

## **Restorative Justice Conferencing Pilot Program**

### **Restorative justice for people affected by a serious motor vehicle collision**

#### ***Information for Victims of Crime***

##### **Julie's story<sup>1</sup>**

Late at night on 2 December 2000, the phone rang at Julie's house. Her husband answered. Julie says:

My husband turned around and looked at me with the strangest face. You could see the color draining. I just looked at him and I said, 'No. There's no way.' He just dropped the phone, and of course I could hear my aunt screaming when he dropped the phone. I just looked at him, and I said, 'No.' He grabbed me, and I just said, 'Who is it? Who's dead?' He said, 'It's your mom and your brother.'

Julie lost two of her best friends that night. Julie's mother, Lisa, and her brother, Keith, were driving home from a birthday party for Julie's son, when a drunk driver in another car collided with them. Lisa and Keith were killed. The man in the other car, Kevin, had a blood alcohol content of 0.225 at the time of the crash.

Legal proceedings went ahead and Kevin pled guilty. Julie expected that when he was sentenced at court, Kevin would say something to her family, that maybe he would apologise to them. However, she was very disappointed with what happened;

'He couldn't even look at us. His back was turned against us...I wanted him to face all of us.'

Kevin was sentenced to a fifteen year term of imprisonment. This was the maximum penalty available in that jurisdiction, however Julie was furious. She was angry with the criminal justice process, which left her feeling that she and her family, 'were the offender instead of the victims.' Of Kevin, she says 'I hated him.' Julie says she started taking her anger out on her husband, causing a strain on their relationship.

When Julie saw an advertisement for a victim-offender restorative justice program, she jumped at the chance to meet Kevin. She wanted to meet him to 'keep reminding him of what I miss every day and kind of let him know what my husband has to put up with, what I have to deal with'. She also wanted to let him know that:

He affected an entire colony of people, employees of my mother, friends of hers, high school friends of hers, brothers, uncles, aunts. I just wanted to let Kevin know what he had taken from me and who these people were. All he knew [was] that they were passengers on the road.

Kevin agreed to meet Julie. During the restorative justice conference, Julie read out a letter she had written about the consequences for her of Kevin's decision to drink and drive. As she read the letter, Kevin cried. At one point, Julie said she blamed herself for letting her mother and brother leave the party when they did. Kevin told her that the collision was his fault alone, that he was the only person responsible and that Julie should stop beating herself up.

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<sup>1</sup> 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.

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'. After the restorative justice conference, Julie decided to use her deep grief and loss to educate others. She has since won awards for her drink driving prevention activism and public speaking. Reflecting on the restorative justice process, Julie says:

Going through this program is like going to meet the man who has packed his bags and moved in with you. You didn't ask him to move in with you; you didn't ask him to come live with you. He did it; now he has to suffer for it. But, you know, he's a stranger. Why not go and meet him? He's living with you in your own home. Every day. You ought to meet him.

### 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, accountability of the person who has 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.

Victims who have taken part in restorative justice processes have said:

*It helps to stop bottling things up, you can speak about it, so you're not upset, frightened, angry a year later. Apologies make people feel better.*

*It's an opportunity to express yourself and to listen to the other side. Psychologically I felt better.*

*It can't be the same for everyone, but the way it was set up for me, I had nothing to lose, I could pull out any time, so I would recommend anyone consider it.<sup>2</sup>*

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<sup>2</sup> 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) 44.

### **What is a restorative justice conference?**

A restorative justice conference is a scheduled meeting where you can meet the person responsible for the collision. The conference gives you the chance to explain the impact the crime has had on you directly to the person responsible, in your own words. You can also ask this person questions.

### **The Centre for Innovative Justice's Restorative Justice Conferencing Pilot Program**

Restorative justice conferencing has a lot to offer victims. Some restorative justice programs already exist in Victoria. However, the Centre for Innovative Justice believes that all victims of 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 Conferencing 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.

### **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 responsible for the collision also has a choice about whether to be involved.

### **What happens if the person responsible for the harm does not want to participate?**

If you decide that you would like to go ahead with a restorative justice conference, it is possible that the person responsible for the collision in your case may not want to participate. This may be difficult for you, so it is important that you are prepared for this possibility. If the person who caused the harm does not want to take part, other options for a restorative justice conference may still be available. For example, restorative justice conferences have been held between a victim and family members of the person who caused the harm.

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

Restorative justice conferencing is about acknowledging that you have been harmed. 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. Some victims want the opportunity to play an active role in a process that responds to the harm that has happened, and that holds the person responsible to account. In restorative justice conferencing, you have a say about whether a conference goes ahead, when it happens and who else gets to be there. A conference gives you the time and space to be able to say what you want.

### **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.

### **Flexible**

Your needs are central in this process. As much as possible, a conference will be organised to suit you.

### **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 will finish.

### **The Centre for Innovative Justice's Restorative Justice Conferencing Pilot Program**

- A safe (emotionally and physically) process where all participants are treated with respect
- Voluntary
- Free
- Confidential
- Available to victims (including family members of people who have died) of motor vehicle collisions
- Responsive to what a victim needs
- Facilitated by qualified professionals
- Additional support from a counsellor or social worker is available

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