

ONE JUDGE'S ROLE IN THE DEVELOPMENT OF RESTORATIVE JUSTICE

[DOCUMENT PREPARED AT REQUEST OF GROUP OF OTHER JUDGES]

You have asked me to set out my involvement as a District Court Judge in the development of restorative justice.

BACKGROUND

I have had an interest in the subject of restorative justice since 1990 when I first became a Youth Court Judge and realised the different way in which that Court operated compared to the adult courts. This led to my writing a paper for the Legal Research Foundation in 1992 (published 1993) and spending a month of my sabbatical leave in 1993 working on the topic of restorative justice at the Institute of Criminology at Cambridge University, England. In 1994 I proposed the introduction of Community Group Conferences for adults. This led to the formation of several voluntary groups providing RJ services, and ultimately the Department for Courts' pilot scheme in four District Courts. Since 1994 I have made various proposals for the implementation of RJ principles and written 15 or 20 papers on the topic, many of which have been presented at overseas conferences.

I have been encouraged in this work by the present and previous Chief District Court Judges and I am currently the Liaison District Court Judge for RJ. This involves taking a leadership role both within the District Court and outside it.

JUDGES' CONFERENCES

Within the Court, this work has included speaking at Judges' conferences, for example the District Court national conferences 1994 and 2003. In 1995 or 1996 I spoke to the High Court and Court of Appeal Judges at their conference.

RJ LIAISON JUDGE

As the Liaison Judge, there are numerous matters referred to me on a regular basis (at least once a week). These include the suitability of RJ provider groups in different parts of the country; the operation of the Department for Courts pilot scheme (for which I am a Steering Committee member) and liaison with numerous people wanting to receive information about our restorative justice schemes for adults.

TRAINING/EDUCATION

I have been involved in a training or educational capacity in a variety of other ways, for example:

- Organising and taking part in the Travelling Seminar on RJ skills (at the request of the Chief DCJ) in October 2000, at five New Zealand centres.

- Being one of two presenters in the New Zealand Law Society's Travelling Seminar on the Sentencing Act 2002 (five centres) – held March 2003.
- Auckland District Law Society seminar on Sentencing Act – held in September 2002.
- Advising on training syllabus for NZ Police National Training Programme (Porirua) – meeting to be held shortly.
- Speaking to Hamilton District Community Law Centre annual meeting.
- Speaking at National RJ Network annual conferences (Waitakere 2002, Hawke's Bay 2003).
- Training meeting with Restorative Justice Services, Wellington Trust (5 June 2003).
- Speaking to multi-party MP's meeting on Restorative Justice, Parliament House (14 May 2003).

PUBLIC EDUCATION

In addition, there are a number of groups that I have spoken to not so much as "training" as "public education". In this category I put a variety of service clubs, for example Ascot Ladies' Probus Club (September 2002); Aorangi Club (May 2002); St Giles Presbyterian Church meeting, Kristin School prizegiving ceremony, Waikato University School of Education graduation ceremony, and so on. In an educational capacity I have also been interviewed by the news media in New Zealand and overseas.

MASSEY UNIVERSITY

A major role that I have is chairing the Advisory Board of Massey University's Centre for Justice and Peace Development, which is based at its Albany Campus. I was one of the founders of that Centre. We organised a very successful conference in 2000 called "Just Peace", which was a five-day international conference. We had a six-day series "Critical Issues in Restorative Justice" in November 2002, led by the visiting American professor, Howard Zehr, and have just published an outstanding account of that series of discussions. We are currently planning a major international conference for December 2004, "New Frontiers in Restorative Justice: Advancing Theory and Practice". The emphasis will be on "second generation" issues as RJ faces new frontiers – for example, How are restorative values and standards to be defined and enforced? How can RJ operate in areas such as sexual abuse, domestic violence or human rights abuses? What are its implications for police culture and practice? What does it have to say about the "war on terrorism and the appeal of religious violence?"

INTERNATIONAL COMMITMENTS

My international commitments have involved being a founding director of the International Corrections and Prisons Association (based in Canada) and being on that board for three years (1998-2001). Indeed I moved the establishment of that association at a conference in Kingston, Ontario, in March 1998.

In the last 10 years, I have made 16 journeys to nine different countries, speaking at a variety of conferences, seminars and so on. All of these trips have been at the expense of the overseas party - except one (a trip to the Bahamas) which was funded by our Department for Trade and Foreign Affairs. The time available for those conferences has generally been judicial time but some of it has been in my own personal time as annual leave or sabbatical leave. The preparation of the papers for these conferences is virtually always in my own time – weekends or holidays, in the main.

In addition to these speaking duties, I am consulted by different people from different parts of the world about restorative justice developments and how they might achieve things in their own country. On this basis, I have provided advice to people in Russia, Israel, South America, UK, Colombia (Central America), Ireland, Japan, USA and elsewhere.

Recently I organised the visit of a group of six Japanese academics led by Professor Fujimoto from Tokyo. In addition to the time that I spent with them myself (two hours) I arranged for them to meet representatives of Police, Crown Solicitor, Probation, Restorative Justice providers, as well as Courts RJ Co-ordinators.

CONSULTANCY ROLE – NEW ZEALAND

Within New Zealand I also have a consultancy type of role. Recently I went to Greymouth and sat there doing the District Court work in Greymouth for a week. The purpose of my doing this, however, was to assist a newly-developed West Coast Restorative Justice group. I spoke at a three-hour evening meeting to representatives from Hokitika, Greymouth and Westport, and I met the next day with the manager of that initiative. I have also been consulted by the Crime Prevention Unit's Restorative Justice managers and assisted in their training in Wellington. I was consulted about the drafting of the Sentencing Act 2002 and its RJ provisions.

PUBLICATIONS

In addition to the 15-20 conference papers already mentioned, I have contributed chapters to books on RJ published in New Zealand, England, USA and Europe.

I organised the production of a Restorative Justice Manual authored by Anne Hayden and acted as editor of that publication. This is now a standard resource in New Zealand and elsewhere.

RJ IN SCHOOLS

I have also, over the years, played a part in the development of restorative justice in schools, having written papers on that topic, organised a Summit Conference on the subject, and assisted a number of people involved in the education initiative.

LAW REFORM – COMMUNITY JUSTICE CENTRES

Lastly, I mention a proposal that I have been making for the establishment of community justice centres. This was the subject of a paper which I gave in 1998 in Florida. I have since promoted it with the Law Commission and others in New Zealand. It is currently being considered (I believe) by different Government officials. I am in touch with people in other

parts of the world where similar initiatives have commenced. If successful, it will involve a major reshaping of the structures of justice with less reliance on the Courts and more reliance on community-based initiatives.

GENERAL

I think I have said enough to indicate that this work has involved a considerable commitment of time and energy. Throughout this period I have continued to sit as a District Court Judge, and (more recently) an Alternate Environment Judge. I see part of my job as a Judge as helping in the development of an important new area of law. Restorative justice is an inter-disciplinary movement where the judiciary can provide not only experience but some element of leadership. It is also an international movement, with the United Nations adopting it and recommending it to all member countries, and EU countries being required to have RJ provisions in their laws by 2006. Indirectly I have had a hand in that. Perhaps more fundamentally, I see RJ as a way in which the adversarial processes of the law can be supplemented by something far more satisfying to ordinary people, and giving a far better deal to victims who are usually the forgotten party in the legal process.

I am not alone in this sort of commitment. Other District Court Judges who have made a substantial personal commitment to RJ over the years include Judge S A Thorburn, Judge E Ryan and Judge D Mather.

FWM McELREA
District Court Judge

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