

**FOLLOWING UP ON RESTORATIVE JUSTICE:
A REPORT TO THE NEW ZEALAND CHIEF DISTRICT COURT JUDGE**

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I. INTRODUCTION

This report is an informal qualitative assessment of the effects of restorative justice conferences on relevant participants in the months and years following the conference. Although this study was small and not necessarily scientifically representative, the responses of the participants are fairly consistent with each other and may provide insight into the long term benefits of restorative justice as well as the areas of the process that require further attention.¹

II. METHODOLOGY

A. Profile of Cases Chosen

Victims and offenders from seventeen cases were chosen as a small cross section of restorative justice cases for the follow-up. The oldest case was from 2001; the most recent was from August of 2005. The average time elapsed between the conference and the interview was two years. Two of the cases were High Court cases and the remaining fifteen were District Court cases. The offences varied from assault and arson to theft as a servant and environmental infractions. The sentences also varied from discharge without conviction to 18 months imprisonment. Most but not all of the cases were from the Auckland area.

B. Contacting the Participants

After selecting the cases, letters were sent to the addresses on file for each victim and offender explaining the purpose of the study and enabling them to decline to participate by sending back a reply slip in a pre-paid envelope (see Appendix 1). Potential participants were also given a phone number and an email address they could use to decline to participate in the study. Those contacted had one – and – half weeks to respond. If no response was received, they were rung for a twenty-minute interview on their feelings and thoughts about their restorative justice conference in hindsight (see Appendix 2). There were 22 victims and 21 offenders initially contacted.

¹ An incidental benefit to this follow up project was the opportunity for past conference participants to feel that their feedback and experiences were important to the Court. One of the victims, a young woman from China, commented; “I can’t believe they gave you a job to ask our opinion! In China this would never happen...I thank you very much for asking me these questions – I think it is a great idea.”

C. Responses

Three victims and three offenders responded declining to participate in the study. Three victims and five offenders had telephone numbers that did not work. Two offenders were serving sentences in prison. Seven victims and six offenders did not respond to messages on their answering machines. Thus, ten victims and four offenders were interviewed.

III. RESULTS

A. Immediately Following the Conference

All four offenders reported feeling satisfied with the conference immediately after it was over. Three of them noted that the conference gave them an opportunity to demonstrate their remorse and repair their relationship with their victims and their communities.

“I thought overall it was a really good option and a really good choice I made to seek out restorative justice. I would recommend it to people in my situation. It really settles things and gives you a chance to make things better to the victims and make things better for yourself.”

- Offender D, arson.

“From our point of view, it was a better process than just fessing up and taking our medicine – a slap on the wrist or whatever. We had the ability to demonstrate our desire to right the wrongs we had done and improve our relationship with the community.”

- Offender A, environmental offence.

“I felt it was good for the victim to see that we [offenders] are just like normal people.”

- Offender C, attempted robbery.

Some of the offenders also noted other benefits of attending the conference, including the positive effect they thought it had on their sentence as well as the culturally sensitive environment it provided to deal with the crime.

Seven out of ten victims also reported feeling very positive about the restorative justice experience immediately after it took place. Nearly all the victims emphasised the value of confronting the offender face-to-face.

“I thought the conference went quite well. Things weren’t 100% resolved but it definitely helped me to resolve things personally. It helped to learn more about what actually happened at the accident from the people who were there.”

- Victim 1, mother of man killed as a result of a workplace regulatory offence.

“You know, I say please God we don’t live in a society with one strike and your out...I thought it was really good to speak personally to these offenders, not just in a letter to a judge, and be able to tell *them* how we felt about being victimised. I have really come out enamoured with this process.”

- Victim 5, arson.

Several victims reported that their initial feelings of anger towards the offender changed into feelings of empathy by the time the conference was over – a shift that was beneficial to them as victims.

“Before the conference, I felt like [restorative justice] was just something that was for the offender. I was angry and I thought it would be easy for him...Afterwards, I thought it was a good way to make [offenders] realise what they do, how much he had harmed me. It was also good to tell him that his participation in society was important and that his family could help him become a good member of society.”

- Victim 10, robbery.

In fact, several victims expressed this type of pleasure at having discovered the root causes of the offending and having had the opportunity to help the offender reform him/herself.

“[After the crime] I was very angry and excited. But after my lawyer talked to me and I met with her and her mother, her mother told me that she was under the influence of her boyfriend at the time. She said that [the offender] wanted to change her life around. That she was misguided and that she had four kids and it was a very hard life...I think it would be good for her to stay with her kids and be a good mother to them. To teach them not to take after their mother, to be a good role model. I think that is much better. I feel really good after.”

- Victim 6, robbery.

One victim also felt that an immediate benefit to the process was the ability for him and his wife to give the community an indication of how much they had suffered and in what areas they needed help.

“One thing that was really great was that it made people realise that I am disabled now [following the workplace regulatory offence] and I can’t do all the things I used to do so that they understand that not having a hand means you can’t do all the old things...I also have to say the conference was really good for my wife. She got the chance to say all the things she needed to say, and how the whole thing made her feel. I think people usually overlook the people closest to the victim or offender in these things but they go through a lot as well.”

- Victim 8, regulatory offence.

A few victims were not completely satisfied by the restorative justice process immediately after it finished. One problem was the time drain restorative justice seemed to cause certain victims. One victim in a Regional Council case dealing with an environmental offence

complained of the enormous time and energy it took to find an appropriate restorative project to which the offender could contribute.

“I felt that the sheer amount of time spent on the whole thing made me want to avoid this path in the future, but I did feel a sense of achievement at the outcome and happiness about the whole thing.”

- Victim 3, regulatory offence.

The offender in this case, despite being very satisfied with the conference and its outcome, also noted the time burden involved, and urged the court to explore a more streamlined process for environmental restorative justice cases.

Other victims that were dissatisfied immediately after the conference reportedly felt so for a variety of reasons. These include feeling unconvinced of the offender’s remorse (Victim 5), offended at the inclusion of a Maori and Samoan prayer (Victim 4), and pessimistic about the possibility of change for the offender due to the deeply entrenched problems in the offender’s life (Victim 7). In most of these cases, however, the victims did note that there were still worthwhile aspects of the conference for themselves and their communities, particularly after the passage of time (see below).

B. After Several Months/Years Had Passed:

All four offenders felt either just as good or better about the conference after the passage of time than they did immediately after it was over. Offender A, whose company had made reparation to a forest reserve project after causing environmental damage, felt that the ties between his company and the reserve remained strong over a year after the contribution.

“In July of last year, a bunch of staff people went to plant some more trees at the reserve on a Saturday – so we are still connected to its work.”

- Offender A, environmental offence.

Another offender noted the change in his own behaviour in the time following the conference.

“Now that time has gone by, I think I look at things more positively now. As far as my own behaviour goes, I think more, rather than doing random things – stupid things, you know?”

- Offender D, arson.

One of the most important factors in determining how most victims felt after the passage of time was whether or not the terms of the restorative justice outcome had been effectuated. Victim 5 said that his feelings about the process grew even more positive than they initially had been after two boys who had committed arson against his church followed through with their community work sentence and helped repair the damage they caused.

“These guys...have been showing up every day and really doing their work well. When I see these guys around, either at the church or in town, it’s very friendly. And these guys tried to burn down our church!”

- Victim 5, arson.

Likewise, Victim 9 felt very pleased in the months following her conference as the offenders followed through on their agreement and paid for the victim’s karate self-defence lessons.

In Victim 4’s case, the offender was his employee who had embezzled thousands of dollars from the company. Although the offender agreed as reparation to try and repair the accounts she had doctored, the scale of the problem was too large and she gave up. This caused the victim to feel that the entire process drained a great deal of his time away without any noticeable benefit to the company that was harmed.

“I would never do [restorative justice] again in this type of business situation...I think for people who experience a crime, usually the crime happens and then its over and an apology would be really helpful, but in this case, it was much more complicated. More unusual.”

- Victim 4, theft as a servant.

Victim 8, although very enthusiastic about restorative justice, felt frustrated that the offender, who was the victim’s employer, was very slow in following through on the promises made at the conference.

“It would be nice to see more progress. Since they are my employers, it’s not really possible to ask them to follow-through. My wife thought it would be good if the RJ people would do a bit of follow up to urge them to fulfil these promises...This is part of the justice system and it’s important that things are carried through.”

- Victim 8, regulatory offence.

In cases where there was no direct reparation outcome for the victim, several victims remarked that they wished they had received more information on the aftermath of the

conference, such as whether or not the offender sought the counselling or made the contribution to a charity to which they agreed.

“If I could change anything about the conference, I would have liked to know whether the outcome from the conference [In this case a monetary amount donated to a cultural charity] would have come out or not...The Department of Corrections monitors the sentence given by the Judge, but I have no idea who monitors the outcome we come up with. I have no idea whether or not the outcome has been done.”

- Victim 10, armed robbery.

“We got no feedback after we left – there was no indication of what our impact had on [the offender]... There should have been some comment back to us about whether he went through with the recommendations of the meeting [that the offender enter a drug and alcohol rehabilitation program] and what happened after sentencing. I think we should have known whether our time and effort affected this man at all.”

- Victim 7, burglary.

Despite a perceived lack of follow up from the system and/or an offender’s failure to complete the terms of the restorative agreement and even when the offender re-offends shortly after the conference, victims are quick to extol the emotional benefits of the conference over time.

Victims 2 and 7 were both burglary victims of the same offender who ended up reoffending several months after his sentence. Both victims reported mixed feelings about the conference but said they would still participate in it if given the chance again, even with the knowledge that the offender would reoffend.

“ It really brought closure to the whole thing for myself and my family. I don’t know what it did for the guy – obviously nothing, but I don’t think the whole idea should be chucked in the bin just because of people like him. I’m sure some people could really use it and change their life around. And it was really helpful for us, anyway.”

- Victim 2, burglary.

“[After hearing about the reoffending] I feel fine. I mean, I’m a fairly liberal guy. This guy needed the opportunity to change and we gave it to him. Clearly he didn’t take it. I would still recommend this process to others. It gives you the curious pleasure of being able to confront your offender.”

- Victim 7, burglary.

C. Comments on Facilitation and Sentencing

The comments received on the quality of the facilitators and their ability to be impartial as well as the perceived fairness of the sentencing were overwhelmingly positive from both victims and offenders.

“As for the facilitators, I think [the facilitator] read things accurately and appropriately. She never pushed anything on us. She briefed us well, prepared us well, encouraged us to be forcible if we wished but not abusive. She also recorded our feelings and words down well enough. So I thought she did a good job.”

- Victim 5, arson.

“What sticks in my mind about restorative justice were the two facilitators that we had – they were really good. Really fair. As well as the neutral area the meeting was held in.”

- Offender B, regulatory offence.

“I went to the sentencing, which I found was really good...I was quite happy with the sentencing itself – I found the Judge to be a lot fairer than [the prosecuting agency]. [The prosecuting agency] was after a quite harsh sentence, which I didn’t think was fair...To tell you the truth, I have a lot more faith in judges now!”

- Victim 8, regulatory offence.

“I think the justice system is very fair. And I’m not just talking about my own experience. I see what has happened to people I know who have been through the system and it seems pretty fair. Most the judges are quite good. They are quite perceptive and non-biased. They hand out sentences according to what’s going on and not randomly, you know?”

- Offender D, arson.

The minor exception to this praise is from Victim 3 and Offender A of the environment case, who were slightly dissatisfied with their facilitator’s role in their conference.

“The thing is, we were working really well with [the offending company] before [the facilitator] came on the scene and she sort of complicated things. Cause we already had a rapport with [the offending company]...I could see how if there wasn’t a rapport between the parties she would have been absolutely necessary, but in our case she wasn’t.”

- Victim 3, environmental offence.

“I think the facilitator did a fine job, but I think she made things more complicated because she tended to try and please the local iwi [that showed up] more than trying to ensure a fair compromise. I think she allowed them, in many ways, more say than anyone else. I think it was a bit unreasonable the level that she treated them differently than us – the other major parties.”

- Offender A, environmental offence.

CONCLUSIONS/RECOMMENDATIONS

Based on the results of this small study, the participants of restorative justice conferences appear to have generally positive feelings about, and perceived benefits from the process in the months and years following the conclusion of the conference. This is particularly true for the offenders in the study, as well as for victims whose offenders completed the terms of their restorative justice agreement. Additionally, most victims, even those not completely satisfied

with certain aspects of the process, were quick to highlight the emotional benefits the conference gave them and their families. Most victims stressed that they would recommend the process to others irrespective of what happened to the offender or with the outcome agreement of their case. The quality of the facilitators and the general fairness of the process all the way through sentencing also received high praise from the participants.²

The main recommendations for changes to the restorative justice process are on the issue of follow up. Victims who would have been the direct recipients of some form of reparation through the outcome agreement felt that there should be some pressure on the offender to ensure that the agreement is effectuated post-sentencing. Otherwise, they explained, the entire process felt delegitimised and justice was thwarted.

Victims who were not the direct recipients of reparation but instead asked the offender to seek some type of rehabilitative help or to donate money to a charity were also frustrated by the lack of information they received post-sentencing on whether or not the offender had followed through. These victims were often just as invested in the conference as those who would receive reparation, and knowing the outcome of their recommendations was very important to them.

² Interestingly, the many of the benefits to victims and offenders noted in the one-year Victoria University follow-up evaluation of the pilot have been reinforced by this analysis done approximately one year later. See Ministry of Justice, *New Zealand Court-Referred Restorative Justice Pilot: Evaluation* (2005) pp 19-26.

APPENDIX 1

27 January, 2006

Hello!

My name is Yael Shy and I am an American post-graduate from Massachusetts working at present in the New Zealand District Courts as an intern researching restorative justice processes in New Zealand.

At the request of the Restorative Justice Liaison Judges, I am contacting you because you took part in a restorative justice conference over six months ago. The court is trying to determine how the participants of a conference feel about the process in hindsight where such conference has been referred to at sentencing. This will provide a better understanding of the effects of restorative justice over the passage of time.

I am hoping to have a very informal conversation with you about your experiences with restorative justice that will probably take no longer than 20-30 minutes of your time. Your comments will be recorded in a way that cannot identify you. I will be contacting you by telephone in the next few weeks.

Of course, you do not have to agree to this conversation. You are free to decline to answer any question that I ask and you can end the interview at any time. If you have already participated in an interview for the evaluation of restorative justice, let me know and we will select another participant. If you do not want to be contacted at all, simply return the reply slip in the envelope provided. You can also email me at Yael.Shy@justice.govt.nz or ring me at (09) 916-9000.

Please also feel free to contact me with any questions or if you have recently changed your phone number but still wish to participate in this study.

Thank you in advance for your important input into this conversation.

Sincerely,

Yael Shy

REPLY SLIP

Please check the box below and fill in your information if you do **NOT** wish to be contacted for this interview and return it in the envelope provided.

I do NOT want to be contacted for this interview []

Signature: _____

Printed Name: _____

APPENDIX 2

Questions for Participants

You took part in a restorative justice conference some time over six months ago.

1. Directly after the conference was completed, how did you feel? Why?
2. How did you feel about the conference after sentencing? Why?
3. Were the terms of the outcome agreement carried out? If so, to a satisfactory degree?
If not, why not?
4. Now, with the passage of time, what are your thoughts on the conference? How do you feel about what took place?
5. What sticks out in your mind about the restorative justice conference after all this time?
6. How did you find the facilitators?
7. What do you think about the sentence you/the offender received?
8. If you could change something about how the conference was conducted or anything about the system, what would it be? Why?
9. Any other thoughts on restorative justice and its role in the criminal justice system?

APPENDIX 3: OFFENDER TRANSCRIPTS

OFFENDER A

Company president.

FACTS: Company committed environmental offence causing possible environmental damage.

DATE OF CONFERENCE: 8 September, 2004.

SENTENCE: Conviction and discharge.

DATE OF INTERVIEW: 16 Feb, 2006.

Immediately after the conference I felt pretty good. We had been working closely with [the environmental agency “victim”] for a long time to determine a suitable project and to show we had a concern for the environment and were remorseful for what had happened. It all turned out in a satisfactory manner. The only issue was that some of the invited neighbors, particularly the local iwi that turned up – well they had differing views on the project we chose. They wanted us to contribute to a project on the Waikato River as opposed to the Haka Reserve, which is what we ended up contributing to. I think it would have been better for them. All the back and forth over that made the conference take a bit longer than I think it should have.

In the end, we talked it through and came to a resolution. Because in truth, both projects were of equal merit. But we felt that from our point of view, the Haka project was just more of a benefit – the amount we put in would go so much farther. You see they were a voluntary organization so they could really use the funds to cut and maintain some trails, whereas making a contribution to the river would be like a drop in the bucket.

There was a real benefit to us participating in the conference. We had a chance to strengthen our relationship with the community, with [the local environmental agency] and the local iwi, and we had the chance to show our commitment to the environment. At the end of the day, we could have just gotten a smack on the hand and paid a fine at the court, you know? The fine would have likely been a lot less than the contribution we ended up paying. Because you see we ended up paying the legal costs of the whole thing, as well as all the costs of [the environmental agency “victim”], which was quite substantial. Really there was an enormous amount of time and effort expended on this whole procedure. Particularly by people like myself. You know the indirect cost of time and energy diverted to this effort was huge. But the benefit to us made it really worth it. It was great to be able to stand up and show our commitment to the community.

As time has gone by, we have really still maintained our ties with the Haka project. In July of last year, a bunch of staff people went to plant some more trees at the reserve on a Saturday – so we are still connected to its work. If given the chance, we would do it again but I would try and make the process quicker. It became sort of bureaucratic as [the environmental agency] searched for a suitable project. And they were charging all the costs to us, so that was a bit difficult. And then the facilitator just complicated things because our company and [the environmental agency] was on a roll, in a way. Although I understand the court needs to ensure there is good process, I think it would have been good to streamline it. I think the facilitator did a fine job, but I think she made things more complicated because she tended to try and please the local iwi more than trying to ensure a fair compromise. I think she allowed them, in many ways, more say than anyone else. I think it was a bit unreasonable the level that she treated them differently than us – the other parties.

I thought the sentencing was very good. It was clear that both sides had done a great deal of preparation and the sentencing was pretty straightforward after that. The Judge complimented our successful conclusion. It was quite good.

From our point of view, it was a better process than just fessing up and taking our medicine – a slap on the wrist or whatever. We had the ability to demonstrate our desire to right the wrongs we had done and improve our relationship with the community. So yes, I would do it again. But we were also learning as we were going so I would probably want it to be a bit more efficient next time around, I would want it to be a bit quicker.

OFFENDER B

Director of Company

FACTS: Company committed regulatory offence, employee victim died.

DATE OF CONFERENCE: 8 June, 2005.

SENTENCE: Fine of \$20,000.

DATE OF INTERVIEW: 14 Feb, 2006.

I'm a Maori and the way we settle things is through discussion. So I felt that the way it worked and the way we went through the issues and led up to an outcome was very good. I felt satisfied with the outcome. There were things that needed to be discussed, and we all really wanted to get together to work them out.

I felt very good about how the facilitators ran the conference – Tim and Sharon were great.

I felt positive about the conference after sentencing as well. I am sure our sentence was reduced as a result – we got penalised a lot less than we would have otherwise. Sentencing could have been a lot worse. Due to the conference and the legal representation we had, it wasn't so bad.

As for the agreement, when we were doing [the RJ conference] we were in control of a Warehouse in Hamilton. Now we are no longer in control, so the memorial [in honour of the deceased] couldn't be erected. We did pay all costs to the victim [babysitting and reparations]. We were also ordered to pay something like \$20,000 in fines and \$40,000 was insurance, so really we got off really good.

What sticks in my mind about the conference were the two facilitators that we had – they were really good. Really fair. Also, the neutral area that the meeting was held in.

I wouldn't have changed anything. I firmly and fully believe in Restorative Justice, and have no qualms about recommending it to others that have the opportunity.

OFFENDER C

FACTS: Young man and his friend went into a lunch bar with an intent to rob the owners but fled the store when the victim called the police.

DATE OF CONFERENCE: 4 June, 2003.

SENTENCE: 250 Hours community work.

DATE OF INTERVIEW: 8 Feb, 2006.

Before the conference I thought it would be a good idea, being able to talk to the victim. I felt good after. I felt it was good for the victim to see that we are just like normal people. I thought the outcome was good.

I thought the sentence we got was good. It was sweet. There is nothing I would have changed about the process. Nothing particular sticks out in my mind – nothing has really changed about the way I feel. I'd probably recommend it to others.

OFFENDER D

FACTS: Young man was one of four who committed three counts of arson.

DATE OF CONFERENCE: 17 November, 2004.

SENTENCE: Community supervision, 250 hours community work.

DATE OF INTERVIEW: 13 Feb, 2006.

Immediately after the conference, I thought it went really positively. I thought it was a good one. Talking to my lawyer right before sentencing, my lawyer thought it was the best conference he had seen, anyway. So yeah, I felt really good about it. At sentencing I felt like the conference made the difference between us going to jail versus what we got.

Given the circumstances, I definitely think the sentence was fair.

Now that time has gone by, I think I look at things more positively now. As far as my behaviour goes, I think more, rather than doing random things – stupid things, you know?

I think the justice system is very fair. And I'm not just talking about my own experience – I see how what has happened to people I know who have been through the system and it seems pretty fair. Most judges are quite good. They are quite perceptive and non-biased. They hand out sentences according to what's going on and not randomly, you know?

I wouldn't change anything about the restorative justice process. I think if I changed anything I would make it worse. They did a really good job.

The facilitators were pretty good. They had obviously done it a few times, they really made the best out of the circumstances.

I think overall it was really a good option and a really good choice I made to seek our restorative justice. I would recommend it to people in my situation. It really settles things and gives you a chance to make things better to the victims and make things better for yourself.

APPENDIX 4: VICTIM TRANSCRIPTS

VICTIM 1

FACTS: Victim is mother of deceased employee of company that committed regulatory offence.

DATE OF CONFERENCE: 8 June, 2005.

DATE OF INTERVIEW: 8 Feb, 2006.

I thought the conference went quite well. Things weren't one hundred percent resolved but it definitely helped me to resolve things personally. I think it helped me to learn more about what actually happened at the accident from the people who were there. I think the outcome was basically fair.

I think the process really opened my eyes – I've learned a lot from being in that procedure – I've never done anything like that before, so that was good.

You know, they were going to put a memorial tree up for [the deceased] but then they moved from that premises so that was never really done. I know [the wife of the deceased] got some money through the court, but I think that did indirectly come from the company, so that was good, I guess.

I would recommend that others in a similar situation do this. It was helpful. I think the facilitation was fair.

VICTIM 2

FACTS: Victim of house burglary.

DATE OF CONFERENCE: 25 May, 2002.

DATE OF INTERVIEW: 8 Feb, 2006.

We weren't in the country when the robbery happened, but you know, you feel violated obviously. Immediately after, we put in a lot of security in the home we lived in – we don't live there anymore – but that had all been done before the process so by the time the process came up, we were like, "ok."

At the conference when I first saw [the offender] I felt a bit angry. Immediately after the conference, I felt sorry for the guy. Cause of, you know, his upbringing. There was a child involved in his life – that was really my only concern. But you know I guess he chose his path. And I heard later that he robbed a bunch of gas stations and got sent to jail, so I guess the process didn't really do much for him.

After I heard that, I kind of wondered why we did what we did. It obviously didn't do anything for him. I guess probably about fifty percent of the guys that go through the process really change their life, and the other fifty just don't really care and get what they deserve. If I had to do it again, knowing what I know now, I still would. It was really a closure for me, my family, and the other victims. We felt like we really came full circle through the process. Afterwards, it really helped us move on. We were like, "Okay. That's it. We don't have to think about this anymore." And we didn't.

I don't really remember what happened at sentencing but I think [the offender] got sent to Odyssey House – the group of us made that recommendation at the conference – we felt it would enable him to get his life in order, take care of his son. We felt it was a pretty fair sentence. I think some people would have taken that opportunity, you know, but obviously it didn't make a difference to him. He just carried on and now is paying for it.

My feelings haven't changed since the conference. I also think the conference itself was fair – we all got our say. It really brought closure to the whole thing for myself and my family. I don't know what it did for the guy – obviously nothing, but I don't think the whole idea should be chucked in the bin just because of people like him. I'm sure some people could really use and change their life around and it was really helpful for us anyway.

VICTIM 3

FACTS: Victim works at an environmental regulatory agency in the region where the offending company committed the environmental offence.

DATE OF CONFERENCE: 8 Sept, 2004.

DATE OF INTERVIEW: 12 Feb, 2006.

Restorative justice was really a lot of work for us. We wanted to come up with an environmental solution to mitigate what the company had done and it just took a lot of time and effort trying to find a suitable project that the company could do. We were around Christchurch and there just isn't much going on down there, so really, before the conference it really took a great deal of time.

After the conference I felt quite happy. The company's attitude was good. They really took responsibility for what they did and did what we thought was appropriate. I still felt that the sheer amount of time spent on the whole thing made me want to avoid this path in the future, but I did feel a sense of achievement at the outcome, and happiness about the whole thing.

I think the sentencing was fair. The Judge basically said, "That's great – you all have worked it out and that's that." The Judge really acknowledged the work we put in and the way we were able to arrive at this solution together. So that was cool.

I think they fulfilled all the terms of their agreement, although I don't know for sure on some of them – they certainly gave the donation to the project and they did pay all our fees.

In the time that has gone by since the conference, the memory of the time burden has gone a little which maybe makes me a little more open to the thought of doing it again. But I'm just not sure about how it fits with [environmental offences] because you know there aren't any real victims. We are just the spokespeople for the victims. It works when you have a party that agrees to what you are putting out there, after all the work that you do. But if there was any sort of contention there, I feel like it would not have been good at all.

Nothing springs to mind of how the process could be improved. It might have been a better thing if the company came up with its *own* environmental initiative. But then, we really wanted to help, and that's where the time drain came from. So, I don't know.

I didn't deal much with the facilitator, [a colleague] did, and the thing is, we were working really well with the company before [the facilitator] came on the scene and after, she sort of complicated things, cause we already had a rapport with [the offending company]. During the conference itself she was fine, but she sort of got in the way a bit beforehand. I could see how if there wasn't a rapport between the parties, she would have been absolutely necessary, but in our case she wasn't.

The final thing I have to add, I guess, is just a general question mark about the appropriateness of RJ for environmental cases, just because there isn't a specific victim. I mean if somebody polluted another specific person's stream it would seem much more appropriate. I would just be very careful in the future about how I picked which cases would go to RJ.

VICTIM 4

FACTS: Victim was formerly the president of a company from which the victim stole a large sum of money as an employee.

DATE OF CONFERENCE: 26 March, 2003.

DATE OF INTERVIEW: 13 Feb, 2006.

Before the conference, I was of two minds. The offence really put us in a bind. There was great pressure on us, as the young lady offender had altered all our records through embezzling funds. Everything affected everything else and it put us really far behind – much more so than I think she realised it would. The thing is, we had outside auditors, and she even pulled one over on them. So it was a big mess. And the conference was very much a time thing – it would take *more* time away from our business for something that I really viewed as for the offender's benefit. But being a softie, I thought, okay. I will give her a chance, and in the end I did give her a chance to make amends, and also for her to know how much her actions affected others on the team.

Immediately after the conference ended, I was sort of bewildered by the whole thing. I mean, we provided the venue, and I showed up as a representative of the company. I was the only guy there. The offender brought her cousin – I think her mum and dad were supposed to come but couldn't at the last minute. So it was we and two ladies from the Justice Department. The young lady was an Island girl – a good, church-going Samoan, and one of the facilitators was an Islander, and the other was a Maori woman, I think. So we are sitting around the board table and one of the facilitators asked if I minded if they started with a prayer, which put me off straight away. The minute the prayer started, every woman in the room was crying. And I thought – Bloody hell? It seemed so inappropriate – and I am not an agnostic. I mean, we were there to talk about what had happened and how this young lady could make amends. Maybe the problem was that it wasn't in English – or parts were in English but it was all translated into Maori – and frankly I'm getting bloody sick of all the translations. It was all just off-putting for the purpose, I felt. And I am not an agnostic! I go to church from time to time. It was just this whole Maori/Samoan thing, which had nothing to do with what we were there to talk about. And after about an hour of tears, we all got to have our say and the offender had her say.

In the end, the outcome was to my satisfaction. She felt really bad, I think, and said that she would really do anything she could to put things right. We were really in trouble, you know? So

she agreed to try and help us out and get us out from under the mess, and to take some of the work home and try and fix it. So I had to supply her with materials but she had no phone so I had to do everything through her cousin, which entailed a lot of driving for me to drop everything off at her house and pick everything up. I thought that if she helped, it would go a long way towards righting the wrongs she did.

Well, it didn't get done. It was really very difficult to get a hold of her and she wasn't doing what she was supposed to. I had to cancel the whole process – it honestly turned into a nightmare. I had to concentrate on doing the job full-time all by myself. I was working 15 hour days and weekends, and this was right before my retirement. What a way to go out. I made the deal that when I retired, I would go back and work one week a month to continue fixing it all up, and that's what I had to do.

In my mind, the restorative justice process didn't work for me at all. It made all the others feel good but it was more work than it was worth for me. I don't think they all turn out that way, though. I am sure with more personal crimes, I think they may work better, but in a business situation like this one it wasn't any good.

I never heard back about what ended up happening to her at sentencing – I was just far too busy with this mess to deal with that – after the restorative justice became a waste of my time, I just had to concentrate every waking hour to fixing the problems. This was the worst thing to have ever happened to our company. In actual fact, the insurance company ended up helping us a lot and at the end of the day the company did come out of this unharmed. After all the time I spent trying to put things right, there was a big satisfaction after that.

I heard she was sentenced to jail but with the possibility of home detention –I'm not sure if that got approved. I never received any reparation [which was ordered by the judge].

As for what I would change of the conference – I spoke in depth with the facilitators afterwards, and gave them all my notes. It's hard for me to remember that kind of stuff now.

But I mean I don't feel animosity towards her. When we said goodbye, she and I had a hug. I was really ready to forgive her and help her make amends, but unfortunately she had a different agenda. I think now that it wasn't about malice, but rather she just lacked the ability to

reconstruct the work from the point at which she messed it up. It was just too big a task for her, I think.

I would never do that again in this type of business situation. In a more personal situation, like a car accident, I would never say, “No, I will never go through with restorative justice.” Sometimes it is really important to give someone a second chance, to help them get on the track of rehabilitation. Of course, you know I don’t know much about this, but I’m sure there are people out there making a living off of crime and they know the system and they will want to take part in RJ just to reduce their sentence, but I’m sure there are also genuine people out there who could use a second chance.

I also think just going into the conference, I had a huge weight on my back in trying to figure out how I was going to fix the mess she made, and the conference just made everything worse. If she could have helped even ten percent it would have helped, but our arrangement really just added to the burden. I think for people who experience a crime usually, the crime happens then it’s over and an apology could be really helpful, but in this case it was much more complicated. Much more unusual.

VICTIM 5

FACTS: Victim is the minister at local church that was lit on fire by several young men offenders.

DATE OF CONFERENCE: 17 November, 2004

DATE OF INTERVIEW: 13 February, 2006

I'm a minister so I have always taken to the idea of restorative justice. I was very grateful to be a part of it. After the first conference [with Offender T], I was less than pleased as I was after the second conference [with the other three boys]. I felt that [Offender T] (and his family) saw the conference as a way to minimise consequences and not to take responsibility or show remorse. The second conference was much more open-ended. The participants went into it saying they were sorry, and really showing that remorse. They asked what they could do. The second one was filled with a lot more genuine remorse, on the part of the offenders and their families and that really left me a lot more satisfied.

I am not sure the screening process itself could have been any different – I still think its appropriate that the first one got sent to restorative justice. Before I became a minister, I was a police officer, and so I learned how to read people very well. I could see that this kid, in the first one just had no feelings of remorse at all. He was just trying to get a lesser sentence. I'm sure he said all the right things about being sorry in the pre-conference – you just have no idea until you are sitting down with him. After that conference I felt pretty disillusioned – not with the concept but with THIS conference. I didn't feel that way at all after the second one.

After time passed, my feelings about the first conference pretty much stayed the same but my feelings about the second one got even more positive. The guys were sentenced to community service under our supervision and they have been showing up every day and really doing their work well. The woman who supervises them has real good interactions with them – they are almost friends! When I see these guys around, either at the church or in town, it's very friendly. And these guys tried to burn down our church!

[Offender T] was ordered to pay the insurance excess – he did. He was also ordered to do some community service hours for us. He did some of it but, I mean, it's like he was like he was at the conference. Just no sense of why he is doing the work, no sense of remorse. Just such lippy kid – I definitely walked out of that meeting feeling disgruntled. I think the Judge got that sense from

reading the restorative justice report because he got formal probation and formal supervision with the gangs and the other boys got informal supervision by us. Which I thought was very good.

After sentencing, I was interviewed on NZ Radio about if I felt the sentence for the three guys was too light. I said I thought it wouldn't do anybody any good to go to jail, especially these three guys, I mean jail would kill them. I had second thoughts about that for [Offender T]. I thought maybe it would be a good wake-up call – maybe it would get through to him, and make him accept some responsibility. But consistency is important and the Judge needed to have some measure of consistency between the other boys and [Offender T], so I think he did a very good job of balancing that. I don't think jail is any good, but I am glad he got a more structured supervision under the gang guys – I think it will be really good for him to get some Guerrilla men to slap him around a bit when he starts getting lippy, because the kid just doesn't listen.

I don't think I would have changed anything about the process itself. We had a pre-conference chat, we were told we could speak openly and frank if we wished but couldn't be abusive and pretty much everything they prepared us for came to pass. We were all able to express our feelings and they did a really good job taking them all down into the restorative justice report. The system, through probation and the police, had a chance to come. Everything was open and fair. It really enabled us to speak face to face with these kids to express the harm they caused. Like, when I asked [Offender T] if he knew the penalty for arson, he gives me like, this stupid smirk and says “yeah, 14 years.” And I said “no, the *real* penalty. It's having some huge guy bashing you on the head and dragging you around for a couple of years behind bars.” His mother nearly fainted.

Whereas in the second conference, I could explain how bewildered and hurt the community was. Cause we don't think of the walls and floor as sacred, here – but we do think the stuff that goes on *in* the church is sacred. All the ceremonies, weddings, deaths, births, reconciliations. And the community felt so violated. And I just asked them point blank – Why would you do that to us? And one of the boys just started to sob. I mean there was *real* remorse. I think the mother got totally in the way in the first one. She was explaining away everything that her son did – pointing the finger at everyone except him – blaming her husband for not being a church go-er – I mean it was ridiculous, the level of explaining away that she did.

In the second conference I realised that one of the kids involved in this thing wasn't there at all. So I asked them, "was this kid an informer, and therefore let off the hook?" and they said "yeah" and I said, "well that really sucks." And everything changed after that – the parents really relaxed and agreed with me – but still no one pointed the finger at this kid that wasn't there – everyone was really up front about taking responsibility. There didn't need to be any positive shaming on our part because these kids were shamefaced enough. They knew that what they did was stupid, criminally wrong, but also morally wrong. I think their parents had done this work with them before the conference.

As for the facilitators, I think Wendy [surname removed] (who facilitated both conferences) read things accurately and appropriately. She never pushed anything on us; she briefed us well, prepared us well, encouraged us to be forcible if we wished but not abusive. She also recorded our feelings down well enough. So I thought she did a good job.

You know, I say please God we don't live in a society with one strike and your out. I personally am more about the 5th to 15th chances, being a minister. I thought it was really good to speak personally to these offenders, not just in a letter to the judge, and be able to tell *them* how we felt about being victimised. I have really come out enamoured with this process. I was always conceptually into it but I think I was really impressed by the process itself. If you can make a kid really understand what they did wrong – face to face- and allow him to make an attempt to reconcile his wrongs, it is really good – there is no lingering grudge. Justice has been done. It's good for the victim, because he no longer feels like an anonymous person in a letter to a judge. It's also good for the offender to be able to move on.

Another thing is that I think families aren't able to do this on their own. I know a lot of people who have come out of FGC's [Family Group Conferences] furious because the entire community comes on behalf of the offender and then there is the victim and his one supporter. The family just overpowers the whole process and excuses away all the conduct. I felt in this process the family didn't overwhelm the victims. Cause, you know, "sorry" is a cheap word – it's another thing to have to face up to what you did.

After the 1st conference I was a little ambivalent about going to the next one – a little inquisitive about how it would go, but I thought both conferences were ran well. I really decided that much of the success of the conference will be dependent on how the offender goes into it. If he goes in,

like [Offender T], in a control and containment mode – or goes in just to avoid the consequences of his actions, it isn't going to work.

VICTIM 6

FACTS: Victim of robbery.

DATE OF CONFERENCE: 13 June, 2004.

DATE OF INTERVIEW: 8 Feb, 2006

At the time of the crime I was so scared cause she ran up to me and took my bag – I tried to call for help but no one could help. I had no time to think about anything! You know? This is the first time this happened to me – I kept thinking I should have noticed the number of the car or something but I didn't think about it! I just heard her wheels as she drove away.

Then I met with her, and she has three or four children, and I met with her and her mother and you know she was really sorry and was really going to try and change her life. Fortunately she was honest, you know? She admitted what she did. She said, "yes, I took the bag and ran away" and that was really good because I thought I would have to say, "yes she did take it!" So I was very angry and excited. But after my lawyer talked to me and I met with her and her mother, her mother told me that she was under the influence of her boyfriend at the time. And that she wanted to change her life around. That she was misguided, and that she had four kids and it was a very hard life. They were both crying and I told the lawyer that I think maybe she really wants to change her life. And I think it would be good to stay with her kids and be a good mother to them, teach them not to take after their mother, be a good role model. I think that is much better. I feel really good.

I have met the woman since she got out of jail. We go to the same market, and she was with her two kids. I think she is okay – she looked okay, not very bad, because when I used to see her she would leave right away but now she didn't leave so I think she is doing good – I think she changed her life.

According to her mother, she really wanted me to give her a chance. She is just twenty-four, you know? She should have given her a chance. After this thing she will be a better role model for the children. I told her it wasn't good for the children to be around that bad stuff, but I think she changed.

I really think that to give other people help is better than to punish, because then we can make a change in behaviour, and we can reduce crime. I do not want her to come back in her old way – if

that happened I would be very upset. But I don't think she will do it anymore. I think the system is fair. I hope she has a good life and is there for her children.

I have never experienced a process like this before – we do not have this in China! In China a robbery is a very serious crime – not just for the person who is robbed but for the whole public. It is punished very harshly. But in New Zealand they do this [RJ] thing, and I think it is maybe better to help people than to put people in prison because really it saves the New Zealand a lot of money, I think. Putting people in prison costs a lot of money! And also, I got to talk to the lady judge myself. In China it is much different. The judge in China makes all the decisions. Because you know I'm just a student! And it was not much money – I think, ok, its done. But I think it is good over here.

I can't believe they give you a job to ask our opinion! In China this would never happen either. I thank you very much for you asking me these questions – I think it is a great idea, I hope you can reach all the people, because I am afraid many of them are at work.

I learned a lesson from this case about trying to be careful, and to protect myself but I still think New Zealand is a very safe country. I still think that.

VICTIM 7

FACTS: Victim of house burglary.

DATE OF CONFERENCE: 25 May, 2002.

DATE OF INTERVIEW: 12 Feb, 2006.

Before the conference, I felt grateful for the opportunity to talk to this man [the offender] and to be able to confront him. Immediately afterwards, I felt satisfied at being able to express my feelings, however I also felt pretty pessimistic that anything would change. It seemed like a hopeless case – there were just too many problems with this guy.

My feelings have not changed since the conference.

If I could change anything, I would have to say that we got no feedback after we left – there was no indication of what our impact had on him. We waited to hear *something* back but the follow up was totally lacking. There should have been some kind of comment back to us about whether he went through with the recommendations of the meeting and what happened after sentencing. I think we should have known whether our time and effort affected this man at all.

After hearing about [the offender] reoffending, I feel fine. I mean, I'm a fairly liberal guy. This guy needed the opportunity to change and we gave it to him. Clearly he didn't take it. I would still recommend this process to others. It gives you the curious pleasure of being able to confront your offender.

The system seems like a fairly human approach to dealing with crime in society. It was clear there were quite a lot of issues beneath why he was doing the crime, and those got addressed, so I think it was quite good to participate in something like that.

Restorative Justice was an exercise in which I willingly participated and I got some satisfaction out of. I would certainly participate again if given the chance.

VICTIM 8

FACTS: Victim of workplace regulatory offence resulting in serious injury.

DATE OF CONFERENCE: 15 Aug, 2005.

DATE OF INTERVIEW: 14 Feb, 2006.

After the conference I felt quite okay – my situation was different than most, as I met with my employer and we were all quite positive about the whole thing. It was pretty non-confrontational.

One thing that changed since then is that we (my wife and I) feel that many promises were made and some of those have been slow in coming through. They are still working on doing things I think, and I think they ultimately will get done but it would be nice to see more progress. Since they are my employers, it's not really possible to ask them to follow-through. My wife thought that it would be good if the RJ people would do a bit of follow up to urge them to fulfil these promises.

It isn't the top level people who are at fault – they are keen on seeing this stuff done. Like any system its more the middle management that is taking their time – and they have good reasons for their delay, Christmas holiday and the like, but still it would be nice to see some progress. I know they were gong to do some landscaping for us because we live on a big property and I can't attend to it anymore and that hasn't been touched.

As for the apology, I never felt like I needed an apology because what happened to me was partly my own fault. But I do think [restorative justice] is a really excellent system. One thing that was really great was that it made people realise that I am disabled now, and I can't do all the things I used to so that they understood that not having a hand means you can't do all the old things. I am still working about twenty-five hours a week at the job.

I also have to say the conference was really good for my wife. She got a chance to say all the things she needed to say, and how the whole thing made her feel. I think people usually overlook the people closest to the victim or the offender in these things but they go through a lot as well.

I went to the sentencing, which I found was really good as well. It was my first time in court! I was quite happy with the sentencing itself – I found the Judge to be a lot fairer than [the prosecuting agency]. [The prosecuting agency] was after a quite harsh sentence, which I didn't think was fair. Management completely overhauled all their old requirements and systems after

the accident, they underwent considerable expense. I think [the prosecuting agency] wanted to make an example out of them. To tell you the truth, I have a lot more faith in judges now! Because I know I could have gotten a lot more money if the fines were higher and the sentence harsher, but that's not what I'm after, that's not what I'm about.

If I could change anything, I would have to say that, especially in cases where people are unwilling to put things right, a follow-up would be good. This is a part of the justice system and it's important that things are carried through.

I must say I was very impressed with the facilitators. They gave equal time to everybody and were really skilful.

Overall I would say that it's an excellent system and I'm all for it.

VICTIM 9

FACTS: Victim of an attempted robbery to her store.

DATE OF CONFERENCE: 4 June, 2003.

DATE OF INTERVIEW: 8 Feb, 2006.

I felt much better when we saw the [offender]. Before the conference, some of the time I'm scared – it was the first time that this had happened to me, you know?

As time has gone by I feel better. Because together we were talking and I got training for karate – I have taken ten lessons in karate. [This was a part of the outcome agreement]. So I feel safer. Also, my father came from India and he stays with us, so now there are no problems. Before, I was lonely.

I think the sentence was fair.

I have no idea how I would change the conference to make it better.

I think the facilitator did a good job. She came to our shop, spent one hour with us. She treated us all equal during the conference.

I am going to tell my friends to go to a conference because they have a Dairy in Mt. Roskill and this happened to them twice, so I will tell them to do it. It was good.

VICTIM 10

FACTS: Victim of aggravated robbery.

DATE OF CONFERENCE: 14 Aug, 2004.

DATE OF INTERVIEW: 7 Feb, 2006.

Directly after the conference I felt good, I felt it was a good system and very good step to correct people – lots of involvement regarding the family. I think a lot of time the family members don't know their children are involved in crimes and drugs and this helps the family to solve the problem. I saw after the conference that the family felt very sorry. [The offender] also realised that this was wrong and how he harmed me and that it was wrong that he was involved. He wanted to change and we all could try and help him change and become a productive member of society

Before the conference I felt like it was just something that was for the offender – that it would be very easy for him. Afterwards, however, I thought it was a good way to make them realise what they do, how much he had harmed me. It was good to tell him that his participation in society was important and that his family could help him become a good member of society.

I did not get the results of what happened later [at sentencing]. [After being told of a the jail sentence] I think we thought that he would get community work. Well I also used to be involved in the justice system in my old country and I understand that the justice system is not just for the people in it – sometimes you have to demonstrate that justice has been done to the whole community. So I understand.

If I could change anything I would have liked to know whether the outcome [from restorative justice] would have come out or not. [In this case, it was \$250, the amount stolen, given to a Tongan charity]. They tried to give the money to me, but this caused an argument because I didn't want it. So the parents and [the offender] agreed to give the money to the community – to pay \$100 a month to pay it back.

The Department of Corrections monitors the sentence given by the Judge but I have no idea who monitors the outcome we come up with, I have no idea whether or not the outcome has been effectuated. At the same time, I do feel like the people who run restorative justice are doing their

jobs well. They really did a good job. The conference really changed my mind, I felt like it changed how my mind works about why [the offender] did the crime.

I have been very open minded, I was very generous to [the offender] and his family. And [the offender's] mind was changed too – he started really seeing how bad his crimes were, and did not want to carry on. I think [the offender] and his family understood that even though we are far apart, they are Tongan, we are from different cultures, we are quite the same; all people – all want the betterment of society.

I feel like restorative justice is very good and really a great system. Everything still feels all right to me.