

Restorative Justice Conferencing Pilot Program

Restorative justice for people affected by a serious motor vehicle collision

Information for the person responsible for causing harm ('the offender')

Kevin's story¹

The only memory Kevin has of the crash is leaning down to pick up a cigarette and then seeing headlights and swerving... Kevin does not remember anything else before waking up in the hospital. He then kept asking if anyone had died but was not told about Julie's mother's and brother's deaths until a day later.

Kevin was in his early forties and had been working at the same industrial company for fourteen years. Then, in the same year, Kevin's father passed away, and his girlfriend of six years had an aneurysm and died. Kevin was the person who found her, in the bathtub. Kevin had always been a social drinker, but after these events he started drinking heavily. He withdrew from his friends and family and lost himself in alcohol, unable to deal with the pain of the losses he had suffered. After about a year, Kevin says he decided to stop drinking. He did manage to cut down. However, one night he went out to meet a friend to collect some belongings the friend had borrowed. The friend was at a local bar. Kevin says, 'The bartender drew me a beer, and I said, "Well, I'll just have one." And then some other women came in, they started talking about aunts and uncles, and fiancés, and my girlfriend. It was just hard. I started feeling down about it. So I drank some more then.'

Later that night, Kevin caused a collision with another car in which Lisa and Keith, a mother and her adult son, were travelling. Lisa and Keith both died. Kevin's blood alcohol content at the time was 0.225. Kevin was sentenced to a fifteen year term of imprisonment, the maximum penalty available in that jurisdiction.

While Kevin was serving his prison sentence, he got a letter from a restorative justice program, saying that Julie, the daughter of Lisa and sister of Keith, wanted to meet with him in a restorative justice conference. Kevin says he was initially terrified about this prospect. However, he agreed to do it, because, as he recalls, 'I felt in my heart, if I could help her, and maybe help myself too in some way', that it would be worthwhile. Kevin also wanted to apologise to Julie in person. He had planned to offer an apology to Julie and her family at court, however he became too overwhelmed on the day, and did not approach them.

Kevin and Julie each worked separately with a restorative justice practitioner over a number of months to prepare for their meeting. Of this process, Kevin says, 'The exercises put you in the victims' position and their footprints. It opens you up a lot more to things that you probably hadn't seen yourself. It's long and [the restorative justice practitioner] is tough, but it's a worthwhile process'.

After a six month preparation period, a restorative justice conference was held. The conference began with Julie telling Kevin how her life had been affected by the collision. Hearing this was very difficult for Kevin, however he listened attentively and respectfully. After Julie told her story, Kevin told Julie how sorry he was. After they finished talking, Julie and Kevin made an

¹ This is a summary of the case study 'Julie and Kevin', in Susan Miller (2011) *After the Crime*. The events of this story happened in the USA.

agreement. The terms of the agreement were: 1. That Kevin promise to never drink and drive again; 2. That Kevin send yearly progress reports on his rehabilitation efforts, which included following the Alcoholics Anonymous program; and 3. That Kevin visit the graves of Lisa and Keith after being released from prison (this was at Julie's request).

Through talking with Kevin, Julie says she was able to move past hating him, which allowed her to remember something her mother frequently told her, 'life is what you make it'. Julie decided to use her deep grief and loss to educate others. Julie has since won awards for her drink driving prevention activism and public speaking. She sees the restorative justice conference with Kevin as having been a turning point for her, helping her to decide to make something positive out of the tragedy she had experienced.

Kevin is grateful that he was able to express his sincere grief about his actions. He is also happy that doing the restorative justice conference gave him a way to help Julie. He says, 'I feel peace about knowing I helped her and myself in some way'. He explains that, 'I still come down on myself, still beating myself up. I can't forget about it,' but says that after the restorative justice conference, 'a little bit of the weight's been lifted'.

What is restorative justice?

Restorative justice is a way of responding to crime that focuses on harm caused to people, rather than on the violation of laws. In restorative justice approaches, the people most affected by a crime are centrally involved in a process designed to address the harm. The focus is on victim healing, the accountability of the person who caused the harm, community restoration, addressing harm and loss and repairing damaged relationships (where this is appropriate and what people want).

Restorative justice can involve:

- The person harmed telling the person responsible for the harm how their life has been affected;
- The person responsible for the harm acknowledging their responsibility;
- The person harmed hearing from the person who caused the harm, and having the opportunity to ask questions, such as what the person was thinking or why the person committed the offence;
- The person responsible for the harm offering an apology;
- The person harmed and the person responsible for the harm reaching an agreement for the person responsible to do specific things aimed at addressing the harm.

People responsible for causing harm who have taken part in restorative justice processes have said:

It went surprisingly well to be honest – did not think that it would actually be like this. Actually he (the victim) was pretty OK with me considering what I did.

Nervous about taking part, quite panicky, but after I started to relax I felt really good to be there and see the person I troubled. I felt we had achieved something – both myself and the victim².

It was a good thing and fair. I really valued the opportunity to meet the victim and check he was OK.

Insightful – it deepened understanding of effects on a wider network of people. Our families live in close proximity and I wanted to ensure there was no animosity.³

What is a restorative justice conference?

A restorative justice conference is a scheduled meeting where the person responsible for the collision can meet with the person or people harmed (this can include family members of people who have died). The conference gives the person harmed the chance to explain the impact the crime has had on them directly to the person responsible, in their own words. The person responsible for the harm has the opportunity to acknowledge the harm caused, and to offer an apology. Sometimes the person harmed and the person responsible for the harm make an agreement about things the person responsible can do to address the harm.

The Centre for Innovative Justice's Restorative Justice Pilot Program

Restorative justice conferencing has a lot to offer everyone affected by crime. Some restorative justice programs already exist in Victoria. However, the Centre for Innovative Justice believes that all people affected by a crime should have the option of participating in a restorative justice process. The Centre for Innovative Justice decided to carry out a pilot restorative justice conferencing program for people affected by a serious motor vehicle collision (where someone has died or been seriously injured) because we were convinced that people who have experienced this type of harm would particularly benefit.

The pilot will run until the end of 2017, after which it will be evaluated. It's important to note that people who choose to take part in our pilot program do not have to be involved in the evaluation; it is up to them to decide.

Who can take part in the Restorative Justice Pilot Program?

The Restorative Justice Conferencing Pilot Program brings together people affected by a serious motor vehicle collision (where someone has died or been seriously injured). This can involve victims, including family members of someone who has died, the person or people responsible for the harm, support people, and sometimes other family and community members. To be eligible, the collision needs to have happened within Victoria, and the driver responsible needs to have been 18 years old or over at the time. Restorative justice conferencing may not be possible in all cases.

² Comments made by participants in a restorative justice program run by the Ministry of Justice, United Kingdom, reported in J Shapland et al, *Restorative Justice: The Views of Victims and Offenders. The Third Report from Evaluation of Three Schemes* (Ministry of Justice Research Series 3/07 June 2007) 21.

³ Ibid, 44.

Voluntary

Participating in a restorative justice conference is entirely up to you. If you decide to participate but change your mind later, you can pull out at any time. The process is voluntary for both parties, so the person harmed by the collision also has a choice about whether to be involved.

A victim-centred process, sensitive to the needs of the person responsible for the harm

Restorative justice conferencing is about acknowledging the harm that has been caused by crime. The criminal justice system has different objectives, such as establishing whether someone is guilty of a crime, and if so, what the punishment should be. Restorative justice provides a space for the victim's personal experience to be heard, and for the person responsible for the harm to acknowledge the harm caused.

Professional conveners

In the Restorative Justice Conferencing Pilot Program, the process is led by a convener. Conveners are professionals who are trained in assessing risks and making sure that the process is safe for everybody involved. The convener is there to support and prepare you for the conference and to explain what will happen every step of the way. Long before the conference is held, the convener helps you to explore what will work best for you. During the conference, the convener guides the process so that everyone has the opportunity to speak, and makes sure it is a safe space.

Support people

Some people prefer to attend a restorative justice conference on their own but others have a friend or family member with them to provide support. This will be worked out between you and the convener in advance, so that if they attend, your support person is also fully prepared. You can also have a professional support person present, such as a counsellor or social worker.

Timelines

The amount of time needed to arrange a restorative justice conference will vary from case to case. A few months from the time of referral is usual, however some people need longer than others to be ready to participate. The Restorative Justice Conferencing Pilot Program is currently accepting referrals. Conferences are able to be held until the end of 2017, when the pilot program will finish.

The Centre for Innovative Justice's Restorative Justice Pilot Program

- A safe (emotionally and physically) process where all participants are treated with respect
- Voluntary
- Free
- Confidential
- Available to people affected by serious motor vehicle collisions
- Facilitated by qualified professionals
- Additional support from a counsellor or social worker is available

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