



INTRODUCTION

Restorative justice seeks to ‘address victim(s) harms and needs; hold the offender(s) accountable to put right those harms; and involve the victim(s), offender(s) and communities in this process’ (Zehr & Gohar 2003, p23). It is both a mechanism for obtaining justice, and a kind of justice; that is, it is a justice marked by certain qualities.

This review found 15 discrete programs attached to Australian and international criminal justice systems and describes the use of restorative practices after child sexual abuse (or arguably comparable harms) and assesses the evidence on whether restorative justice meets (or does not meet) these goals.

KEY LEARNINGS

Prevalence of restorative justice programs in criminal justice systems

Of the 15 programs identified, just over half operated pre-sentencing, which means matters have either been diverted by police to restorative justice or directly diverted by magistrates at court to restorative just when a plea is entered. There was one pre-court program identified and a small number of programs operating post-sentencing with the offender either in prison or managed in the community. Two programs accepted referrals at any stage or independently of the criminal justice system.

Furthermore, the review identified that across all of the identified practices the majority (80%) of victim-survivors and perpetrators attended restorative justice as adults. The notable exceptions are youth court diversion programs.

Why restorative practices had been used to address this kind of harm was also a concern of the review and main themes across the following program aims were identified including:

- to support perpetrators in non-offending by increasing their insight into the impact of the harm, and reducing reoffending (seven mentions)
- to improve victim-survivors’ experiences of justice by considering their wellbeing and addressing specific needs (for example, for information) (six mentions)
- to improve victim access to justice by offering a different avenue for addressing the harm (five mentions)
- to build healthy communities where relationships are strengthened (two mentions).

Overall, the review identified that the majority of programs (60%) had a clear victim focus, reflecting one of the key goals of restorative justice. While, six programs (40%) focused on perpetrators of sexual violence and reducing reoffending.

RESEARCH OVERVIEW

TITLE

‘The use and effectiveness of restorative justice in criminal justice systems following child sexual abuse for comparable harm’

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KEY FOCUS

This report reviews existing literature on the use and impact of restorative justice for institutional child sexual abuse.

KEY OBJECTIVES

The report outlines the extent, kind and impact of restorative justice programs working within criminal justice systems.

DOWNLOAD REPORT AT

<http://www.childabuseroyalcommission.gov.au/getattachment/9f328928-a343-4c65-b98e-94e3185894c7/Restorative-justice-following-child-sexual-abuse-o>



This review found no examples of programs attached to criminal justice systems that have reported using restorative justice to address institutional child sexual abuse.

Effectiveness of restorative justice programs in criminal justice systems

This review evaluated 15 restorative justice programs with 30 empirical studies which varied in terms of scale, scope and rigour. The review also identified that a limitation of the existing data is that to date, no research has disaggregated the research findings by offence type, and more specifically by form of sexual abuse.

The research that was examined detailed the experiences of victims and offenders using a range of measures and the evidence gathered suggested that under specific conditions, participation in the restorative justice programs improved victim well-being and is perceived by victim-survivors as satisfying, worthwhile and procedurally fair.

There is also good evidence for offender-oriented treatment practices in particular using restorative justice post sentencing with some programs reporting a 95% success rate based on pre and post meeting restorative justice needs being met.

The most useful research (based on rigour, relevance and sample size) relates to the South Australian Family Conferencing model studied by Daly (2002, 2006, 2007 and 2013) over many years. This work is important because it compares court to restorative conference outcomes for young people who have committed sexual offences. The findings suggest that matters are dealt with more quickly through conferencing than court, more perpetrators agree to stay away from victims, and more perpetrators offer apologies. In addition, offenders are more likely to participate in a treatment program tailored to address the reasons for sex offending. However, future reoffending was predicted by offence history rather than experiences of court or conference and for victims were mixed with Daly (2006) concluding that the primary benefit of a restorative conference is the early admission of guilt that a survivor gains when an offender participates in this program.

Conditions for success

The evidence suggests that restorative justice can be practised to good effect following sexual abuse; however, outcomes were seen to be contingent on particular conditions. These conditions are: specialism, which includes facilitator skill, knowledge and experience; vigilant use of screening (relating to suitability, not just eligibility); the use of experts (in sexual offending and the dynamics of violence) throughout the process; flexibility and responsiveness to participant needs; timing of the meeting appropriate to victim-survivor readiness; and for offenders, participation in a targeted sex offender treatment program.

FUTURE DIRECTIONS

In considering the way forward, the authors advocate that the following questions be examined:

- What is it that restorative justice offers?
- Is this a good match with the evidence on what victim-survivors, offenders and communities are seeking in a response to the harm of institutional child sexual abuse?
- What would it take for restorative justice to be practised safely and effectively in this sphere?
- Do we have evidence that suggests this is already occurring?
- What is it that restorative justice offers that is different from conventional legal system (or other) responses?
- What are the perceived barriers to using restorative justice to address institutional child sexual abuse?