completion of the agreed conditions, in the same way that successful completion of conditions of the Police Adult Diversion Scheme results in a withdrawal of a charge. As part of the work on the review of the Police's diversion policy a process was clarified whereby only rare cases which qualify under the diversion policy will result in a charge being withdrawn. All cases that do not qualify under the diversion policy will be referred to the court for sentencing, with all options under the Sentencing Act 2002 available, but not for the charge to be withdrawn. The Police Adult Diversion Scheme policy, as revised from November 2007, can be obtained from the Police's website at the following link: <<http://www.police.govt.nz/service/diversion/policy.html>>

As far as we could ascertain, none of the programmes had a written safety protocol for dealing with family violence cases. However, the facilitators consider safety at selection time where they select cases on a case by case basis, and at the restorative justice meeting itself. Christchurch has a specific protocol setting out the areas for the facilitators to discuss with family violence victims and offenders in preparation for the meeting.

All programmes encourage the victim and offender to bring support people to the meeting. However, Nelson requires both victim and offender to have support at the meeting for the restorative justice process to go ahead.

All five programmes advise victims and offenders of the ground rules for the meeting and what would happen if these were breached. At Christchurch, at the beginning of the meeting, participants are required to sign an agreement which sets out the rules for the meeting. In all cases the meeting would be stopped if anyone felt unsafe and did not want to carry on with the process.

Over the 18 month period from January 2005 to June 2006 Timaru used restorative justice processes in 20 family violence cases, Horowhenua and Christchurch each used restorative justice processes in 15 family violence cases and Nga Whare Waatea used restorative justice processes in six family violence cases. Over a nine month period, October 2005 to June 2006, Nelson used restorative justice processes in 14 family violence cases.

Over the period January 2005 to June 2006 all five programmes used restorative justice processes for the offences of male assaults female and common assault. Other offences for which restorative justice processes were used across the five sites were: arson, and grievous bodily harm (Nga Whare Waatea); assault with intent to injure (Christchurch and Nga Whare Waatea); assault on a child (Levin and Timaru); an historical sexual offence, conspiracy to murder, assault with a weapon and dangerous driving causing injury (Christchurch); threatening behaviour/act (Nelson); and wilful damage (Nelson and Levin).

The outcomes of the restorative justice meetings held for family violence cases resulted in agreements at three out of the five sites – Horowhenua, Nelson and Timaru – which offenders are required to complete before the disposition of their case. At Nga Whare Waatea agreements take the form of suggestions of what the offender needs to do to ‘heal the harm’ within the whānau or family. At Christchurch agreements reached in family violence cases take the form of suggestions or ideas as to what ‘should happen’ for the best outcomes.

Agreements which required offenders to undertake specific actions commonly included attendance at a violence intervention programme. At Nelson a fun activity was often included and at Horowhenua the offender was frequently required to undertake community work and not to behave in a violent manner as part of the agreement. Monitoring of tasks was predominantly carried out by the restorative justice facilitator. Where recommendations for programmes are taken up by the sentencing Judge the monitoring of programme completion takes part through the Court process. That is, the Court may adjourn the case for sentencing until the completion of the plan or an offender is sentenced and his/her programme attendance is monitored by the Department of Corrections.

Sentencing outcomes for offenders in family violence cases where restorative justice processes had been used commonly included discharge without conviction or charges being withdrawn.⁶¹

61 Charges being withdrawn is an outcome used in the rare cases where it considered appropriate that an offender qualifies for the Police Adult Diversion Scheme. The charge is withdrawn after the offender completes the agreed conditions.

Chapter 5 The views of victims and offenders

5.1 Introduction

Two of the objectives of the review were to describe the experience of individuals who have participated in restorative justice processes in family violence cases and the outcomes for these individuals (both victim and offender) from the processes. This chapter describes these experiences and outcomes from the point of view of the victims and offenders interviewed.

By asking offenders about family violence it is possible to assess the extent to which they recognise the harm caused by their actions and whether or not they are committed to changing their behaviours as the result of the restorative justice process. Seeking the views of victims, on the other hand, enables us to gauge whether or not they perceived this to have happened.

The primary focus of the chapter is to describe how victims (n=19) and offenders (n=19) experienced restorative justice panels/meetings for family violence cases and their views on the suitability of such processes in relation to dealing with family violence. We consider each step of the restorative justice process for victims and offenders, starting from the preparatory stages, through the meeting process to the outcomes or agreement decided on at the meeting. Restorative justice processes provide a forum for victims, offenders and their supporters to enable them to reach agreements about how best to deal with the offending and its consequences. The hope is that the agreement will heal the harm caused by the offending and take steps to prevent its recurrence. Victims' and offenders' views on whether or not this actually happened in 'their' meeting are described in this chapter.

5.2 Choosing to have a restorative justice meeting

Offenders (18 or 95%) were more likely than victims (15 or 75%) to remember whose idea it was to deal with the offending by restorative justice processes.⁶² The suggestions often came from the offender's lawyer (ten offenders and four victims reported this). In some cases the victim made the suggestion (two offenders and one victim reported this). Two victims said the Court Victim Adviser had suggested restorative justice. A further two offenders said that the restorative justice provider was at Court and had been the one to suggest that their case be dealt with in this fashion. Three victims and one offender said that they thought that the Judge had suggested restorative justice.

It was usually the restorative justice provider who had first contact with offenders. Fifteen out of the 18 reported this. Another three said that their first point of contact was their lawyer. One could not remember.

Court Victim Advisers usually had the first contact with victims. Eleven out of the 19 victims who took part in restorative justice panels/meetings reported this. The other eight said they had initially been contacted by the restorative justice provider. All said that they were comfortable being contacted about their potential participation in the process. As one commented:

*I was quite happy about that. Really good. It was a good way to resolve the issue we had. Restorative justice helps to resolve the issues between the people.
(female victim)*

62 The victim interviewed who did not attend the meeting did not know whose idea it was.

However, two victims and one offender (all women) said that they felt somewhat pressured to take part, mainly in that they were unsure of their options. One commented:

I didn't feel like I could refuse to go. I didn't know what my options were if I refused. (female victim)

One victim remarked she was made to feel guilty if she chose not to participate and this resulted in adverse consequences for the offender.

I liked the idea of the whole process. But there was a certain amount of pressure because I knew what he was like and what happened. I was being made to feel guilty if he got a conviction and that it was my fault. (female victim)

Victims and offenders were asked why they had decided to take part in the restorative justice process.⁶³ Some common themes that emerged from what they said.

- They wanted to sort out the issues that had led to the offending.

So that we could address the anger thing and not have an ongoing physical [violence] thing. To make it easier for us to work it out. To address matters properly not just community work or a fine. (female victim)

They offered help. We were going through a shitty patch. We'd be as good as gold then things would just erupt. (male victim)

Because we wanted to get things right for us to carry on being together. (male offender)

It was domestic and we run a home-based business. We have to live and work together. A court sentence creates some problems, so you're going to go for the best solutions. (female victim)

- They wanted to be able to discuss their differences in a safe environment.

It was a good idea for us to sit down and discuss what had happened with the safety of others around. (female victim)

I felt comfortable that we could both express our views on what happened and would like to happen without getting into an argument. (male offender)

- Some victims wanted the offender to get help to change.

I wanted a solution so that [offender] would not do this again to me or to any other person. (female victim)

I wanted anger management. They said if I pressed charges it would be dealt with with RJ and he could get that. That's all I wanted. (female victim)

With [offender] assaulting me I wanted him to get help rather go to jail. I'd never heard of restorative justice before but was prepared to try anything. (female victim)

- Offenders wanted to take responsibility, help themselves and/or make amends to the victim.

63 The victim who did not attend said that he had been asked if it was alright if the meeting went ahead without him. He agreed. He was represented by a Child, Youth and Family social worker and was happy with this.

To take responsibility for my offending. (male offender)

To help myself and the victim - my partner- we thought it was a good idea. (male offender)

To meet with victim, to make amends. (female offender)

- Others, who were no longer in the relationship, wanted closure.

Just to get my feelings out and get a bit of closure. (female victim)

To get closure. It had been drawn out over a long time. I couldn't have contact with my daughter. (male offender).

Others had more pragmatic reasons for participating. Four offenders (two female and two male) said that they took part to 'Get a lower sentence.' The concern here was that of getting a criminal record. One victim said similarly she did not want her partner 'To have a criminal record.'

Despite the existence of bail conditions that sometimes prohibited contact between the victim and offender, it was not unusual for them to have some form of contact before restorative justice meeting. This was reported by 13 (or 68%) victims and 12 (63%) offenders. 'We went together. We both agreed.' 'We just discussed what would happen.' A common scenario is illustrated by the following quote:

We were still living together. One of the bail conditions was going to be we weren't supposed to see each other but someone said we couldn't go through the restorative justice process without seeing each other so they waived that. (male offender)

Only one victim said that she felt that she had felt pressured to take part in the process at this stage.⁶⁴

[Offender] pressured me to go. He thought he was becoming the victim. I would've preferred just to go to the Court. It was hard to live together with waiting for all this to come to a conclusion.

In fact two female victims said they had been the ones applying the pressure.

I pressured [offender] probably. The whole scene put huge amounts of pressure on both of us and we were already under pressure.

However, when asked to rate the impact of the offence at the time it had happened 18 (or 95%) victims said that it had had a considerable negative impact on them. In fact most said that the impact had been 'high' (n=7) or 'very high' (n=8).⁶⁵ One stated succinctly 'It was shocking.'

64 In this case the victim had also been charged with willful damage.

65 Victims were asked to rate the impact of the offending on a scale from 1=no impact to 7 = very high impact. The victim who did not attend the conference rated the impact of the offending as 'little'.

5.3 Preparation

Effective participation in a restorative justice process requires that victims and offenders are well prepared and well informed. As described previously, the first point of contact for potential participants varied, but the main point of contact for both offenders and victims was the restorative justice provider offering the service. They spoke with them on the telephone; and often sent out written information and/or met with potential participants in person.

Victims and offenders were asked about what they had been consulted on or told in relation to the preparation for the restorative justice meeting. In some cases this process had taken place some time ago and so they could not remember clearly but others could. Their responses are summarised in Table 5.1.

Table 5.1 Preparation of victims (n=19) and offenders (n=18) for the restorative justice meeting: numbers saying 'yes'

Preparation	Victims saying 'yes'	Offenders saying 'yes'
Asked about:		
Who should be there	19	19
When meeting should be held	18	18
Where meeting should be held	3	8
Whether or not any safety concerns	6	3
Told:		
What would happen at meeting	19	19
Who else would be there	19	19
In plenty of time about when meeting would be held	19	17
What they would have to do there	18	18
Any safety 'ground rules' for meeting	NA	8
How they would be kept safe at meeting	3	NA

All victims and offenders said that they had been asked who they would like to be invited to the meeting. Similarly, most said they had been consulted on the timing of the meeting. Approximately a third of victims (n=6) said that they had been asked whether or not they had any concerns for their safety if they attended a meeting.⁶⁶ Even fewer (n=3) offenders said they had been asked if they had concerns for their safety.⁶⁷ Similarly, few victims (n=3) and offenders (n=8) said that they had been consulted about the venue for the meeting. However, it was not unusual for providers to have access to a suitable neutral venue such as community rooms where they commonly held the meetings and so this was not frequently an issue for discussion.

All victims and offenders said that they had been told what would happen at the meeting and who would be there. Similarly all victims and all but two offenders said that they had been given plenty of notice as to when the meeting would be held. Most participants (all bar one victim and one offender)

66 Another three (two women and one man) said that this was not an issue for them and five could not remember whether this had been discussed.

67 Five (three women and two men) said that it was not an issue for them and two said they could not remember. One offender remembered 'They told me I had to have support.'

agreed that they had been given some idea as to what would be expected of them at the meeting. Offenders were asked if they had been told about any safety 'ground rules' governing the meeting, eight said that they had. These were basically: '*Zero tolerance of any abuse of any type*' and '*If it got out of hand it was over*'.⁶⁸ Victims were asked if they had been informed how their safety would be addressed during the meeting. Only three said that there had been a direct reference to this. What was discussed related to the conditions under which the meeting could be curtailed: '*At any point if I felt it was getting out of hand I could take a break or leave*', or having support: '*Someone with you when you arrive for protection or as a means of support - up to me*'.⁶⁹ However, this did not mean that that all victims had concerns; most assumed that they would be safe. The following quotes are illustrative:

[Facilitator] was very good I felt very confident with him. He didn't pull any punches at all - it was his job to keep me safe.

[Facilitator] asked me if I was going to be okay to be around (offender) and if I would be okay if his family were there. Didn't want me to feel threatened.

Only two victims remembered any discussion of their safety arriving at or after the meeting. One had been asked '*Do you think there will be any trouble afterwards?*' Six (four women and two men) said that in their case there was '*no reason*' to discuss this.'

Victims and offenders were also asked if there had been any discussion during the preparation for the restorative justice meeting about bail conditions and/or the existence of protection orders. A few victims remembered being asked about protection orders (n=7) and bail conditions (n=6) and three said that the programme providers already had that information. The rest could not remember if they had been asked. The number of offenders reporting this was similar. Seven said they were asked about protection orders and five about bail conditions. Three said the providers already had this information. Ten offenders and six victims remembered discussing with the facilitator at this stage what the offender could do to 'repair the harm'. This was described as '*Very briefly about the types of things people can do*.'

One male offender made a comment which summed up what most victims and offenders remembered being told in preparation for the meeting.

Basically that if it got out of hand it was over. No physical or verbal threats. Not to have an argument; to find a way through alternatives to deal with our problems.

On a scale from 1 ('*not at all prepared*') to 7 ('*very well prepared*') more than one third of victims (7 or 37%) and offenders (6 or 33%) said that they had felt '*very well prepared*' by what they were told in preparation for the meeting. Most participants said that they felt adequately prepared (that is giving a rating of 5, 6 or 7) for the restorative justice conference although there was a noteworthy difference between offenders 83% (n=15) and victims 63% (n=12) reporting this. And one male victim said he was '*not at all prepared*'. He commented:

I didn't know what the hell I was going to go in there for. I was understanding that we would talk things out there. I thought it would be like counselling.

68 Three offenders (two female and one male) said that this was not an issue in their case, three said there had been no direct reference to safety rules and four could not remember being told.

69 Three victims (two female and one male) said that safety was not an issue for them and five could not remember if they had been asked.

One of the female offenders commented on the speed of the process '*It wasn't very informative. Everything was real fast.*' And a female victim explained '*It was more the emotional content - technically I was prepared.*'

5.4 The meeting

First impressions

Victims and offenders were asked what they thought the restorative justice meeting was trying to achieve. Common themes emerged from what they said.

- To talk about what had happened incorporating both points of view.

A close to that situation. Giving her a chance to say something to me and me to her. A time to listen and hear what each other had to say and move on. It was good. We got a whole lot off our chests to each other. (male offender)

It was for both of us - giving us the chance to express how we felt at the time and talk about what happened. And what he felt and why he did what he did. (female victim)

- For the offender to realise the impact of what he had done and be made accountable.

What I wanted was to scare the lights out of him. Give him something to do to get him back on track so he wouldn't do it again. (female victim)

Taking responsibility for my actions, recognising who the real victim is. Because I felt like the victim for a while. I accepted that she was the victim. (male offender)

- To come to some resolution over the offending – repair the harm.

For me to apologise, acknowledge guilt, to say sorry and to try and make it right with [victim]. (male offender)

We talk about what happened on that day and how he can change the way he reacts and his temper. (female victim)

- To help the offender and victim so that this would not happen again.

To sit down and be able to each discuss our views of what happened and our views on why it happened and different ways it could have been resolved. (female victim)

To come to an amicable solution and things put in place so that this wouldn't happen again. (female offender)

One offender's comments exemplify most views:

A chance for me to talk to [victim] about what happened and ... a chance to say sorry and offer to do something for her to repair the harm. Gave us both a chance to talk about what happened. It was good for someone else to hear what happened. (male offender)

Victims and offenders were also asked how they felt when they first went into the meeting. Approximately half of all victims (n=13) and offenders (n=11) reported feeling anxious, nervous or

apprehensive. However, a few (five victims and four offenders) said that they had felt positive about what was going to take place.

Good - really good - we came together. There was a little bit of tension between us before we went in but we worked it out. (female victim)

Understandably some admitted to mixed feelings. *'Apprehensive. Anxious. Hopeful. I didn't know what the outcome would be.'*

Participation

Victims and offenders were asked various questions about their meeting. Their views are summarised in Table 5.2.⁷⁰

Table 5.2 Victims' (n=19) and offenders (n=19) views of restorative justice meeting process: numbers saying 'yes'

Views	Victims saying 'yes'	Offenders saying 'yes'
Understood what going on	19	16 ¹
Felt involved	18	16 ²
Treated with respect	17	18
Treated fairly	NA	17
Opportunity to say what wanted	16	18
Chance to explain why offence happened	NA	17
Chance to explain effect of offence	14 ³	NA
Felt ashamed of what done	NA	14 ⁴
Made to feel bad	NA	2
Too scared to say what really felt	4	3
Feel unsafe	2	NA
Anyone say too much	1	1

Notes:

- 1 Three further offenders said they 'partly' understood.
- 2 One other said 'partly' and two said 'no'.
- 3 Two others said 'partly', one could not remember and two said 'no' but did not comment further.
- 4 Four others said 'partly' and the other said 'no'.

It is clear from Table 5.2 that the restorative justice meeting for most victims and most offenders was a positive experience. Victims and offenders generally understood what was happening and felt involved. For example one victim said *'Oh yes I think it really does aim at the victim.'* However, another victim who said that she had only felt 'partly' involved was angry at how she had been treated.

There were times when I felt totally not involved. [They were] talking about [offender] rationalising and minimising his behaviour. It made me really angry. I began to think who is this focussed on? It was more to do with [offender's] recovery more than mine and I was just the witness.

70 Offenders and victims were not always asked identical questions and so comparable data are not always cited.

This victim also reported that she had only felt 'partly' treated with respect. However, she acknowledged that she had had an opportunity to say what she wanted and had not felt too scared to express her thoughts despite the fact that she had felt 'emotionally' unsafe at times. This had made her angry rather than afraid.

However, victims and offenders, in the main, felt that they had been treated with respect. Only one female victim had anything negative to say 'I wasn't treated as the victim not at any stage.' Similarly, victims and offenders had had the opportunity to say what they wanted. Most offenders also thought that they had been given a chance to explain their actions. One who did not said:

They had a preconceived idea I'm negative, a bad person. Nothing I could say made a difference. (male offender)

Most victims could make clear the effects of the offence on them.

I was able to say what I wanted to say and how I felt without getting too stressed out. (female victim)

Most offenders felt they were treated fairly and most said that, at the conference, they had felt ashamed of what they had done. One who did not, commented 'It never would have happened if he hadn't put his hands on me.' Another offender made a poignant comment.

Watching my mother cry was hard to handle. It made me feel ashamed for what I had done. (male offender)

Only two felt that they were dealt with at the conference as if they were 'a bad person'. On the other hand, if those saying that this had happened 'to some extent' are added, more than a quarter (5 or 28%) of offenders (four male and one female) felt that they had been treated in this way. The following are two examples of what they said.

In some bits I did. I felt guilty when I was explaining my actions. It felt like I was being made out to be a caveman type of thing - bop her and take her back to the cave. (male offender)

They did actually. I felt very small. When I got home I was quite angry with them. (male offender)

Only one victim and one offender said that someone dominated the discussion. Few victims or offenders said that they were too scared to say what they really felt. In addition, only two victims said that they felt unsafe emotionally. They explained:

You've been frightened, your senses are heightened you can misconstrue what is said. (female victim)

Anger for me is emotional. I got angry because I felt unsafe. (female victim).

One of these women also reported feeling too scared to say what she really felt. She explained 'You feel subdued you have to be polite and keep it civil.'

Some offenders (9 or 50%) and victims (7 or 37%) also said that they had support with them at the restorative justice meeting conference and almost all (all victims and 8 out of 9 offenders) said that this had been helpful. Only four victims and three offenders said that they would have liked more support. Similar numbers of victims (11 or 58%) and offenders (11 or 61%) said that someone spoke up for them in the meeting. These were commonly supporters (n=8) the facilitators (n=7) or panel

members (n=7). One offender said the victim had spoken up for him. The lack of support was not always a negative thing.

It wasn't needed. The panel were supportive in that they heard what we had to say and talked to us about [our] emotions ... I appreciated that. (female victim)

I felt okay because everyone that was there – apart from the facilitators – was whānau. (male offender)

Victims were asked to describe the behaviour of the offender during the meeting. They described offenders' behaviour as 'defensive', 'quiet', 'humble', 'willing to take part', 'subdued', 'sorry', or 'angry'. Two victims commented:

He was very sad he still is very sad. He was quite emotional - was drinking a lot at that time. (female victim)

Very erratic. He got quite angry a couple of times. (female victim)

Similarly offenders were asked to describe the behaviour of the victim. In two cases the victim was not present and so offenders could not comment. Victims were described variously as being 'angry', 'hurt', 'calm', 'emotional', 'reasonable', 'quiet' or 'involved'. Two offenders offered the following descriptions.

It was a bit of everything - happy, sad, crying - it was quite an emotional thing. (male offender)

Dominating, erratic, rude. He got in a huff when I suggested he needed anger management and called it to a halt. (female offender)

Impressions at the end of the meeting

As mentioned previously, most victims and offenders reported being apprehensive and feeling some anxiety when they first went into the meeting. However, when asked how they felt by the end of the meeting most reported feeling relieved and positive about the experience. The following quotes provide examples of the sorts of things they said.

I left thinking man I've got a lot to do! Let's get into it; I want to get it done. You've got to want to acknowledge yourself as the offender and that you have done wrong and who the victim is and you need to make serious changes. (male offender)

I was quite happy and relieved that we'd gone through that. It had been dragging on. It had happened about two months before. (female victim)

Absolutely fine - smiles on both sides a bit of laughter, banter, very relaxed. (female victim)

However, some victims had been dissatisfied with the process (n=3) and others (n=3) had concerns about what would happen next.

I felt bewildered – thought what was that about? It was expecting some back and forth and talking things through. It didn't happen. (female victim)

Unsure uncertain of whether [offender] was genuine or not. I was waiting to see what would happen. (female victim)

In one case where the meeting broke down the victim said '*I felt furious.*' And the offender commented:

I was left flabbergasted. Feeling as if things weren't fully resolved. We were made aware that if we wanted to stop the meeting that was fine but it was just the way it was done. (female offender)

Whether or not the meeting had had a productive outcome, victims' feelings towards the offender had rarely changed. Several said they were '*still angry*' and even those who had forgiven the offender to some extent had not forgotten what had happened, there was a lack of trust. The remarks of two sum up how some felt.

I'd forgiven him in the first week he'd come home. I never forgave what he'd done. (female victim)

I had a really horrible taste in mouth. But I play the game he was really happy but I stewed on it. I'm still not over it. I felt that was over the top and he got away with it as usual. (female victim)

Offenders viewed things somewhat differently, as is possibly to be expected.

I didn't have as much animosity towards her as I did previous. I got to see it from her perspective. (male offender)

I don't think her feelings had changed. I was appreciative she had supported this instead of me going to jail. (male offender)

One young man, who had committed a serious offence against members of his whānau, had this to say.

I felt sad for them (victims) because of the pain I'd caused. I realised I needed to change if I wanted a chance of reconciliation.

Good and bad features of the restorative justice meetings

During their interview, victims and offenders were asked to identify any 'good' or 'bad' features of the meeting. Their opinions were, in the main, positive. Sixty-three percent (n=12) of victims said that there were no 'bad' features. The most commonly mentioned 'bad' features were victims feeling unsupported or being made to feel that they were to blame for the offending. The next most commonly mentioned 'bad' feature was that the meeting did not achieve anything, there was no resolution. One victim did not like the venue and another felt pressured to contribute. She remarked:

You shouldn't feel pressurised to respond if you weren't confident responding. It put you on the spot sort of. I had a little bit to say but it was like they were expecting more.

Only four victims said that there were no 'good' features. By far the most common 'good' features identified were the open dialogue and the healing process that occurred in a non-judgemental environment. The following quotes illustrate the sort of comments made.

It helped the healing process - you're angry with what's happened but you've got no control over it. Time heals they say, don't they - but this process helped for sure. (female victim)

It was relaxed. I was tense. When we went in we were embarrassed by our actions and why we were there. We were frightened we might get judged. But it was okay. It was nice to have people there from the community that I knew. (female victim)

Being able to meet the offender in a safe supportive environment was also mentioned by victims as a good thing. They appreciated that people were willing to offer help and that the offender could be made accountable without going to prison. Some victims also spoke positively of facilitators or panel members.

As with the victims, offenders mentioned 'bad' features of the meeting less frequently than 'good' features. Seventy-nine percent (n=15) of offenders said that there were no 'bad' features. However, four offenders reported things that they were unhappy with. These included: the meeting not resolving anything, not being given a chance to speak without interruption and being made to feel bad. One was angry about the process and commented:

I was not supported, made to feel bad, not treated with respect. (male offender)

This was also the only offender who said that there were no 'good' features of the meeting. By far the most common 'good' features identified were that the meeting had enabled them to put things right or provided a starting point for this by allowing them to meet with the victim. The next most commonly mentioned were '*feeling supported*', being '*treated with respect*' and the fact that the process had been '*well organised*'.

On a scale from 1 ('*very dissatisfied*') to 7 ('*very satisfied*') approximately one half of victims (9 or 47%) and offenders (9 or 50%) said that overall they were '*very satisfied*' with the meeting. Most participants said that they were satisfied (that is giving a rating of 5, 6 or 7) although offenders (16 or 89%) were more likely than victims (14 or 74%) to report this. In fact two victims (one male and one female) said that that were '*very dissatisfied*' with the meeting. As one remarked '*It made me feel worse.*'

Meeting cultural needs through processes

Victims and offenders of all cultures were asked if it was important to them that the meeting took account of their culture. This was not an issue for the majority. However, four victims (one Pacific and three Māori women) said that this was very important to them. Only one of them said that her needs had not been met. She commented:

It would have been good to have someone who spoke Te Reo who I could express my feelings to. People who speak Te Reo know how important the 'baby makers' [women] are.

In addition, three offenders (one Pacific male and two Māori one of whom was female) also said that it was '*very important*' that the meeting take account of their culture. Only one said that his needs had not been met, and that an acknowledgement of his culture by the facilitator and panel members '*Would have been a good thing.*'

5.5 The agreement

Reaching agreements

Fourteen victims and fourteen offenders had taken part in restorative justice processes which resulted in 'formal' agreements.⁷¹ An agreement or resolution had been reached at all of these meetings. In most cases the scenario when deciding on the details of the agreement had been '*Panel and facilitator. They came up with ideas as we went along. We had the chance to agree.*' All victims and offenders said that they could remember at least some of what was in the agreement and that they had understood what needed to be done. However, the remarks made by two female victims signal that in some cases such 'collaborative' processes may be unintentionally coercive.

I felt a bit swept along I had to go along with it - trying to come up with all the answers to turn the situation around. I was probably a little self-sacrificing for the greater good. To heal him and us. It was not what I needed. He was not made accountable; I put my own needs aside.

Mainly panel members and facilitator all chucking ideas out there I didn't say much I didn't have any idea of what he could do. It was like its Christmas time what do you want?

Agreements (n=20)⁷² reached at these restorative justice meetings consisted of a variety of tasks ranging from one to eight. Attendance at programmes (n=12) and relationship counselling (n=10) were the two most common tasks. Community work (n=6), a fun social activity (n=5), reparation (n=4) and apologies (n=4), featured less frequently in agreements. Donations (n=2), not to offer violence (n=2) and work for the victim (n=1) were also included in a few agreements. The facilitators undertook most of the monitoring of the offender's compliance with the tasks in their agreement. None of the offenders had failed to undertake the required components of the agreement, although some were still involved in programmes or community work. However, sometimes the 'fun social activities' that were suggested as a way of 'repairing the harm' were impossible to undertake when those involved were on limited incomes.

On a scale from 1 ('*very dissatisfied*') to 7 ('*very satisfied*') approximately one half of victims (7 out of 14) and offenders (8 out of 14) said that overall they were '*very satisfied*' with the agreement reached at their meeting. Most participants said that they were satisfied (that is giving a rating of 5, 6 or 7) although offenders (13 or 93%) were more likely than victims (11 or 79%) to report this. In fact one victim said that she was '*very dissatisfied*' with the agreement. She did not comment further.

71 Five victims and five offenders took part in meetings which, although they often reached consensus (in the case of two offenders and two victims), did not result in a formal agreement to be monitored and taken into account by the court. In one, for example, a victim had taken part in a post-sentence restorative justice meeting to aid a parole application for the offender.

72 Eight out of the 14 victims and 14 offenders who had attended meetings that resulted in formal agreements attended the same meeting. This resulted in eight agreements in total for this group plus the agreements for the meetings that the other victims (n=6) and offenders (n=6) attended – a total of 20 agreements.

Views of agreements and outcomes

All victims (n=19) and offenders (n=19) were also asked various questions about outcomes of their restorative justice meeting and possible effects of these on them. Table 5.3 summarises their views.⁷³

Table 5.3 Victims' (n=19) and offenders' (n=19) views of restorative justice meeting outcomes: numbers

Views	Victims saying 'yes'	Offenders saying 'yes'
Offender apologised	13	17
Victim accepted apology	11 ¹	15
Offender understood how victim felt	6	13
Offender made accountable for offending	12	NA
Offender made up for what did	5 ³	10

Notes:

- 1 Two further victims said they had 'partly' accepted the apology
- 2 Four others said that they felt 'partly' ashamed.
- 3 Three further victims said that the offender had 'partly' made up for what they had done.

More than two thirds of victims said that the offender had apologised to them at the meeting. Similarly most offenders said that they had apologised at this stage. Apologies were usually accepted. Offenders (n=13) were more likely than victims (n=6) to say that they had understood how the victim felt about the offending. However, one offender who admitted he had not been able to understand made the following comments:

To be honest no I didn't. I know what had happened - she did say to me, that because she feels safe around me it hadn't damaged her. But she was quite upset. It's hard to put yourself in someone's place.

However, despite this fact almost two thirds of victims said that they felt the offender had been made accountable for what s/he had done. Although five (two males and three females) categorically stated that this was not the case.

Not at all. And the worst part about it was after that meeting they withdrew the charges and I never got told why. It had gone on for 9 months. (male victim)

Because he played the system - there was too much change required and his way of dealing with things is to withdraw emotionally. (female victim)

Although some victims felt that the offender had made up for what s/he had done others were less sure. And almost half (seven women and two men) stated unequivocally 'no' when asked this question.

I don't think you can ever make up for it. You can learn how to live better and get on with life. (female victim)

An apology is a start. It takes a lot to make up for something like that. (female victim)

73 Offenders and victims were not always asked identical questions and so comparable data are not always cited.

Good and bad features of the agreements

Victims (n=14) and offenders (n=14) were specifically asked to identify the 'good' and 'bad' features of the agreement. All victims and all but one of the offenders had something to say about 'good' features. That most often mentioned by victims (n=10) and offenders (n=7) was the attendance at a programme or involvement in counselling. Reaching and agreement was referred to by three victims and one offender. Receiving apologies was mentioned by three victims and being able to apologise by one offender. One victim said it was good *'that the offender did not go to prison'*, one offender said that he and his ex-partner *'were friends again'* and as another offender remarked *'it brought closure and created a starting point to move on.'*

Only a few victims (n=5) commented on the existence of any 'bad' features in the agreement. These were: that the offender got off too lightly, *'He would come home from community work and talk about how cushy it was'*; it did not reflect the victim's concerns; and in one case it made things worse, *'Him having to pay me a set amount of money (for medical expenses) fired it up and made things worse.'* Even fewer offenders (n=2) commented on 'bad' features in the agreement.' They said:

*I felt pressured to agree. I felt if I didn't go along with it I knew what would happen.
(male offender)*

Offenders (13 or 93%) were more likely than victims (9 or 64%) to say that the agreement was 'about right'. Three female victims felt that it was 'too soft'; as did one female offender who commented *'I should have been put onto a programme to change my behaviour.'* One male victim said it was 'too harsh' as *'By that stage [the incident] had all been forgotten.'*

A small number of victims (n=1) and offenders (n=2) said that it was important that the agreement take account of their cultural needs.⁷⁴ They all reported that this had happened. Agreements had incorporated the appropriated cultural elements and both offenders had attended culturally-based violence prevention programmes for men.

5.6 Sentencing

Offenders were asked if they had been sentenced in the Court and if so, whether they thought the Judge had taken into account their participation in a restorative justice process. Thirteen offenders said they had been sentenced. The outcomes, in order of frequency, were: discharge without conviction (n=4), convicted and discharged (n=2), supervision (n=2), prison (n=2), ordered to come up for sentence if called upon (n=1), 200 hours community work (n=1) charges withdrawn (n=1). In another four cases the charges had been withdrawn as a result of completion of the restorative justice agreement.

Eleven out of the 13 offenders said that the Judge had referred positively to the reports from the restorative justice meetings provided by programme facilitators. Comments included:

*Yes he definitely did, the whole process. There was a three page report and he was quite happy to see the report it helped him and he said he felt I'd made reparation.
(male offender)*

74 The victim and one offender were of Pacific ethnicity and the other offender was Māori.

The Judge said it seems she's done everything possible. Judge felt because I'd done everything possible to make up for what I'd done that I'd done enough - nothing else was needed. (female offender)

He said if it wasn't for me doing it all there was no other alternative for me - than prison. (male offender)

5.7 After the meeting

Satisfaction with the restorative justice process

Victims and offenders were asked various questions about the aftermath of the meeting and what they thought about the use of restorative justice processes for dealing with family violence. Table 5.4 summarises their views.

Table 5.4 Victims' (n=19) and offenders' (n=19) views of restorative justice process: numbers saying 'yes'

Views	Victims saying 'yes'	Offenders saying 'yes'
Pleased took part in the RJ meeting	17	17 ¹
Recommend RJ process to others to deal with fv	16 ²	19
Would you take part in RJ again for fv	14	NA
RJ meeting helped off to take responsibility for behaviour	NA	14 ³
Feel better about incident/offending now	11	11
Offender still needs help to address abusive behaviour	11	3
Has violence/abuse stopped	6	NA

Notes:

- 1 One further offender said 'partly'.
- 2 One further victim said 'partly'.
- 3 Three further offenders said 'partly'.

Most victims and offenders said that they were pleased they had taken part in the restorative justice meeting. Those who disagreed were frustrated that there had been no formal outcome or had thought that the meeting would be more constructive.

I suppose, part of me felt it was good but part of me felt it was a waste of time. Apart from him apologising, that was pretty much all that happened. (female victim)

I came away feeling frustrated and furious. It was a waste of time and didn't resolve anything. It didn't look like it would right from the start. It wasn't what I expected. I thought there would be more control and that we were only looking at the circumstances around the issue at hand. We've been divorced for 15 years. (male victim)

All offenders and most victims said that they would recommend restorative justice processes to other victims and offenders to deal with family violence. In fact almost four fifths (79%) of victims said that they would take part in the process again should the need arise.⁷⁵ A further two said it would

75 The victim who was not present at the conference was also asked this question. He said that he would be willing to attend a restorative justice meeting if he was involved in such an incident in the future 'To see what happens and to say how I felt.'

'depend on the circumstances.' However, three victims, who were women, said that they would deal with things differently if there was a 'next time'.

I wouldn't waste my bloody time. I'd be straight to Court and get it over and done with.

I wouldn't even bother calling the cops I would walk out the door and go. I did it to set boundaries. I don't want to see him in jail it just makes things worse.

Identical numbers of victims (n=11) and offenders (n=11) said that as a result of participating in the meeting they now felt 'better' about the incident/offending. It had enabled them to deal with the issues and get closure. Eight offenders said they felt 'no different', they still felt bad about what had happened.

I've felt horrendous since the moment it happened - my actions are still wrong. (male offender)

Never feel better about what you've done - it's still this awful thing. (female offender)

Similarly five victims said that they also felt 'no different' about the incident, they were still not happy about what had happened. Two said they felt 'worse'. In one case the meeting had broken down and in the other the victim had not been happy with the outcome of the meeting.

Taking responsibility for the offending

Victims (n=11) were more likely to think that offenders still needed help to address their violent behaviour, than the offenders (n=3) themselves were. Most (n=16) offenders said that they had got help or were involved in the process of getting it. Yet clearly victims still thought this was an issue. In fact, only two victims said they felt 'more safe' as a result of taking part in the restorative justice meeting.⁷⁶ However, most said that this was not an issue for them. Either because they no longer had a relationship with the offender (n=7) or that they had 'never felt unsafe' (n=6). Others (n=4) said that they felt 'no different', they were wary of the offender.

Offenders were asked whether taking part in the restorative justice process had helped them take responsibility for their offending. The majority said that it had. Interestingly, two said that this was not an issue for them. They did not comment further.

Victims were asked whether the violence or abusive behaviour had stopped since the restorative justice meeting. Six said that it had. Another seven said that the violence had 'partly' stopped. They usually mentioned that it had changed in nature. That it was no longer physical but there was 'Lots of psychological stuff.' Five could not comment as they no longer had any contact with the offender. And another finished the relationship because the violence did not stop.

It didn't stop. The only way I can make it stop is to finish the relationship and I did that. (female victim)

In addition, offenders were asked what they had learnt about the effect of their behaviour as a result of participating in the meeting. Some said that they had learnt nothing new. The following comments sum up their views:

76 In addition, the victim who did not attend the conference said that he now felt 'more safe' as a result of the offender taking part in the process.

I didn't learn anything that I hadn't figured out. That I'd scared the hell out of them all. I can come up with a million reasons but no justification for what I did. (male offender)

Nothing new. The kids were there and I felt horrid about that. I did have to bow my head. (female offender)

However, others admitted that being confronted with their actions had had an effect.

I still feel like an idiot for losing it. She was really scared and I was really angry. I felt sick about it. (male offender)

Yes - it's hurt her. I've got a lot of making up to do. It gets thrown in my face a lot. Anything will bring it to the surface. (male offender)

Eleven (or 58%) offenders said that what they had learnt about their behaviour had affected their views of the use of violence or abuse. In most cases it was 'A wake-up call, 'Something that I know is not right', 'I needed to change.' Two referred to lives characterised by violence.

I feel like violence has been part of my life for a long time. I've been sexually and physically abused. I grew up believing violence was a part of life - that's how you gain respect, but really you're only gaining fear. (female offender)

I've never liked it. I saw it as I was growing up and I hated it. (male offender)

Appropriateness of restorative justice for family violence cases

Finally, both victims and offenders were asked if they thought restorative justice meetings were a good way to deal with family violence. Their responses were mainly in the affirmative. All victims thought that such processes worked in the case of family violence although some qualified this.

Yeah except for if there are people who are more violent there should be more security. Someone who can contain the offender or it could get ugly. (female victim)

I think they can be to a degree. It's more appropriate if you're actually in the relationship at the time or just shortly out of it. (male victim)

Yeah. There are a lot of people who are afraid to seek help because of high consequences of mistakes. There are consequences but you need to learn how to seek help. (female victim)

If that's what they want - if families want to be helped it (restorative justice) can help a lot. (female victim)

Offenders held similar views.

Yes for the first one, it wouldn't work if it was an ongoing thing. Couples need to be given the opportunity if they want to stay together. (male offender)

The person has really got to want to change. You can go through the motions and no-one will be any the wiser. (male offender)

It's one of the better ideas I've witnessed to sort things out. You go to Court [and] they get the information on what happened. It's cut and dried but in reality it's not like that. (male offender)

Yeah I reckon. It showed me not to do things like that again. They said I was a caring mother. I didn't see that at the time. (female offender)

In addition, two fifths (n=8) of victims said that they would have liked more information or support after the meeting. This was mainly in relation to support and/or counselling (individual or relationship). The following comments are illustrative:

There's a need for more male counselling ... if he could find someone he really liked and respected and trusted. There's no free male counselling for men. There's all the support in the world for women. This sort of behaviour won't stop until society starts to support men - they're a lost bunch! (female victim)

I would have liked to have someone to talk to and counsel me. But I had no-one. I had to battle on my own. (male victim)

Three offenders responded in a similar manner. One commented:

I needed a programme to prevent it happening again. There should be one for women. I would have been happy to go. (female offender)

Offenders' behaviour subsequently

Victims were asked how the offender had taken responsibility for his/her violent behaviour since the meeting. Approximately two thirds had positive comments to make in this regard.⁷⁷ The following are illustrative of what they said.

He paid for his own counselling for eight sessions. He is trying - there's no more denials, he's more honest about things. He can't pretend there's not a problem and he's working through it. It was his whole upbringing - counselling started to open a can of worms - he's trying to heal himself. This thing brought it out into the open. (female victim)

Living without violence' and parenting course and he was asked about it by family and he was honest. He said, "I fucked up". (female victim)

Possibly a little bit more relaxed. Not so wound up. Relationship counselling was not long enough. (male victim)

Five victims did not think the offender had taken responsibility for the behaviour 'Not fully, no', 'Hasn't, not really', 'Nothing, I made it clear I don't want anything to do with her.'

Offenders were also asked how they had taken responsibility for their abusive or violent behaviour since the meeting. More than three quarters reported strategies they now used. 'Anger management', 'walking away' and 'time out' were mentioned.

Walking away. Time-out phase. I made an obligation not to be physically violent. (male offender)

I guess thinking about relationships in general and if they don't work out control your behaviour and not to over react when things are beyond your control. (male offender)

77 This included the victim who did not attend the meeting. He said '[Offender] did something because of the meeting. She started doing things differently. She put a chart on the wall and if we did things we got stars. Before she used to yell and shout at us.'

I don't go picking up rolling pins any more. I walk away. (female offender)

Nature of relationship between victims and offenders subsequently

Victims were asked how their relationship with the offender had been since the restorative justice meeting. Ten (or 53%) said that the relationship had improved. *'Really awesome'. We just get along so much better.'* However, one woman qualified this opinion, *'It's been alright but we both put lots of effort in.'* Five (or 26%) said that it was *'Up and down. Some brilliant moments and some disastrous moments.'* Three (or 16%) said that they no longer had a relationship with the offender. One victim said she *'didn't know'*.

Similarly, offenders were asked how their relationship with the victim had been since the restorative justice meeting. Twelve (or 63%) said that the relationship had improved. Although two offenders qualified this: *'It got worse, then better.'* *'It's functional now.'* Four (or 21%) said that there was no longer a relationship. One remarked *'It determined where our paths were heading and we both realised they were heading in different directions.'* Others (n=2) said that it was *'too soon'* to tell. However, one offender thought that the victim was still angry with her.

5.8 Views of matched victims and offenders interviewed

Victims and offenders commonly view family violence offending differently, particularly in relation to apologies given and remorse shown. They may also have different reasons for taking part in restorative justice processes in relation to the offending. This section explores the responses made by the 11 'matched' victims and offenders interviewed to some of the questions they were asked about the restorative justice (RJ) process and outcomes.⁷⁸

Table 5.5 summarises the degree of congruence in the views of victims and 'their' offenders.

Table 5.5 Matched victims' and offenders' views (n=11) of restorative justice process: numbers

Views	Both saying 'yes'	Both saying 'no'	Different views
Recommend RJ process to others to deal with fv	11	0	0
Pleased took part in the RJ meeting	8	0	3
Any information or support needed	1	8	2
Victim accepted offender's apology	7	0	4
Offender understood how victim felt	5	1	5
Offender made up for what did	4	2	5
Feel better about incident/offending now	4	1	6
Offender still needs help to address abusive behaviour	1	2	8

All victims and offenders agreed that they would recommend the restorative justice process to others to deal with family violence. However, one victim qualified this as *'Only to couples wanting to work on their issues.'* Approximately three quarters (n=8) were pleased that they had taken part in the restorative justice process. Where there were different views, victims (n=2) were more likely to have

78 That is, both the offender and victim involved in the same family violence incident.

reservations (i.e. respond '*partly*') than offenders (n=1). One male victim said that he was not pleased that he had taken part.

Offenders and victims also mostly agreed on the extent to which they needed, or did not need, information and support after the meeting. Where there was disagreement the victims rather than the offenders said they would have liked more. One would have liked information on relationship counselling and the other wanted to be kept informed about whether the offender had completed the tasks in the agreement.

Although almost two thirds (n=7) of victims and offenders agreed that the offender's apology had been accepted there was some disparity in the views of the remaining third. Most response varied in the degree of acceptance (i.e. '*partly*' versus '*yes*'). However, in one case the victim disagreed with the offender who thought that his apology had been '*partly*' accepted.

There was less agreement between victims and offenders as to whether the offender had understood the effect of the offending on the victim. However, in one case both the victim and offender agreed that s/he had not understood. Intuitively one would imagine that the offenders said that they understood the victims' feelings and that the victims would disagree with this, and this was so in three cases. However in another two it was quite the reverse. That is, the victims thought the offenders understood how the offending had affected them when in fact the offenders reported the opposite.

Similarly there was some disparity in the views of victims and offenders in relation to whether or not the offender had been able to make amends for the offending. Victims (n=4) were more likely to say that this had not happened. Whereas offenders were more likely to say that they had made amends to some degree (n=3) or that it was not an issue (n=2).

In addition more than one half of victims and offenders had somewhat different views on how they felt about 'the incident/offending' now. However, there was no clear pattern. For example, in two cases although the victims said that they felt '*better*' the offenders said that they still felt bad about what had happened. Whereas in a further two cases the victims (one male and one female) felt '*worse*' and the offenders '*no different*' (this does not imply that they were not aware of the effects of the offending).

The area where there was the least agreement between victim and offender was whether or not the offender still needed help to address his/her abusive or violent behaviour. Victims were more likely than offenders to say that the offender still needed help. Seven out of the eight victims who disagreed with 'their' offender reported this. Offenders reported that they had dealt with the problem.

Most (9 out of 11) victims and their offenders agreed about the nature of their relationship since the restorative justice meeting. Six victims and offenders thought that the relationship had improved, one victim and offender said that '*it was a work in progress*' and two victims and offenders concurred that there was no relationship between them now. There was no pattern with the other two victims and offenders. In one case the victim thought that the relationship was better, whereas the offender considered the victim still to be angry at her. Conversely, in the other case the offender said that the relationship had improved and the victim said there was no relationship between them now.

5.9 Summary

Most victims and offenders said that they took part in restorative justice meetings voluntarily for a variety of reasons which included to:

- sort out the issues that had led to the offending;
- be able to discuss their differences in a safe environment; and
- get closure if they were no longer in a relationship.

In particular, victims wanted their offender to get help to change his/her behaviour and offenders wanted to take responsibility for their actions and make amends to the victim.

Offenders were more likely than victims (83% compared with 63%) to report that they had been adequately prepared for the meeting.

Most victims and offenders found the restorative justice meeting was a positive experience. Victims and offenders:

- generally understood what was happening and felt involved;
- felt that they had been treated with respect;
- had the opportunity to express their views; and
- were not too scared to say what they wanted.

Where participants had support at the meeting (50% of offenders and 37% of victims) they found this useful.

The good features of the restorative justice meeting most commonly reported by victims were the open dialogue and the healing process that occurred in a non-judgemental environment. They also appreciated being able to meet the offender in a safe supportive environment. Good features of the meeting most often referred to by offenders included: being able to put things right, feeling supported and being treated with respect. Few victims or offenders had anything bad to say about the meeting. Offenders (89%) were slightly more likely than victims (74%) to be satisfied overall with the meeting.

A few victims (21%) and offenders (16%) felt that it was important that the restorative justice meeting met their cultural needs. All except one reported that this had happened.

Agreements reached at meetings usually included some form of counselling or programme attendance and sometimes community work or a fun social activity. Although most participants said that they were satisfied with the agreement reached, offenders were, again, slightly more likely to say this than victims (93% compared with 79%).

Although offenders (68%) were more likely than victims (32%) to say that they had understood how the victim felt about the offending, most victims (63%) felt that the offender had been made accountable for their actions. However, almost one half of victims felt that the offender had not been able to 'repair the harm' or make up for what they had done and a few felt that the offender had got off too lightly.

Most victims and offenders were pleased that they had taken part in the restorative justice meeting. All offenders and most victims (84%) said that they would recommend restorative justice processes to other victims and offenders to deal with family violence. In fact almost four fifths (79%) of victims said that they would take part in the process again should they need to.

However, victims were more likely to think that offenders still needed help to address their violent behaviour, than offenders themselves. Most (84%) offenders said that they had got help or were involved in the process of getting it. Yet clearly victims still thought this was an issue. In fact, only two victims said they felt safer as a result of taking part in the restorative justice meeting. However, most said that this was not an issue for them: they had either ended the relationship or they had never felt unsafe.

Victims' views were mixed on whether or not the violence or abusive behaviour had stopped since the meeting. One third said it had whereas another third said that the violence had just changed in nature: from physical to psychological violence. More than one half of offenders said that they had learnt something about their behaviour and its effects on others and that they needed to change.

Offenders were slightly more likely than victims to think that their relationship with the other party had improved since the restorative justice meeting (63% compared with 53%).

Victims and offenders generally agreed that restorative justice meetings were a good way to deal with family violence, although some qualified this by saying it depended on those involved and the circumstances relating to the violence.

The eleven victims and eleven offenders interviewed who had been involved in the same incident all agreed that they would recommend the restorative justice process to others to deal with family violence. Most were pleased that they had taken part in the process; where there were differences victims were more likely to have reservations about this than offenders. There was less agreement between victims and offenders as to whether the offender had understood the effect of the offending on the victim and whether or not the offender had been able to make amends for what he/she had done. Victims were more likely than offenders to respond in the negative.

The area where there was the least agreement between the eleven victims and offenders was whether or not the offender still needed help to address his/her abusive or violent behaviour. Victims were more likely than offenders to say that the offender still needed help. This followed the trend of what all victims and offenders interviewed had reported.

Generally speaking, research has consistently shown that restorative justice processes can more fully involve victims than conventional criminal justice processes. The participation and involvement of offenders is also more achievable through restorative justice processes. Both victims and offenders express satisfaction with their involvement in restorative justice process.⁷⁹ However, in the case of family violence there is much debate about the effectiveness or indeed appropriateness of the use of restorative justice process.⁸⁰

79 For example, see Crime and Justice Research Centre (2005) and Paulin et al (2005)

80 See, for example, Stubbs (2007).

Chapter 6 The views of key informants

6.1 Introduction

This Chapter presents the views of 24 key informants representing a diverse range of stakeholder groups across the five sites. We identified key informants at each site in consultation with programme providers. Those identified included: District Court Judges, Police prosecutors, Police Family Violence Coordinators, Police Iwi Liaison Officers, Court Victim Advisers, lawyers, family violence programme providers. Their opinions were canvassed on a range of issues relating to the use of restorative justice processes in family violence cases.

6.2 Key informants' perspectives

Views in general

In response to the opening question '*In general, what are your views on the use of restorative justice processes in family violence cases?*' 17 (or 71%) key informants supported it and seven (or 29%) key informants were against the use of restorative justice processes in family violence cases. Key informants held a diverse range of views across the five restorative justice (RJ) programme sites and across the various stakeholder groups they represented.

Eight (or 33% of all informants) expressed unconditional support for the use of such processes. As the following quotes illustrate, key informants with these views came from across the range of stakeholder groups:

It is a good idea because it restores the mana of the family regardless of the outcomes. It is about the wider whānau⁸¹ supporting victims and offenders. Māori have always had a version of RJ. (Police)

I'm totally positive. It helps position people for change. The approach is certainly wider [than conventional Court processes.] It looks at the impact on the victim and the family. Every scenario is different. It gives people options to make positive change. (Violence intervention programme provider)

I think it's a good idea. I'm really supportive. (DC Judge)

RJ is a useful and effective vehicle by which dysfunctional families can resolve issues. (Police prosecutor)

Nine (or 38% of all informants) expressed conditional support for the use of restorative justice processes in family violence cases. Informants with these sorts of views were not from any particular stakeholder group. They said, for example:

There is every chance restorative justice processes can be subverted by the offender to favour him and not bring the benefit the complainant is seeking, but if handled properly by facilitators there can be full and frank sharing of views as to what causes the violence. (DC Judge)

It is good but it requires a specific skill set and a different approach. Family violence has different power relationships so facilitators need to be skilled at recognizing power differentials. (RJ coordinator)

It can be quite effective. (Police prosecutor)

Restorative justice can work with family violence cases. ... It is imperative that clear guidelines are in place that consider the safety of the victim and any children involved in the process. This will require facilitation from people who are skilled in the area of family violence. (Violence intervention programme provider)

Restorative justice has a place in family violence cases with regards to first time offenders. It might kick start getting them into programmes. It might be useful in situations where there's a history of family violence and the family is wanting to work on things. (Victim adviser)

I'm 60% for it, not a strong advocate. (Lawyer)

Seven (or 29%) of the 24 key informants we interviewed expressed views against the use of restorative justice processes in family violence cases. Again, those with opposing views came from across the range of stakeholder groups we interviewed. For example, they expressed their opposition in the following ways:

Restorative justice has no place in family violence cases. ... Family violence is very complex. The offender can't be 'a little bit of an abuser.' (Service provider)⁸²

I can't see what the benefits might be. (DC Judge)

My views are that it repeats victimisation for the victim or that accountability is minimised for the offenders. (Violence intervention programme provider)

I have reservations about the use of RJ and concerns about revictimisation. There is pressure on women to be part of trying to get lower sentences for offenders. If the victim is a stranger, you get an answer at the conference and get closure. In domestic violence, a one-off meeting doesn't work. Pressure is high on the victim (to participate). It's offender orientated. (Victim Adviser)

There are serious issues. ... The facilitator needs to be extremely skilled. ... Safety after the session is the main issue. If the man intimidated them [at the meeting] how is it going to be later? Family Court counselling keeps them apart. Separate sessions to keep her safe. [Feedback was that] the facilitator had not picked up on safety issues. The outcome has been that the agreement was not adhered to. (Police Family Violence Coordinator)

Offences/offenders for which it is particularly appropriate

Key informants identified a range of criteria they used to determine the appropriateness of restorative justice for family violence cases. Some identified the type of cases, other focussed on the offenders, while others considered the particular victim/offender relationships. .

Three key informants' responses fell into the 'needs to be determined on a case by case basis.'

Summary Offence Act assaults and threats up to male assaults female 'depending on the circumstances around the incident'; property offences, 'low level type offences', 'less serious

82 'Service providers' are those providing services/support to victims such as Women's Refuge or women's centres.

offences, and *'low end violence'* were the types of offences some key informants described as being particularly appropriate for the use of restorative justice processes in family violence cases.

First offenders, offenders with long periods of time between offending, offenders who *'showed genuine remorse and accepted responsibilities'*, offenders whose *'level of violence was not considered extreme'*; and offenders for whom it was a *'one-off incident'* were offender types that some key informants identified as being particularly appropriate.

Two key informants thought that victim/offender relationships of the type mother/son or between siblings were particularly appropriate for the use of restorative justice processes where violence had occurred.

Lastly, some key informants identified a range of circumstances as being particularly appropriate for the use of restorative justice in family violence cases. Their responses included: *'where healing is possible for the victim'*; *'where a bond exists between victim and offender'*; for *'couples who need to work through issues'*; where *'families want to stay together'*; *'where there's no physical violence'*; *'if the victim wants to stay in relationship'*; *'so long as there is agreement between the parties for RJ'*; and *'where the victim and offender have children together.'*

Offences/offenders for which it is particularly inappropriate

Some key informants identified offences which they considered particularly inappropriate for the use of restorative justice processes in family violence cases, while others described victims, and offenders for whom its use was deemed particularly inappropriate. Several described a mix of offences, victims, offenders, and circumstances.

Rape and other sexual offences, and serious inter-personal violence offences (such as grievous bodily harm, aggravated assault, assault with intent to injure) were considered by those key informants who offered a view as being too serious to be dealt with through the use of restorative justice processes. One key informant thought the more serious end of male assaults female offences would be inappropriate and another that breaches of protection orders would be inappropriate.

Some key informants were of the view that classic battered woman situations or co-dependent situations were inappropriate for the use of restorative justice processes as were any situations where *'the abused woman could be intimidated or coerced into going'*, or where *'it may be too much of a risk for the victim'* to participate.

The magnitude of the offending, the harm caused and the severity of the attack were factors that one key informant thought pertinent to the determination of whether the use of restorative justice processes were appropriate or not.

Offenders who had done *'extreme violence'* were thought inappropriate for restorative justice, as were repeat offenders, long term offenders, or those offenders who had already gone through a restorative justice process.

Their ratings of local programmes' processes

Key informants were asked to rate on a five point scale from *1=very poorly* to *5=very well* how well their local programme was working in dealing with family violence cases. Almost half (11 or 46%) of the key informants we interviewed were of the opinion that the programme worked *'well'* or

'very well' (i.e. gave a rating of 4 or 5). One (or 4%) gave a rating of 3, ('neither well nor poorly'), and three (or 12%) gave a rating of 1 or 2 ('very poorly' or 'poorly'). Nine (or 38%) said they simply did not know.

Strengths

Key informants who supported their local restorative justice programme described its strengths as:

- Giving victims a voice, for example:

It gives victims a true voice, the ability to articulate what has happened to them in a true way, not watered down. (Police Family Violence Coordinator)

It gives victim an opportunity to say how they felt. They get a lot out of it. (Victim Adviser)

- Giving offenders an opportunity to look at the consequences of their actions, for example:

It gets the perpetrator to look at how his violence has impacted on the victim and the children. (Service provider)

- Providing an opportunity, in a less formal environment than the Court environment, for victims and offenders to look at the broader context in which the violence occurs, for example:

It gets the victim and offender to address why they are there, and to have a good look at themselves. For the offender to look at why he is violent and why he responds to stress in that way, and for the victim to look at why she accepts the violence. You get ownership of the problem. (Police prosecutor)

It looks at whole scenario. It takes on board the victims' and offenders' needs and the dynamics of the family unit and significant others. It leads to a far more robust picture. (Violence intervention programme provider)

It's particularly successful when the matter is removed out of the more formal structure of Court to a less threatening environment in which people can more freely deal with issues. Court is a sanitised structured process. (Judge)

The victim and the offender have an opportunity to confront one another in an environment where the victim can feel safe. I feel strongly that most relationships want to continue and in the main the victim just wants the violence to stop. (Lawyer)

- The skills and personal attributes of the facilitators, for example:

The facilitators are very good. They have good relationships, are easy to deal with, not bone heads. (Police prosecutor)

[Facilitator] sits out of the process, is not involved in decisions, is totally impartial, has a good overview of the whole case, has done her homework, has a beautiful way with people. (Police prosecutor)

[The facilitator] is a strength ... He has gone from strength to strength in training panel members and checking with family violence experts and being open with the restorative justice processes and being accountable to the community. (Violence intervention programme provider)

- Getting the local community involved, for example:

You get genuine involvement from and by the community with community panel members there – a broad understanding of what the community wants. (Police Family Violence Coordinator)

Weaknesses

Some key informants thought their local programme exhibited no weaknesses. They appreciated that the conventional Court processes were available as a backup should 'the wheels fall off' or 'hit a brick wall' during the restorative justice processes. Of those who identified weaknesses, none mentioned safety as an issue.⁸³ Rather they described their local programmes' weaknesses as:

- The length of time it takes them to work their way through the restorative justice processes that needed to happen, for example:

Too many remands off. If victim is not available should restorative justice go ahead? ... The time delays need tightening up. (Victim adviser)

Maybe sometimes the amount of time some things take to resolve. There's roll-on a lot. The Courts get uppity. Sometimes [the roll-on] relates to reparation, course attendance ... (Police prosecutor)

If agree on tasks, things get remanded. They take too long. If the defendant is not playing ball, they will bring it back to Court. We want a report from RJ that it is working early on. I've met with couple of RJ people to discuss that. (Judge)

- The need for their restorative justice processes to be more transparent. One commented:

There needs to be greater transparency within the process to give greater confidence that the victims are taking a full role within the RJ process but at the same time are feeling safe throughout. There is a sense that this area could be improved. (Violence intervention programme provider)

- Restorative justice agreements that lacked 'innovative ideas for addressing offending';
- A reliance on the quality of the relationship the restorative justice provider has with other criminal justice professionals. A Judge and a Police representative observed in turn:

When the resident Judge has a good rapport [with the restorative justice provider], there's a better sense of direction. Now there are circuit Judges, some of whom are not in favour. In restorative justice, you need a Judge who will drive a project ... [The programme] seems afloat and drifting. (Judge)

This RJ model is not supported by the Police. In [X] they are telling victims 'Don't do it'. (Police)

- Restorative justice reports that were light on information and in need of better formatting prior to their presentation to the Court.

In addition, some informants took the opportunity to more generally criticize restorative justice processes. These included:

83 At some sites it is customary for a Police officer to be present at the restorative justice meeting.

- Processes being offender driven, due to the pressures of fixed dates for Court sentencing.
- Restorative justice providers presenting the views of the victim in the Court rather than the victims doing this themselves. For example one said:
Victims are meant to have a voice but they are not heard that clearly in the court. [The restorative justice provider] is a bigger voice... (Victim Adviser)
- The 'one-off' nature of the restorative justice meeting not serving victims or offenders in complex situations well. One informant thought that resources could be better directed into counselling.
- Victims having to relive the event at the meeting.

Their ratings of local programmes' agreements

Key informants were asked to rate the agreements reached at restorative justice meetings in family violence cases on a five point scale from 1=*too soft* to 5=*too harsh*. Fourteen of the key informants were unable to rate the agreements reached. Of the ten who did, opinions were fairly evenly divided: one rated the agreements reached as '*too soft*' (*'In my opinion they're weak. Offenders actually should be made to do more.'*) two as '*soft*', four as '*neither soft nor harsh*' and three as '*harsh*'.

Some expanded on their choice of rating. Examples from informants according to their ratings of agreements include:

In my opinion they're weak. Offenders actually should be made to do more. (too soft) (Service provider)

They don't all have to do a programme. That's a concern for me. ... There's a strong urge to get counselling in place for them to understand their behaviour. It doesn't necessarily change behaviour. (soft) (Violence intervention programme provider)

[Agreements] are considered on a case by case basis. (neither soft nor harsh) (Police prosecutor)

My impression is that victims are incredibly harsh, especially on first time offenders. There's lots of variation within an offence in terms of severity. (harsh) (Victim Adviser)

Effectiveness of the local programme

Next, key informants were asked to rate the effectiveness of the local restorative justice programme on a five point scale from 1=*very ineffective* to 5=*very effective* in relation to its processes in family violence cases. Where key informants were able to give a rating these were, for the most part, positive. However, a small number of ratings (between one and three in the group responding to each question) indicated a clear criticism of the programme's level of effectiveness. Their responses are summarised in Table 6.1.

Table 6.1 Key informants' (N=24) ratings on programme effectiveness in family violence cases; numbers

Dimension	Rating			No Rating
	1-2 Ineffective ¹	3 Neither effective or ineffective	4-5 Effective ²	
Involving the victim	3	1	11	9
Holding the offender accountable	3	3	8	10
Addressing offender's needs	3	3	8	10
Keeping victim safe during meeting	2	2	7	13
Addressing ongoing safety of victim	3	2	5	14
Repairing the harm caused by the offending	1	2	7	14
Reducing reoffending	1	0	3	20

Notes:

- 1 This includes those who gave a rating of '1=*very ineffective*' or '2=*ineffective*'.
- 2 This includes those who gave a rating of '4=*effective*' or '5=*very effective*'.

Involving the victim

Fifteen (62%) key informants rated and nine were unable to rate the programmes in terms of their effectiveness in involving the victim in their processes. Of the 15 who did almost three quarters (11 or 73%) gave a rating of 4 (*effective*) or 5 (*very effective*). A smaller number (n=3) gave a rating of 1 (*very ineffective*) or 2 (*ineffective*).

Holding the offender accountable

Fourteen (58%) key informants rated and 10 were unable to rate the programmes in terms of their effectiveness in holding the offender accountable during their processes. Of the 14 who did, almost three fifths (57%) gave a positive rating of 4 (*effective*) or 5 (*very effective*). Three gave a rating of 3 (*neither effective nor ineffective*) and an identical number gave a rating of 1 (*very ineffective*) or 2 (*ineffective*).

Repairing the harm caused by the offending

Ten key informants rated and 14 were unable to rate the programme in terms of its effectiveness in repairing the harm caused by the offending. Of the ten who did, most (80%) rated the programme as 4 (*effective*) or 5 (*very effective*), two as 3 (*neither effective nor ineffective*) and one gave a rating of 1 (*very ineffective*).

Addressing the needs of the offender

Fourteen key informants rated and 10 were unable to rate the local programme in terms of its effectiveness in addressing the needs of the offender through its processes. Of the 14 who did, more than half (57%) rated the programme as 4 (*effective*) or 5 (*very effective*), three as 3 (*neither effective nor ineffective*), and a further three gave a rating of 1 (*very ineffective*) or 2 (*ineffective*).

Reducing re-offending

Four (17%) key informants rated and 20 were unable to rate the programmes in terms of their effectiveness in reducing re-offending. Three out of the four who did, rated the programme as being effective – that is, either 4 or 5, and one gave a rating of 2 (*ineffective*).

Keeping the victim safe during the meeting

Eleven key informants rated and 13 were unable to rate their local programme in terms of its effectiveness in keeping the victim safe during the meeting. Of the 11 who did, seven gave a rating of 4 (*effective*) or 5 (*very effective*), two gave a rating of 3 (*neither effective nor ineffective*), and another two gave a rating of 1 (*very ineffective*) or 2 (*ineffective*).

Addressing the ongoing safety of the victim

Ten key informants rated and 14 were unable to rate the programme in terms of its effectiveness in addressing the ongoing safety of the victim.⁸⁴ Of the 10 who did, one half rated the programme positively as 4 or 5, two as 3, and a further three as 1 or 2.

Effectiveness in meeting the needs of Judges, victims, offenders & the community

Key informants were then asked to rate the local restorative justice programme on a five point scale from 1=*very ineffective* to 5=*very effective* on the effectiveness of its processes in family violence cases in meeting the needs of Judges, victims, offenders and the community. Their responses are summarised in Table 6.2.

Table 6.2 Key informants' (N=24) ratings on programme effectiveness in family violence cases in meeting needs of stakeholders; numbers

Stakeholders	Rating			
	1-2 Ineffective ¹	3 Neither effective or ineffective	4-5 Effective ²	No Rating
The community	1	4	11	8
Offenders	1	4	11	10
Victims	3	3	7	11
The Judge	2	1	9	12

Notes:

- 1 This includes those who gave a rating of '1=*very ineffective*' or '2=*ineffective*'.
- 2 This includes those who gave a rating of '4=*effective*' or '5=*very effective*'.

Judges

Twelve key informants rated and twelve were unable to rate the programme in terms of meeting the needs of the Judges. Of the 12 who did, three quarters rated the local programme as 4 (*effective*) or 5 (*very effective*), one as 3 (*neither effective nor ineffective*), and two as 2 (*ineffective*).

84 One stakeholder was of the opinion that addressing the ongoing safety of the victim was not the role of the programme provider.

Of the four District Court Judges we interviewed, one rated the local programme as 'very effective', one as 'effective', one as 'ineffective' and one was unable to rate the programme in meeting their needs.

One violence intervention programme provider explained the unenviable position that restorative justice providers could sometimes find themselves in:

A lot of times the emphasis was on meeting the Judge's need which means offenders don't do a programme. The Judge is saying why is this process taking so long? So if [restorative justice processes] are done effectively, it doesn't meet Judge's needs.

Victims

Thirteen key informants rated and 11 were unable to rate the local restorative justice programme in terms of the effectiveness of its processes in family violence cases in meeting the needs of victims. Of the 13 who did, more than half (54%) rated the programmes positively as 4 ('effective') or 5 ('very effective'). Three gave a rating of 3 ('neither effective nor ineffective'), and a further three gave an unfavourable rating of 1 ('very ineffective') or 2 ('ineffective').

Offenders

Fourteen key informants rated and 10 were unable to rate the programme in terms of the effectiveness of its processes in family violence cases in meeting the needs of offenders. Of the 14 who did, 11 rated the programme favourably as 4 ('effective') or 5 ('very effective'), two as 3 ('neither effective nor ineffective'), and one as 2 ('ineffective').

The community

Sixteen key informants rated and eight were unable to rate the programme providers in terms of their effectiveness of their processes in family violence cases in meeting the needs of the community. Of the 16 who did, more than two thirds (69%) gave a rating of 4 ('effective') or 5 ('very effective'), four as 3 ('neither effective nor ineffective') and one gave a rating of 2 ('ineffective').

One Police Family Violence Coordinator was of the view:

The community is able to deal with the 'real side', the violence within the family, because we expose it in a more open way by having the issues discussed and the violence exposed. It wouldn't happen in a court with a guilty plea.

Effectiveness in meeting the needs of different cultural groups

Key informants were asked to rate the local restorative justice programme on a five point scale from 1=very ineffective to 5=very effective on the effectiveness of its processes in meeting the needs of those victims and offenders of family violence who were Māori, Pacific or from 'Other' ethnic groups.

Māori

Only six key informants rated and 18 were unable to rate the programme in terms of meeting the needs of Māori. Of the six who did, four rated the programme as 4 ('effective') or 5 ('very effective'), one as 'neither effective nor ineffective', and one as 1 or 'very ineffective'.

Pacific Island peoples

Only five key informants rated and 19 were unable to rate the programme in terms of meeting the needs of Pacific Island peoples. Of the five who did, three rated the programme as 4 (*'effective'*) or 5 (*'very effective'*), and two as 3 (*'neither effective nor ineffective'*).

Other ethnic groups

Only three key informants rated and 21 were unable to rate the programme in terms of meeting the needs of 'Other Ethnic Groups'. Of the three who did, one rated the programme as *'very effective'*, one as *'effective'*, and one as *'neither effective nor ineffective'*.

Improvements in programme processes

Key informants were asked whether they thought any improvements could be made to local programme processes, and if so, to describe what these might be. Thirteen answered in the affirmative. Improvements they identified were:

- facilitators and panel members trained in understanding the dynamics of family violence and dealing with it: *'Keeping fresh and keeping it real.'* It was thought this would assist in ensuring victims are kept safe throughout the whole restorative justice process;
- a panel always including a member with particular expertise in dealing with family violence;
- making restorative justice agreements more meaningful for the participants: *'Practical help instead of token gestures.'* (Service provider)
- better access to programmes in some locations (for example, appropriate courses for women perpetrators and anger management programmes in Timaru and support programmes in Levin)
- a tightness around the monitoring of offenders' progress with their agreement: *'If a defendant is dragging the chain with regards to attendance or completion of programmes or counselling I want them back in Court to have to explain to me why this is so.'* (Judge)
- a shortening of timeframes in which restorative justice processes occur; and
- more and better structured information in restorative justice reports for the Court: *'Some tend to be "he said, she said"'*. (Lawyer)

Quality of relationships

Key informants were asked to rate on a five point scale where 1=*very poor* to 5=*very good* the quality of their stakeholder group's relationship with the local restorative justice provider. Eighteen key informants rated the quality of their group's relationship and six were unable to do so. Of the 18 who did, almost four-fifths (78%) rated the relationship favourably as 4 (*'good'*) or 5 (*'very good'*), two gave a rating of 3 (*'neither good nor poor'*), and two a rating of 2 (*'poor'*).

Impact on agency/service

Key informants were asked whether the use of restorative justice in family violence cases had had an impact on them or their agency or service. Thirteen responded in the affirmative, saying that it had had the effect of slightly reducing their workloads. They said, for example:

The RJ process has had minimal impact on the work of the organisation because of the limited number of referrals that have been made. (Violence intervention prevention provider)

A bit but not hugely. I get a lot of clients who want to defend. I tend to use other resources. I refer people to joint family counselling through the Family Court whatever the plea. (Lawyer)

Final comments

Key informants were given the opportunity to add any final comments. Those who commented usually returned to themes they had expressed early in the interviews.

Supporters of the use of restorative justice processes in family violence cases tended to be realistic as to what these processes might achieve. They did not view restorative justice as a cure all in all family violence cases, but as an opportunity for some victims and offenders of family violence to come together in a less pressured environment than the Court for victims to have a voice and for offenders to start to address their offending. They said, for example:

In the vast majority of cases the relationship is going to carry on. You get women repeatedly coming back to these violent relationships for whatever reason. I appreciate that there are problems with it [restorative justice] but if people are going to be in ongoing relationships don't we need input from the victim as to how she wants it put right? ... I'm realistic for a lot of people they're not going to change their behaviour. But RJ will provide an opportunity for change or for the victim to decide if she wants to move on. (Judge)

It is often an appropriate forum for confronting the offender and discussing frankly with the offender the need for his behaviour to change. It's more personal, more time is given. The Court is full on. (Judge)

It doesn't work in all areas or for everybody. That's where the facilitator/coordinator has to have a good understanding of the complexities of family violence to make it a success. It's not something you can teach people in a short amount of time. It's something learned with experience. Courts are often quite removed from what is happening in the community at a local level. (Family Violence Coordinator)

[It's appropriate for] certain offences and offenders. I've been quite impressed regarding victim and offender interactions. Offenders have demonstrated that they're wanting to make amends in certain cases. (Police prosecutor)

The victims don't get a say in Court. RJ could be held on a marae and both families present. I would use it post sentencing, as I think we need to have the Justice Department as a back-up. In [X] it is an under-utilised process. [X] have good facilitators and a good venue, but it is not being used. You need to get buy-in and ownership from agencies such as Police CYFS, MSD Work & Income for it to work properly. The Tenancy tribunal facilitates and good things come out of it. The same could be happening with family violence cases. It gives the opportunity for the victims to have a voice. (Police)

Opponents of the use of restorative justice processes in family violence cases returned to their view that a one-off meeting was of no use. To quote two informants:

I would like to see a different system than restorative justice used in family violence. It's far too complex for a one-off meeting. At sentencing, restorative justice is seen as a mitigating factor, always as a good thing, regardless of the offender's motivation. (Victim Adviser)

You need to marry up healing for the victim and the victim's family with strong consequences for the offender. A one-off meeting is of no use. Perhaps a women's education programme through which a woman might get a clearer understanding of the dynamics of family violence might be of use. (Service provider)

One opponent to the use of restorative justice for family violence cases was of the view that, because of the dynamics of family violence, all family violence offenders should be sentenced to supervision with special conditions.

6.3 Summary

In conclusion, the 24 key informants from stakeholder groups including violence intervention programme providers, Victim Advisers, Judges, Police and lawyers across the five sites, were divided in their views as to the appropriateness of using restorative justice processes with victims and offenders in family violence cases.

- 33% expressed unconditional support
- 38% expressed conditional support
- 29% were against the use of restorative justice for family violence cases

Key informants stated that the use of restorative justice for family violence cases was appropriate for less serious offences with offenders who showed remorse and accepted responsibility for their offending and in situations where there was likely to be an ongoing relationship between the victim and offender. They did not consider restorative justice appropriate for rape and other sexual offences, serious assaults, or in situations where the victim could be coerced by the offender.

Thirty-eight percent of key informants considered that they did not know enough about the restorative justice processes used by their local programme when dealing with family violence cases to be able to comment on their performance. However, key informants who were familiar with their local programme gave them the following ratings:

- 46% working well or very well
- 4% neither well nor poorly
- 12% poorly or very poorly

Opponents of the use of restorative justice processes in family violence cases continually referred to the futility of a one-off meeting. However, supporters of the use of restorative justice processes in family violence cases had a more realistic view of what these processes might achieve. Participation in restorative justice processes could provide some victims and offenders with an opportunity to come together in a less pressured environment than the Court. It could allow for victims to have a voice and for offenders to start to address their offending. This is particularly important if the relationship is ongoing.

Chapter 7 Summary and discussion

7.1 Meeting the objectives of the review

Following extensive consultation process⁸⁵ the Ministry of Justice published a set of principles of best practice identifying how and when restorative justice processes should be used in criminal cases (Ministry of Justice, 2004). The principles are intended to be used as a resource for restorative justice providers to help 'protect the inherent flexibility of restorative justice processes [and to] provide clear guidance about the use of these processes in a safe and appropriate way' (Ministry of Justice, 2004; p 10). They are not prescriptive and thus accommodate a range of approaches to restorative justice in New Zealand. They are therefore, applicable to the varied approaches utilised by the five sites that were the focus of this review. At two of the sites, Levin and Nelson, the restorative justice process used a community panel pre-sentence model which involves two panel members and a coordinator/facilitator. At another two other sites, Nga Whare Waatea and Christchurch, the restorative justice process is a victim-offender meeting with a facilitator and a co-facilitator. At Nga Whare Waatea the process takes place either pre or post-sentencing. In the case of Christchurch the restorative justice process can take place pre or post sentencing or where there is no formal charge. At the fifth site, Timaru, the process is one of community panel pre-trial diversion and involves the Police, panel members and a facilitator.

Principle 8 states that: *Restorative justice processes should only be undertaken in appropriate cases*. In effect this principle prescribes that the use of a restorative justice process in a particular case must be carefully considered. And, very careful consideration should to given to the use of restorative justice processes in cases of family violence and sexual violence. The objectives of the review were to describe the nature and extent of the delivery of restorative justice in family violence cases including the following:

- how selection of cases occurs;
- assessment of appropriateness of each referral;
- how the consent of participants is obtained;
- detail of the restorative justice processes;
- safety of participants;
- the outcomes for individuals (both victim and offender) from the processes – e.g. participation in therapeutic programmes, sentencing outcomes, etc); and
- the experience of individuals who have participated in restorative justice processes in family violence or domestic violence cases.

The views of individuals who have participated in restorative justice processes in family violence cases and the views of key informants are integrated throughout.

Selection of cases

The selection of family violence cases for restorative justice processes occurs at several levels. At the referral level, Judges, lawyers, Police, and some other criminal justice representatives, may

85 This process took place during 2003 with restorative justice practitioners.

suggest to the Judge that the offender might be a suitable candidate for restorative justice. At the restorative justice provider level, it is usually the coordinator who decides whether to proceed with the use of restorative processes by typically considering the types of offences the provider accepts, the suitability of the victim and the offender to participate (or consent to the meeting proceeding), the skills of the facilitator and the facilitator's ability to hold a meeting in a supportive and safe environment.

Victims and offenders reported that the suggestion of dealing with the offending through restorative justice processes came from a variety of sources. The suggestion often came from the offender's lawyer (ten offenders and four victims reported this) although in some cases the victim made the suggestion (two offenders and one victim reported this). Two victims said the Court Victim Adviser had suggested restorative justice. An identical number of offenders said that the restorative justice provider was at Court and had been the one to suggest that their case be dealt with in this fashion. A few (three victims and one offender) said that they thought that the Judge had suggested restorative justice.

It was usually the restorative justice provider who had first contact with offenders. Eighty-three percent of offenders reported this. The remainder (17%) said that their first point of contact was their lawyer. Court Victim Advisers usually had the first contact with victims. More than one half (or 58%) of the victims who took part in restorative justice panels/meetings reported this. The remainder (42%) said they had initially been contacted by the restorative justice provider.

Almost three-quarters (17 or 71%) of key informants interviewed were in favour of the use of restorative justice processes in family violence cases, although over half of this number added caveats to their support such as the importance of facilitators skilled in the dynamics of family violence relationships and the need for clear safety protocols/guidelines. Some identified a range of circumstances as being particularly appropriate for the use of restorative justice in family violence cases, these included:

- where both parties agree to the process;
- where healing is possible for the victim;
- if the victim wants to stay in relationship;
- where a bond exists between victim and offender;
- where couples need to work through issues;
- where families want to stay together;
- where the victim and offender have children together; and
- where there is no physical violence.

Key informants did not view restorative justice as a cure-all in all family violence cases, but as an opportunity for some victims and offenders of family violence to come together in a less pressured environment than the Court for victims to have a voice and for offenders to start to address their offending. This was particularly important because, as some key informants commented, in the vast majority of cases the relationship is going to carry on.

Assessment of appropriateness of each referral

The coordinator/facilitator assesses, on a case by case basis, the appropriateness of the offender and the victim to participate in restorative justice processes. They based their decision making on many factors relating to the victim, the offender, and the facilitator (see, especially section 3.2 suitability of referrals). Restorative justice meetings were more likely to be held for family violence cases in circumstances where the victim wanted to continue in the relationship with the offender.

Victims and offenders were asked why they had decided to take part in the restorative justice process. Some common themes emerged from what they said:

- victims and offenders wanted to sort out the issues that had led to the offending;
- victims and offenders wanted to be able to discuss their differences in a safe environment;
- some victims wanted the offender to get help to change;
- offenders wanted to take responsibility, help themselves and/or make amends to the victim; and
- those who were no longer in the relationship, wanted closure.

Consent of participants

The offender's verbal consent to participate in restorative justice processes is usually obtained at a pre-meeting, as is that of the victim once the provider has explained their processes. Written consents are not usually obtained by coordinators/facilitators at the five sites.

Victims and offenders said that they were comfortable being contacted about their potential participation in the restorative justice process. Only a few (two victims and one offender) said they had felt indirectly pressured to take part in that they were unsure of what other options were available if they refused.

Detail of the restorative justice processes

At the five sites that were the main focus of this review, the restorative justice processes used by providers for family violence cases did not appear to differ significantly from the processes they would usually use to deal with other types of cases. At some sites, such as Nelson, the victim must agree to be present at the meeting whereas at others, such as Timaru, this is not a requirement. It was a common theme for offenders to offer and apology at the meeting, although they were not formally required to do so. Given the usual long history of the offending, providers were of the view that apologies would in any case likely to have been made from time to time by the offenders to the victims, and to require an apology by the offender in a one-off meeting might serve to minimise the offending or result in less than a sincere apology being given.

Most victims and offenders had expectations from participating in the restorative justice process. These included:

- to talk about what had happened incorporating both points of view;
- for the offender to realise the impact of what he had done and be made accountable;

- to come to some resolution over the offending – repair the harm; and
- to help the offender and victim so that this would not happen again.

Victims and offenders generally understood what was happening and felt involved, they felt they had been treated with respect and had had the opportunity to say what they wanted. Most offenders (89%) had been given the opportunity to explain their actions. Similarly the majority of victims (84%) had been able to make clear the effects of the offending on them

Victims and offenders had been able to meet in a safe, non judgemental environment and talk about the effects of the offending. In general, levels of satisfaction with the process and agreements reached were high, although offenders were consistently more likely than victims to report this

A few victims (n=4) and offenders (n=3) said that it was important that the restorative justice process meet their cultural needs. Only one offender said his/her needs had not been met.

Most participants found involvement in the restorative justice process a positive experience and were pleased that they had taken part.

Key informants who provided an opinion also generally felt that the local restorative justice programme was effective:

- in involving the victim (11 out of 15);
- in holding the offender accountable (8 out of 14);
- in addressing the needs of the offender in relation to his/her violent behaviour (8 out of 14); and
- in meeting the needs of the victim (7 out of 13) and offender (11 out of 14) during the restorative justice process.

Eleven out of 16 key informants also felt that the local restorative justice programme was effective in meeting the needs of the community when dealing with family violence cases.

Safety of participants

The safety of participants at the restorative justice meetings is of paramount concern to the coordinators/facilitators. The providers' consideration of safety issues begins with their assessment of the suitability to take part in restorative justice of the offenders and victims who cases are referred. If the coordinator/facilitator has any safety concerns the meeting will not go ahead. At the meeting, additional safety elements at Timaru include the presence of a Police representative, and at Nelson include the mandatory presence of support people for the victim and offender. In Christchurch, all participants are required to sign an agreement saying that they will abide by the rules set down for the meeting and there is a specific protocol setting out the areas to be discussed with family violence victims and offenders prior to the restorative justice process taking place (see Appendix B4). The facilitator's experience and ability is crucial when dealing with family violence cases. If the victim says she or he feels unsafe, the facilitator will stop the meeting, and the offender will be returned to the Court to be dealt with in the usual way.

In preparation for the restorative justice meeting, approximately a third of victims (n=6) and a small number of offenders (n=3) said that they had been asked by the coordinator/facilitator whether or not

they had any concerns for their safety if they participated. More than two-fifths of offenders said that they had been informed of the safety rules under which the meeting would be conducted - zero tolerance of abuse of any type. There was a clear indication that the meeting would stop if anyone breached these conditions. A small number of victims (n=3) said there had been a direct reference to how they would be kept safe during the meeting and how they could take a break or leave at any time if they felt things were getting out of hand. Not all victims appeared to be concerned about their safety – most assumed that they would be safe during the restorative justice process due to the general rules set down for the meeting.

Although most victims and offenders reported being apprehensive and feeling some anxiety when they first went into the meeting by the end they were feeling relieved and positive about the experience.

Few victims or offenders said that they were too scared to say what they really felt during the meeting. Where participants had support at the meeting (50% of offenders and 37% of victims) they found this useful.

Only two victims said they felt safer as a result of taking part in the restorative justice process. However, most said that this was not an issue for them: they had either ended the relationship or they had never felt unsafe.

Eleven key informants rated their local restorative justice programme in terms of its effectiveness in keeping the victim safe during the meeting. Almost two-thirds (64%) felt that the programme was managing to do this effectively. Similarly, of those key informants (n=10) who rated the programme in terms of its effectiveness in addressing the ongoing safety of the victim one half felt that the programme achieved this in an effective manner.

No key informants specifically mentioned having any concerns about the safety of participants when asked to identify the strengths and weaknesses of their local restorative justice programme.

Agreements reached at meetings

During 2005/2006 all five programmes used restorative justice processes for the offences of male assaults female and assault/common assault. The restorative justice meetings held for family violence cases in Horowhenua, Nelson and Timaru resulted in agreements which offenders are required to complete before the disposition of their case. In the case of Horowhenua and Nelson a report is provided for the sentencing Judge, who may choose to incorporate all or part of the agreement into the offender's sentence. In community panel diversion cases- ie Timaru – a report goes to Police Prosecutions who may withdraw charges if the agreement is fulfilled by the offender.

Typically, these agreements commonly included the offender's attendance at a violence intervention programme. Written apologies or community work featured less frequently. Although at Levin community work was invariably a feature of the agreement. An additional feature of Nelson agreements was that they usually included a fun element or social activity.

At some sites, offenders must pay for their programme attendance whereas at others they are subsidised or free of charge.

Although most participants interviewed said that they were satisfied with the agreement reached at their restorative justice meeting, offenders were more likely to say this than victims (93% compared with 79%).

Offenders (68%) were also more likely than victims (32%) to say that they had understood how the victim felt about the offending, yet most victims (63%) felt that the offender had been made accountable for their actions. Despite this almost one half of victims felt that the offender had not been able to 'repair the harm' or make up for what they had done and a few felt that the offender had got off too lightly.

Approximately two-fifths (or 42%) of key informants had an opinion on the nature of agreements reached at the meetings held in their area. These opinions were fairly evenly divided. Three thought that the agreements were soft; four thought they were about right and three thought they were harsh.

The principles of the Sentencing Act 2002 require the Judge to take into account any outcomes of restorative processes. Sentencing outcomes of offenders of family violence who have participated in restorative justice processes at the five sites and who have completed their agreements, have included s106 (Sentencing Act 2002) discharges without conviction, s108 (Sentencing Act 2002) convictions and discharges and s110 (Sentencing Act 2002) orders to come up for sentence if called upon.

Most of the offenders (11 out of 13) interviewed who had been sentenced said that the Judge had referred positively to the reports from the restorative justice meetings provided by programme facilitators.

Twelve key informants rated their local restorative justice programme in terms of meeting the needs of the Judges. Three quarters of them gave a rating of 4 (*effective*) or 5 (*very effective*). Of the four District Court Judges interviewed, three gave ratings: one rated the local programme as *very effective*, one as *effective* and one as *ineffective* in meeting their needs.

Experiences of participants

The good features of the restorative justice meeting most commonly reported by victims were the open dialogue and the healing process that occurred in a non-judgemental environment. They also appreciated being able to meet the offender in a safe supportive environment. Good features of the meeting most often referred to by offenders included: being able to put things right, feeling supported and being treated with respect. Few victims or offenders had anything bad to say about the meeting. Offenders (89%) were more likely than victims (74%) to be satisfied overall with the meeting.

A few victims (21%) and offenders (16%) felt that it was important that the restorative justice meeting meet their cultural needs. All except one reported that this had happened.

Victims' views were mixed on whether or not the violence or abusive behaviour had stopped since the restorative justice meeting. Although a third said it had another third said that the violence had just changed in nature: from physical to psychological violence. However, more than one half of offenders said that they had learnt something about their behaviour and its effects on others and thought that they needed to change.

Nonetheless, after the meeting victims were more likely than offenders to think that the offenders still needed help to address their violent behaviour. Whereas most offenders said that they had got help or were involved in the process of getting it victims still thought this was an issue.

There was less agreement between victims and offenders as to whether the offender had understood the effect of the offending on the victim and whether or not the offender had been able to

make amends for what he/she had done. Victims were more likely than offenders to respond in the negative.

All offenders and most victims said that they would recommend restorative justice processes to other victims and offenders to deal with family violence. And approximately 80% of victims said that they would take part in the process again should they need to. All participants generally agreed that restorative justice meetings were a good way to deal with family violence, although some qualified this by saying it depended on those involved and the circumstances relating to the violence.

7.2 In conclusion

Family violence offences span the continuum from less serious offences (such as wilful damage) to the most serious offences (such as rape and murder). Based on the findings of this review we think that the use of restorative justice processes in family violence cases is appropriate for the types of cases currently being accepted by providers at the five sites. That is, mostly offences in the less serious to medium seriousness range such as male assaults female offences that have not required the victim's admission to hospital.

The dynamics of family violence are complex and the nature of the close and often ongoing relationship of the victim and offender further complicates the issue. Family violence offences that are to be addressed through a restorative justice meeting are likely to be only a small proportion of the many offences the victim has endured at the hands of the offender. Opponents of the use of restorative justice in family cases point to a one-off meeting as being too simplistic to deal with such cases, and that victims have a high chance of being re-victimised and unsafe at these meetings.⁸⁶ Conversely, advocates argue that restorative justice meetings, do, however, (with careful selection, planning and skill by facilitators) provide a forum for addressing victims' needs (especially where they are present) in a safe environment. And that such processes provide '*a way of looking at the wrongdoing that emphasises repair of harm and accountability of the wrong doer*' (Zehr, 2007), something conventional court processes are unable to do. The findings of this review concur, and indicate that restorative justice meetings for couples who want to continue their relationships, combined with offenders' participation in violence intervention programmes, may lead to positive change for some couples. Similarly, restorative justice meetings may enable couples who are no longer together to gain some resolution and end the relationship on amicable terms. This may be particularly relevant where there are children involved.

Only one of the five sites included in this review had specific guidelines on issues that should be discussed for the use of restorative justice in family violence cases. The other four providers felt that their generic restorative justice protocols based on the Ministry's principles of best practice were sufficient for them to accept referrals of family violence cases on a case by case basis. Particular care was taken by providers at all sites in the preparation of the victim and offender, the selection of appropriate panel members, the safety of participants and the development of appropriate agreements.

We consider that restorative justice processes, as one of a suite of potential responses to family violence, need to continue to be offered. Therefore, there may be value in the Ministry of Justice developing specific guidelines for the use of restorative justice processes in family violence cases to

86 See for example Daly (2002) who refers to family violence as a 'gendered harm'. Stubbs (2007) agrees and describes the pitfalls of using generic restorative justice processes to deal with family violence.

assist providers operating in an area characterised by complex relationships and often entrenched patterns of violent behaviour.

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Appendix A Supplementary tables

Table A2.1: Some characteristics of restorative justice meetings involving family violence cases, and estimates of number of such meetings

RJ Provider	Location	Type of meeting	Percent of r j meetings where victims present	Number of r j meetings held over 6 months	Percent of r j referrals that involve family violence	Estimate of number of r j meetings that involve family violence over 6 months	Estimate of number of r j meetings that involve family violence over 3 month review period
Te Whānau Awhina	Waitakere	panel	6	43	11-25	8	4
Horowhenua RJ Programme	Levin	panel	50	13	51-75	8	4
Project Turnaround	Timaru	panel	67	33	11-25	6	3
Turnaround Ashburton	Ashburton	panel	49	29	11-25	5	3
Nelson RJ Services (Just Steps)	Nelson	panel (with victim)	63	27	11-25	5	3
Turnaround Marlborough	Blenheim	panel	100	7	51-75	4	2
Tauranga Moana RJ Trust	Tauranga	victim-offender	No data	9	26-50	3	2
RJ Services	Christchurch	victim-offender	83	8	11-25	1	1
Taranaki RJ	New Plymouth	victim-offender	100	18	1-10	1	1
Nga Whare Waatea Trust	Counties/Manukau	victim-offender	100	11	1-10	1	1
Hawkes Bay RJ Te Puna Wai Ora	Hastings/Napier	victim-offender	100	7	1-10	<1	<1
RJ Services	Wellington	victim-offender	100	5	1-10	<1	<1
Court -RJ Services Hauraki	Paeroa	victim-offender	No data	11	1-10	<1	<1
Waitaki Turnaround	Oamaru	both	35	38	1-10	2	1
West Coast RJ Programme	Greymouth	both	77	12	1-10	<1	<1

Notes:

- 1 RJ Services, Wellington, do not accept cases involving partners or cases involving sexual violence.
- 2 All groups bar Te Whānau Awhina require victim consent before the case goes to conference/panel.
- 3 Numbers of rj meetings involving family violence were estimated by multiplying the number of rj meetings by the midpoint of the percentage of rj meetings involving family violence.

Appendix B Information sheets, consent forms, and interview schedules

B1 Information sheets and consent forms

VICTORIA UNIVERSITY OF WELLINGTON

Te Whare Wānanga o te Ūpoko o te Ika a Māui



Research about restorative justice meetings

Greetings

(Restorative justice provider) hold restorative justice meetings in your area for victims and offenders of family violence. We have been asked by the Ministry of Justice to find out more about these.

We are inviting all victims and offenders who have been to one of these restorative justice meetings recently to take part in this research.

We would like to talk to you for about 30 minutes to see how you felt about the meeting and what happened there. We would also like to know how things have been for you since then.

You do not need to talk to us unless you want to. However, if you decide to do so, we will arrange a time and place to suit you. You are welcome to bring someone to support you if you would like. We will keep what you tell us confidential and only use this for research purposes. Your name will not appear in any research reports and nothing will be published that might identify you. If you don't want to answer some of our questions, you don't have to and you can end the interview at any time.

If you have any questions about the research, you can ring the researchers, Venezia Kingi or Judy Paulin on 0800 586 987.

Warmest regards from the research team

Venezia Kingi, Judy Paulin and Laurie Porima

Reply slip

If you do **NOT** wish to take part in the research, please tick the box below and return the form to us using the enclosed reply paid envelope. Otherwise, a researcher will get in touch with you to arrange a time to talk with you. She/he will tell you more about the project then.

I do **NOT** wish to take part

Signature: _____

Name (please print): _____



Restorative Justice Research

Consent Form

I,, agree to be interviewed for this research study.

The researcher has explained to me the purpose of the research, and my right to not answer any question I don't like or to stop the interview, without having to explain why.

I understand that all information will be kept confidential by the researchers, and will be used only for research purposes. My name will not be used in any research reports and nothing will be published that might identify me.

I understand that if the researchers thought that I or someone else was at risk of serious harm they may have to break confidentiality. Should they need to they will discuss this with me first.

Signed

Date

**Ring us or write for more information
Phone: 0800 586 987 – Venezia, Judy or Laurie
Victoria University, PO Box 600, Wellington**

B1 Ministry of Justice survey

QUESTIONNAIRE FOR RESTORATIVE JUSTICE PROVIDERS IN RELATION TO FAMILY VIOLENCE CASES.

Name of restorative justice provider

Address of provider

Do you accept referrals for restorative justice cases involving family violence? Yes/No
If you do not deal with family violence cases please go to question 17.

Do you use a Victim-Offender process or a Panel process for Family Violence cases?

Please circle the correct answer

Victim-Offender Panel

What percentage of the cases referred to you involve family violence offences?

Please circle the correct answer

1 to 10 11 to 25 26 to 50 51 to 75 over 75

What types of family violence offending have been referred to your organisation (over the last year)?

Tick all that apply

Physical assaults - no medical attention needed

Physical assaults - causing injury treated by doctor or nurse

Physical assaults - required admission to hospital

Threats

Damage to property

Sexual assaults ----- adult

----- children

Sexual violation (rape, unlawful sexual connection)--- adult

---- children

Please list the agencies or organisations which refer family violence cases to you for restorative justice e.g. the Court, police, churches, lawyers, and community groups.

5. Are family violence referrals from the Court generally made before or after sentencing?

Please circle the correct answer

Before After Don't get referrals from court

6. What percentage of your family violence cases you get referred would result in a conference or panel meeting?

a) General family violence%

b) Family violence involving sexual offending%

7. Do you require victim consent before the case goes to conference/panel? Yes/No

How do you obtain the victim's consent?

8. How do you assess the suitability of the family violence cases referred to you for restorative justice?

Victims

Offenders

9. What mechanisms/processes do you have in place to ensure safety for?

Victims

Offenders

10. What relevant specialist training/experience do your facilitators of family violence cases have? Please list

11. What skills and knowledge does your agency have to work appropriately cross culturally?

12. Is your organisation an accredited family violence service provider to any organisations?

Yes/No

If yes, please describe your accreditation and the services you provide

13. Do conference/panel plans/agreements usually recommend that the offender be referred to other programmes or services? Yes/No

14. Please list the programmes or services that are usually recommended in plans

15. Please describe how the plans/agreements are usually monitored and the actions taken if they are not complied with.

16. How do you obtain feedback on the services you provide from conference/panel participants (and/or other stakeholders)?

If you use a questionnaire or evaluation sheet please attach a copy.

17. Do you intend in the future to accept referrals of family violence cases for restorative justice?
Yes/No

Completed by:.....

Date.....

Thank you very much for taking the time to complete and return this questionnaire.

Julia Hennessy
Senior Policy Advisor - Restorative Justice
Crime Prevention Unit – Ministry of Justice

B3 Interview schedules

Restorative Justice in Family Violence Cases

Questionnaire: Victim attending conference

In this interview we would like to ask you about what happened at the restorative justice conference/meeting held during _____ (month) _____ (year) for _____ (offender) with respect to _____ (offences)

The aim is to find out how you felt about the whole process.

(NOTE: Coding - Throughout use: 8=not applicable; 9=don't know; 99=missing data; 98=did not want to answer the question)

Choosing to have a conference/meeting

1 Whose idea was it to have the restorative justice conference/meeting?

(Code 1=Yes or 2=No - to be coded only, not asked)

Victim's (self)

Offender's

Offender's lawyer

Police

Judge

Victim adviser

RJ provider

Other (specify)

2 Who contacted you first about the possibility of dealing with the offending at a restorative justice conference/meeting? (Tick which)

Victim adviser

RJ provider

Other (specify)

3 How did you feel about being contacted about dealing with the offending at a restorative justice conference/meeting? (Tease out issues around breach of privacy, feelings about offender etc)

4 Why did you decide to go to the conference/meeting? (Possible reasons to be ticked only, not asked) (Ask the open ended question record the answer and then tick/code the following reasons as appropriate)

To tell the offender what the offence was like for me

To get an apology from the offender for what he/she did

To have a say

To work out an agreement on how to deal with the offence

To have the offender pay reparation

I thought it was a good idea

To get closure

Friends/family thought it would be a good idea

Cultural reasons

The Judge suggested it

I didn't feel like I could refuse to go

Other (*elaborate*)

- 5 Did you feel pressured by anyone to attend the conference? (*Code 1=Yes or 2=No*)
If **Yes**, by whom and what did they say?

- 6 On a scale from **1 to 7** – where 1=No impact and 7=Very high impact, rate the impact of the incident on you at the time it happened

(*Circle a number on the following scale*)

1 2 3 4 5 6 7

**No
impact**

**Very
high impact**

- 7 Following the incident (*the offending*) did you see or speak to (*the offender*) before the conference/meeting? (*Tease out issues around whether pressured by offender to attend or not to attend*)
(*Code 1=Yes or 2=No*)
If **Yes**, what happened?

Preparation

- 8 a) Who contacted you about the arrangements for the conference/meeting?
b) How did they contact you?

(*Code 1=Yes or 2=No*)

- 9 Were you asked about:

- a) Where the conference/meeting should be held?
b) When the conference/meeting should be held?
c) Who should be at the conference/meeting?
d) Whether or not you had any concerns about your safety if you attended?

(*Only ask e) if an IPV case*)

- e) Whether or not there was a current protection order in place?

- f) Whether or not there were bail conditions in place?

- 10 Were you **told**:

- a) In plenty of time about when the conference/meeting was to be held?
b) What would happen at the conference/meeting?
c) What you would have to do at the conference/meeting?
d) Who else would be at the conference/meeting?
e) How you would be kept safe while at the conference/meeting?
f) How you would be kept safe arriving at and leaving the conference/meeting?

What were you told?

- 11 At this stage did anyone give you any suggestions of the sorts of things that could go in the agreement?
(*Code 1=Yes or 2=No*)
If **Yes**, who made them and what were they?

12 On a scale of **1 to 7** – where 1=Not at all prepared and 7=Very well prepared - how prepared did you feel for the conference/meeting?

(Circle a number on the following scale)

- | | | | | | | |
|----------------------------|---|---|---|---|---------------------------|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| Not at all prepared | | | | | Very well prepared | |

(elaborate – tease out issues around whether would have liked more information)

The Restorative Justice Conference/Meeting

13 Did someone go the conference/meeting with you to support you? (Code 1=Yes, 2=No)

a) If Yes, who was this *(specify)*

b) Was their support useful? (Code 1=Yes, 2=No or 3= Partly)

c) Would you have liked more support at the conference/meeting?
(Code 1=Yes, 2=No or 3= Partly)

If Yes, from who?

14 What do you think the conference/meeting was trying to achieve?

15 How did you feel when you first went into the conference/meeting?
(Prompt for feelings around first meeting 'the offender' there)

16 During the conference/meeting did you:

a) Feel involved? (Code 1=Yes, 2=No or 3= Partly)

b) Understand what was going on? (Code 1=Yes, 2=No or 3= Partly)

c) Have the chance to explain how the offence affected you?
(Code 1=Yes, 2=No or 3=Partly)

d) Have the opportunity to say what you wanted to say? (Code 1=Yes, 2=No or 3= Partly)

e) Feel too scared to say what you really felt? (Code 1=Yes, 2=No or 3= Partly)

17 Do you think anyone said too much during the conference/meeting? (Code 1=Yes, 2=No)

a) If Yes, who? *(Don't ask - tick all that apply)*

- Panel members
- Victim's support *(e.g. family or whanau)*
- Victim's representative
- Victim *(self)*
- Offender
- Offender's support *(e.g. family or whanau)*
- Facilitator
- Other *(specify)*

18 During the conference/meeting:

a) Were you treated with respect? (Code 1=Yes, 2=No or 3= Partly)
(Be alert to cultural issues)

- b) **If No or Partly to a)** above - why do you think that was?
 c) Did you feel unsafe (either physically/emotionally) at any time?(Code 1=Yes, 2=No 3= Partly)

- i) **If Yes or partly**, did you say anything about this at the time?
 ii) **If Yes**, how were your safety concerns dealt with?

- d) Did people in the conference/meeting speak up on your behalf?
 (Code 1=Yes, 2=No or 3= Partly)

- 19 During the conference/meeting did (*the offender*)
 a) Apologise for what s/he did? (Code 1=Yes, 2=No or 3= Partly)

- b) **If Yes** did you accept (*the offender's*) apology? (Code 1=Yes, 2=No or 3= Partly)

- 20 Do you think (*the offender*) understood how you felt? (Code 1=Yes, 2=No or 3= Partly)

- 21 Was (*the offender*):
 a) Able to make up for what s/he did? (Code 1=Yes, 2=No or 3= Partly)

- b) Made accountable for his/her offending? (Code 1=Yes, 2=No or 3= Partly)

- 22 How would you describe (*the offender's*) behaviour during the conference?

The conference agreement

- 23 Was an agreement reached? (Code 1=Yes, 2=No)
 a) **If Not**, why not?

- 24 Who decided on the details in the agreement? (Tick either option 1 OR all that apply)

- All of us
- Victim (*self*)
- Victim's supporter/family
- Victim's representative
- Offender
- Offender's supporter/family
- Panel member
- Facilitator
- Other (*specify*)

- 25 Can you remember what was in the agreement?
 (Code 1=Yes, 2=No or 3= Partly)

- 26 Did you understand what was in the agreement? (Code 1=Yes, 2=No or 3= Partly)

- 27 Were you satisfied with the agreement? Rate on a scale from **1 to 7** – where 1=Very dissatisfied and 7=Very satisfied.

(Circle a number on the following scale)

- | | | | | | | |
|---------------------|---|---|---|---|---|------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| Very | | | | | | Very |
| dissatisfied | | | | | | satisfied |

28 What was **good** about the agreement if anything?
(Ask the open ended question record the answer and then tick/code the following reasons as appropriate)

- Offender apologised
- Offender agreeing to attend counselling or a programme to deal with the violence
- Offender agreeing to do something for others (*through work or similar*)
- Measures put in place to keep me and/or my children safe
- Receiving reparation for damage offender caused
- Offender didn't go to prison
- Reaching an agreement
- Nothing
- Other (*specify*)

29 What was **bad** about the agreement if anything?
(Ask the open ended question record the answer and then tick/code the following reasons as appropriate)

- Offender got off too lightly
- Being pressured to agree
- Didn't address keeping me and/or my children safe
- Didn't reflect my concerns
- Agreement too vague
- Not reaching an agreement
- Too little reparation or too long to pay
- Nothing
- Other (*specify*)

30 Was the agreement:
1= Too harsh **2= About right** **3= Too soft**

31 a) Who was to make sure that the agreement was completed?

- All of us
- Victim (*self*)
- Victim's supporter/family
- Victim's representative
- Offender
- Offender's supporter/family
- Panel member
- Facilitator
- Other (*specify- if 'no-one' enter here*)

b) How was this decided at the conference/meeting?

After the conference

32 How did you feel at the end of the conference/meeting?
(Record feelings at the end of the conference/meeting- tease out issues around safety)

33 How did feel you about (*the offender*) by the end of the conference/meeting?
(Record feelings at the end of the conference/meeting)

34 Overall, what were the **good** things about the conference/meeting if any?
(Ask the open ended question record the answer and then tick/code the following reasons as appropriate)

- It was well organised
- I felt supported
- I felt safe
- I was able to meet with the offender
- I wasn't made to feel that the offending was my fault
- I was treated with respect
- The agreement was good
- It enabled me to deal with the offending
- Nothing
- Other *(specify)*

35 Overall, what were the **bad** things about the conference/meeting if any?
(Ask the open ended question record the answer and then tick/code the following reasons as appropriate)

- It wasn't well organised
- I didn't feel supported
- I felt unsafe
- I didn't like meeting with the offender
- I was made to feel the offending was my fault
- I felt bullied/intimidated
- I wasn't treated with respect
- The agreement
- It didn't achieve anything/waste of time
- Nothing
- Other *(specify)*

36 How satisfied were you with the conference/meeting overall? Rate on a scale from **1 to 7** – where 1=Very dissatisfied and 7=Very satisfied.

(Circle a number on the following scale)

1	2	3	4	5	6	7
Very						Very
dissatisfied						satisfied

37 Were you given a copy of the conference agreement? *(i.e. a summary of what is said in the conference/meeting that is sent to the Judge)* *(Code 1=Yes, 2=No)*

a) If Yes do you think it accurately reflected what was agreed to? *(Code 1=Yes, 2=No or 3= Partly)*

38 Do you know whether or not *(the offender)* completed the tasks that s/he agreed to do at the conference/meeting? *(Code 1=Yes, 2=No)*

- a) If Yes** how did you find out?
- b) If No** would you have liked to be kept informed?
(If yes to Q38 ask Q39)

- 39 a) Did (*the offender*) complete the tasks in the agreement? (Code 1=Yes, 2=No or 3= Partly)
- b) If not completed or completed in part, do you know the reason for this? (Code 1=Yes, 2=No)

The present

- 40 Are you pleased you took part in the conference/meeting? (Code 1=Yes, 2=No or 3= Partly)
- 41 As a result of taking part in the conference/meeting how do you feel about the incident now? Do you feel:
1= Worse 2= No different 3= Better
- 42 As a result of the conference/meeting how safe do you (*and your children*) feel now?
1= Less safe 2= No different 3= More safe
- 43 Since the conference/meeting has the violence and or abusive behaviour stopped? (Code 1=Yes, 2=No or 3= Partly)
- 44 How has (*the offender*) taken responsibility for his/her behaviour since then?
- 45 Do you think that (*the offender*) still needs help with his/her violence/abusive behaviour? (Code 1=Yes, 2=No or 3= Partly)
- 46 Is there any other information or support that you would have liked to have got after the restorative justice conference/meeting, but didn't receive? (Code 1=Yes/2=No)
- a) **If Yes**, what type of information or support was that?
- 47 Do you think restorative justice conferences/meetings are a good way of dealing with family violence?
- 48 If something like this happened to you again, would you go to another rj conference/meeting? (Code 1=Yes/2=No)
- 49 Would you recommend Restorative Justice conferences/meeting to other victims of family violence? (Code 1=Yes, 2=No, 3=Partly)

Background information

Now we would like to ask a few questions about you.

- 50 Which ethnic group (s) do you belong to? (Tick all that apply)
- | | |
|--|--------------------------|
| NZ European | <input type="checkbox"/> |
| Māori | <input type="checkbox"/> |
| Samoan | <input type="checkbox"/> |
| Cook Island Māori | <input type="checkbox"/> |
| Tongan | <input type="checkbox"/> |
| Niuean | <input type="checkbox"/> |
| Chinese | <input type="checkbox"/> |
| Indian | <input type="checkbox"/> |
| Other (<i>such as Dutch, Japanese, Tokelauan</i>) (<i>specify</i>) | <input type="checkbox"/> |

51 How important was it for the conference/meeting to take account of your cultural needs and expectations? Rate on a scale from **1 to 7** – where 1=Not at all important and 7=Very important.

(Circle a number on the following scale)

1	2	3	4	5	6	7
Not at all			Very			
important			important			

(If the response to Q51 is 4-7 ask Q52)

52 As a (*ethnicity*)

a) Do you feel that the conference/meeting took account of your cultural needs and expectations? (*Probe for why and record comments*)

(Code 1=Yes, 2=No, 3= Partly)

b) If No, what would have been better?

53 How important was it for the agreement to take account of your cultural needs and expectations? Rate on a scale from **1 to 7** – where 1=Not at all important and 7=Very important.

(Circle a number on the following scale)

1	2	3	4	5	6	7
Not at all			Very			
important			important			

(If the response to Q53 is 4-7 ask Q54)

54 As a () do you feel that:

a) Do you feel that the agreement took account of your cultural needs and expectations? (*Probe for why and record comments*)

(Code 1=Yes, 2=No, 3= Partly)

b) If No, what would have been better? (*Probe for why and record comments*)

55 Do you have any children currently living with you?

(Code 1=Yes or 2=No)

56 What is your relationship with the person who was violent or abusive towards you? (*to be ticked as appropriate*)

Partner - current

Partner – ex

Family – mother/father

Family –daughter/son

Family –sister/brother

Family –aunt/uncle

Family – other (*specify*)

Flatmate

57 Were you living with (the offender) at the time the incident occurred? (Code 1=Yes or 2=No)

58 What contact have you had with her/him since the restorative justice conference/meeting?

Living together

Living separately, but seeing one another

Living separately, contact only over arrangements for children

Living separately no contact

Other (*specify*)

59 Did you have a protection order in place at the time of the conference/meeting?
(Code 1=Yes or 2=No)

60 Do you have a protection order in place currently?
(Code 1=Yes or 2=No)

61 How has your relationship with *(the offender)* been since the conference/meeting?

62 Which age group do you belong to:

- Under 20 years
- 20-29 years
- 30-39 years
- 40-49 years
- 50-59 years
- 60 or over

63 a) Are you in paid work?
(Code 1=Yes, 2=No)

i) If Yes, what is your occupation?

ii) Is this full time or part time? (Circle which)

b) If you are not in paid work, what category best describes you?

Beneficiary (e.g. sickness or DPB)

Unemployed

Home duties

Retired

Student

Other (elaborate)

Thank you

Thank you for your participation in the research, do you have any comments or questions about the research or the interview?

Finally

Would you like a summary of the research? (Code 1=Yes, 2=No)

This will be in approximately six months time – where would be the best place to send this – to your address or to a family member or friend?

	Name	Address	
You:	_____	_____	_____
Family member(s):	_____	_____	_____
Friend(s):	_____	_____	_____

Restorative Justice in Family Violence Cases

Questionnaire: Victim not attending conference

In this interview we would like to ask you about some aspects of a restorative justice conference/ meeting held during _____ (month) _____ (year) for _____ (offender) with respect to _____ (offences)

Even though you didn't attend the meeting, we'd like to obtain your views.

(NOTE: Coding - Throughout use: 8=not applicable; 9=don't know; 99=missing data; 98=did not want to answer the question)

Choosing to have a conference/meeting

1 Whose idea was it to have the restorative justice conference/meeting?
(Code 1=Yes or 2=No - to be coded only, not asked)

Victim's (self)

Offender's

Offender's lawyer

Police

Judge

Victim adviser

RJ provider

Other (specify)

2 Who contacted you first about the possibility of dealing with the offending at a restorative justice conference/meeting? (Tick which)

Victim adviser

RJ provider

Other (specify)

3 How did you feel about being contacted about dealing with the offending at a restorative justice conference/meeting? (Tease out issues around breach of privacy, feelings about offender etc)

(Only ask Q4 if the offence was IPV)

4 Were you asked if there was a current protection order in place?

(Code 1=Yes or 2=No)

5 On a scale from 1 to 7 – where 1=No impact and 7=Very high impact, rate the impact of the incident on you at the time it happened

(Circle a number on the following scale)

1 2 3 4 5 6 7

No

Very

impact

high impact

6 Were you invited to attend the conference/meeting?

(Code 1=Yes or 2=No)

a) If Yes, can you please tell me why you didn't want to attend? (Prompt for safety concerns)

b) If No, would you like to have been invited?

(Code 1=Yes or 2=No)

7 Were you asked whether the conference/meeting could go ahead without you there?

(Code 1=Yes or 2=No)

If Yes, how did you feel about going ahead without you?

8 Following the incident (the offending) did you see or speak to (the offender) before the conference/meeting? (*Tease out issues around whether pressured by offender to attend or not to attend*)
(Code 1=Yes or 2=No)

If Yes, what happened?

9 Did someone represent you or your views at the conference/meeting?
(Code 1=Yes or 2=No)

If Yes, who and were you happy with this?

10 Were you told how the conference/meeting went?
(Code 1=Yes or 2=No)

14 What do you think the conference/meeting was trying to achieve?

Read out the contents of the agreement

12 Do you know this was what was decided in the agreement at the restorative justice meeting?
(Code 1=Yes or 2=No)

a) If Yes who told you? (*specify*)

b) If Yes how were you told? (*specify*)

13 Are you satisfied with the agreement? Rate on a scale from 1 to 7 – where 1=Very dissatisfied and 7=Very satisfied.

(Circle a number on the following scale)

1	2	3	4	5	6	7
Very						Very
dissatisfied						satisfied

14 What do you feel was **good** about the agreement if anything? (*elaborate*)

15 What do you feel was **bad** about the agreement if anything? (*elaborate*)

16 Was the agreement:

1= Too harsh

2= About right

3= Too soft

17 Do you know whether or not (*the offender*) completed the agreement?

(Code 1=Yes or 2=No)

a) If Yes who told you? (*specify*)

b) If Yes how were you told? (*specify*)

18 Compared with how you felt about the offending around the time of the meeting how do you feel about it now?

1= Worse

2= No different

3= Better

19 How safe do you (*and your children*) feel now?

1= Less safe

2= No different

3= More safe

20 Is that as a result of (*the offender*) attending the conference/meeting or something else?

21 Do you think that (*the offender*) still needs help with his/her violence/abusive behaviour?

(Code 1=Yes, 2=No or 3= Partly)

22 If something like this happened to you again, would you go to another rj conference/meeting?

(Code 1=Yes or 2=No)

Background information

Now we would like to ask a few questions about you.

23 Which ethnic group (s) do you belong to?

(Tick all that apply)

NZ European

Māori

Samoan

Cook Island Māori

Tongan

Niuean

Chinese

Indian

Other *(such as Dutch, Japanese, Tokelauan)* *(specify)*

24 Do you have any children currently living with you?

(Code 1=Yes or 2=No)

25 What is your relationship with the person who was violent or abusive towards you? *(to be ticked as appropriate)*

Partner - current

Partner – ex

Family – mother/father

Family –daughter/son

Family –sister/brother

Family –aunt/uncle

Family – other *(specify)*

Flatmate

26 Were you living with (the offender) at the time the incident occurred? *(Code 1=Yes or 2=No)*

27 What contact have you had with her/him since the restorative justice conference/meeting?

Living together

Living separately, but seeing one another

Living separately, contact only over arrangements for children

Living separately no contact

Other *(specify)*

28 Did you have a protection order in place at the time of the conference/meeting?

(Code 1=Yes or 2=No)

29 Do you have a protection order in place currently?

(Code 1=Yes or 2=No)

30 How has your relationship with (the offender) been since the conference/meeting?

31 Which age group do you belong to:

- Under 20 years
- 20-29 years
- 30-39 years
- 40-49 years
- 50-59 years
- 60 or over

32 a) Are you in paid work?

(Code 1=Yes, 2=No)

i) If Yes, what is your occupation?

ii) Is this full time or part time? (Circle which)

b) If you are not in paid work, what category best describes you?

Beneficiary (e.g. sickness or DPB)

Unemployed

Home duties

Retired

Student

Other (elaborate)

Thank you

Thank you for your participation in the research, do you have any comments or questions about the research or the interview?

Finally

Would you like a summary of the research? (Code 1=Yes, 2=No)

This will be in approximately six months time – where would be the best place to send this – to your address or to a family member or friend?

	Name	Address	
You:	_____	_____	_____
Family member(s):	_____	_____	_____
Friend(s):	_____	_____	_____

Restorative Justice in Family Violence Cases

Questionnaire: Offender

In this interview we would like to ask you about what happened at the restorative justice conference/meeting held during _____ (month) _____ (year) for you with respect to _____(offences)

The aim is to find out how you felt about the whole process.

(NOTE: Coding - Throughout use: 8=not applicable; 9=don't know; 99=missing data; 98=did not want to answer the question)

Choosing to have a conference/meeting

1 Whose idea was it to have the restorative justice conference/meeting?
(Code 1=Yes or 2=No - to be coded only, not asked)

- Victim's (self)
- Offender's
- Offender's lawyer
- Police
- Judge
- Victim adviser
- RJ provider
- Other (specify)

2 Who contacted you first about the possibility of dealing with the offending at a restorative justice conference/meeting? (Tick which)

- Victim adviser
- RJ provider
- Other (specify)

3 Why did you decide to go to the conference/meeting? (Possible reasons to be ticked only, not asked)
(Ask the open ended question record the answer and then tick/code the following reasons as appropriate)

- To take responsibility for my offending
- To meet with/hear from the victim
- To be able to apologize for what I did
- To work out an agreement on how to deal with the offence
- To help myself and/or the victim (circle which)
- To make amends to the victim (by e.g. paying them money or doing some work)
- To have more of a say about what would happen
- To get closure
- Friends/family thought it would be a good idea
- Cultural reasons
- My lawyer thought it would be a good idea
- The Judge suggested it
- I didn't feel like I could refuse to go
- Other (elaborate)

4 Following the incident (*the offending*) did you see or speak to (*the victim*) before the conference/meeting? (*Tease out issues around whether pressured by offender to attend or not to attend*)
(Code 1=Yes or 2=No)

If **Yes**, what happened?

Preparation

5 a) Who contacted you about the arrangements for the conference/meeting?
b) How did they contact you?

(Code 1=Yes or 2=No)

6 Were you asked about:

a) Where the conference/meeting should be held?

b) When the conference/meeting should be held?

c) Who should be at the conference/meeting?

d) Whether or not you had any concerns about your safety if you attended?

(Only ask e) if an IPV case)

e) Whether or not there was a current protection order in place?

f) Whether or not there were bail conditions in place?

7 Were you **told**:

a) In plenty of time about when the conference/meeting was to be held?

b) What would happen at the conference/meeting?

c) What you would have to do at the conference/meeting?

d) Who else would be at the conference/meeting?

e) If there were any safety 'ground rules' for the conference/meeting?

f) If there were any safety 'ground rules' for arriving at and leaving the conference/meeting?

What were you told?

8 At this stage did anyone give you any suggestions of the sorts of things that could go in the agreement?

(Code 1=Yes or 2=No)

If **Yes**, who made them and what were they?

9 On a scale of **1 to 7** – where 1=Not at all prepared and 7=Very well prepared - how prepared did you feel for the conference/meeting?

(Circle a number on the following scale)

1 2 3 4 5 6 7

**Not at all
prepared**

**Very well
prepared**

(elaborate – tease out issues around whether would have liked more information)

The Restorative Justice Conference/Meeting

- 10** Did someone go the conference/meeting with you to support you? (Code 1=Yes, 2=No)
- a)** If **Yes**, who was this *(specify)*
- b)** Was their support useful? (Code 1=Yes, 2=No or 3= Partly)
- c)** Would you have liked more support at the conference/meeting? (Code 1=Yes, 2=No or 3= Partly)
- If **Yes**, from who?
- 11** What do you think the conference/meeting was trying to achieve?
- 12** **a)** Was *(the victim or victim representative)* at the conference/meeting? (Code 1=Yes, 2=No)
- b)** If **No**, would you have liked *(the victim or representative)* to be there?
- 13** How did you feel when you first went into the conference/meeting?
(Prompt for feelings around first meeting 'the victim' there)
- 14** During the conference/meeting did you:
- a)** Feel involved? (Code 1=Yes, 2=No or 3= Partly)
- b)** Understand what was going on? (Code 1=Yes, 2=No or 3= Partly)
- c)** Feel you had the chance to explain why the offence happened? (Code 1=Yes, 2=No or 3=Partly)
- d)** Have the opportunity to say what you wanted to say? (Code 1=Yes, 2=No or 3= Partly)
- e)** Feel too scared to say what you really felt? (Code 1=Yes, 2=No or 3= Partly)
- 15** Do you think anyone said too much during the conference/meeting? (Code 1=Yes, 2=No)
- a)** If **Yes**, who? *(Don't ask - tick all that apply)*
- Panel members
- Victim's support *(e.g. family or whanau)*
- Victim's representative
- Victim
- Offender *(self)*
- Offender's support *(e.g. family or whanau)*
- Facilitator
- Other *(specify)*
- 16** During the conference/meeting:
- a)** Were you treated with respect? (Code 1=Yes, 2=No or 3= Partly)
(Be alert to cultural issues)
- b)** If **No** or **Partly** to above - why do you think that was?
- c)** Were you treated fairly? (Code 1=Yes, 2=No or 3= Partly)
- d)** If **No** or **Partly** to above - why do you think that was?

- 17 During the conference/meeting did you
 a) Apologise for what you did? (Code 1=Yes, 2=No or 3= Partly)
- b) If Yes was the apology accepted? (Code 1=Yes, 2=No or 3= Partly)
- 18 Did you understand how (the victim) felt? (Code 1=Yes, 2=No or 3= Partly)
- 19 Did you feel ashamed of what you had done? (Code 1=Yes, 2=No or 3= Partly)
- 20 Were you able to make up for your offending? (Code 1=Yes, 2=No or 3= Partly)
- 21 During the conference/meeting did:
 a) The way you were dealt with make you feel like you were a really bad person?
 (Be alert to possible cultural difference her and note reasons for view)
 (Code 1=Yes, 2=No or 3= Partly)
- b) Did people in the conference/meeting speak up on your behalf?
 (Code 1=Yes, 2=No or 3= Partly)
- 22 How would you describe (the victim's) behaviour during the conference?
- 23 What did you learn about your behaviour and its effect on (the victim and/or family) during the meeting/conference?
- 24 Did this affect your views on the use of violence or abuse? (Code 1=Yes, 2=No or 3= Partly)

The conference agreement

- 25 Was an agreement reached? (Code 1=Yes, 2=No)
- a) If Not, why not?
- 26 Who decided on the details in the agreement? (Tick either option 1 OR all that apply)
- All of us
- Victim
- Victim's supporter/family
- Victim's representative
- Offender (self)
- Offender's supporter/family
- Panel member
- Facilitator
- Other (specify)
- 27 Can you remember what was in the agreement? (Code 1=Yes, 2=No or 3= Partly)
- 28 Did you understand what was in the agreement? (Code 1=Yes, 2=No or 3= Partly)
- 29 Was the agreement what you expected? (Code 1=Yes, 2=No or 3= Partly)

30 Were you satisfied with the agreement? Rate on a scale from **1 to 7** – where 1=Very dissatisfied and 7=Very satisfied.

(Circle a number on the following scale)

1	2	3	4	5	6	7
Very						Very
dissatisfied						satisfied

31 What was **good** about the agreement if anything?
(Ask the open ended question record the answer and then tick/code the following reasons as appropriate)

- Being able to apologise
- Agreeing to attend counselling or a programme to deal with the violence
- It allowed me to have contact with my partner and/or children *(circle which)*
- Agreeing to do work or something similar to help others
- Being able to make reparation for damage caused
- Not going to prison
- Reaching an agreement
- Nothing
- Other *(specify)*

32 What was **bad** about the agreement if anything?
(Ask the open ended question record the answer and then tick/code the following reasons as appropriate)

- Community work *(number of hours too high etc)*
- Being pressured to agree
- Agreement too vague
- It stopped me from contacting my partner and/or children *(circle which)*
- Not reaching an agreement
- Too little reparation or too little time to pay
- Nothing
- Other *(specify)*

33 Was the agreement:

1= Too harsh	2= About right	3= Too soft	<input type="checkbox"/>
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34 a) Who was to make sure that the agreement was completed?

- All of us
- Victim
- Victim's supporter/family
- Victim's representative
- Offender *(self)*
- Offender's supporter/family
- Panel member
- Facilitator
- Other *(specify- if 'no-one' enter here)*

b) How was this decided at the conference/meeting?

After the conference

35 How did you feel at the end of the conference/meeting?
(Record feelings at the end of the conference/meeting- tease out issues around safety)

36 How did feel you about *(the victim)* by the end of the conference/meeting?
(Record feelings at the end of the conference/meeting)

37 Overall, what were the **good** things about the conference/meeting if any?
(Ask the open ended question record the answer and then tick/code the following reasons as appropriate)

- It was well organised
- I felt supported
- I was able to meet with the victim
- I was treated with respect
- The agreement was good
- It enabled me to put things right
- Nothing
- Other *(specify)*

38 Overall, what were the **bad** things about the conference/meeting if any?
(Ask the open ended question record the answer and then tick/code the following reasons as appropriate)

- It wasn't well organised
- I didn't feel supported
- I didn't like meeting with the victim
- I was made to feel bad
- I wasn't treated with respect
- The agreement
- It didn't achieve anything/waste of time
- Nothing
- Other *(specify)*

39 How satisfied were you with the conference/meeting overall? Rate on a scale from **1 to 7** – where 1=Very dissatisfied and 7=Very satisfied.

(Circle a number on the following scale)

1	2	3	4	5	6	7
Very						Very
dissatisfied						satisfied

40 Were you given a copy of the conference agreement? *(i.e. a summary of what is said in the conference/meeting that is sent to the Judge)* *(Code 1=Yes, 2=No)*

a) If Yes do you think it accurately reflected what was agreed to? *(Code 1=Yes, 2=No or 3= Partly)*

41 a) Have you completed the tasks that you had to do under the plan/contract? *(Ask for each and code 1=Yes, 2=No, 3=Partly)*

b) If not completed or completed in part, what was the reason for this?
(Only ask Q42 if the plan/contract included: Com Work, D&A/Anger assessment or counseling of any kind, attendance at a course etc)

- 42 a) Your plan included (.....) did someone arrange this for you?
 b) Did anyone check that you did what you had agreed to to? (Code 1=Yes, 2=No)

If Yes who?

(If Yes to b] ask c])

- c) How well did that work for you? Rate on a scale **from 1 to 7** – where 1=Very dissatisfied and 7=Very satisfied.

(Circle a number on the following scale)

1	2	3	4	5	6	7
Not at all						Very well

The present

- 43 Are you pleased you took part in the conference/meeting? (Code 1=Yes, 2=No or 3= Partly)

- 44 As a result of taking part in the conference/meeting how do you feel your offending now? Do you feel:
1= Worse **2= No different** **3= Better**

- 45 Would you like more support to help you deal with your violent or abusive behaviour?
(Code 1=Yes, 2=No or 3= Partly)

- 46 Is there any other information or support that you would have liked to have got after the restorative justice conference/meeting, but didn't receive?
(Code 1=Yes/2=No)

a) If Yes, what type of information or support was that?

- 47 Do you think restorative justice conferences/meetings are a good way of dealing with family violence?

- 48 Would you recommend Restorative Justice conferences/meeting to other victims of family violence?
(Code 1=Yes, 2=No, 3=Partly)

- 49 Do you think that attending the conference/meeting helped you to take responsibility for your behaviour and provided ways for you to get the help or support that you needed?
(Code 1=Yes, 2=No, 3= Partly or =Not an issue)

- 50 How have you taken responsibility for your behaviour since the conference/meeting? What are you doing differently?

- 51 Have you committed an offence since the conference/meeting? (Code 1=Yes/ 2=No)
(Either detected or undetected)

- 52 **If Yes**, did this involve any form of family violence? (Code 1=Yes/ 2=No)

Sentencing

- 53 Have you been sentenced at court for the offending that was dealt with at the conference/meeting?
(Code 1=Yes, 2=No)

a) If Yes what sentence did you get?

b) If Yes do you think that the Judge took into account the tasks you had to do under the agreement when he/she sentenced you?

Background information

Now we would like to ask a few questions about you.

54 Which ethnic group (s) do you belong to?

(Tick all that apply)

NZ European

Māori

Samoan

Cook Island Māori

Tongan

Niuean

Chinese

Indian

Other (such as Dutch, Japanese, Tokelauan) (specify)

55 How important was it for the conference/meeting to take account of your cultural needs and expectations? Rate on a scale from **1 to 7** – where 1=Not at all important and 7=Very important.

(Circle a number on the following scale)

1

2

3

4

5

6

7

**Not at all
important**

**Very
important**

(If the response to Q55 is 4-7 ask Q56)

56 As a (ethnicity)

a) Do you feel that the conference/meeting took account of your cultural needs and expectations? *(Probe for why and record comments)*

(Code 1=Yes, 2=No, 3= Partly)

b) If No, what would have been better?

57 How important was it for the agreement to take account of your cultural needs and expectations? Rate on a scale from **1 to 7** – where 1=Not at all important and 7=Very important.

(Circle a number on the following scale)

1

2

3

4

5

6

7

**Not at all
important**

**Very
important**

(If the response to Q73 is 4-7 ask Q58)

58 As a () do you feel that:

a) Do you feel that the agreement took account of your cultural needs and expectations? *(Probe for why and record comments)*

(Code 1=Yes, 2=No, 3= Partly)

b) If No, what would have been better? *(Probe for why and record comments)*

59 What is your relationship with the person who was violent or abusive towards you? *(to be ticked as appropriate)*

Partner - current

Partner – ex

Family – mother/father

Family –daughter/son

Family –sister/brother

Family –aunt/uncle

Family – other (*specify*)

Flatmate

60 Were you living with (*the victim*) at the time the incident occurred? (Code 1=Yes or 2=No)

61 What contact have you had with her/him since the restorative justice conference/meeting?

Living together

Living separately, but seeing one another

Living separately, contact only over arrangements for children

Living separately no contact

Other (*specify*)

62 Had (*the victim*) taken out a protection order in place at the time of the conference/meeting?

(Code 1=Yes or 2=No)

60 Is there a protection order against you in place currently?

(Code 1=Yes or 2=No)

61 How has your relationship with (*the victim*) been since the conference/meeting?

62 Which age group do you belong to:

Under 20 years

20-29 years

30-39 years

40-49 years

50-59 years

60 or over

63 a) Are you in paid work?

(Code 1=Yes, 2=No)

i) If Yes, what is your occupation?

ii) Is this full time or part time? (*Circle which*)

b) If you are not in paid work, what category best describes you?

Beneficiary (e.g. sickness or DPB)

Unemployed

Home duties

Retired

Student

Other (*elaborate*)

Thank you

Thank you for your participation in the research, do you have any comments or questions about the research or the interview?

Finally

Would you like a summary of the research? (Code 1=Yes, 2=No)

This will be in approximately six months time – where would be the best place to send this – to your address or to a family member or friend?

	Name	Address	
You:	_____	_____	_____
Family member(s):	_____	_____	_____
Friend(s):	_____	_____	_____

Restorative Justice in Family Violence Cases

Key Informant Interview

Area: _____ Date completed: _____

Name: _____ Position: (if relevant) _____

Organisation: (if relevant) _____

- 1 In general, what are your views on the use of restorative justice processes in family violence cases?
- 2 Are there any offences/offenders for which you feel the use of restorative justice processes in family violence cases are particularly
- a) Appropriate? (*Tease out reasons for response i.e. why are these appropriate*)
 - b) Inappropriate? (*Tease out reasons for response i.e. why are these inappropriate*)
- 3 On a five point scale where **1=very poorly to 5=very well** please rate how well you think the (*Restorative justice*) programme is working in dealing with family violence cases
- (*enter the number in the appropriate box or code dk=don't know*)
- (*Tease out reasons for the rating*)
- a) What are its strengths, if any?
 - b) What are its weaknesses, if any? (*Prompt for safety concerns*)
- 4 On a five point scale where **1=too soft to 5=too harsh** please rate the agreements reached at the (*Restorative justice*) programme meetings/conferences dealing with family violence cases?
- (*enter the number in the appropriate box or code dk=don't know*)
- 5 On a five point scale where **1=very ineffective to 5=very effective** please rate the (*Restorative Justice*) programme in terms of its effectiveness in family violence cases in
- (*enter the number in the appropriate box or code dk=don't know*)
- a) Involving the victim
 - b) Holding the offender accountable
 - c) Repairing the harm caused by the offending
 - d) Addressing the needs of the offender
 - e) Reducing reoffending
 - f) Keeping the victim safe during the meeting
 - g) Addressing the ongoing safety of the victim
- 6 On a five point scale where 1=very ineffective to 5=very effective please rate the (*Restorative Justice*) programme in terms of its effectiveness in family violence cases in meeting the needs of: (*enter the number in the appropriate box or code dk=don't know*)
- a) The Judge
 - b) Victims

- c) Offenders
 - d) The community
- 7 On a five point scale where **1=very ineffective to 5=very effective** please rate the (*Restorative Justice*) programme in terms of its effectiveness in meeting the needs of victims and offenders of family violence who are: (*enter the number in the appropriate box or code dk=don't know*)
- a) Māori
 - b) Pacific Island peoples
 - c) Other ethnic group(s) (specify which)

8 Are there any ways in which the (*Restorative Justice*) programme's processes (*tick which*) Yes No
 can be improved for family violence cases.

If **Yes**, in what way?:

9 On a five point scale where **1=very poor to 5=very good** please rate your (or your organisation's or service's) relationship with (*the restorative justice provider*).
 (*enter the number in the appropriate box or code dk=don't know*)

10 Has the use of restorative justice in family violence cases had an impact on you or your agency/department/service? (*tick which*) Yes No

If **Yes**, in what way (*i.e. positive or negative*)?

Judges only

J1 In deciding to refer a particular family violence case to (the provider), can you please rate the importance of each of these factors in your decision making on a five point scale where **1=not very important and 5=very important?**

(*enter the number in the appropriate box or code dk=don't know*)

- a) The victims' feelings, views or wishes
- b) The offender showing an interest in or requesting a rj conference/meeting
- c) The offender admitting guilt and showing remorse
- d) Believing that a rj conference/meeting would help the victim and/or the offender
- e) Believing that feedback from a rj conference/meeting would enable you to impose a more meaningful sentence
- f) All the parties were supportive of having a rj conference/meeting

J2 In every 10 cases of family violence, how often (*% or proportion*) are you asked to make a referral to an rj provider (*e.g. by police or defence counsel*)

J3 In every 10 cases of family violence where you are asked to make a referral to an rj provider about how many do you refer.

J4 In sentencing an offender who has attended a rj meeting/conference in a family violence case is the rj agreement and related material (*e.g. rj report*) sufficiently detailed for your purposes?

Yes No

(*tick which*)

If **No**, what additional information would you like?

- J5** When does sentencing take place relative to the restorative justice process? (*e.g. after the meeting has taken place, on completion of the agreement?*)
- J6** In family violence cases, when deciding whether or not to accept the conference/meeting agreement at sentencing, can you please rate on a five point scale- where **1=never** and **5=frequently** -how often you would take the following factors into account.
(*enter the number in the appropriate box or code dk=don't know*)
- a) The appropriateness of the agreement for the offence
 - b) The agreement's reasonableness and practicality
 - c) The extent to which victim's needs were being met
 - d) Other factors (*please elaborate*)
- J7** Do you take the conference agreement and the extent of the offender's compliance with this into account at sentencing? (*Tease out issues relating to situations where this might not take place*)
- J8** Out of every 10 cases of family violence dealt with by restorative justice processes in what proportion do you accept the conference agreement?
- J9** If there is total compliance with the agreement by the offender what would be the likely sentencing outcome? (*e.g. conviction and discharge?*)

Generic

- 11** Is there anything else you would like to add about the use of rj in family violence cases

Thank you for your participation in the research

Would you like to receive a summary of the research report when the research is finished?

(*If yes, tick this box*)

B4 Areas to discuss in family violence cases - Restorative Justice Services Christchurch

Areas to discuss with victims of domestic abuse:

1. What has offender done to take responsibility before this?
2. What has the victim said of the history of domestic violence with this offender?
3. Is abuse still going on? (If so, BEWARE)
4. Why do you think this offence happened?
5. How safe do you feel around this person/the offender?
6. What evidence do you have for thinking you would be safe at the time of the RJC and afterwards?
7. What is the safety plan following the RJC? e.g. victim leaves first; offender is detained until victim is well away.
8. What contact have you had with the offender in the last week? two weeks? month?
9. Are there any things you need before? during? after the RJC?

Sources of support:

Women's Refuges: Otautahi, West; Stopping Violence Services; Relationship Services.

Areas to discuss with offenders in domestic abuse situations:

1. Why do you think an RJC would meet your needs?
2. How do you think an RJC might help your victim/s?
3. What do you hope to achieve from an RJC?
4. What do you understand by violence?
5. When did you start using violence? What level of violence?
6. Why do you think you should not go to prison?
7. What have you done to take responsibility for your violence? (SIGHT evidence of this)