

Project Restore
NZ



ACHIEVING OUTCOMES FOR PARTICIPANTS OF
PROJECT RESTORE'S RESTORATIVE PROCESSES

DECEMBER 2012

PROJECT RESTORE NZ INC.

DR. SHIRLEY JÜLICH
AND
FIONA LANDON

TABLE OF CONTENTS

Introduction	2
Background to Project Restore	3
Method	3
The Cases	4
Framework for Analysis	5
Justice Interests	5
Participation.....	5
Voice.....	6
Accountability	7
Validation	8
Vindication	9
Other Outcomes	10
Treatment Uptake.....	12
Cost Savings	13
Discussion.....	13
References	15

LIST OF TABLES

Table 1: Measures of Participation	6
Table 2: Measurements of Voice	7
Table 3: Measures of Accountability	8
Table 4: Measurements of Validation.....	9
Table 5: Measures of Vindication	10
Table 6: Outcomes requested by other participants.....	12

INTRODUCTION

Project Restore is working with the Ministry of Justice on a pilot project to extend our understanding of the outcomes of specialist restorative justice processes in cases where sexual harm has occurred. The Ministry of Justice is particularly interested in capturing information that will help it to define anticipated results of specialist restorative justice processes, their appropriate measurement and target values. Doing so will assist it to better understand and define the qualities of services it is purchasing as well as assess whether the services provided by groups such as Project Restore are delivering outcomes that are consistent with Ministry priorities.

Part of such a project includes extending our understanding of what the potential types of outcomes of such processes are and for whom. This report forms the first part of the broader investigation into identifying potential outcomes by analysing data collected during and contingent to the delivery of services. It is a case review of 12 files, which seeks to identify outcomes indicated at various stages throughout the restorative process by both participants and service deliverers. Data collation has taken a broad approach to the notion of “outcomes” by including the perceived and met needs of participants in the process of receiving a restorative justice service (for example, “an opportunity to speak my truth”) as well as consequences of the process (for example, a reparation payment). In other words, we have recorded things that participants wanted to experience, achieve or have “come out of” their engagement in restorative justice. The file review also incorporated a quantitative assessment of factors such as uptake of treatment programmes and savings resulting from reduced sentence lengths due to participation in restorative justice.

The second part of the investigation will consist of telephone interviews and online surveys with participants from the 12 cases included in the file review. That means it will analyse data about outcomes, as perceived or occurring, at some time distance from the restorative justice process itself. This allows for a different focus on defining ‘outcomes’; from considerations of post-experience satisfaction to health, life and social changes that may improve participant wellbeing, and have the potential for a flow effect to the broader community and the taxpayer. This will involve asking participants a small number of questions across the following four areas:

1. How satisfied they are with the service they received,
2. How well they felt the process met their a series of ‘justice’ related needs,
3. Whether they have experienced psychological or behavioural changes that have been correlated with resilience against revictimisation or reoffending (as appropriate),
4. Whether they have experienced any changed circumstances that are potential indicators of improved life outcomes.

This document reports on the first part of the research project.

BACKGROUND TO PROJECT RESTORE

Project Restore, an incorporated society launched in 2005, is legally known as Project Restore New Zealand Incorporated and referred to in this document as Project Restore. It was inspired by the RESTORE programme in Arizona,¹ United States of America, the research of Dr. Shirley Jülich,² and the frustration of victim-survivors of sexual violence pursuing justice in the conventional criminal justice system. Project Restore is unique in that its formation has been driven by victim-survivors of sexual violence and it is situated in the community across both the restorative justice and sexual violence sectors. To date it is New Zealand's only restorative justice provider group that specialises in addressing sexual violence. It draws on the expertise of:

- Restorative justice,
- Survivor helping agencies, such as HELP,³ Rape Prevention Education – Whakatu Mauri,⁴ and Tiaki Tinana⁵ and,
- Offender support agencies, such as the SAFE Network Incorporated,⁶ and independent therapists working with sexual offenders.

Now in its seventh year of operation, Project Restore has developed a significant body of experience and expertise in providing innovative justice processes to those whose lives have been impacted by sexual violence.

METHOD

Twelve case files were reviewed to identify the outcomes victim-survivors and other participants had hoped to achieve out of a restorative process. Relevant data were recorded on case summary sheets and desired outcomes were coded. The two researchers coded the outcomes independently and the results were cross checked. There were no inconsistencies.

The next step was to review the relevant reports prepared by Project Restore to identify whether victim-survivors and other participants achieved their desired outcomes. The final step was to review judges' sentencing notes.

¹ For more information on this programme refer to (Koss, Bachar, & Hopkins, 2003).

² See (Jülich, 2001).

³ Formerly Auckland Sexual Abuse Help Foundation Charitable Trust.

⁴ Formerly known as Rape Crisis Auckland.

⁵ A Māori response programme aimed at preventing sexual violence in whānau and Māori communities.

⁶ A community based agency that provides therapeutic services to those who sexually offend against children.

Following the collation of this data we reviewed the list of outcomes and those associated with the victim-survivors into sections that related to the recent work of Kathleen Daly (In Press) which is briefly outlined below.

THE CASES

The cases selected were the last 12 completed cases at the time the case review was undertaken. These cases were completed in the year that covered the Ministry of Justice grant year ending 30 June 2012.

During the period 1 March 2011 to 30 June 2012 we received 39 referrals in total. For various reasons 25 referrals did not result in a full restorative justice conference and are not included in this review. In 33% of cases victim-survivors did not wish to participate, two cases were assessed as unsuitable by the Project Restore team, some referrals were expressions of interest by survivors who then postponed engagement whilst they dealt with other issues, in some cases the offender chose not to engage with Project Restore staff, two referrals not included in the review were resolved via shuttle mediation rather than case conference. Two referrals did go on to a conference or community panel process after the file review was completed and for that reason they too are not included in this research project.

These 39 referrals came from a variety of sources. Six (6) referrals were made by the police, either by the Adult Sexual Assault team, or police officers in instances where no charges were laid. There were 33 referrals from other formal criminal justice agencies: crown prosecutors (3), public defenders or lawyers (11), judges (6) and the Probation Service (1). Some of the referrals came from informal and community sources including counselling services (6), victim-survivors who self-referred (2), and four were referred from other restorative justice providers – three of those were located outside of Auckland.

The file review included 10 cases that had completed a facilitated meeting with survivors, offenders and support people for both parties present. Also, it included 2 restorative processes that Project Restore refers to as a community panel. In these instances the survivor had wanted the restorative process to proceed but did not want to participate. The survivor specialist represented the victim-survivor and carried his or her voice to the restorative process as a surrogate victim. In 9 cases the sexual victimisation was recent, in that it had occurred in the last three years, and in 3 it was historical sexual abuse.

The 12 cases reviewed represented more than 12 victim-survivors as some offenders had sexually victimised multiple victims who were both male and female. Their ages ranged from 5 years to adults over the age of 17. Victims under 12 years old were represented at the conference by family members, victims 12 to 17 years old were offered the opportunity to participate or have their views represented by the survivor specialist who worked with them to prepare a statement to be read at the conference. All 11 offenders were male and were known to the victim-survivors at the time of the offending. Offenders included two school

teachers, a sports coach, two fathers, two uncles, a stepfather, a brother and two people in the same social network as the victim. One offender participated in two cases.

FRAMEWORK FOR ANALYSIS

Kathleen Daly (In Press) in her most recent work constructed a Sexual Violence and Justice Matrix aimed at facilitating a comparison of conventional and innovative justice mechanisms across various countries. As part of this work, and of particular interest to the current study, Daly has undertaken to provide a “robust method of determining what is or is not an effective justice mechanism from a victim’s perspective” (p. 9). She argued that evaluations need to move beyond measures of satisfaction and behavioural or psychological measures that focus on therapeutic benefits for victims. Daly has challenged evaluators to ask victims whether a justice mechanism has “the capacity to address one or more of victims’ justice needs (or interests) and to what extent does it do so” (p. 10). She argued that justice interests are legitimate justice elements that should be distinguished from the effects they may have on a victim’s psychological state, and be assessed in their own right. The justice interests she identified are participation, voice, validation, vindication, and offender accountability. In this report we have used these justice interests to organise the findings from the perspective of victim-survivors.

JUSTICE INTERESTS

In this section we present the findings of the analysis of the 12 cases in relation to the victim-survivor participants. It is organised according the justice interests identified by Daly (In Press) in her recent work. In each of the justice interests – participation, voice, accountability, validation and vindication – we identify the number of cases in which victim-survivors requested outcomes in each of these categories. We conclude this section with an analysis of other outcomes in relation to offenders and various supporters who participated in the restorative processes.

Victim-survivors typically hoped to achieve more than one outcome from the restorative process. In the following analysis, percentages are based on 12, the number of cases reviewed.

PARTICIPATION

Participation in the justice process contributes to an experience of justice (Jülich, 2006; Zehr, 1995). Daly (In Press, p. 11) described participation as “Discussing ways to address offending and victimization, asking questions and receiving information about a crime, and having information about developments in one’s case and potential justice mechanisms.”

We identified five outcomes that could demonstrate that victim-survivors had been able to participate in the restorative process. In ten of the 12 cases (83%) victim-survivors planned

to ask the offender to seek treatment, in 9 cases (75%) victim-survivors wanted input into sentencing, in 5 cases (42%) they wanted to negotiate an agreement regarding future contact, in 4 cases (33%) they wanted input into the development of a safety plan, and in 2 (17%) they wanted input into a treatment programme that the offender would attend. In each of these measures victim-survivors successfully achieved the outcomes they had requested. This is summarised in the table below.

Table 1: Measures of Participation

Measure	Requested	% ¹	Received	%
Request offender to seek treatment	10	83%	10	100%
Input into sentencing	9	75%	9	100%
Agreement re future contact	5	42%	5	100%
Input into safety plan	4	33%	4	100%
Input into treatment programme	2	17%	2	100%

Note

1. n = 12

VOICE

Having a say in the process is central to an experience of justice for victim-survivors of sexual violence (Jülich, 2006; Zehr, 1995). Zehr found that victims of crime wanted to find the answers to the following six questions.

What happened?

Why did it happen to me?

Why did I act as I did at the time?

Why have I acted as I have since that time?

What if it happens again?

What does this mean for me and for my outlook (my faith, my vision of the world, my future)?

Jülich (2001) reported that for each and every one of the victim-survivors she interviewed they wanted answers to questions similar to those outlined by Zehr above. She found that another essential element of justice is the ability to tell your story and to tell how the sexual violence has impacted on your life.

Daly's (In Press, p. 11)⁷ explanation of voice is:

Telling the story of what happened and its impact in a significant setting, where a victim/survivor can receive public recognition and acknowledgment. Voice is also termed truth-telling and can be related to participation in having a speaking presence in a justice process.

We identified that in 8 cases (67%) victim-survivors wanted to have questions answered, in 6 cases (50%) they wanted to tell their story and in 5 cases (42%) they wanted the opportunity to tell conference participants how they had been affected by the sexual violence. In each of these measures victim-survivors successfully achieved the outcomes they had requested. This is summarised in the table below.

Table 2: Measurements of Voice

Measurement	Requested	% ¹	Received	%
Questions answered	8	67%	8	100%
Able to tell my story	6	50%	6	100%
Tell how have been affected	5	42%	5	100%

Note

1. n = 12

ACCOUNTABILITY

When asked their understandings of justice, victim-survivors usually say that they want to see or hear the offender accept responsibility and accountability (Jülich, 2006; Zehr, 1995).

Requiring that certain individuals or entities 'give accounts' for their actions (Stenning, 1995). It refers to perpetrators of offences taking active responsibility for the wrong caused, to give sincere expressions of regret and remorse, and to receive censure or sanction that may vindicate the law and a victim.

We identified that this could be demonstrated by two desired outcomes: for the offender to name other victims that he/she has offended against, and to see the offender take responsibility for his/her actions. In 6 cases (50%) victim-survivors wanted the offender to demonstrate responsibility for his offending behaviour. Offenders did demonstrate responsibility, but in 2 of those cases (33%) their capacity to do so was limited. In 5 cases

⁷ Note that the page numbers to Daly's essay are those of the original manuscript, they will be different in the final publication.

(42%) victim-survivors wanted to see the offender demonstrate accountability in some way. In those 5 cases (100%) victim-survivors realised this outcome in that the offenders were able to demonstrate accountability. In 3 cases (25%) victim-survivors hoped the offender would name other victims he had offended against. This outcome was not achieved in any of the cases. This is summarised in the table below.

Table 3: Measures of Accountability

Measure	Requested	% ¹	Received	%
See take responsibility	6	50%	4	67%
Hold offender accountable	5	42%	5	100%
Name other victims	3	25%	0	0%

Note

1. n = 12

VALIDATION

All too often the realities of victim-survivors' are challenged. Their understandings of what happened to them are undermined by prevailing rape myths that persist in our communities. Therefore, validating sexual victimisation is an important experience for many victim-survivors (Jülich, 2001). Jülich (2001) did not specifically define validation, but Daly (In Press, p. 11) defined it as:

Affirming that a wrong has occurred and a victim was hurt. It reflects a victim's desire to be believed and to shift the weight of the accusation from their shoulders to others (family members, a wider social group, or legal officials). Admissions by a perpetrator, although desirable to a victim, may not be necessary to validate a victim's claim.

We identified that in 5 cases (42%) victim-survivors wanted their relationship with whānau/family to be restored, in 3 cases (25 %) they wanted an increased understanding of the offending cycle and the reasons behind the offending, in 2 cases (17%) they wanted to have others in their lives to hear what happened to them, and in 1 case (8%) a victim-survivor wanted an improved relationship with the non-offending parent. For most of these measures victim-survivors successfully achieved the outcomes they had requested. In regards to wanting an increased understanding of the offending cycle, the particular offender lacked capacity to identify his offending cycle. This is summarised in the table below.

Table 4: Measurements of Validation

Measurement	Requested	% ¹	Received	%
Restoration/ Improved relationship with whānau	5	42%	5	100%
Increased understanding of offending cycle	3	25%	2	67%
Have others hear what happened	2	17%	2	100%
Improved relationship with non-offending parent	1	8%	1	100%

Note

1.n = 12

VINDICATION

Victim-survivors often speak of vindication when asked their understandings of justice. Howard Zehr (2002) noted that restorative justice theory argues that vindication is not only an acknowledgement of the harm caused and a recognition that the victim has needs that must be addressed, but also that there must be a recognition that the offender needs to take responsibility and demonstrate accountability.

Daly (In Press, pp. 11-12) discussed vindication in the following context:

Having two aspects of the vindication of the law (affirming the act was wrong) and the vindication of the victim (affirming the perpetrator's actions were wrong). It requires that others (family members, a wider social group, legal officials) censure an offence and affirm their solidarity with a victim. It can be expressed by symbolic and material forms of reparation (e.g., apologies, memorialization, and financial assistance) and standard forms of state punishment.

We identified five outcomes that would indicate vindication. In 5 cases (42%) victim-survivors wanted the harm to be acknowledged, in 4 cases (33%) they wanted an apology, in 3 cases (25%) they wanted a reparation agreement, and in 1 case (8%) the victim-survivor wanted the offender to pay for his actions in a way that would mean the offender would experience a sense of loss, and in 1 case (8%) the victim-survivor wanted to make a stand to ensure the offender understood that his actions were not acceptable, that is to experience consequences in some way, but which was not necessarily imprisonment. In each of these measures victim-survivors successfully achieved the outcomes they had requested. This is summarised in the table below.

Table 5: Measures of Vindication

Measure	Requested	%¹	Received	%
Acknowledgement of harm done	5	42%	5	100%
Receive apology	4	33%	4	100%
Reparation agreement	3	25%	3	100%
Want him to pay for his actions	1	8%	1	100%

Note

1. $n = 12$

OTHER PARTICIPANT OUTCOMES

In this section we present the findings in relation to other participants – offenders and those who supported either victim-survivors or offenders. Each of the 12 restorative processes had 12 offender participants.⁸ Other participants who were supporting either the victim-survivor or the offender numbered more than 12. As with victim-survivors, offenders and other participants typically hoped to achieve more than one outcome of the restorative process. In the following analysis percentages are based on the number of cases.

Across the 12 cases, offenders identified outcomes in the pre-conference stages that they hoped to achieve. In 9 cases (67%) offenders wanted to make amends with the victim-survivor and their family, in 5 cases (42%) they wanted to apologise to the victim-survivor, in 5 cases (42%) they wanted to assist their victim to heal from the harm they had caused and in 3 cases (25%) offenders hoped to achieve some sort of whānau reconciliation. This is summarised in the table below.

⁸ There were 11 offenders, one offender attended 2 conferences.

Table 6: Outcomes requested by offenders

Outcome	Requested	%¹	Received	%
Make amends	9	67%	9	100%
Apologise to victim-survivor	5	42%	5	100%
Assist victim-survivor to heal	5	42%	5	100%
Whānau reconciliation	3	25%	3	100%

Note

1. n = 12

Other participants in the 12 cases – various people supporting either offenders or victim-survivors – also identified outcomes they hoped would be achieved. In 5 cases (42%) participants wanted input into sentencing, in 4 cases (33%) participants wanted input into safety plans, in 3 cases (25%) participants wanted the offender to access treatment, 3 cases (25%) wanted questions answered, 3 cases (25%) wanted whānau reconciliation and improved relationships, in 2 cases (17%) participants wanted the offender to be forgiven, in 2 cases (17%) participants wanted the offender to understand more about the harm he had caused, and in 2 cases (17%) participants wanted referrals to support agencies for those affected by the offending, this included referrals to Whānau Ora for other underlying issues. Most participants achieved the outputs they had requested. However, in relation to other participants wanting to have input into sentencing, 2 (40%) of these participants did not achieve their desired outcome. This is summarised in the table below.

Table 7: Outcomes requested by other participants

Outcome	Requested	%¹	Received	%
Input into sentencing	5	42%	3	60%
Input into safety plans	4	33%	4	100%
Access to treatment programme	3	25%	3	100%
Questions answered	3	25%	3	100%
Whānau reconciliation/ improved relationships	3	25%	3	100%
Forgiveness for the offender	2	17%	2	100%
Offender to understand harm caused	2	17%	2	100%
Referrals to other agencies	2	17%	2	100%

Note

1. n = 12

TREATMENT UPTAKE

As part of Project Restore's acceptance processes, all offenders are offered a referral to be assessed for treatment. Of the ten offenders who agreed to be assessed, to date:

- Five offenders (50%) have commenced a community-based or prison-based treatment programme,
- Two offenders (20%) have agreed to enter into a treatment programme with a private therapist (one offender has commenced treatment, the other is awaiting sentencing),
- Two offenders (20%) are serving terms of imprisonment, and they are not as yet eligible for treatment,
- One offender (10%) was assessed as not requiring treatment but has been seeing a therapist for other issues related to offending and victimisation.

Project Restore has found it difficult to assist offenders to get access to treatment for sexual offending. Offenders often cannot afford therapeutic interventions. Public funding is limited, and the Department of Corrections has a ratings system to determine who is eligible for treatment. Project Restore has noticed that many sex offenders score low on this rating system and therefore are not recommended for treatment programmes. Project Restore

has had to work hard with the Department to ensure the offenders engaged with Project Restore get access to treatment either in prison or in the community.

COST SAVINGS

Those cases that are referred to Project Restore by the District Court system and go on to a complete a restorative process are handed back to the courts for sentencing. Project Restore provides the courts with a full report, informing the sentencing judge as to what happened in the restorative process, such as expressions of remorse, apologies, and demonstrations of responsibility and accountability. The report also includes the agreed outcomes of the restorative process. It is intended that these reports provide the sentencing judge with the flavour of the restorative process and assist her/him with sentencing.

Judges' sentencing notes indicate that there has been an average across the 12 cases of 13.6 months reduction to imprisonment at a direct cost of a little over \$150 per day (Department of Corrections, 2012). Some offenders were not imprisoned. According to the sentencing notes these reductions have been attributed to the offenders' expressions of remorse, demonstration of responsibility and the participation in a restorative process. This reduction in sentencing equates to a cost saving of \$62,183 for incarceration costs per completed case that is returned to the courts for sentencing (Department of Corrections, 2012). Some of the offenders discussed here will receive a community based sentence in place of a prison based sentence. This will add a cost of \$14 per day. We do not know the time frame for these sentences.

DISCUSSION

As part of the preparation phase of conference processes the restorative justice facilitator and survivor specialist ask all participants what they hope to achieve from the process. Such comments, typically, would be recorded in the file. However, we cannot be sure that desired outcomes were recorded in all cases. It is possible victim-survivors and other participants were undecided as to what their desired outcomes were.

Not all victim-survivors asked for outcomes that have been identified here (participation, voice, accountability, validation and vindication). In some cases victim-survivors and participants are unsure as to what outcomes they are hoping to achieve. It is our experience that participants do not always know what they want at the outset in the pre-conference preparation. Sometimes, it is not until they are in the conference that they start to formulate desired outcomes. A review of reports prepared after the restorative process indicated that victim-survivors had the opportunity to have all of these outcomes met.

It is noteworthy, that in most instances desired outcomes of victim-survivors, offenders and other participants were achieved in the restorative process. In part this is due to the

programme design asking the questions that allow for those responses to be made. Those that were not achieved tended to depend on the offender's capacity to demonstrate understanding of his actions and to take responsibility for his offending behaviour. Given in all these cases the offender had not yet entered into treatment it is understandable that therefore their capacity to express this would be limited. As part of the preparation process victim-survivors are given feedback as to what they can realistically expect from the offender in this area. The only measure that was not achieved at all was to hear the offender name other victims. In three cases victim-survivors had hoped this would occur, but in all three cases it did not. The offender may have been advised by legal counsel to not discuss any other victims, or it is possible that there were no other victims.

It would seem that the cases reviewed have been successful in that those who indicated desired outcomes have had these met. Further, the review of the reports written on completion of the restorative processes demonstrated that the justice interests (participation, voice, accountability, validation and vindication) were met irrespective of whether participants had requested outcomes related to these or not. However, participants need to be asked directly about their perceptions as to whether they believed that these needs were met. It should be noted that the small number of cases reviewed precludes any ability to come to conclusions or make generalisations regarding restorative processes and sexual violence. The next phase of the research project will provide some insights that will contribute to our knowledge and understanding of restorative justice and sexual violence.

REFERENCES

- Daly, K. (In Press). Reconceptualizing sexual victimization and justice. In I. Vanfraechem, A. Permberton & F. Ndahinda (Eds.), *Routledge International Handbook of Victimology*. London: Routledge.
- Department of Corrections. (2012). *Annual report: 1 July 2011- 30 June 2012*. Wellington: Department of Corrections Ara Poutama Aotearoa.
- Julich, S. (2001). *Breaking the silence: Restorative justice and child sexual abuse*. PhD Thesis, Massey, Albany.
- Julich, S. (2006). Views of justice among survivors of historical child sexual abuse: Implications for restorative justice in New Zealand. *Theoretical Criminology*, 10(1), 125-138.
- Koss, M. P., Bachar, K. J., & Hopkins, Q. C. (2003). Restorative justice for sexual violence: Repairing victims, building community, and holding offenders accountable. *Annals New York Academy of Science*, 989, 384-396.
- Stenning, P. (1995). Introduction. In P. C. Stenning (Ed.), *Accountability for criminal justice: Selected essays*. Toronto: University of Toronto Press.
- Zehr, H. (1995). *Changing lenses: A new focus for crime and justice*. Scottdale: Herald Press.
- Zehr, H. (2002). Journey to belonging. In G. M. Weitekamp & H. Kerner (Eds.), *Restorative justice: Theoretical foundations*. Devon: Willan Publishing.