

Te Ngāpara
Centre for
Restorative Practice



Restorative justice in cases of family violence and harm – Learnings from the Porirua Model

A report documenting experiences and
reflecting on achievements

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August 2023

Acknowledgements

I am very grateful to all those who have contributed to this research project. I would like to express my sincere thanks to all restorative justice facilitators and coordinators for openly sharing their experiences and perspectives with me. I would also like to thank Jon Everest, Associate Professor Jane Bolitho and Dr. Maite Irurzun Lopez for their invaluable constructive feedback and insightful comments on this report.

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Introduction

Prevalence and implications of family violence and harm

Family violence continues to be an issue of concern in a large number of countries, affecting individuals, families and whānau,¹ as well as communities and societies at large. This violence and harm can take many forms, including physical, sexual, and/or psychological abuse, typically involving fear, intimidation and emotional deprivation.² It can be understood as a pattern of controlling or coercive behaviour which can occur within a range of interpersonal relationships, in particular between partners or ex-partners,³ parents and children, or siblings.⁴

International data based on self-reported information estimate that 30% of women have been subjected to physical and/or sexual violence by their intimate partner at least once in their lifetime.⁵

In Aotearoa New Zealand, family violence and harm remain prevalent, mainly impacting women and children. Māori women are more likely to experience higher levels of violence and harm.⁶ This must be taken into account in the broader context of colonisation and its impact over time, including on disruptions of “everyday practices of Māori that helped to protect members of the whānau against social issues, such as domestic violence”.⁷

¹ The term whānau has a broader meaning than the Western understanding of the immediate family.

² Ministry of Social Development 2002, p. 8; Family Violence Act 2018, Sect 9.

³ Referred to as intimate partner violence (IPV).

⁴ Violence against a sibling, child, parent, or other family member is referred to as intra-familial violence.

⁵ WHO 2021. The analysis is based on prevalence data from 2000-2018 across 161 countries and areas.

⁶ Māori are more than twice as likely to experience a violent interpersonal offence by an intimate partner, see Te Puni Kōkiri 2017.

⁷ See King and Robertson 2017, p. 216.

As most incidences of family violence are not reported to the police, it is difficult to assess the true extent of family-related violence.⁸ In 2020/21, the police recorded about 155,000 family violence-related investigations, which represented 16% of all frontline activity.⁹ It is one of the main areas for police activity. According to the New Zealand Crime and Victims Survey (2023a), 24% of females and 10% of males reported that they had experienced intimate partner violence in their lifetime.¹⁰ Even higher prevalence rates are evident in studies carried out by Fanslow et al. (2021), with 30% of women reporting having experienced at least one act of physical IPV in their lifetime,¹¹ and one third of women reporting a lifetime of psychological abuse.¹² This research found increased lifetime experience of controlling behaviour by a male partner between 2003 and 2019.

Family violence and harm carry a wide range of psychological consequences, including ongoing emotional distress, fear and trauma. Those impacted by violence and harm have a need for safety and want the violence to stop. They also need to have their experiences validated and seeing those who perpetrate family violence and harm having to account for their actions. Victims' further needs include the opportunity to be heard and to have a voice in the process of resolution. This would contribute to a perception of fairness and feeling empowered.¹³

Victims may find it challenging to navigate through the fragmented legal systems and have their needs appropriately met. Among other factors, such as the risk of re-victimisation, experiences in legal systems can contribute to

⁸ It is estimated that only 33% of family violence incidents are reported to the police. NZ Crime and Victims Survey 2021.

⁹ New Zealand Police 2021, p. 6.

¹⁰ Ministry of Justice 2023a, p. 4. At the international level, 2018 global estimates show that 26% of women aged 15 years and older have been subjected to physical and/or sexual intimate partner violence at least once in their lifetime, WHO 2021, p. 5.

¹¹ Fanslow et al. 2021a, p. 5.

¹² Fanslow et al. 2021b, p. 7. 33-34% of women reported having experienced at least two acts of psychological IPV in their lifetime.

¹³ See for example Van Camp and Wemmers 2013; Daly 2017; McGlynn et al. 2017.

their disempowerment.¹⁴ Victims of family violence do not necessarily want criminal sanctions against the perpetrator, particularly in cases of ongoing relationships and shared parenthood. Such action might negatively impact the partnership or familial situation, and it is doubtful whether it would transform the behaviour of perpetrators if it were not combined with effective support/therapeutic interventions.

Besides the victims themselves, there is also a need to provide support for families and whānau who have been impacted by the violence and harm. Helping them to mobilise their own resources is crucial in developing longer-lasting responses to address the violence and harm, and promoting ongoing support wherever needed. The need for ongoing support for families has been well documented.¹⁵ Whānau- and family-centred approaches provide the potential to strengthen the support around the primary parties (victims and perpetrators) in a sustainable and collaborative way. This approach may transform the behaviour of perpetrators.

In response to the high rates of family violence, as well as a fragmented system,¹⁶ legal and policy related reforms carried out in Aotearoa New Zealand in the last decade sought to promote integrated, systemic responses to family violence and harm. Several models focusing on inter-agency collaboration had been established. Such initiatives include the family violence Integrated Safety Response (ISR), a multi-agency intervention to ensure the immediate safety of victims and connect perpetrators to appropriate services, and the Family Violence Interagency Response System (FVIARS), a multi-agency model for responding to family violence incidents.¹⁷

¹⁴ See Behrens 2005.

¹⁵ See for example Allen and Clarke 2017.

¹⁶ See Herbert and Mackenzie 2014.

¹⁷ See Mossman et al. 2019; Wehipeihana 2019. For an overview of research on experiences of the family violence system in Aotearoa see Carswell et al. 2020.

In the context of Aotearoa New Zealand, the need for holistic, collaborative responses to family violence and harm that also address the needs of Māori and Pacific peoples has been emphasised widely.

At the Court level, specialised Family Violence Courts have been established since 2001 to provide for more coherence and a more effective way of resolving family violence cases, based on close cooperation with community stakeholders. Key objectives include improving safety for victims and ensuring offenders' accountability, providing support for those affected and reducing re-offending.¹⁸

Restorative approaches to family violence and harm

During the last several decades, restorative approaches have become more prominent in responding to family harm and violence in various countries. Such approaches seek to address in a safe way the needs of those harmed by bringing together the direct stakeholders to determine how best to repair the harm caused by offending behaviour.¹⁹ In the context of family violence, specific prerequisites must be met to ensure restorative justice meetings provide a safe environment. These relate inter alia to the design of the process and the skills of the facilitators. Restorative justice processes in this sphere need to be victim-driven and victim-centred.

In Aotearoa New Zealand, restorative justice in cases of family violence, commonly used at the pre-sentence level, was officially recognised in 2013 with the release of specific standards.²⁰ Most commonly, cases involving adults who have pleaded guilty are referred by the courts at the pre-sentence level to restorative justice. The standards refer to intimate partner violence,

¹⁸ See Allen and Clarke 2021, p. 13. From 2001 to 2009, eight Family Violence Courts were established in Aotearoa New Zealand.

¹⁹ McCold and Wachtel 2011, p. 111.

²⁰ Ministry of Justice 2013. In 2018, the Ministry of Justice updated the practice standards in family violence cases (2018b).

child abuse and neglect, and intra-familial violence, which includes elder abuse and sibling violence. In 2014, specialist accreditation of restorative justice facilitators for family violence was introduced. Prior to 2013/2014, restorative justice had been applied cautiously in the context of family violence due to concerns over victim safety. Since an amendment to the Sentencing Act 2002 in 2014, the number of cases referred to restorative justice conferences, including family violence cases, has increased significantly.²¹ This legal reform also aimed to improve victims' access to restorative justice.²²

There has been an increase in research into the use of restorative justice in cases of family violence and harm. This has resulted in some promising findings, but it must be noted that most of these studies were based on small samples which limits the generalisation of the findings.

A growing body of research has highlighted the potential contribution restorative justice can make in addressing the (justice) needs of victims of family violence, including improving victims' safety, providing a sense of closure and empowerment.²³

Research aimed at comparing 'batterer' intervention programmes with a restorative justice-informed treatment approach using circles of peace in the context of family violence in the USA found that interventions based on restorative justice contributed to a reduction of harm caused to victims.²⁴ Over a period of two years, the harm victims experienced was reduced to half, compared to the standard treatment.

²¹ The number of referrals increased significantly from 3,998 in 2014 to 12,123 in 2015, Ministry of Justice 2020b, p. 3. In 2019/20, approximately 10,000 cases were referred to restorative justice providers, Ministry of Justice 2020a, p. 34.

²² It requires that, in eligible cases, proceedings must be adjourned to consider "whether a restorative justice process is appropriate in the circumstances of the case, taking into account the wishes of the victim", section 24A (2) (a).

²³ See Pennell and Burford 2000; Kingi et al. 2008; Pelikan 2010; Lünemann and Wolthuis 2015; Gavrielides 2015.

²⁴ Mills et al. 2019.

In Aotearoa New Zealand, the most recent Restorative Justice Victim Satisfaction Survey (2023) revealed that the majority of victims in family violence cases expressed satisfaction with the restorative justice conferences. Specifically, 78% of male participants and 74% of female participants indicated being either very or fairly satisfied with the restorative justice conference.²⁵ However, this percentage is lower than the satisfaction rate in 2018, which stood at 87%.²⁶ The 2018 survey further showed that about three-quarters (76%) of victims said they felt better after participating in a restorative justice conference.

Research by Kingi et al. (2008) highlighted the potential of restorative justice interventions in family violence cases to increase victims' safety and reduce the violence.²⁷ Almost one-third of the interviewed victims (n=19) mentioned that the violence had stopped, and 37% reported that it had partly stopped.

An evaluation of the Mana Restorative Justice Programme for family violence considered the services provided to be in line with restorative justice best practice.²⁸ It contributed to victims' emotional and physical safety and participants' satisfaction. Further findings refer to the programme's positive impact on the offender's level of assuming accountability and reoffending, i.e., a reduced level of reoffending compared to that before the process.

Further empirical research on restorative justice (victim-offender mediation) in cases of intimate partner violence carried out in Austria highlighted predominantly positive findings.²⁹ The research revealed that restorative justice interventions contributed to women's empowerment and, to some extent, to processes of change in intimate relationships. 83% of female

²⁵ Ministry of Justice 2023b.

²⁶ Ministry of Justice 2018a. The Restorative Justice Victim Satisfaction Survey (2021) did not cover family violence cases.

²⁷ Kingi et al. 2008.

²⁸ Tisdall et al. 2007.

²⁹ Pelikan 2010.

respondents did not experience any further violence after the restorative encounter, whereas 8% suffered repeated victimisation. The majority of women who did not experience further violence (80%) believed that victim-offender mediation had contributed to the prevention of further violence and harm.

A replication of a study on reconviction conducted by Hofinger and Peschak (2018)³⁰ in Austria found that recidivism rates for perpetrators participating in victim-offender mediation had been lower compared to a study undertaken 10 years earlier (13% vs. 16%).³¹ In cases of intimate partnership violence, the latest research (2018) revealed that reconviction rates for offenders were only 12% over a two-and-a-half-year observation period.

Role of support persons

In Aotearoa New Zealand special requirements are in place to provide support to the primary parties in incidents of family violence and harm. The Ministry of Justice Restorative Justice Standards for Family Violence Cases require at least one support person for each victim and offender to be present at a conference in order to extend the network of support and remove family violence from the private sphere. Support persons for victim-survivors and offenders are often friends or family members, professionals, such as social workers and counsellors or community volunteers.

To date, there is a dearth of research referring to the role of supporters in the context of restorative processes and family harm. Identified studies covering

³⁰ Hofinger and Peschak 2018, p. 18 ff.

³¹ The reconviction rate following participation in victim-offender mediation was significantly lower than the reconviction rate following a sentence imposed by the court. Compared against cases of assault (which was the most common offence in victim-offender mediation cases), the reconviction rate following a court sentence, as shown in the official reconviction statistics, was in average more than three times higher.

this theme have emphasised the importance of social support for the primary parties.

International research has highlighted the valuable role support persons can play for victims and offenders in family violence cases and beyond. A study on restorative circles in cases of intimate partner violence underlined the value of social support for victims who participated in support circles, i.e., contributing to restoring relationships with family members.³²

For offenders, the presence of support persons has been considered to provide the potential to increase accountability and contribute to behavioural changes.³³ Moreover, reparative actions such as apologies were more likely to have a greater effect when witnessed by supporters, including the offender's family.³⁴ The role of support people has also been valued for encouraging the parties in the follow-up phase and monitoring agreements made.³⁵

Regarding factors contributing to successful processes of change in therapeutic programmes, research has indicated the significance of extra-therapeutic factors. Evidence suggests that 40% of positive change outcomes are attributed to aspects including the client's strengths, resources, motivations and social support, while the intervention model played rather a minor role.³⁶ Cagney and McMaster emphasise the benefits of integrating social support, i.e., relationships, family and community into practices of accountability. Hence, existing findings emphasise the benefits of integrating social support in intervention programmes.

³² Gaarder 2015, p. 361.

³³ See Hayden 2010, p. 197 for further references.

³⁴ See McMaster 2014 p. 103 f.

³⁵ See for example Shapland et al. 2007, p. 49.

³⁶ See Miller et al. 2004; Cagney and McMaster 2013a on further reflections on the effectiveness of men's intervention programmes.

The Porirua Model for using restorative justice in cases of family violence

Describing the approach

This study provides insights into a local initiative in the greater Wellington region coordinating restorative justice with family violence programmes.

In 2016, a pilot was launched at the Porirua District Court to implement a new model for using restorative justice in the context of family violence. The Porirua District Court is one of the specific Family Violence Courts that have been established in Aotearoa New Zealand. The decision to focus on the Porirua Court was mainly due to the judicial support available as well as the police being open to information sharing and making available the relevant reports. Furthermore, the court was close to four family violence programme providers.

Key stakeholders of the project included Community Law Wellington and Hutt Valley, the Porirua District Court, family violence providers and the police in Porirua. Community Law Wellington and Hutt Valley provides restorative justice services to the Wellington, Hutt Valley and Porirua District Courts.³⁷

Key goals of the model

Overall, the model seeks to enhance best practice in the complex and controversial area of restorative justice and family violence. It includes the following key goals:

³⁷ Memorandums of Understanding on information sharing and collaboration were signed with key stakeholders, including family violence providers in Porirua.

- To provide (pre-sentencing) restorative justice in family violence cases in a way that is better coordinated with other interventions available through the Porirua District Court.
- To build open, collaborative and effective relationships between the restorative justice provider and family violence agencies in which information is freely shared so that screening and other decision-making is based on the best knowledge available.
- To enhance the understanding of, and respect for, the contribution restorative justice can make in redressing family violence on the part of all stakeholders involved – the principal parties, family violence professionals, the judiciary and the wider community.
- To provide a high quality, safe and responsive restorative process that meets the ‘justice needs’ of the participants, both at the time of the conference and over the follow-up period.

Key features of the model³⁸

- **Information sharing:** Facilitators have access to case information held by police and family violence agencies and are able to use it in screening participants and making decisions about how to proceed.
- **Flexibility of timing:** With the active cooperation of the court, facilitators are able to choose the time when a restorative justice conference is most appropriate for the parties. Rather than always occurring at crisis point (viz., soon after the offence and guilty plea in court), the conference ideally takes place after other therapeutic/support interventions, such as non-violence programmes, have been completed (viz., at the resolution stage). In scheduling the conference, each referral is judged on its own merits.

³⁸ The Diana Unwin Chair in Restorative Justice 2016.

- **Collaborative engagement:** Facilitators seek progress reports from police and those family violence professionals working with participants in order to assess when restorative justice processes might be appropriate. Where possible and appropriate, these professionals will be invited to participate personally in the conference and follow-up, so that the benefits of restorative justice are integrated with other treatment interventions. Other relevant professionals may also be involved. A key goal of the model is to build trust and confidence between restorative justice practitioners, police, family violence agencies and other agencies working with families.
- **Extended oversight:** By widening the circle of those involved in the restorative justice process, both of professionals and community/whānau representatives, the model seeks to extend the ‘cloak of safety’ beyond the conference, especially in terms of ensuring ongoing compliance with safety plans.
- **Judicial support and cooperation:** The model involved a close working relationship between the Restorative Justice Coordinator at court and judges and court officials. The court accepts guidance from restorative justice practitioners as to the suitability and timing of the conference and it lends its authority to allow suitable arrangements to be put in place.

Processes used within the model

This part outlines the processes used in Porirua for cases of intimate partner violence (IPV) and intra-familial violence (IFV) (see appendix).

In cases of intimate partner violence, at first court appearance, contact with the parties is made by the Restorative Justice coordinator (the RJ coordinator), after having identified potential restorative justice cases. Risk assessment is ideally carried out on the day of first court appearance, explaining the idea and process of restorative justice and clarifying that the

process is different from counselling and that these processes complement one another.

In appropriate cases, the judge refers the offender to a non-mandated stopping violence programme and will give a six-week monitoring date to ensure that the offender has engaged with the programme. The RJ coordinator contacts the family violence provider to let them know that restorative justice might be considered for the offender. Depending on their needs, the offender would complete a 12-to-18-week programme.

On a case-by-case basis, the court determines which is the most suitable provider for the offender, considering the offender's needs, demographic factors, residence, age group, culture, and language. The RJ coordinator will provide information to the judge to help them determine the most appropriate programme.

A few weeks after the offender has engaged with the family violence provider and started the stopping violence programme, the RJ facilitator contacts the FV agency to discuss the appropriateness of the restorative justice process. In appropriate cases, restorative justice can commence in parallel to the non-violence programme.

Regarding information sharing, the family violence programme facilitator completes a progress report including information about shifts in the offender's behaviour and thinking patterns and sends the report to the court. With the consent of the offender, the report is shared with the RJ facilitators.

At the next court appearance, the RJ coordinator informs the court whether a referral to restorative justice is considered appropriate or not (yet) appropriate. If appropriate, the judge remands the case for several weeks for monitoring. If a referral to restorative justice is not yet considered to be appropriate, the possibility will be explored at the next court appearance. In case a referral is deemed not to be appropriate, the process ends at this stage.

In suitable cases, after referrals have been made, the RJ coordinator contacts the police family safety team for the family violence-related reports. Based on information in police reports, court documents and the family violence progress report, RJ facilitators assess whether a case is suitable for restorative justice or not.

RJ facilitators may contact the FV professional to explore further engagement in the process, i.e., support for the offender in the restorative justice conference.

Pre-conferences with the victim and their support, followed by pre-conferences with offenders and their support are held. The number of pre-conferences depends on each case. Restorative justice conferences involving the support people, if appropriate also the family violence professional, take place.

After completion of the restorative justice process, the offender is sentenced in court. The judge must take any restorative justice outcomes into account when deciding the sentence, according to the Sentencing Act. Anecdotally, it is observed that judges positively articulate the impact of restorative justice conferences when sentencing.

In case the offender does not agree to the referral, a referral is not deemed appropriate, or, if the offender begins but does not complete the programme, the court process continues.

In cases of intra-familial violence, the court would not refer the case to any programme or intervention, but if considered to be of benefit, the Restorative Justice provider could request a referral, usually to one-to-one counselling. If a referral is made, the process is the same as described above. Otherwise, a referral is made directly to the RJ provider, and the case is remanded for six weeks.

Cases of intra-familial violence such as sibling violence were also included in the model as restorative justice facilitators and family violence professionals noted that in some instances, coercive control was ongoing in the relationship between family members, and a referral to stopping violence programmes would be of benefit for offenders and their families.³⁹

³⁹ See Appendix, Family violence referral process document.

Methodology

Key research questions

This study aims to document experiences with the Porirua model and reflect on its main achievements, challenges and implications for future practice.

The following key questions were developed to guide the research:

1. What were the motivational drivers for creating the model?
2. How has the model added value to restorative justice processes in family violence cases? What were the key strengths identified?
3. What were the main challenges encountered?
4. What are the recommendations for policy and practice?

First, it needs to be acknowledged that the model was launched as a pilot in 2016 and was meant to be evaluated by assessing 20 case referrals. However, the Ministry of Justice was reluctant to endorse this as a 'pilot' given the expectations that this might create, leading to it being renamed the 'Porirua Model', and it did not support the inclusion of Ministry of Justice-funded stopping violence programme facilitators in restorative justice conferences. Furthermore, the number of cases referred to restorative justice over the first two years was low due to capacity issues. Therefore, the research was adapted and focused on assessing the value of the model and challenges encountered by restorative justice professionals over a three-year period. Restorative justice facilitators and coordinators were interviewed on their perspectives on and experiences with family violence restorative justice within this model.

Research design and goals were discussed with Community Law Wellington and Hutt Valley, which in turn has worked collaboratively with courts, police, family violence providers and iwi organisations in developing the model.

Data sources

The study is methodologically based on qualitative analysis. Twelve in-depth semi-structured interviews were conducted with nine restorative justice practitioners - facilitators and co-ordinators. Nine interviews were held face-to-face, two via Zoom and one by telephone. Further, one focus group with four restorative justice practitioners⁴⁰ was carried out.

Interviews and the focus group were centred around main themes such as the motivation to establish the model, professionals' experiences with family violence cases, collaborative relationships, benefits and challenges arising from the model. Questionnaires tailored to the different sets of participants – focus group participants, restorative justice facilitators and coordinators - were developed to guide the conversations.

The average interview length was 45 minutes, and the focus group was held for two hours. The interviews took place in Porirua, Tawa and Wellington, and the focus group was conducted in Wellington. Interviews and focus groups were digitally recorded and transcribed, based on interviewees' and focus group members' permission. In one interview, handwritten notes were taken.

The research was complemented by numerous informal discussions with project stakeholders and restorative justice practitioners from which notes were taken. The themes discussed in the meetings focused on the above-mentioned research questions. Additional information was gathered from observation of court proceedings at the Porirua District Court.

Data were collected over the period from July 2017 to May 2020. Analysis and reporting took longer than initially expected, partly due to challenges such as a longer time than expected to handle cases, capacity issues, and Covid-19 associated effects and stresses. Despite the data collection dating back, the

⁴⁰ Two of the focus group members had also been interviewed face-to-face.

validity of the findings has been affirmed through informal discussions with practitioners. However, it is important to acknowledge that the generalisation of the findings is limited by the small number of participants included in the research study.

Data were analysed thematically using NVivo software. Ethics approval for this research was granted from Te Herenga Waka – Victoria University of Wellington’s Human Ethics Committee.

Research findings

Motivation to create the model

This section aims at setting the background and providing an understanding of the further research findings. It illustrates the reasoning behind the model and presents the main aspects that led to establishing a novel restorative approach to family violence and harm.

In particular, the idea to develop a collaborative approach was driven by the desire to handle family violence restorative justice cases more safely and at the most appropriate time for the parties given the other justice interventions being applied. This part presents the key motivating factors underlying the Porirua Model.

Lack of consistency - diverging practices across the country

Regarding the use of restorative justice in the family violence context, practitioners noted a variety of practices developed across the country. They felt this was mainly due to a lack of clear guidance around processes. Several participants thought that the restorative justice standards for family violence cases could provide more in-depth information on how processes should be conducted, e. g. more specific information on the role of facilitators, risk assessment, types of safety plans as well as the involvement of support persons, but also the overall positioning of restorative justice in this area. As a result, professionals found it challenging to ascertain what constituted best practice.

What was the role, what was the task, what was the kind of risk assessment, what was the nature of the work that was going to be done under the heading of restorative family violence? (focus group participant)

Notably, disparities in practice became evident in how police shared information to restorative justice providers. For example, certain restorative justice providers in the country were granted access to police family violence-related reports, which provided information about the harmful incident and risk assessment. In most parts of the country, though, there was little information sharing with police. Prior to initiating the Porirua model, stakeholders reported that they had no access to information beyond the police summary of facts.

Family violence [restorative justice] facilitators were saying, ‘Well, we don’t have this information, we should really have this information here, or we should know what the police knows, and we should have networks in the community, just to make it safer for everybody’. (focus group participant)

Several family violence-accredited facilitators expressed concerns about the wellbeing and safety of parties, in particular victims, in the restorative process, and strongly felt the need for a change in the approach. Thus, stakeholders endeavoured to acquire more knowledge and develop best practices in the field, with consideration for the safety of the victim throughout the process.

Capacity issues - lack of experience in handling family violence cases

Most respondents expressed concerns that the existing system was driving behaviour that led facilitators to take on cases even if they lacked adequate qualifications. Particularly after legal reforms in 2014, which led to increased case referrals to restorative justice, facilitators felt the pressure to respond to the high demand and thus focused on ‘quantity over quality’.

Due to a lack of specialised training, restorative practitioners were confronted with the challenge that only a small number of accredited family violence

facilitators or those with a family violence background were available to handle such - often complex – cases efficiently.

The fundamental issue was one of capacity. Any proactive sense beyond putting pressure on people, but how do you actually get this product of the skilled and trained facilitators that pops up when you do the work? Particularly there is no training course around family violence, there is not even a pathway indicated... (focus group participant)

In designing the model, a crucial aspect was working out how to enhance capacity issues and provide support for facilitators who did not have extensive experience with family violence. Stakeholders decided to establish regular meetings with experienced facilitators to work out best practice and provide mentoring to support facilitators in their day-to-day practice.

Need for inter-agency collaboration

Establishing collaboration with other stakeholders, especially family violence providers, emerged as one of the critical factors when considering best practices and addressing the issues of *deficiencies and trust between the restorative justice sector and the family violence sector*, as noted by a participant. Key stakeholders actively sought ways to position restorative justice effectively, complementing existing family violence work, and maximising its benefits through collaborative processes, rather than being seen as a service in competition with family violence programmes.

Creating closer collaborative relationships with family violence providers hinged on several significant factors, such as the need to enhance communication, share relevant knowledge, and extend the external oversight of processes to ensure good practice. Respondents described the current system as fragmented and siloed, making it essential to address these issues to foster more effective collaboration. Concerning external oversight, within

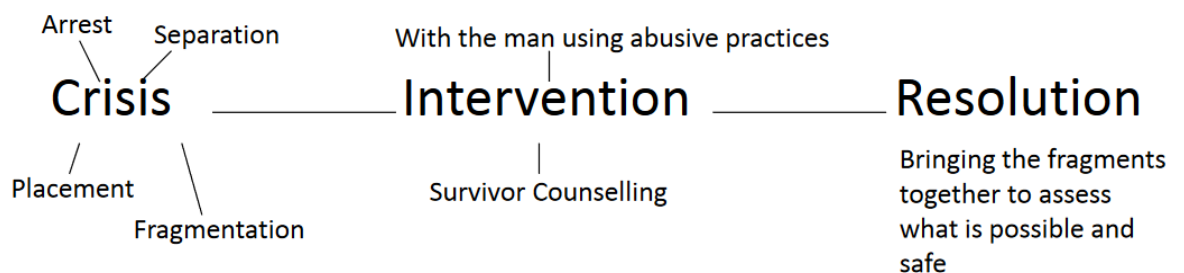
the scope of the model, it refers particularly to watchful oversight by professionals, such as social workers, or by family members who have participated in the restorative justice conference.

Appropriate timing of restorative justice interventions

The family violence sector’s criticism of early restorative justice intervention, suggesting that it could reinforce and legitimise the cycle of violence, was taken into consideration. It was noted that offenders would typically assume accountability at a later stage, after completing the stopping violence programme.

In developing the collaborative approach, key stakeholders referred to a model developed by Ken McMaster and Mike Cagney (2012):

Phases of IPV intervention work:



©Ken McMaster and Mike Cagney 2012, cited in Cagney and McMaster 2013b.

The crisis-intervention-resolution model identifies three key phases. During the crisis phase, individuals experience abusive practices, leading to the engagement of statutory and/or intervention services. This phase is followed by a period of individual interventions, such as voluntary support programmes for survivors and mandated stopping violence programmes for offenders. In the final re-resolution phase (intentionally broken down into two words

re + solution), the emphasis shifts towards promoting accountability and developing options to prevent future harm and abuse.⁴¹

Respondents raised concerns about the appropriateness of restorative intervention during the 'crisis stage', noting that it might be too early for meaningful engagement, as participants may not be adequately prepared for the restorative process. Practitioners observed that the level of accountability by the offender was often relatively low at the crisis phase and even in the early part of the intervention phase.

Therefore, the resolution phase was identified as the most promising time for restorative justice, aligning well with restorative values such as the assumption of accountability. In this phase, the parties could receive assistance in developing a plan for the future.

Engaging the family violence provider in the process

Bringing the family violence providers, and other agencies providing support, into the restorative justice process was meant to contribute to an integrative, holistic approach. The underlying thinking was that the family violence expert already knew the offender through the programme work and had established a level of trust. Therefore, in the restorative conference, the expert could be *an accountability kind of figure... giving them gentle reminders, by their very presence*, as one participant pointed out.

Another aspect referred to future planning and support. Family violence experts, being part of the restorative justice process and aware of the family safety plan agreed upon, would be able to provide ongoing support.

⁴¹ Cagney and McMaster 2013b.

Instead of judges deciding whether a case would go to restorative justice or a family violence programme, the idea was to move away from an 'either/or choice' and bring together both components while trying to establish relationships and trust between agencies. The aim was to develop an integrative, resource-focused approach to ensure that family violence expertise would inform the whole response provided to the parties and their families.

The approach to creating the model embodied restorative principles through active engagement with relevant stakeholders in a participatory process. Considerable preparatory work was undertaken, including several large meetings with family violence providers and other stakeholders such as police and court staff, as well as many one-on-one conversations. Despite requiring considerable time, it was considered a very productive participatory process that provided a space to address family violence professionals' concerns, and to establish and deepen trust among stakeholders.

How has the model added value to restorative justice processes in family violence cases? What were the key strengths identified?

Integrating restorative justice with therapeutic/support interventions

Restorative justice facilitators observed various benefits for offenders after attending stopping violence or other therapeutic/support programmes. Usually, intimate partners would engage separately in their programmes. In some cases, couples had participated in counselling programmes.⁴²

⁴² The parties do not have to pay for attending the programmes.

Facilitators stated that often, perpetrators were committed to the programme after having connected with the stopping violence provider, finding the programme useful, and appreciating the support they had received.

He actually at the end said, 'This has been good, I would like more of this.' So coming from a position of a male saying 'I don't need that stuff, I'm okay, I'm cool, to him saying 'That's really good and helpful for me, that was a good win'. (interviewee)

Facilitators highlighted the parties' progress achieved during the therapeutic/support interventions they had commenced before the restorative justice process. This supported them in gaining confidence in themselves, realising their needs and goals for the restorative process and, importantly, for the future.

Therapeutic/support interventions impacted on the offenders' engagement in restorative justice, paving the way for a meaningful restorative justice dialogue. Many practitioners observed that offenders expressed a desire to change and learn new coping mechanisms to lead a more constructive life. Several respondents noted a transformation in the offenders' thought processes as they began to reflect on their past behaviour.

These restorative justice conferences enable us to see them in their best, most reflective, most human, most compassionate, most aware realities. Even if it's a short glimpse it's kind of enough for them to say 'I can do this and I can do this more often'. (interviewee)

In one instance, the facilitator reported that an initially depressed and suicidal offender experienced remarkable progress after participating in a stopping violence programme. Not only did the offender's mental health improve, but he also demonstrated greater remorse and readiness to engage in a restorative process with the victim.

The respondents noticed a positive synergy between the participation in the therapeutic/support programme and the restorative process. Facilitators observed that offender's participation in these encounters contributed to instigating behavioural change processes, at least to some extent. This was evident through the offenders' increased awareness of the harm they caused to the victim. Moreover, offenders exhibited changes in the way they communicated, showing more empathy towards victims and refraining from minimising the harm caused. As the process unfolded, greater levels of self-awareness were noted, leading the offenders to take more responsibility for their actions.

The victim was saying that what she noticed when he was coming back from his Living Without Violence course was, he was becoming more empathetic towards her ... the facilitator would get him to sort of put her shoes on and he would discover that actually he could see how she would feel about a behaviour. She said he was a lot more respectful, a lot kinder. (interviewee)

Several respondents also pointed out that, after gaining trust in facilitators, offenders started to show their vulnerability. Some practitioners considered vulnerability an essential aspect of human development and personal growth, emphasising its beneficial impact on the progress in the restorative process. They also noted that exposing vulnerability was positively acknowledged by other participants.

Regarding victims, restorative justice processes provided them a safe space to be heard and express their feelings and needs, which is known to have therapeutic value. According to restorative practitioners, victims were found to experience more positive relationships and gained clarity on how their relationships would evolve in the future. Furthermore, the support offered by family, friends and/or professionals was found to be of benefit and enhanced the safety of victims. According to practitioners, hearing the offenders explain

their behaviour and express more remorse had the potential to empower victims.

For families and whānau, facilitators reported that restorative justice processes contributed to enhancing reflection and allowed them to think about future options more creatively.

It provides a safe space to be self-reflective as a family and as the participants to reflect deeply on what is going on, what is triggering, how they're responding and most importantly I suppose what it is that they really want in an ideal situation and help them realise some of those ideal scenarios. (interviewee)

Another beneficial aspect regarding the synergy between the programme work and restorative justice interventions refers to safety plans. Prior to a conference, each party had 'their own' safety plan developed within programme work. After a successful restorative justice conference, parties have a 'joint' plan, taking into consideration how children of the relationship will be kept safe. This links to family matters being processed through the Family Court: At present there is no formal connection on these proceedings, even though they may be proceeding in parallel.

In certain instances, family violence providers participated in restorative justice conferences, to support the process, and to hold those responsible for causing harm to account. The engagement of these counsellors, built upon a deep understanding of the restorative process and values, along with genuine commitment to restorative justice, has proven very beneficial for the restorative encounters. According to restorative justice practitioners, the involvement of family violence experts also played a crucial role in monitoring the agreement reached during the conference. However, it is important to note that direct involvement in the conference was limited to only a few cases due to resource constraints from the Ministry of Justice (see below).

Case example

In one case, a facilitator reported on the transformative effects of a restorative dialogue that occurred following a programme intervention. The restorative encounter enabled a deeper process of reflection and healing and paved the way for enhanced future engagement. The case involved a couple who had separated after multiple incidents of physical assault. Before participating in the restorative justice conference, the couple attended nine counselling sessions, however, they had not yet addressed the impact of the harmful behaviour.

During the conference, the victim was able to express, for the first time, the deeper impact of harm caused by the offender. The offender, in turn, offered a sincere apology. The restorative dialogue was instrumental in fostering a positive change in the relationship between the parties. Both individuals had their respective supports, and the victim was able to engage with a reliable support person who became a strong anchor in moving forward.

The facilitator highlighted the beneficial impact of the restorative dialogue on the parties, which became evident in the follow-up reflection after the conference:

And afterwards when I spoke to both parties, he said 'I'd never heard her explain or say how much it had impacted her', and her comment was 'He'd never actually apologised and acknowledged for what he'd actually done'. So while they had nine sessions of couple counselling, they had never gone into what had actually happened. Him listening to the actual impacts and him acknowledging what he'd actually done and then both having time to reflect on what that meant and that seemed to be significant for both parties. ... They both cited it as being significant in helping them to make another step forward with regards to how their future might be together and even clarifying boundaries...

We talk about restorative justice being a chance where we take the wound off and we really clean the wound, it hurts, ... and this was a real chance where it was like a little stone for each of them was washed out and it left a space for better healing, so a clean wound to then heal.

(interviewee)

Value of involving support persons

One of the prominent themes that emerged from the interviews relates to the significance of involving support persons for both victims and offenders in restorative processes. The facilitators ensured that supporters for both the victim and offender would participate in a restorative justice conference, in line with the Ministry of Justice restorative justice specialist standards in family violence cases.

The respondents emphasised they would only proceed with a conference if support people were part of the restorative justice process. They highlighted the positive impact it had on the entire process, and, importantly, on its aftermath, by bringing supporters into the conversation.

Inviting support people into the process was considered essential because primary parties often lacked strong connections in the community and, to varying degrees, were socially isolated. Therefore, strengthening their networks and helping them to (re-)establish social connections was deemed crucial in expanding their resources. Providing this additional support, both during the restorative process and afterwards, bolstered the primary parties' confidence to seek assistance from others when needed.

There's something about ongoing support, about the isolation of some of these families, about community, about lack of ability to build, support relationships around themselves. (interviewee)

The support people often included family members, friends, or professionals like social workers, family violence specialists and mental health counsellors. In cases where the primary parties lacked strong support from family and friends but maintained positive relationships with professionals such as social workers, facilitators made efforts to engage these professionals to provide trustworthy support to the parties. One facilitator summarised the role of supporters as follows: *They are there to share the journey and to be part of witnessing the outcomes and then to help ensure that those outcomes carry on....*

They [the support persons] were very measured and quite wise in what they said, very discerning in what they said,... it was good. The support people are a key thing. (interviewee)

Moreover, supporters played a significant role in monitoring the agreement, assisting the parties in taking positive steps, and thereby contributing to a safer environment for families and whānau.

Facilitators emphasised the importance of finding *suitable* supporters for both parties, even though it required (often) considerable time and effort. It became evident that if any concerns arose regarding suitability, facilitators would openly discuss them with the party and assist them in finding ‘the right person’.

We have to be prepared where we find that a support person isn't really going to be suitable, we need to prove, have the guts to say, ‘you need someone else to support you’, and help them come up with more suitable support. (interviewee)

According to accounts from several practitioners, some victims initially resisted the idea of including support persons, as they preferred to keep their problems private. Some victims were hesitant to involve family members due to a history of family violence. However, in several cases a positive shift

occurred when victims realised that the circle of supporters could be expanded to include friends who were aware of the harmful situation and their needs. This realisation made victims more receptive to seeking such support.

Moreover, it is worth noting that several practitioners sought to move away from a single-sided support approach, shifting towards a more family-centred and holistic perspective. This aligns well with Māori and Pasifika values, which emphasise a collective, whānau-centred and inclusive approach to conflict resolution and support.

Value of inter-agency collaboration

Respondents highlighted the benefits of inter-agency collaboration and information sharing with key stakeholders, including judges, police and family violence providers.

Judicial support and cooperation

Judicial interest and leadership was one of the crucial success factors in developing more integrated and effective practice across the sector. Cooperative relationships with the court were found to be effective and positive. The Porirua Court was considered well organised and remarkable regarding information-sharing and cooperation. Referrals were made swiftly to restorative justice, so participants would have sufficient time to prepare over the monitoring period and take part in therapeutic/support programmes before the next court date. Referral forms contained all the necessary information for restorative justice to commence in an efficient manner. It was also made sure that bail conditions were amended for restorative justice to proceed, which was not necessarily the standard at other courts.

Respondents highlighted that judges fully supported the model's underlying principles and implementation from the outset. Over time, judges have been able to enhance their understanding and knowledge of restorative justice,

enabling better-informed and needs-based decision-making. It was evident that judges recognised the benefits of combining the therapeutic/support and restorative approaches, and their confidence in matching specific family violence providers with restorative justice increased, leading to a more effective and consolidated court practice. It was said that some judges were known to refer more cases because they had a good knowledge of and confidence in restorative justice.

Respondents commented on how restorative justice has the potential to support judges in their decision-making process, as they gain more information and a deeper insight into the primary parties' situation. It was emphasised that the judges' enhanced understanding of the parties' circumstances could facilitate access to more effective support during the decision-making process.

...if they go through restorative justice, the judge at least then gets a window into what has been happening, whereas with couple counselling, they get no information. (interviewee)

Many judges at the Porirua Court expressed appreciation and provided positive feedback to restorative justice coordinators. Moreover, several judges became more pro-active in recommending it to the parties.

When it goes to conference, judges comment on how strong restorative justice is, the impacts it can have on whānau and friends as well as counsel... (interviewee)

Judges' increased familiarity with restorative justice also influenced their awareness of the appropriate timing of the restorative process. They recognised the importance of considering the offender's progress within their programme before initiating the restorative justice process.

Furthermore, it was observed that judges have shown a growing interest in the progress defendants make in stopping violence programmes over time.

Collaborative engagement with police

The respondents expressed overwhelmingly positive feedback about their cooperation with the police. Specifically, their interactions with the police family harm and safety team were described as very positive. They highlighted the prompt exchange of information and sharing of relevant documents.

Upon referral to restorative justice at the Porirua Court, the restorative justice coordinator would receive the family harm investigation report from the police family harm team. This report offers valuable insights into the history of harm, enabling a comprehensive understanding of the family dynamics and aiding the restorative justice provider in conducting a more informed assessment of the case. Respondents expressed satisfaction with the reliable access to these reports, emphasising its critical role in enabling the entire process.

Respondents further appreciated the support of the family harm team in providing additional information whenever required, such as regarding social support available to the primary parties involved in the case.

Additionally, the importance of information-sharing with the police in the context of risk assessment became evident. Being a dynamic process, risk assessment is relevant both at the offender's first court appearance and throughout their engagement in programmes and the restorative justice process to assess changes over time. While the initial reports provided by the police were crucial, several respondents highlighted that continuous conversations with the police throughout the entire process brought clarity to emerging safety issues, enhancing the effectiveness of the restorative process.

It is important to note that once the case is closed, there is no ongoing information exchange between the stakeholders. As a consequence, any incidents of violence occurring after the restorative process would not be communicated to restorative justice providers.

Collaborative engagement with family violence providers

As previously mentioned, one of the motivations behind developing the model was to foster collaborative relationships with the family violence sector, which was characterised as fragmented and siloed. In the initial stages, the emphasis was on establishing connections and building trust between restorative justice and family violence providers.

That linking, formalising that in terms of 'We're gonna work together in this' was really important, it wasn't there before. (focus group participant)

The feedback from respondents largely indicated positive perceptions of the collaborative relationships with family violence providers, with relevant information being shared. Furthermore, it was observed that as relationships strengthened, certain family violence providers began to identify cases they believed suitable for restorative justice. This shift can be seen as a promising sign of heightened awareness and a more collaborative focus. Throughout the interviews, it became evident that several family violence providers started recognising the value of integrating both restorative and therapeutic/support approaches, leading them to become more supportive of restorative justice.

In earlier days they might have been threatened by restorative justice, as if it was competing with what they would do. But now I think they've realised that it actually becomes like a graduation of individual work that is going on and then it comes the time to bring everyone together. (interviewee)

The closer we work with some of the providers, the more they're realising that we are able to complement their work.' (interviewee)

Aspects related to the restorative justice process

Motivation of the parties to engage in restorative justice

Regarding the motivation driving the primary parties to participate in a restorative justice process, numerous practitioners have highlighted the following underlying factors: the establishment of safety and the fostering of respect for victims in the future, the development of a comprehensive plan for handling ongoing relationships, be it as a couple, parents, ex-partners, or within the context of whānau, and the wish of victims for offenders to acknowledge the impact of the harm they caused and take ownership of their actions.

Furthermore, it has been observed that children frequently provide substantial motivation in the decision-making process regarding whether to engage in a restorative dialogue, as parents seek a safe environment for their children in which to grow up. In one instance, the birth of a newborn was the primary motivation for the parents to proceed with the restorative process and establish a foundation for their ongoing coexistence.

A baby was born very soon after the incident and I think that was a strong motivator for everybody to make sure that this couple stayed together and that the baby had all it needed for there to be a good start.
(interviewee)

Value of preliminary meetings

Interviewees stressed the significance of carefully conducted pre-conferences and the importance of thorough preparation to ensure the quality of the

restorative process's outcome.⁴³ This becomes particularly crucial given the complexity of family violence situations. In many cases, participants' lives had been affected by various challenging factors such as financial difficulties, substance abuse, mental health issues, and experiences of significant losses, both material and relational in nature. It was observed that the participants had often faced the daunting task of navigating through the welfare and legal systems, which further compounded their difficulties. As a result, they frequently lost trust in these systems and the professionals involved.

He's been through a whole lot of systems, he's not trusting, he's got his own view of the world and potentially quite defensive. He's also going through his own stuff, but somehow we managed to get his trust.

(interviewee)

A facilitator explained how, in one case, carefully conducted pre-conferences with each party allowed for the establishment of a relationship of trust with the primary parties. This approach paved the way for a promising dialogue in a situation where suicidal thoughts, aggressive behaviour and highly complex family dynamics were prevalent.

For me, it's more around the preparation that we do individually with them. It was just developing trust and creating a space where they could be open and vulnerable, and when you get to that stage, then you can feel confident that when you come together there will be a better outcome. (interviewee)

According to a restorative justice facilitator, as the primary parties gained a deeper understanding of their work, they began to place trust in the

⁴³ Once the referral to restorative justice has been made, facilitators have received all relevant information and assessed the suitability of the case, a pre-conference is held with the victim and supporters. The victim is always contacted first, as opposed to standard cases – the reasoning behind this is that from a safety perspective, it allows the facilitators to get the victim's perspective first and undertake their risk assessment.

practitioners, comprehending the nature of their role: *people are not threatened when they work with us once they know what we do.*

Establishing strong rapport and trust with participants was deemed essential, and this often required extended periods of contact, sometimes spanning several months. Additionally, preparatory meetings played a crucial role in solidifying and clarifying participants' motivations, while also increasing the awareness of needs of both victims and offenders.

I think it was really good that we tracked with them [participants] over a long period of time and were able to see some changes and some intentions. (interviewee)

According to practitioners, initial conversations hold significant potential for benefitting participants. For victims, these meetings not only serve as preparation for the process but also provide an opportunity to express their perspectives and describe how the incident has impacted them. Often, victims have experienced some level of trauma, and being heard has been found to alleviate some of their grief, being of therapeutic value.

Facilitators emphasised the importance of active listening, acknowledging, understanding, and demonstrating empathy and compassion towards the participants, aspects highly valuable for all the parties involved. In the restorative process, ensuring voluntary participation was underscored as one of the core principles by practitioners. They were mindful of the participants engaging willingly.

It was seeing and hearing him, we weren't trying to take him somewhere he didn't want to go, so it's voluntary. (interviewee)

Another critical aspect that emerged from the initial conversations was the opportunity for parties to receive advice and guidance for additional support whenever needed, thus extending the range of available options for them, beyond the immediate scope of the restorative process.

Agreed safety plans

In relation to agreed safety plans, facilitators emphasised the core object of ensuring safety and preventing harm. The plans considered preventative aspects, aiming to build a support system around the involved parties and address any potential harm at an early stage, especially when initial signs of conflict and harmful patterns emerged.

Agreements were tailored to address specific cases and focused on several key aspects, such as establishing effective communication, maintaining relationships (if desired), and addressing child-care and parenting matters. Safety plans sometimes included provisions such as attending ongoing stopping violence programmes, drug and alcohol counselling, couple counselling or parenting programmes. It is worth noting that in certain instances, the court may even mandate counselling sessions to alleviate the financial burden on the parties, enabling them to continue with their programmes without bearing the costs of organising sessions themselves.

Regarding co-parenting, respondents emphasised that women often wish their partners to actively participate in caring for the children, being responsible and available for them, rather than facing punitive measures.

She didn't want him to go to jail, she didn't even particularly ask for any community service or anything, it was more around 'I need you to be a father for these kids and to take up responsibility, I need you to be healthy...'. (interviewee)

What were the main challenges encountered?

Capacity - Lack of specialised training

One of the major concerns raised by respondents relates to the lack of specialised training for restorative practitioners on family violence and its dynamics. This is particularly important in light of the ongoing high rates of family violence and harm in the country. In practice, restorative justice facilitators often do not have extensive prior expertise in family violence work. Current recruitment strategies focus on identifying practitioners with work experience in family violence. Without this prior experience, restorative justice facilitators need to accumulate knowledge by learning from family violence accredited facilitators with whom they are paired on referrals.

This illustrates the broader dilemma – cases tend to be handled either by family violence providers with little prior knowledge of restorative justice, or by restorative justice providers with limited experience of family violence. A respondent pointed to the gap between the Ministry of Justice’s best practice standards for restorative justice in family violence cases and their implementation in practice.

The lack of a systematic training programme and a clear pathway for specialisation is a significant impediment to consistent good practice. Since the model’s inception, the restorative justice provider has made efforts to increase the number of specialised facilitators. However, stakeholders highlighted that the accreditation process, i.e., the pathway to becoming a family violence-endorsed facilitator, is too lengthy. When the model was initiated, the focus was on bringing expertise together and trying to link in with family violence practitioners to enhance best practice.

To become an accredited facilitator seems to take at least a year for us. We had what we thought was a set of people, going back for a couple of years in terms of the initial requirement, which was somebody with a

family violence experience working alongside somebody with restorative experience, and we grouped them together to use one shared brain that would cover all of the requirements. (focus group participant)

Moreover, the limited number of male accredited facilitators posed a barrier to establishing gender-balanced facilitator teams in alignment with best practice in this field. Poor remuneration is one of the factors attributing to this, see below.

In terms of maintaining professionalism through ongoing supervision, practitioners also highlighted the necessity of arranging their own supervision sessions, such as peer/group supervision, as well as monitored individual supervision. The process of finding a supervisor was considered challenging, and there were no available resources for securing funding for supervision.

Lack of funding and systematic resourcing

Another aspect, also connected to the theme of capacity, refers to the remuneration of facilitators. Motivating practitioners to work in the field of restorative justice and family violence has proven to be a challenge, largely due to insufficient remuneration afforded to them. A focus group participant remarked, *Trying to take people for this complex, poorly paid work was really hard.*

Respondents pointed to the emotional and financial costs associated with facilitating family violence-related restorative justice work. Besides the complexity of cases, it took more time to identify and engage support persons in the restorative process. The process demanded significantly more time due to the necessity of arranging more individual meetings before convening a conference.

Moreover, a considerable number of restorative justice facilitators work part-time, and the challenges associated with part-time contracts were exacerbated in the context of family violence, where cases extended beyond the duration of standard restorative justice cases. Especially for facilitators seeking financial security, the lack of funding could pose a barrier to their engagement in this particular area of restorative justice work.

... it's too difficult and too complicated in terms of how it's funded, because it took up a lot of our time and we didn't get compensated like we normally would for standard cases. (interviewee)

Specifically, respondents pointed out that subsequent pre-conferences receive lower compensation compared to the initial pre-conference. While facilitators receive full compensation for the first pre-conference, their remuneration is reduced by half for subsequent pre-conferences. This discrepancy in payment is particularly noteworthy in the context of family violence cases, where the intricate nature of the issues often necessitates the organisation of multiple pre-conferences.

It took eight meetings. A normal standard RJ case would be two pre-meetings and a conference. This one was eight and a conference. (interviewee)

Limited involvement of family violence professionals

The Porirua model aimed to involve family violence specialists in the restorative justice conference wherever possible and when appropriate. Their role was to provide support and encourage offenders to take responsibility, and to respond to the need for further education both for the primary parties and their wider families. Interviewees consistently expressed positive views regarding the involvement of family violence professionals as supporters within the conference and the entire restorative process.

However, due to high workloads and a lack of funding, counsellors were rarely able to attend the conferences. The Ministry of Justice did not endorse the participation of family violence programme facilitators in restorative justice conferences, which contradicts attempts to integrate the work of professionals across the sector.

... it would be helpful in many cases to involve the counsellor in the conference, but the counsellors won't do because they are not paid for it and they don't have time. (interviewee)

Respondents have indicated that family violence professionals who show interest in and support for restorative justice did engage well in the process. However, the involvement of these experts in the restorative process occurred sporadically and primarily relied on established professional relationships.

If you've had a positive experience with one person, we will often seek to engage with them in the next one, but then sometimes workloads are huge and so they don't have space. (interviewee)

Complexity of cases and lack of needs-based and holistic approaches

In the context of family violence and harm, the primary parties often experience complex and challenging living conditions. Beyond addressing harmful behaviour through stopping violence programmes, additional challenges such as substance abuse, and sometimes mental health issues can profoundly affect the safety and well-being of the victims and their families.

Practitioners have highlighted the significance of guiding the parties toward acknowledging and actively working on these underlying concerns, a process made possible through the establishment of trust with the facilitator. They have emphasised the vital role of a needs-based approach when handling

family violence cases and addressing the root causes that give rise to such harmful behaviour, linking restorative justice with wider intervention programmes, or integrating it in holistic wraparound services. It was pointed out that the existing practice of referring individuals to various specialists lacks a comprehensive and holistic perspective, and the need for a more integrated strategy that considers the multifaceted aspects of family violence and harm has been expressed.

That's quite a hard one to get people acknowledge that it [alcohol and drugs] is an issue. Often both parties are using them and so if one's going to get help the other one really needs to be doing something as well. It relies very much on our relationship with them at the pre-conference to get both parties to a place where they recognise that they do this for themselves, and they do it for each other, but they've got to do it together. (interviewee)

In cases where the offender did not wish to participate in the stopping violence programme, facilitators stated that they aimed to convene a pre-conference with the offender to understand the reasons for non-participation. In various cases, participants were hesitant to engage because they preferred individual counselling, rather than group programmes. Nevertheless, facilitators' resourcing limitations restricted their ability to help offenders identify suitable therapeutic/support programmes.

We'll try to the best of our ability to help them find somebody else, but that's a real challenge because we're limited with our own resources of who we know and who we can recommend, and also people are limited with finances. So there are other options out there but they cost, and that's a difficult one too. (interviewee)

Case example

This case example of intimate partner violence, in the form of verbal abuse, illustrates the deficiencies of the wider system and the lack of comprehensive support, and the crucial opportunity presented by restorative justice to build a network of support around both parties.

A couple in their late twenties/early thirties was confronted with a challenging life situation compounded by broader family dynamics. Prior to the harmful event, there had been 17 police-reported incidents. However, the couple had not received any meaningful support, as the restorative justice facilitator noted.

When we actually had that conference, we got a support in for him... even that support person was in shock - 'How come there have been seventeen call outs and we're here now, why?'. And so that shock of lack of response. (interviewee)

In the implemented model, the offender attended individual therapeutic counselling sessions. Throughout this period, the restorative justice facilitator maintained contact with the counsellor to learn about the offender's progress and assess his readiness for engagement in the restorative justice process. The facilitator gained insight into the offender's heightened awareness of the impact of his behaviour on the victim.

The restorative justice conference facilitated an open dialogue between the partners, enabling them to listen to each other's perspectives and gain a clearer understanding of their future engagement. The facilitators emphasised the vital nature of this dialogue, recognising its significance in fostering mutual understanding. They perceived the judge's insight into the couple's circumstances as valuable, as it not only helped in comprehending their situation but also in identifying access to more effective forms of support.

In view of support throughout the restorative process and beyond, each partner was accompanied by a social worker to offer assistance. The victim had a social worker by her side, who had recently been involved in her case. Initially reluctant to engage with the restorative justice facilitators, the social worker eventually became convinced when it was emphasised that the restorative justice process would only proceed if it proved beneficial for the victim. However, the primary challenge lay in finding support for the offender. Nevertheless, the social worker responsible for the victim's care was able to locate another social worker who offered support for the offender.

The facilitators emphasised the significant value of the involvement of both social workers, as they provided a longer term and needs-based network of support around both parties. After the conference, the parties began to participate in a support programme.

She [the social worker] was providing way more of the wraparound which was really important. When we left, they were in a way better place - that more because of the work of that social worker than anything. (interviewee)

Lack of time to build sustainable interagency relationships

Establishing sustainable collaborative relationships with other agencies requires time and effort. This is particularly true for family violence-related cases, which require considerably more case management compared to standard cases. Due to a lack of systematic resourcing of restorative justice, facilitators have to build relationships case by case rather than having established, trusted partnerships with other agencies and professionals. Moreover, many restorative justice providers are single service agencies, rather than providing a wraparound service to their clients, as some providers like Whānau Ora are able to do.

In practice, facilitators often do not have the time to liaise with family violence providers and other services to build and maintain long-term relationships. Individual facilitators connect with family violence providers to shape the process according to the needs of participants, seeking to involve the 'right' support people in the restorative process. Most restorative justice facilitators work on a contract basis, and the time-bound nature of their work makes it challenging to initiate collaborative relationships with other services.

It's gonna take funding people for more hours... it needs the hours into networking the relationships. (interviewee)

Disconnection between services

Although collaborative relationships were found to be positive with most family violence providers, several facilitators highlighted a (partial) lack of interconnectedness between agencies, including health professionals. Consequently, when there is a lack of connection and awareness of restorative justice, agencies do not have established trusting relationships when entering the restorative justice process. It is believed that a lack of inter-agency connection is largely due to systemic issues, such as the perceived competitive nature of government funding across the family violence sector.

We've got this gap between the agencies ... It feels like we do a lot of almost social work because these other agencies and things are not in place necessarily when we pick up the case. These other agencies don't really understand what we do. (interviewee)

In cases involving children, some respondents noted a lack of clarity and information on which agency should be leading the intervention, and who holds contracts to offer support. The need for more effective inter-agency cooperation to identify the most suitable support for the parties was highlighted.

It would be great if we had relationships with the other organisations where we could actually say, 'Look we've got this couple, this person really needs..., who would you recommend that they could be in contact with?' (interviewee)

As mentioned earlier, relationships with family violence providers rely on individually established connections. While collaborative relationships had been well-established with several providers, there was a sense that a few family violence counsellors did not fully understand the concept of restorative justice and how it differs from counselling work. Some were concerned that restorative justice facilitators might take over their family violence counselling work. It was also expressed that in a few cases, counsellors were sceptical of restorative justice and did not provide relevant information concerning the offender's progress. While information-sharing was considered one of the model's key features, it was noted that there was not enough consistency as communication was happening on an individual basis, depending on the established relationships.

Different people connect with different people at a trust level so it's very much a case-by-case and you build a relationship with whoever it is as we go. (interviewee)

Overall, family violence providers face high workloads and staff attrition, and restorative justice means additional unpaid work on top of their existing contractual responsibilities. Another challenge is the staff turnover in many agencies: no sooner had personal connections been established, that someone would leave, and relationships had to be built again from scratch. High staff turnover is related to the very poor remuneration for this work.

I think if we were able to work more as a collective instead of as individual services, because it just seems to be a constant frustration trying to find who can be involved, what the processes are to get them

involved, and how to make contact and bring the people together...

(interviewee)

Restorative justice success criteria and time-related factors

One of the aspects linked to the success criteria of restorative justice processes is the Ministry of Justice focus on *conversion rates*, i.e., case referrals that proceed to a conference. Criticism has been voiced regarding measuring the success of restorative justice conferencing in this way. This kind of reporting system has been found to be problematic because it implies that cases that do not proceed to a conference are considered a failure. This measure of success puts pressure on facilitators to convince potential parties to proceed to restorative justice conferences, even if it is not in their best interest.

Another theme that became apparent relates to the time frame for the restorative justice process. Several respondents found that timeframes dictated by the Court-process to complete a restorative justice conference, often six weeks, is too short. Several stated that they often have to ask for remand to have enough time for follow-up procedures ensuring safety to be in place. Most judges would remand the case to allow for more time to handle the case restoratively.

Often, we'll have to ask for a remand because the amount of time that we've been given is not enough time for us to necessarily get everything lined up and for us to feel confident that there are practices in place and safety is definitely taken care of. (interviewee)

Language - How to convey the broader picture of restorative justice in reports?

A further aspect that has become apparent is the challenging task of transmitting emotional aspects, such as feelings of primary parties, into a restorative justice report to render any behavioural shifts more discernible to judges and other professionals. Reports to the court typically focus on facts and outcomes, rather than delving into the process itself, which lies at the heart of restorative justice.

These reports offer limited opportunities to paint a more comprehensive picture and provide an account of the whole process. For instance, they might not fully reflect the atmosphere of the encounter, significant changes occurring throughout the process, (unexpressed) feelings of the participants and the emotional impacts on them. This raises the question of how to make shifts in attitude and behavioural changes more visible to judges and other professionals when reporting back to the courts, and how to underscore the 'soft' factors of success in a meaningful manner.

Recommendations for policy and practice

This section outlines a set of recommendations aimed at enhancing restorative justice practices in family violence cases and providing more sustainable and holistic responses that meet the needs of victims, offenders, whānau/families, and the community at large.

Professional development

- To ensure the competency of restorative justice facilitators handling family violence cases, the Ministry of Justice should emphasise professional development. This involves offering specialised training covering topics such as the dynamics of family violence and harm.
- Additionally, training should encompass comprehensive guidance on risk-assessment and how to actually undertake this, including practical training on the use of any required forms.

Funding

- Revamping the current funding system for restorative justice in cases of family violence to recognise the high level of skills and experience needed to undertake this work. The current system structure is not financially sustainable for facilitators. At present, following best practice requires facilitators to work significant hours beyond what they are actually paid for.
- Increase funding to ensure that well qualified and experienced facilitators can undertake this work on a sustainable basis, including having a diverse pool of facilitators to allow co-gender facilitation teams (noting the current shortage of male facilitators).
- Re-structuring funding for pre-conferences in family violence cases, considering the complexity of cases and the need for multiple pre-

conferences. A revised funding structure should consider equal pay for all pre-conferences.

‘Positioning’ of restorative justice

- The Ministry of Justice should offer deeper guidance around the ‘positioning’ of restorative justice in the context of family violence and harm. This should encompass aspects such as the intended purpose and appropriate timing of a restorative intervention relative to Cagney and McMaster’s Crisis, Intervention, Re-Solution phases.
- The Ministry of Justice should develop a policy for how restorative justice providers can be most effectively structured to deliver best practice services. For instance, this could involve a needs-based approach through inter-agency collaboration or integrated social service agency approaches so that restorative interventions become part of an integrated response rather than being delivered in isolation.

Timing and flexibility of the restorative justice process

- Allowing for flexibility of timing: in cases where restorative justice is combined with family violence interventions, allow restorative justice facilitators to engage with other agencies working with a whānau/family to identify the most appropriate timing of the process. This should be based on a case-by-case assessment, taking into account the progress of therapeutic/support interventions for the parties involved.
- Offer greater flexibility for the duration of the restorative justice process rather than this being determined by Court-system timelines. Often, six weeks is too short a period to complete the full restorative justice process.
- Courts should allocate additional time for restorative processes if necessary to complete therapeutic/support programmes. Restorative

justice facilitators currently can request a remand extension, and some judges are responsive to this.

Re-conceptualising restorative justice success criteria

- Re-consider the value of initial meetings and pre-conferences as being inherently restorative in themselves, rather than assuming that a direct encounter between victim and offender is the restorative 'promised land'.
- Develop a range of ways for defining success beyond single measures such as whether a case proceeds to conference (conversion rates).

Inter-agency collaboration and awareness-raising

- The Ministry of Justice should lead the way to strengthen inter-agency collaboration in the context of the use of restorative justice in cases of family violence and harm, including when a parallel family matter is proceeding through the Family Court.
- Approaches to address family violence and harm must be coordinated so that an overall whānau/family intervention can be designed and appropriately sequenced around a complex cocktail of challenges, including substance abuse, health, mental health issues, financial issues, and parenting disputes. Strengthen whānau/family access to resources in these areas.
- Responses should be designed around the specific needs of the primary parties and their children, based on thorough risk assessment and inter-agency collaboration.
- Foster local discussions involving community stakeholders such as restorative justice providers, courts, family violence/support agencies and professionals, police, and iwi representatives. This will draw upon local wisdom to develop tailored responses to family violence cases.

- Provide resourcing and oversight of regular stakeholder meetings for information exchange, building trusting relationships, and enhancing the understanding of the place of restorative justice in work dealing with family violence.

Widening the potential of restorative justice

- Promote restorative justice at the post-sentencing level, particularly post-prison reintegration with families, to support safe relationships and foster healing. Restorative justice could be linked to wider post-release aftercare programmes.
- Additionally, promote the use of restorative justice access as an earlier preventative intervention with a whānau/family to connect them into support resources before the violence escalates.

References

- Allen + Clarke (2021). Evaluation of Family Violence Courts. Final Report. Retrieved from: <https://www.justice.govt.nz/assets/Allen-+-Clarke-FV-Courts-EvaluationFinal-Report.pdf>.
- Behrens, J. (2005). Meeting the needs of victims of domestic violence with family law issues: the dangers and possibilities of restorative justice. *International Journal of Law in Context*, 1(3), 215-235.
- Cagney, M., McMaster, K. (2013a). Men's intervention programs. *Domestic Violence Resource Centre (DVRCV) Advocate*, 13-17.
- Cagney, M., McMaster, K. (2013b). The next step: A resolution approach to dealing with intimate partner violence. *The No to Violence Journal*, 29-50.
- Carswell, S.L., Paulin, J., Kaiwai, H.M., Donovan, E. (2020). Experiences of the family violence system in Aotearoa: An overview of research 2010 – early 2020. Commissioned by the Office of the Auditor General. Wellington.
- Daly, K. (2017). Sexual violence and victims' justice interests. In E. Zinsstag and M. Keenan (eds.), *Restorative responses to sexual violence: Legal, social and therapeutic dimensions*. Abingdon, Oxon: Routledge, 108-139.
- Fanslow, J., Malihi, Z., Hashemi, L., Gulliver, P., McIntosh, T. (2021a). Change in prevalence of psychological and economic abuse, and controlling behaviours against women by an intimate partner in two cross-sectional studies in New Zealand, 2003 and 2019. *BMJ Open* 2021; 11:e044910. doi:10.1136/bmjopen-2020-044910.
- Fanslow, J., Hashemi, L., Malihi, Z., Gulliver, P., McIntosh, T. (2021b). Change in prevalence of physical and sexual intimate partner violence against women: data from two cross-sectional studies in New Zealand, 2003 and 2019. *BMJ Open* 2021; 11:e044907. doi:10.1136/bmjopen-2020-044907.

Gaarder, E. (2015). Lessons from a restorative justice circles initiative for intimate partner violence. *Restorative Justice – An International Journal*, 3(3), 342-367.

Gavrielides, T. (2015). Is Restorative Justice appropriate for Domestic Violence Cases? *Revista de Asistentă Socială*, 4, 105-121.

Hayden, A. (2010). *Why rock the boat? Non-reporting of intimate partner violence*. Unpublished thesis (PhD). Auckland University of Technology.

Herbert, R., Mackenzie, D. (2014). *The Way forward. An Integrated System for Intimate Partner Violence and Child Abuse and Neglect in New Zealand*. Wellington: The Impact Collective.

Hofinger, V., Peschak, J. (2018). *Legalbiographien von NEUSTART KlientInnen II. Replikation einer Rückfalluntersuchung*. Wien: Institut für Rechts- und Kriminalsoziologie.

King, P., Robertson, N. (2017). Māori men, relationships, and everyday practices: Towards broadening domestic violence research. *AlterNative: An International Journal of Indigenous Peoples*, 13(4), 210-217.

Kingi, V., Paulin, J., Porima, L. (2008). *Review of the delivery of restorative justice in family violence cases by providers funded by the Ministry of Justice*. Wellington: Victoria University of Wellington.

Lünnemann, K., Wolthuis, A. (2015). *Restorative Justice in Cases of Domestic Violence. Best practice examples between increasing mutual understanding and awareness of specific protection needs*. Utrecht: Verwey-Jonker Institute.

McCold, P., Wachtel, T. (2011). Restorative justice theory validation. In E.G.M. Weitekamp and H.-J. Kerner (eds.), *Restorative Justice. Theoretical foundations*. London and New York: Routledge, 110-142.

McGlynn, C., Downes, J., Westmarland, N. (2017). Seeking justice for survivors of sexual violence: Recognition, voice and consequences. In E. Zinsstag and M. Keenan (eds.), *Restorative responses to sexual violence: Legal, social and therapeutic dimensions*. Abingdon, Oxon: Routledge, 179–191.

McMaster, K. (2014). Restoring the Balance: Restorative Justice and Intimate Partner Violence. In A. Hayden, L. Gelsthorpe, V. Kingi and A. Morris (eds.), *A restorative approach to family violence: Changing tack*. London: Routledge, 93-106.

Miller, S.D., Duncan, B.L., Hubble, M.A. (2004). Beyond Integration: the Triumph of Outcome Over Process in Clinical Practice. *Psychotherapy in Australia*, 10(2), 32-80.

Mills, L.G., Barocas, B., Butters, R. et al. (2019). A randomized controlled trial of restorative justice-informed treatment for domestic violent crimes. *Nature Human Behaviour*, 3(12), 1284-1294.

Ministry of Justice (2013). *Restorative justice standards for family violence cases*. Wellington: Ministry of Justice.

Ministry of Justice (2018a). *Restorative Justice: Practice standards for family violence cases*. Wellington: Ministry of Justice.

Ministry of Justice (2018b). *Restorative Justice Survey: Victim Satisfaction Survey 2018*. Report prepared by Gravitas Research and Strategy Ltd. Wellington: Ministry of Justice.

Ministry of Justice (2020a). *Annual Report. 1 July 2019 to 30 June 2020*. Wellington.

Ministry of Justice (2020b). *Restorative Justice. Impact of Section 24A of the Sentencing Act 2002 on Reoffending*. Wellington.

Ministry of Justice (2021). New Zealand Crime and Victims Survey. Key Findings - Cycle 3 report. Descriptive statistics. June 2021. Wellington.

Ministry of Justice (2023a). New Zealand Crime and Victims Survey. Key Findings - Cycle 5 report. Descriptive statistics. June 2023. Wellington.

Ministry of Justice (2023b). Restorative Justice Survey: Victim Satisfaction Survey 2023. Report prepared by GravitasOPG. Wellington: Ministry of Justice.

Ministry of Social Development (2002). Te Rito: New Zealand Family Violence Prevention Strategy. Wellington.

Mossman, E. with Wehipeihana, N. and Bealing, M. (2019). Evaluation of the family violence Integrated Safety Response pilot. Phase II – Years 2 & 3. Submitted to Joint Venture Business Unit.

New Zealand Police (2021). Daily Occurrences of Crime and Family Violence Investigations. Retrieved from: <https://www.police.govt.nz/about-us/statistics-and-publications/data-and-statistics/daily-occurrences-crime>.

Pelikan, C. (2010). On the efficacy of victim–offender mediation in cases of partnership violence in Austria, or: Men don't get better, but women get stronger: Is it still true? Outcomes of an empirical study. *European Journal on Crime Policy and Research*, 16(1), 49–67.

Pennell, J., Burford, G. (2000). Family group decision making: Protecting children and women. *Child Welfare*, 79(2), 131–158.

Te Puni Kōkiri (2017). Understanding family violence. Māori in Aotearoa New Zealand. Retrieved from:

<https://www.tpk.govt.nz/documents/download/documents-6466/46847%20TPK%20-%20Maori%20Family%20Violence%20Infographic%20Booklet%20WEB.pdf>.

The Board for the Elimination of Family Violence and Sexual Violence (2021). Te Aorerekura. The Enduring Spirit of Affection. The National Strategy to Eliminate Family Violence and Sexual Violence. Te Kāwanatanga o Aotearoa. New Zealand Government.

The Diana Unwin Chair in Restorative Justice (2016). The Porirua Model. Unpublished.

Tisdall, M., Farmer, S., Robinson, M., Wells, A., McMaster, K. (2007). Review of the use of restorative justice in family violence cases in the Rotorua district. Review commissioned by the Ministry of Justice. Wellington.

Van Camp, T., Wemmers, J.-A. (2013). Victim satisfaction with restorative justice: More than simply procedural justice. *International Journal of Victimology*, 19(2), 117-143.

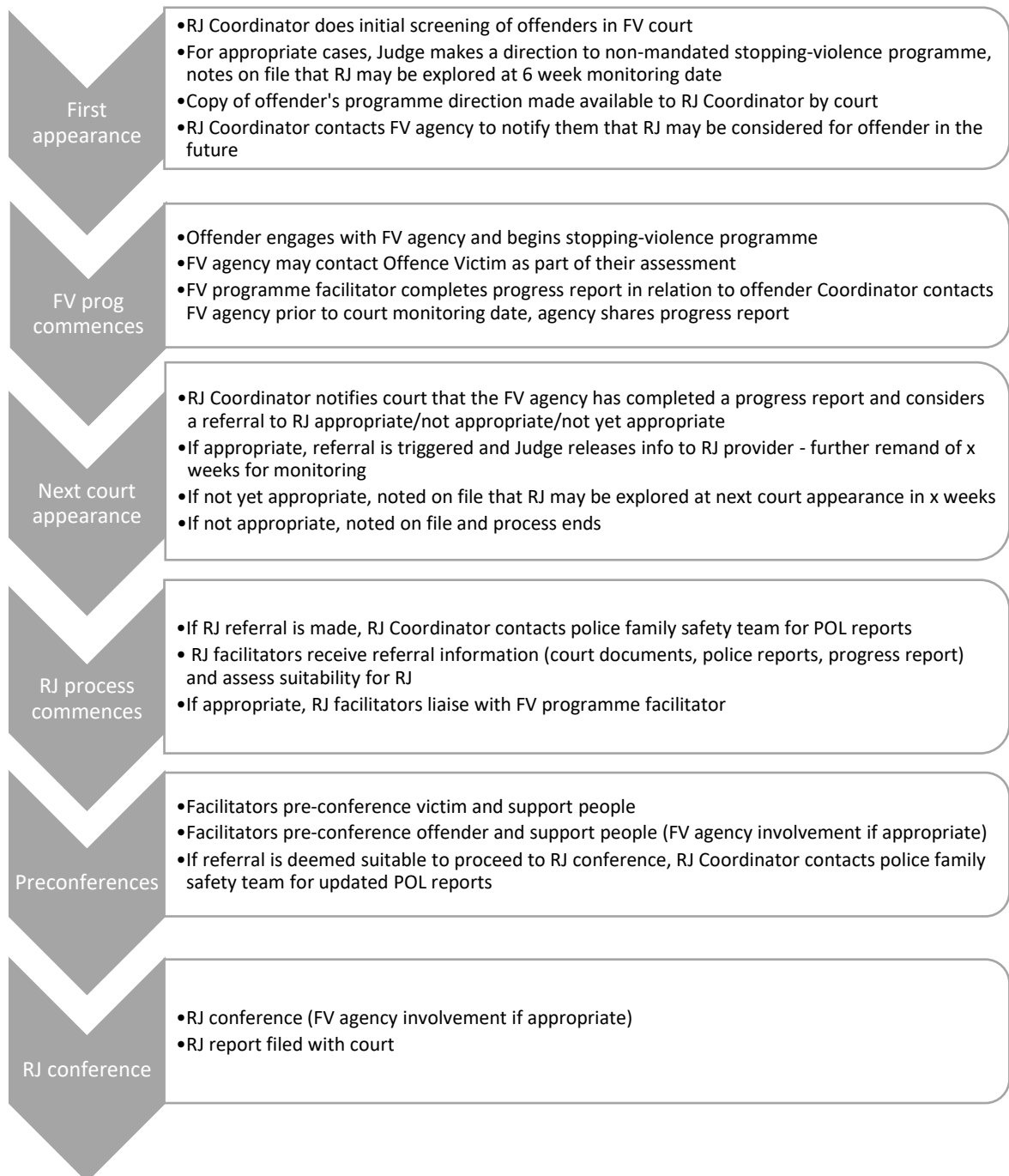
Wehipeihana, N. (2019). What's working for Māori? A Kaupapa Māori perspective on the responsiveness of the Integrated Safety Response pilot to Māori – Synthesis Evaluation Report. Prepared for Joint Venture Business Unit.

World Health Organisation (WHO) (2021). Violence Against Women Prevalence Estimates, 2018: Global, regional and national prevalence estimates for intimate partner violence against women and global and regional estimates for non-partner sexual violence against women. Executive summary. Geneva.

Appendix

Family violence referral process (Community Law Wellington and Hutt Valley, 2016)

Intimate Partner Violence Pathway (IPV)



Intrafamilial Violence pathway (IFV)

