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I. INTRODUCTION

A. Purpose of This Paper

Socially, politically and economically New Zealand is influential in the world far beyond its size. Geologically, however, it is basically three sets of peaks rising from the South Pacific that give evidence of a much larger landmass in which they are anchored. A lot of the physical part of New Zealand is not visible. Much of the “hottest” activity churns far beneath the surface creating the energy for the ongoing geological evolution of the country. A university-sponsored sabbatical leave is much the same. Many events and people converge, often in unexpected ways, causing certain “visible” configurations to emerge above the “life mass” of the total sabbatical experience, but the real energy-producing forces often lie unidentified, buried somewhere in the realm of the unconscious or the mundane. Papers written to report the learnings gleaned from the sabbatical, at best, can describe only the peaks and, much like a tourist’s photographs of New Zealand, will be strikingly uni-dimensional and most likely slightly out of focus.

This paper is primarily for my benefit because it will serve as a narrative record of some of my sabbatical experiences and ensuing observations.¹ It is not intended to be scholarly in the typical sense of the term, though each section may eventually give rise to more scholarly work.² It will also serve as a final report of my activities as Massey University Albany’s first scholar in residence at its Centre for Justice and Peace Development.

B. Acknowledgements

This sabbatical would not have been possible without the encouragement and support of Judge Fred McElrea. He promoted the idea at Eastern Mennonite University in Virginia during his visit to the United States and actively helped make arrangements in New Zealand over an 18-month period that ultimately culminated in my spending eight months there with Dorothy, my spouse. During our time in New Zealand Judge McElrea also provided valuable counsel and opportunities for respite far beyond the call of duty of a gracious host.

Hugh and Nadja Tollemache epitomised the ultimate in New Zealand hospitality as they hosted us in their Auckland home when we were not travelling to various parts of the country to interview restorative justice practitioners, promoters or policymakers. The Tollemaches

¹ Sabbatical leave granted for the 2000-2001 academic year by Eastern Mennonite University, Harrisonburg, Virginia, USA. The New Zealand portion of the sabbatical leave ran from November 1, 2000 to June 30, 2001.

² For example, the brief historical sketch could be the basis for a much more in-depth and complete history of the alternative/restorative justice movement in New Zealand. Hopefully someone will compile such a history. Currently the data is primarily stored in the memory of the movement’s principal precursors, proponents and practitioners like judges Michael Brown, Fred McElrea, David Carruthers; Rev. Douglas Mansill, Fr. Jim Consedine; Matt Hakiha, Helen Bowen and still others who have become significantly involved in the movement since 1995. Judge Fred McElrea and Fr. Jim Consedine would probably be among the most prolific and persistent promoters of the cause at the grassroots, policy level and in scholarly settings though, no doubt, others—Judges Michael Brown and David Carruthers, for example—have been equally stalwart, but may not have written as extensively for the broad range of audiences. Other authors like Gabrielle Maxwell, Allison Morris and Warren Young have tended to limit their writing to the scholarly plane, which is highly significant in the life of the movement and assessment of its impact, but is less directly linked to building passionate commitment at the practise level.

provided friendship, valuable counsel regarding the New Zealand socio-political terrain, lots of information on everything from the mundane to the sublime, encouragement, great conversation and a living example of a passion for justice in their daily lives. They each, in their unique way, constantly reminded us that highly committed persons who live out their respective professions with integrity and lead creative and caring personal lives are true forces for social transformation irrespective of profession or social status. They treated us like members of their family for which we will be forever indebted. Bidding farewell to Hugh and Nadja was, as the poet muses, “such sweet sorrow.”

I also wish to express a special word of gratitude to the Centre for Justice and Peace Development and Dr. Warwick Tie of Massey University at Albany, in particular. The Centre provided an institutional home for its somewhat premature “firstborn” who arrived before it, like so many young parents, had clearly developed its own identity or inhabited a permanent residence. I am also grateful for the support of Dr. Paul Spoonly, Chair of the Sociology Department, and Dr. Mike O’Brien, Dean of the School for Social and Cultural Studies, whose commitment to the vision and goals of the Centre was vital for the success of this experimental scholar-in-residence venture.¹

I am particularly grateful for the valuable assistance of Dorothy, my spouse, with the interviews of practitioners, promoters and policymakers. Regarding the interviews, words are woefully inadequate to express my deep appreciation to the many persons who took time from their busy schedules to meet with Dorothy and me. They gladly shared with us even though all that we could offer them in return was our interest in hearing about their triumphs, current joys or sorrows, and future hopes.² In addition to the information we gathered, the interviews also renewed our commitment to work for a more just and peaceful world because we left each one inspired by our hosts’ hope and vision for a tomorrow characterized by healing and justice for all—victims, offenders and their respective communities.

I was thankful for the opportunity to learn about alternative/restorative justice firsthand from practitioners, promoters and policymakers through interviews, reports, articles and books that strengthened my knowledge of literature in the field. However, without detracting from this

¹ The sabbatical plan approved by Eastern Mennonite University included two distinct phases, four months in Chile and eight months in New Zealand. Both were to focus on various aspects of peacebuilding. The New Zealand portion would be structured primarily to allow me to develop a clearer picture of restorative justice at the practice level and provide me the opportunity to read more broadly in the field. I was particularly interested in reading New Zealand authors and reports that are often difficult to access in North America. My position as the first scholar in residence at the Centre for Justice and Peace Development, Massey University Albany, provided me with the opportunity to develop and carry out a research plan that best served my interests and purposes with the understanding that this would also contribute to meeting the Centre’s general goal of promoting research and critical reflection related to the conceptualisation of justice and peace and the many practice initiatives that strive to make these phenomena realities in New Zealand society.

² It was not uncommon for the interviews to lead to unexpected discussions, challenges and hospitality as in the case of Julie Leibrich who with Doug Harvie went the second mile to host us and engaged us in deep discussions that included a challenge for me to follow my dream that still echoes in my memory. We will also long cherish the warm hospitality of persons like Margaret and Steven Thompson, David James and Jillian Wychel, Kay and Mike Whelan, Jaqui Goodwin, Douglas and Elizabeth Mansill, Lois and Fraser Flannigan and others with whom our spirits bonded as we walked together briefly on a common journey of discovery and commitment. See Appendix 1 for a complete list of all the persons and organisations interviewed.

inspiring professional and intellectual enrichment, I must note that it would have been a colossal affront to nature and the spirit of human solidarity had we neglected to take a bit of time to physically and emotionally rejuvenate ourselves by fully taking in New Zealand's awesome natural beauty and basking in the inimitable kiwi hospitality we found everywhere we went. We took time to "smell the roses" and linger over cups of tea. The renewal and refreshment we experienced as a result are, without a doubt, among the most significant aspects of the sabbatical experience.

II. RESTORATIVE JUSTICE IN NEW ZEALAND

A. Restorative Justice Defined

I was particularly interested in studying restorative justice in New Zealand, but I also wanted to understand it in relation to the broader alternative justice field, which would include any programmes that seek to implement ways of dealing with offending behaviour that differ from the retributive approaches traditionally practised by a punishment-centred criminal justice system. Restorative justice is part of the alternative justice movement, but not all alternative programmes are restorative merely by virtue of being organised on non-retributive principles.¹

What, then, is restorative justice? Debates on the answer to that question currently claim considerable space in the literature of the field.² Similarly, different groups in New Zealand have defined restorative justice in various ways, but the definitions all share common elements. Many international restorative justice advocates would agree with South Africa's Archbishop Desmond Tutu's differentiation between *retributive* and *restorative* justice. He states that *retributive justice*—a process in which an impersonal state hands down punishment with little consideration for victims and hardly any for the perpetrator—is not the only form of justice. He asserts:

We contend that there is another kind of justice, restorative justice, which has characteristics of traditional African jurisprudence. Here the central concern is not retribution or punishment but, in the spirit of *ubuntu*, the healing of breaches, the redressing of imbalances, the restoration of broken relationships. This kind of justice seeks to rehabilitate both victim and the perpetrator, who should be given the opportunity to be reintegrated into the community he or she has injured by his or her offence.

This is a far more personal approach, which sees the offence as something that has happened to people and whose consequence is a rupture in relationships. Thus we would claim that justice, restorative justice, is being served when efforts are being made to work for healing, for forgiveness and for reconciliation.³

¹ I use the term "movement" loosely in this paper, since it is not clear that the alternative justice initiatives actually constitute a social movement in the sociological sense. It remains to be seen if in the future these initiatives coalesce into a full fledged, values-based, sociologically-recognised social movement or evolve instead into a procedures-based profession.

² See, for example, the special issue of *Contemporary Justice Review*, volume 3, issue 4 (2001), on Symposium on Restorative Justice for a sample of the debate.

³ Desmond Tutu, *No Future Without Forgiveness*, Random House, New York, 1999, pp. 54-55. See also Michael Lapsley's account of his South African experience in Helen Bowen and Jim Consedine, *Restorative Justice: Contemporary Themes and Practice*, Ploughshares Publications, Lyttelton, NZ, 1999, pp. 45-50.

Howard Zehr, renowned North American restorative justice proponent, specifies further the similarities and differences between retributive and restorative justice approaches to crime. Recognizing philosopher Conrad Brunk's work in Canada, Zehr states:

Both (perspectives) argue that there must be a proportional relationship between the act and the response. Where they differ is on the currency that will right the balance or acknowledge that reciprocity. Retributive theory argues pain will restore a sense of reciprocity, but the dynamics of shame and of trauma help explain why this so often fails to achieve what is wished for either victim or offender. Retribution as punishment seeks to vindicate and reciprocate, but is often counterproductive. Restorative justice theory, on the other hand, argues that what truly vindicates is acknowledgement of victims' harms and needs combined with an active effort to encourage offenders to take responsibility, make right the wrongs and address the causes of their behavior. By addressing this need for vindication in a positive way, restorative justice has the potential to affirm both victim and offender and help them transform their stories.¹

Fr. Jim Consedine, a long-time New Zealand restorative justice advocate, highlights the interdependent nature of our actions and efforts to restore relationships.

Restorative justice is a philosophy that embraces a wide range of human emotions, including healing, mediation, compassion, forgiveness, mercy, reconciliation as well as sanction when appropriate. It also recognizes a world view that says we are all interconnected and that what we do, be it good or evil, has an impact on others. Restorative justice offers a process whereby those affected by criminal behaviour, be they victims, offenders, the families involved or the wider community, all have a part in resolving the issues that flow from offending.²

The Howard League for Penal Reform underscores the centrality of restored relationships in the restorative justice process when it says:

The essence of Restorative Justice lies in its capacity to restore right relationships between people—between those who acknowledge they have victimized and those who are victimized. Rather than remaining remote from each other, the victim, the offender, the family and supporters of both, come together voluntarily in a safe, professionally facilitated meeting.³

The definition put forward by Hawke's Bay Restorative Justice Te Puna Wai Ora, Inc. provides clearer insight into some of the dynamics within the restorative justice process when it states:

It is a process which offers an opportunity:

- for victims of crime or personal harm to tell their story and have their questions answered,
- for offenders to take responsibility for what they have done and offer to make amends,
- for victims to have a say in how offenders may repair the harm done,
- for all those affected to participate in this process.

This is a time when reconciliation and healing may begin.⁴

¹ Howard Zehr, *Journey to Belonging*, paper presented at the international conference, **Just Peace? Peacemaking and Peacebuilding for the New Millennium**, Massey University, Albany, New Zealand, 24-28 April 2000.

² Jim Consedine, *Restorative Justice: Healing the Effects of Crime, Revised Edition*, Ploughshares Publications, Lyttelton, NZ, 1999, p. 183.

³ The Howard League for Penal Reform, Canterbury NZ Inc., **Fact Sheet 15**, Christchurch, NZ, March 2001.

⁴ Hawkes Bay Restorative Justice Te Puna Wai Ora Inc., **Newsletter Number Three**, Autumn 2000, p. 4.

While restorative justice is one of the terms used to describe a particular type of the alternative justice schemes in Western justice systems, as Archbishop Tutu notes above, it shares similarities with traditional justice practices in many non-Western societies and groups. In the New Zealand case, Maori and Pacific Island cultural groups have traditions that emphasize the community's role in the practice of justice. Dr. Pita Sharples notes that among the Maori *marae* justice addresses such things as sharing the guilt, forgiveness and anger, and deals with real life, not just the crime. He says, "If you operate a *whanau* (extended family) everyone is equally important and the focus is on the group, not just the victim. Then you restore everything, including *mana* (personal dignity), as well as heal the offender."¹

Brian Webster, Senior Policy Analyst in New Zealand's Crime Prevention Unit, claims that when thinking about restorative/alternative justice schemes it is better to focus on restorative principles present in the schemes rather than particular conceptual definitions, organizational structures or practice modalities. Webster cites Terry Marshall's assertion that restorative justice "is not any particular practice, but a set of principles which may orientate the general practice of any agency or group in relation to crime." Marshall's list of principles that characterize restorative approaches to crime irrespective of the model of practice employed, call for the process to:

- Make room for the personal involvement of those mainly concerned (particularly the offender and the victim, but also their families and communities),
- See crime problems in their social context—e.g. the multiple causes and affects of criminal behaviour,
- Embrace a forward-looking (or prevention) problem-solving orientation,
- Allow for flexibility of practice (creativity).²

This particular way of focusing on restorative responses to offending enables one to test an array of practice options to determine which outcomes are most desirable. In the case of the Crime Prevention Unit, given that it is located within the Ministry of Justice, it will likely focus on outcomes that directly affect the degree of reoffending and the reduction in costs that this represents.³ Other outcomes more directly related to human satisfaction gained through reconciliation and other values-based measures are fine, but not ultimately what will gain the political support needed to finance the schemes within the regular Ministry of Justice budget. Hence what Webster proposes is helpful to see procedural and practice commonalities among the various alternative/restorative justice programmes, but does not help identify the common values that hold that particular movement together, if in fact, there is a conscious recognition of such a movement by the variety of alternative justice groups. The relative emphasis on practice or

¹ Hawkes Bay Restorative Justice Te Puna Wai Ora Inc., **Newsletter Number Two**, Autumn 1999, p. 1.

²Based on the principles reported in Brian Webster, *Restorative Justice Development in New Zealand: Community Managed Restorative Justice Programmes – from Inception to Evaluation*, paper prepared for the 19th Biennial Conference, Australian Crime Prevention Council, Melbourne, Australia, 17-20 October 1999, revised and updated 25 July 2000. See also comments in the same vein by Douglas Mansill in *Community Empowerment Perspectives in Restorative Justice Practice*, a paper presented at the international conference, **Just Peace? Peacemaking and Peacebuilding for the New Millennium**, Massey University, Albany, New Zealand, 24-28 April 2000.

³ According to the Ministry of Justice's newsletter, *Justice Matters*, December 2000, Issue 10, the Crime Prevention Unit was transferred from the Department of the Prime Minister to the Ministry of Justice as of 1 November 2000. It is not yet clear if this represents a lower priority for CPU work or a long-term commitment to its role by locating it permanently within a regular government ministry.

values fits with Braithwaite and Strang's assertion that restorative justice is commonly conceived of in either process terms or value terms. A process conception of restorative justice would focus on such things as whether or not all stakeholders are involved in the effort to address the offending behaviour, whereas a value conception would be committed to healing and restoration irrespective of the procedures or processes employed. They call for the two conceptions to be held together.¹ Along a similar vein, Gordon Bazemore asserts that as restorative justice has blossomed into a social movement it has begun to be defined in ways that seem contradictory to its original, basic principles. However, in all our efforts irrespective of the definition adopted, "we need to remain worldly-based so that our communities can benefit from what restorative justice can really deliver."²

Based on his earlier experience with New Zealand's youth justice system and more recently as a District Court judge, Judge Fred McElrea has long advocated for restorative principles to be applied in a variety of settings, including schools and other institutions. He says, "the point is that restorative justice is not a single technique, but rather an approach to conflict resolution which seeks win-win outcomes (some call it "healing justice"), and locates the recipe for successful outcomes primarily in the community rather than in the apparatus of the State."³ In other words, following his comments to their logical conclusion, restorative practice can become a lifestyle for an entire group or culture. His call, in a sense, brings us back to the sources—first Maori, and later Pacific Island cultures—that inspired much of the interest for many years in New Zealand in alternatives to the retributive-oriented processes of Western justice systems.⁴ Such a lifestyle reorientation requires value-based roots that will most likely only be set down as the various restorative/alternative justice efforts increasingly articulate the common core of values that can unite disparate practice orientations into a social movement in its own right.

B. Historical Sketch of Restorative Justice in New Zealand

It was difficult to find a concise history of the development of interest in restorative justice in New Zealand, particularly for the past quarter century. So what follows is, at best, a rather sketchy and partial history of restorative justice in New Zealand gathered from various documents and personal interviews. As noted above, there is a long history of concern prior to and after the 1840 *Treaty of Waitangi* regarding the appropriate relationship between Maori and settler-borne European culture and systems that gave rise relatively early in New Zealand's post-settlement era to such legal provisions as the Land Claims Ordinance 1841 and the Native Rights Act of 1865.⁵ The ensuing land conflicts as well as other property and personal offences soon

¹ J. Braithwaite and H. Strang make the distinction in their *Introduction: Restorative Justice and Civil Society*, in *Restorative Justice and Civil Society*, Cambridge, UK: Cambridge University Press, 2001, pp. 1-13.

² G. Bazemore, *Rock and Roll, Restorative Justice, and the Continuum of the Real World: A Response to "Purism" in Operationalizing Restorative Justice*, *Contemporary Justice Review*, volume 3, issue 4 (2001), p. 459.

³ F.W.M. McElrea, Address to inter-disciplinary conference, *RAPE: Ten Years' Progress?*, Wellington, 29 March 1996. See also T. Wachtel and P. McCold, *Restorative Justice in Everyday Life*, in *Restorative Justice and Civil Society*, Cambridge, UK: Cambridge University Press; 2001, pp. 114-129.

⁴ H. Zehr, *Changing Lenses: A New Focus on Crime and Justice*, 1990 and J. Consedine, *Restorative Justice: Healing the Effects of Crime*, 1999 Revised Edition are only several of many authors who historically trace restorative principles and practices in a variety of cultural and religious contexts.

⁵ C.R.H. Taylor, Chief Librarian of the Alexander Turnbull Library, Wellington, in the Introductory Note to the Library's *Facsimiles of the Treaty of Waitangi*, Wellington, 1976. *The Treaty of Waitangi*, signed 6 February 1840

heightened the tensions already present prior to the *Treaty* between New Zealand's European-based justice system and traditional *marae*-based Maori justice practice. An analysis of Matt Hakiha's description of traditional Maori practice suggests that current conceptions of restorative justice and traditional Maori practice seem to share many common features. As a result, restorative principles and alternatives to retributive responses to offending have been under discussion for some time in the Maori-Pakeha dialog.¹ Nevertheless, while not denying the commonly held features between Maori indigenous justice and current restorative justice, some persons would view the latter as another ideological tool of the colonial state to control marginal populations such as the Maori through their incorporation into the dominant legal system.² This may help explain, to some degree, the baffling hesitancy of some Maori and Pacific Island groups to fully embrace and implement restorative justice initiatives that seem to have so much in common with traditional practices. Whether or not one accepts this explanation for their relatively low levels of participation, it is clear that increasing the level of participation of marginal population groups in restorative justice schemes continues to be a concern among restorative justice proponents.

The development of New Zealand's youth justice model was rooted in the larger community. In their respective papers Mike Doolan, Judges Michael Brown and Fred McElrea outline the concerns and process that led to the new **Children, Young Persons, and Their Families Act 1989**, the legal foundation for Youth Justice in New Zealand.³ Judge McElrea notes:

It is significant that the New Zealand Parliament's Select Committee from February to April 1988 travelled to Maori and Pacific Island meeting places throughout (the country) hearing submissions on how to recast the Bill so as to make it more culturally relevant to Polynesian people, as well as simpler and less bureaucratic in its operation. I believe the FGC (Family Group Conference) mechanism which was the result of that process is the direct descendant of the *whanau conference* long employed by Maori people, although it is adapted to suit its new context, e.g. by inclusion of the police.⁴

by Maori chiefs and Crown representatives, stipulated that the Maori be consulted on their future *vis-à-vis* the British Crown's interest in settlement and annexation of New Zealand. The legal status of the *Treaty*, its provisions, and its consequences for 21st century Maori and *Pakeha* (European descendents) is still debated, but clearly as a result of the 1840 document New Zealand became part of the British Empire and Maori lands were alienated. Nevertheless, the *Treaty* is the basis for modern claims by Maori that Maori culture must be respected, that they must be consulted regarding legislation and other actions by the Crown, and that Maori have the legal right to press ongoing land claims that would restore alienated lands to them.

¹Matt Hakiha, *Resolving Conflict from a Maori Perspective*, reprinted from **Social Work Review**, January 1997, in H. Bowen & J. Considine, **Restorative Justice: Contemporary Themes and Practice**, Ploughshares Publishers, 1999.

² For example, J. Tauri makes the case for the domination perspective in *Family Group Conferencing: The Myth of Indigenous Empowerment in New Zealand, Justice as Healing*; Vol. 4 No. 1 (Spring), 1999.

³Judge M. Brown's **Background Paper on New Zealand Youth Justice Process**, a paper presented at the **International Bar Association Judges Forum: Section On General Practice**; Edinburgh, Scotland, 10-13, June 1995 and M. Doolan in **The Youth Court in New Zealand: a New Model of Justice**, Legal Research Foundation: Auckland, 1993, pp 19-21. Doolan also notes the model's community-rootedness in his paper, Creative conferencing: Creative outcomes for young people and victims, in A. Morris and G. Maxwell, Eds, **Youth Justice in Focus: Proceedings of an Australasian Conference**, 27-30 October 1998, Michael Fowler Centre, Wellington. Wellington, New Zealand: Institute of Criminology, Victoria University of Wellington, pp. 224-229.

⁴ Judge FWM McElrea, **Justice in the Community: The New Zealand Experience**, in J. Burnside & N. Baker, Eds., **Relational Justice: Repairing the Breach**. Waterside Press: Winchester, Chapter 7.

As the result of its consultation process the Select Committee concluded:

It is not suggested that the old Maori ways should now be restored, but that ought not inhibit the search for a greater sense of family and community involvement and responsibility in the maintenance of law and order. At present there is little room for a community input into individual sentencing, no chance for an offender's family to express censure or support, no opportunity for a reconciliation between the wrongdoer and the aggrieved, no search for a community solution to a social problem. The right and responsibility of a community to care for its own is again taken away and shifted to the comparatively anonymous institutions of Western law."¹

The discussion persists today on how best to relate the new, more restorative programs such as Youth Justice to traditional Maori practice. Some people and groups are calling for separate systems for Maori, Pacific Island groups, and recent immigrant populations that have a long tradition of community-based restorative means of dealing with offending. For example, a 1997 article prepared by the New Zealand Maori Council regarding a Maori perspective on restorative justice recommends:

In conclusion, this paper has attempted to emphasise the primary importance of issues of accountability to Maori. In most instances this is seen as being best achieved through the development of restorative processes. If an integrated and bicultural approach to justice is to be developed, Maori communities must be given the responsibility for their own. One alternative that has been forcefully advocated is to provide for a separate pathway for Maori in the 21st century. At the very least it is essential that Maori models continue to be developed, debated and considered by Maori and Pakeha. Maori values and views must be a major influence in shaping future plans for the justice system in New Zealand.²

Clearly people were thinking about and testing alternatives to standard Western criminal justice practice prior to New Zealand's rather audacious step to centre stage on the world scene with the promulgation of the *Children, Young Persons and Their Families Act 1989*.³ Judge Michael Brown, former Principal Youth Court Judge, notes the following in 1994 regarding some of his activities and concerns prior to the Act:

I have been involved as a practitioner in the criminal justice field for about 30 years, the last 15 of which have been as a District Court judge. For a great deal of that time I have been invaded by reservations as to our present practices, which in turn have led me from time to time to question my own participation in such a system. The rationalization that perhaps it can be better changed from within has subdued and dulled that dilemma but never laid it to rest.

For almost a decade between 1980 and the end of 1989, I was District Court judge in West Auckland, where I had the opportunity of observing and working with such enlightened people as Dr. Peter Sharples and his team at Hoani Waititi Marae. Of particular interest was their work with

¹ Judge FWM McElrea, Ibid. quote from *PUAO-TE-ATA-TU* (daybreak): Report of the Ministerial Advisory Committee on a Maori Perspective for the Department of Social Welfare, September 1988, p 74.

² Maori Council of New Zealand with assistance from Donna Durie Hall, *Restorative Justice: A Maori Perspective*, in H. Bowen & J. Considine, *Restorative Justice: Contemporary Themes and Practice*, Ploughshares Publishers, 1999, pp. 25-35.

³ Much has been written on New Zealand's youth justice system and a major evaluation of the system is currently being conducted. Nevertheless, I will comment briefly on the transformation of the youth justice system in New Zealand because of its importance as the first system-wide adoption of restorative justice practice in the world. However, my primary interest in this project was to research adult restorative justice initiatives.

Maori committees involving Maori youth who had offended. By taking matters out of the courtroom and using other venues such as marae or even school grounds, a much more egalitarian environment, I began to sense that there may be alternative ways of handling these matters.¹

Judge Brown comments further that his “enthusiasm blossomed” with the advent of the 1989 Act, especially with its provisions for family group conferences.

The 1989 Act and its application in the Youth Justice system is clearly a major milestone in the development of restorative justice initiatives in New Zealand. Judge Fred McElrea cites three distinctive elements of the Youth Justice system:

- The transfer of power from the state, principally the courts' power, to the community;
- The family group conference (FGC) as a mechanism for producing a negotiated community response;
- The involvement of victims as key participants, making possible a healing process for both offender and victim.”²

The Act also served as a springboard for more persistent calls to develop new alternatives to crime on other fronts. It encouraged efforts such as those by Fr. Jim Consedine who had been calling for alternatives to prisons and retributive justice since the mid 80s. His efforts were reinforced when Howard Zehr, then a restorative justice promoter with the Mennonite Central Committee in the United States, was invited to New Zealand for a seminar and a series of meetings in June 1994. Following the visit, **STIMULUS** published Judge Fred McElrea’s assessment of the impact of Zehr’s visit. The Judge notes:

Over the last 12 months New Zealand has started to hear about restorative justice from a few people who have read Howard Zehr's book *Changing Lenses*. That book was music to my ears, for two reasons. First, I had already come to see our Youth Court system as a very different model of justice and in *Changing Lenses* I found the historical and theoretical underpinning that it needed, supplementing our indigenous Maori perspective on conflict resolution. Of the various accounts I have now read of restorative justice Howard Zehr's is by far the best. Secondly, his reasoned exposition of restorative justice threw into relief the essential features of the old retributive model, many of which were so deeply embedded as to be invisible to most eyes.

Howard Zehr, the quiet Mennonite from Akron Pennsylvania, therefore came to New Zealand in June 1994 as a prophet of justice, proclaiming that there is a better way of dealing with both offenders and victims, one which promotes healing in the community. I was not present in Wellington for the *Stimulus* Conference but I was present on four occasions when Howard spoke to other groups. One of these was an historic weekend seminar at Teschemakers, Oamaru when a mixture of social workers, prison visitors, lawyers, Maori kaumatua, youth justice personnel, probation officers, judges, nuns, law students and former prisoners were amongst those who saw and heard him speak. Ruth Morris, the Quaker from Canada, was also present. I can tell you, over that weekend healing justice really came alive! "Justice is about meaning ... Crime is really about disrespect ... We would like justice to be a teacher. If we want offenders to have respect for others, how can we do that if we don't treat them with respect? ... No-one takes brokenness

¹ Comments written in 1994 in the *Forward* to the first edition (1995) of J. Consedine, ***Restorative Justice: Healing the Effects of Crime***, Revised Edition, Ploughshares Publishers, 1999, p. 5.

² Judge Fred McElrea, *Taking Responsibility in Being Accountable*, in H. Bowen & J. Consedine, ***Restorative Justice: Contemporary Themes and Practice***, Ploughshares Publishers, 1999, pp. 56-57.

seriously ... Healing justice is about respecting people." In such memorable phrases Howard Zehr brought to all of us new dimensions of justice.

Although New Zealand has already ventured a certain distance down the restorative justice track with its new Youth Justice model, there has been no successful equivalent here to the Victim-Offender Mediation Programs operating in North America. An additional factor in the importance of Howard's visit was therefore our exposure to this model as something that can operate quite independently from the disposition of court cases, and also to the valuable research that has built up around VORP in North America.

My belief is that with the right encouragement and assistance New Zealand will move to a restorative model of justice in its dealings with all offenders, not just young people. It is an idea whose time has come, and the prospects for its acceptance are looking increasingly good. Elsewhere I have advocated the establishment of Community Group Conferences for adult offenders and since then I have heard of at least two such conferences successfully arranged on a voluntary basis, in each case with very positive results for both victim and offender. Many New Zealand judges are receptive to the idea, as I believe the public will be when properly informed. After all, a criminal justice system which promotes accountability, a much better deal for victims and a healing of damaged relationships in the community is no soft option.¹

The youth justice system had been operating on restorative principles since 1989. The first effort to apply these principles in adult settings took place in 1994 when Judge Fred McElrea asked Rev. Douglas Mansill to facilitate a community group conference for a particular case that had come before the Judge. In light of the successful restorative outcome, Mansill and a group of colleagues organized the Te Oritenga Restorative Justice Group in 1994. The privately-funded Te Oritenga continued to work with cases referred to it by the courts or through police diversion as well as with cases that came directly to the group through "non-official" channels. In a 1997 address Judge McElrea noted that Auckland District Court judges rely on Te Oritenga as the only group of its kind capable of handling adult restorative justice cases "competently and professionally."² In late 1999, Te Oritenga ceased to exist when it evolved into two distinct groups, P.A.C.T. (Promoting Accord and Community Trust) and The Restorative Justice Trust, each with its distinct emphasis.³

The first government-sponsored restorative justice oriented programmes for adults appeared with the three pilot community-based pre-trial adult diversion programmes funded in 1995 by the Crime Prevention Unit attached to the Department of the Prime Minister.⁴ The projects incorporated three distinct operational models:

¹ F.W.M. McElrea, *An assessment of the impact of Howard Zehr's visit to New Zealand, June 1994*, **STIMULUS**, Vol. 2, No. 3, 1994.

² Comments by Judge Fred McElrea in his *St. Giles Day Address*, St Giles Presbyterian Church, Mt. Roskill, Auckland, NZ, September 7, 1997. See also comments by Douglas Mansill in *Community Empowerment Perspectives in Restorative Justice Practice*, a paper presented at the international conference, **Just Peace? Peacemaking and Peacebuilding for the New Millennium**, Massey University, Albany, New Zealand, 24-28 April 2000.

³ Mansill, *Ibid.* Warwick Tie in *When Peacemakers Fight*, 2000, describes the evolution as "acrimonious" and based on the emergence of differences in philosophy. Tie goes on to address other aspects of conflict among peacemakers, but without invalidating his assertions, the literature of social movements suggests that what he describes as "differences in philosophy" is a recurring feature within groups working for value-based social change.

⁴ The CPU became part of the Ministry of Justice on 1 November 2000. It remains to be seen if this signals the institutionalisation of the Unit's role or lowering of political priority for its work. Proposals put forward by the Labour/Alliance government since the transfer would suggest that it is likely the former.

- *Project Turnaround*—a community panel diversion with extensive victim involvement, funded and managed through the Timaru District Safer Community Council (SCC).
- *Te Whanau Awhina*—a culturally based programme incorporating panels without extensive victim involvement, funded (initially) via the Waitakere SCC and Hoani Waititi Marae/Waipareira Trust.
- *Community Accountability Programme*—an offender-victim conferencing programme (ceased operation in its first year), funded and managed through the Rotorua SCC.¹

In addition to the 1995 CPU-funded programmes in Timaru and Auckland noted above and the privately-funded Te Oritenga along with its spin-off organization, Justice Alternatives, in Auckland, according to Christine Hickey, in 1997 two new private initiatives were just getting underway—Hawke’s Bay Restorative Justice Te Puna Wai Ora, Inc. in Hastings and Restorative Justice Services in Christchurch. The four privately sponsored programmes all operated on the basis of community group conferences. In Hamilton a scheme initiated by Aroha Terry, Kokona Ngakau, worked with “marae justice” and focused on sexual abuse in indigenous community settings.²

In addition to the two pilot programs that continued from the 1995 funding cycle, Webster notes that in 1998/99 the Crime Prevention Unit decided to fund three more Community Panel Adult Diversion Programmes:³

- *Project Turnaround Kerekere* (Kere Kere SCC, Foxton)—testing the replicability of the “Project Turnaround, Timaru” model to another location, Horowhenua.
- *Second Chance Programme Rotorua* (Rotorua SCC/Mana Social Services Trust, Rotorua)—re-starting the original Rotorua project under new management regimes, a different service provider and a clear service description. This programme tests the offender-victim conferencing model in a bi-cultural environment with significant Maori control and cultural methodology.
- *Turnaround Waimakariri* (Waimakariri District SCC)—based in Rangiora, north of Christchurch, this project is modelled on Project Turnaround, Timaru.

In 1999/2000 the Crime Prevention Unit funded two more programmes that, like Rotorua’s Second Chance Programme, functioned on the basis of the offender-victim conferencing model and three Community Panel Adult Diversion Programmes.⁴

¹Brian Webster, *Restorative Justice Development in New Zealand: Community Managed Restorative Justice Programmes – from Inception to Evaluation*, a paper prepared for the 19th Biennial Conference, Australian Crime Prevention Council, Melbourne, Australia, 17-20 October 1999, revised and updated 25 July 2000.

² Christine Hickey, *Alternative Dispute Resolution within Criminal Justice*, in H. Bowen & J. Considine, *Restorative Justice: Contemporary Themes and Practice*, Ploughshares Publishers, 1999, pp. 83-88.

³ Webster, *Ibid.*

⁴ *Ibid.*

- *Asburton Restorative Justice Programme* (Asburton District SCC)—A Community Panel Adult Diversion programme based in Asburton, south of Christchurch, this project is modelled on Project Turnaround, Timaru.
- *Waitaki Turnaround* (Waitaki District SCC)—A Community Panel Adult Diversion programme located in Waitaki, the project is modelled after Project Turnaround, Timaru.
- *Wanganui Restorative Justice Programme* (Wanganui District SCC/Wanganui Restorative Justice Trust)—Community Panel Adult Diversion programme located in Wanganui that works with all adult populations, but focuses particularly on the 17-23 age group in an attempt to work strategically.¹
- *Hawke's Bay Restorative Justice Programme Te Puna Wai Ora* (Hastings and Napier District SCCs/Eastern & Central Community Trust/Springhill Charitable Trust/Frimley Foundation)—based in Hastings, the programme functions with the offender-victim conferencing model. It had been operating prior to the CPU funding which enabled it to expand its activity.²
- *Te Runanga O Turanganui a Kiwa Restorative Justice* (Gisborne SCC)—with offices in Gisborne, this marae-based programme uses the offender-victim conferencing model.³

A number of other programs were operating with private funding by 2001. A **REAL JUSTICE** oriented initiative was organised in New Plymouth in 2001 after some eighteen months of organising work⁴. Prison Fellowship New Zealand began to implement experimentally the Sycamore Tree Project in 2000 in the Arohata and Rimutaka prisons. The latter worked with prisoners through the surrogate offender model employed in various other countries with significant success.⁵ The Trust deed of the Nelson Restorative Justice Trust was signed on 9 February 2000 and hoped to begin to implement a restorative justice programme sometime in 2001.⁶ The Waitakere Pilot founded in 1999 and operated by the Restorative Justice Trust with private funding and a small grant by the Crime Prevention Unit was active in the Auckland area.

In September 2000, the Ministry of Justice and Ministry of Corrections jointly announced the creation of a \$4.88 million court-referred restorative justice adult pilot to be implemented in

¹ Interview with selected Wanganui Restorative Justice Trust and Programme personnel and Marie Munro, Principal, Sacred Heart College, Wanganui, March 1, 2001.

² Interview with selected Hawke's Bay Restorative Justice Programme Te Puna Waiora personnel and trustees, March 5, 2001.

³ Interview with Joan-Ella Ngata, Coordinator, Te Runanga O Turanganui a Kiwa Restorative Justice, March 6, 2001.

⁴ Personal correspondence with Trish Stewart, Trustee, Taranaki Restorative Trust, 22 July 2001.

⁵ Interview with Graeme Taylor, International Director of the Sycamore Tree Project for Prison Fellowship International, and Kim Workman, Director of Prison Fellowship New Zealand, 5 April 2001, Lower Hutt, New Zealand.

⁶ J. Consedine, *Corporate and government crime advancing virtually unhindered*, A **RESTORE** Occasional Paper, 9 February 2000. Consedine reported in 31 March 2001 interview that work had not yet begun in the Nelson area, but that meetings had been held to begin processing cases in the course of the year.

Waitakere, Auckland, Hamilton and Dunedin District Courts. The Pilot will work on the basis of community group conferencing with court-referred cases that are classified as more serious than those typically diverted to restorative justice programs currently. Cases eligible for referral to the Pilot programmes are:

- All property offences with a maximum sentence of two years of imprisonment or more,
- All other offences that carry a maximum sentence of one to seven years in which there is a victim, unless the victim and offender have a family relationship.

All domestic violence cases will be excluded in the Pilot. Once the Pilot is underway the criteria for eligible cases may have to be adjusted to achieve the number of cases desired in the various phases of the Pilot.¹

Court-certified facilitators from approved private facilitator groups will conduct all community group conferences in the Pilot locations. The facilitator groups will provide appropriate supervision for the certified facilitators. This is the structural link between the Pilot and the community. Of course, various community members will participate in the community group conferences to provide support for the victim and offender as community-owned agreements are reached to the satisfaction of all parties concerned.² There are a lot of hopes pinned on the success of the Pilot. Many people would agree with Fr. Jim Consedine who comments on its importance. “The government is showing imagination and courage in promoting some pilot restorative justice processes. It is vital the best people get to run these pilots. But this is not just another government project. These pilots are breaking new ground and are up against huge vested interests. There is a lot of power within and to be made from maintaining the old failed system.” According to Consedine the success of the Pilot is “dependent on community ownership, public acceptance and a passion for better forms of justice.” He concludes, “Passion is the essential ingredient that will make the difference between success and failure.”³ (See Appendix 2 for a summary chart of the practice initiatives undertaken in New Zealand.)

The restorative justice movement in New Zealand has drawn inspiration and direction from practice and writing from around the world, e.g. the circle movement in Canada and international books like Zehr’s **Changing Lenses** as well as works by Braithwaite, Galloway, and others. However authors living in New Zealand have also published some important books that have helped shape the movement. Among them we would list Julie Leibrich’s 1993 book, **Straight to the Point**; Jim Consedine’s **Restorative Justice: Healing the Effects of Crime** first published in 1995 and revised in 1999; and Helen Bowen and Jim Consedine’s 1999 edited volume, **Restorative Justice: Contemporary Themes and Practice**. These works all focus on understanding what restorative justice is, how it is practiced and what causes persons to stop offending. The newest publication carrying a 2001 date, Christopher Marshall’s **Beyond Retribution: A New Testament Vision for Justice, Crime and Punishment**, is one of New Zealand’s first thoroughly theological treatments of the basis for restorative justice from a

¹ Interview with Margaret Thompson and Allison Hill, Department for Courts, Wellington, New Zealand, April 4, 2001.

² Ibid.

³ J. Consedine, *Restorative Justice: A movement of hope*, in **RESTORE: Newsletter of the Restorative Justice Network**, Issue No. 17, March 2001, p. 2.

Christian perspective.¹ Maxwell and Morris also have a book awaiting publication that will focus on the effectiveness of conferencing as a restorative justice methodology. Other publications have appeared that related directly to the topic, but may not be exclusively focused on restorative justice. All in all, given the heavy practical emphasis of restorative justice efforts in New Zealand it is encouraging to see so many publications that have or will play a significant role in the development of New Zealand's restorative justice movement.

C. Typologies of Alternative Justice Programmes in New Zealand

The alternative justice options within Zealand, as in many other countries, gives rise to different, though related, philosophical orientations, structure and practice. Even though at times personality clashes emerge that demonstrate the existence of conflict within the larger movement, the amount of commitment, altruism and joy shown and experienced by persons in the field is clearly evident to anyone who observes the movement with even a modicum of objectivity.

1. Typology: Principal Desired Outcome of the Alternative Justice Process

Maxwell, Morris and Anderson summarize four types of alternative justice present in New Zealand.² The categories, listed below as they labelled them, differ primarily in relation to the nature of the desired outcome of the alternative justice process.

- **Restorative Justice**—*Restitution, Reconciliation and Healing of Victim and Offender*
Restorative justice focuses on restoration by repairing harm that was done to victims and restoring the balance within the community. It involves arranging a meeting between victim and offender in which the victim or victims can describe how the offence has affected them and where the offender accepts responsibility, answers victim's questions and works with the victim to identify how to repair the harm and develop a plan of action that will make the reparations, ensure that the victim feels safe again, and reduces the offenders chances of reoffending. The process is intended to provide victims with compensation and assist healing through a process that takes their experience seriously. Members of the respective victim and offender support networks are encouraged to participate in the process and provide support for constructive outcomes. As victim healing and offender reintegration takes place, the entire community should feel safer and strengthened. VORP—Victim-Offender Reconciliation Programmes—and programmes that use family or community group conferencing that are designed to promote restitution, reconciliation and healing of the parties involved are examples of restorative justice. Community-panel programmes like *Project Turnaround*, and to some degree the *Wanganui Restorative Justice Programme*, would fit into this category as well to the extent that they focus on restitution, reconciliation and victim-offender healing as the primary desired outcomes rather than merely the reduction of reoffending even though

¹ C. D. Marshall, **Beyond Retribution: A New Testament Vision for Justice, Crime and Punishment**, published jointly by William B. Eerdmans Publishing Company, Grand Rapids, Michigan/Cambridge, UK and Lime Grove House Publishing, Auckland, NZ/Sydney, Australia, 2001.

² Summarized from **Community Panel Adult Pre-trial Diversion: Supplementary evaluation** by Gabrielle Maxwell, Allison Morris and Tracy Anderson, May 1999, pp. 7-8.

the latter may be a consequence of the restorative process and plan developed by the victim and offender.

- ***Indigenous Justice—Reintegration of the Offender into the Whanau and the Restoration of Mana***¹

Traditional Maori practice is usually cited as an example of indigenous justice in New Zealand, but common elements appear in indigenous settings throughout the world. These systems typically share a number of features with restorative justice, but as Dr. Pita Sharples' comments highlight in relation to *marae justice*, they often place a heavier emphasis on the restoration of the balance of relationships within the community disturbed by the offending than on the needs of the individual victim. The locus of responsibility for restoring the balance is often seen as lying with the family group or clan as a whole. Reintegration of the offender is usually central to indigenous processes. Response to the needs of victims is often part of the focus, but not a defining part of the process. Clearly the Te Whanua Awhina programme in Waitakere fits well within the larger indigenous justice model. Hence in contrast to the *Restorative Justice model*, the *Indigenous Justice model* places much more importance on the role of the respective extended-family groupings in addressing and redressing offending behaviour and its consequences. The offender enters into the process as "one to be reintegrated" into the indigenous community. The victim's needs are the responsibility of his or her extended family. In this type the principal desired outcome is the reintegration of the offender into the community and restoration of *mana* or balance within community relations. In other words, it seeks first the healing of the community and secondarily, or as a result, victim healing and offender rehabilitation.

- ***Community Justice—Community Interests and Safety Addressed in Offender Reintegration or Rehabilitation***

Local groups in specific communities manage justice in their own areas where they can respond to local issues and concerns. In this way the community can take responsibility more directly for community safety. It represents the devolution of power to the community level. The Justice of the Peace system, once common in New Zealand, where communities have a high degree of freedom to address local justice concerns falls roughly into this category. The "Neighbourhood Watch Programmes" promoted by the Police would be another community-based initiative that may fit this category. Issues related to this form of alternative justice would certainly be related to who these groups are and how community-based justice efforts keep from becoming a form of local vigilantism on the part of small but powerful local elites. The community panel systems employed by Project Turnaround in Timaru and with a slight variation in the Wanganui Restorative Justice Programme have a bit of the community justice character because of the significant role of the community panels in the development and approval of the offender's action plan for reintegration and rehabilitation, but probably fall more readily into the broad restorative justice category. Similar comments could be made in regards to some of the community-sponsored conferencing, especially if it takes place without court involvement. Even though this focus involves victims and offenders to some degree, in

¹ The Maori term *whanau* refers to the family or extended family and takes on a meaning very close to *community* in close-knit social groups. *Mana* means prestige, standing or respect and applies to both individuals and groups.

the final analysis community interests and safety are central to this scheme. The community or its representatives are the key players and ultimately seek to ensure that community interests and safety are enhanced.

- ***Diversion—Offender Avoids Criminal Record and Given Chance to Symbolise Commitment to Non-Reoffending***

The objective of diversion is to divert offenders away from the courts and hence a conviction record. In New Zealand this is usually done through the legal provision of Police Diversion. The Police withdraw prosecution and instead arrange for alternative sanctions. This is usually for minor offences and/or first-time offenders. Diversion involves elements of accountability, especially towards victims, and reparation in some form. Even so, it is open to criticism that the Police become prosecutor, judge and jury. As such it is likely that built-in biases will occur thereby disadvantaging sectors of the population, especially the relatively more vulnerable cultural groups.¹ In this model the police play the major role. The offender is given a choice to accept or reject diversion and may play a role in determining what types of active will constitute appropriate restitution. The victim may or may not be consulted. The Workman Associates research would indicate that more often than not the victim, if involved at all, is a marginal participant in the process.² Police diversion focuses more on reducing court-case congestion by diverting certain types of offenders and avoiding a criminal record for first-time minor offenders than on the healing and restoration of victims and offenders.

According to Maxwell and Morris, at their best the four categories of alternative justice listed above theoretically all share the following five features to one degree or another:

1. Participation to some degree of the affected persons in making decisions on plans to respond to the offending;
2. Importance of remorse by the offender;
3. Completion of actions by the offender intended to repair the harm to victims or community;
4. Reintegration of the offender into the community;
5. Participation of the offender in appropriate and effective rehabilitative programmes; and the use of processes that avoid an outcome of enduring shame for the offender.³

However, data from our interviews suggest that while the above are all types of alternative justice, in practice it would be difficult to support the claim that they all share the features identified by Maxwell and Morris. Even if one accepts that these are common features, clearly as one moves from the restorative justice category toward diversion the five features become less central to the process. For example, victim and offender are less likely to meet face-to-face and offender actions to make right the wrong committed are more likely to take the form of community service or monetary contributions to charitable causes rather than direct reparations to the victim.⁴ The process is also more likely to involve only the offender and the police. In

¹ Kim Workman, *Police Adult Diversion—Increasing Maori Participation*, a report for the New Zealand Police, Kim Workman & Associates Ltd., 1998.

² Ibid.

³ Gabrielle Maxwell and Allison Morris, *Putting Restorative Justice into Practice for Adult Offenders*, The Howard Journal, Vol. 4, No 1, 2001:55.

⁴ A major concern pointed out by Kim Workman & Associates Ltd., *Police Adult Diversion—Increasing Maori Participation: A Report for the New Zealand Police*, an unpublished consultant's report, December 1998.

short, the desired outcomes become more offender-centred with the intent to reduce reoffending rather than victim-centred to promote healing. Nevertheless, this does not diminish the fact that police diversion continues to be a major alternative justice option because it does seek to work from a basis other than retribution.

2. Typology: Structured Power Relationships in the Alternative Justice Process

Judge David Carruthers asserts that the key to successfully achieving restorative outcomes is the quality of the conferencing at the centre of the process.¹ An important consideration is the degree to which power can be balanced in the conference or process. If one assumes as a starting point that victim and offender interests should have relatively equal weight and the parties should have equal say in what is acceptable or not, then a typology can be developed in relation to this assumption about power in the process. Structured inequality often characterises conferences or meetings because of where they take place, who participates, who facilitates, and the outcomes expected. However, this is not to suggest that where structured inequality of some sort exists good outcomes are impossible. On the contrary, since all settings will have some type of structured inequality, it is important to identify it and minimise its impact. For example, many times offender needs may take high priority because of the high cost of dealing with offences for the State and its legitimate interest in reducing reoffending rates. Victim needs, on the other hand, generally incur emotional and financial costs that are borne by the victim or the victim's family rather than the State. There are few publicly recognised costs that would create concern for those responsible for the national budget in such a way as to have them exert pressure to make victim needs central to the process. Hence many processes seem highly offender centred with relatively little significance paid to the victim.

Structured inequality relates to the power differentials present in the conference or process. For example, it is commonly recognized that the offender as “violator” typically puts the victim, who often feels vulnerable after the offence, at a psychological disadvantage. On the other hand, if the facilitator is a court employee or a member of the police force, this could represent an advantage for the victim in the eyes of the offender. Expected outcomes can also introduce inequality into the conference. For example, when reconciliation and healing of those at the core of the issue—offender and victim—are primary desired outcomes the process will be structured to make such outcomes the end product. When the primary outcome is the reduction of reoffending rates, the interaction between victim and offender, State *vis a vis* offender and victim, and community *vis a vis* victim and offender will be of a different quality with different types of response plans developed in the process.

A typology of the groups researched for this paper in terms of the degree of structured inequality in the process would produce the following categories. It must be recognized that there will always be a certain amount of blurring from one category to another because to the creativity that characterizes each meeting, but four types will be summarized below.

- *Victim-Offender Centred Community/Family Group Conferencing (CGC/FGC)*—This structure designs a dialog process with victim and offender at the centre in which the

¹ Interview with Judge David Carruthers, Principal Youth Court Judge, 27 February 2001, Wellington, New Zealand. Judge Carruthers has since been appointed Principal District Court Judge.

outcome is not only a plan for the offender, but the creation of a space in which reconciliation begins and each of the parties experiences healing. In this facilitated dialog, victim and offender talk directly with each other while families, friends or social service agencies provide support. Though felt by all, victim and offender interact and experience most deeply the emotion of dialog and the transformation it often produces. In this process victim's needs are given equal weight with the need for offender rehabilitation and transformation.¹ Programs like PACT, Justice Alternatives, the Christchurch Restorative Justice Service, Hawke's Bay Restorative Justice Te Puna Wai Ora, Inc. as well as the Adult Court-Referred Restorative Justice Pilot programmes would all fall into this category even though in terms of the latter it is not totally clear yet what the balance will be between the value placed on reducing reoffending in relation to healing and reconciliation for the victim and offender. The Sycamore Tree Project could fit in this category as well, if one assumes that all the benefits of face-to-face contact are retained or achieved when offenders meet with surrogate victims rather than with their actual victims. The Taranaki Restorative Justice Trust relies on the group/community conferencing process, but works with single-facilitator conferences.

- *Community Panel Conferencing*—The community panel-based schemes, similar in many ways to the CGC programmes, will vary regarding the degree to which facilitated dialog between offender and victim occurs. In both the Timaru Project Turnaround and Wanganui Restorative Justice programmes the community panel still holds the last word on the acceptability of the conference-produced plan for the offender that will be taken to the judge for final approval even though the conference facilitation involves active dialog between victim and offender whenever possible. Restorative outcomes are achieved, but the process differs from the FGC/CGC. More specifically, structurally there is victim-offender dialog, but always in relation to the community panel. Victim and offender may both talk to each other, but the key is for the community group or panel to have the appropriate information from both, e.g. the interests of all parties must be addressed. Hence, structurally the panel enters into dialog with victim and offender, but it is not so much the latter's interaction between themselves that matters as the information and plan that the conference produces, an outcome that the community panel is charged to achieve. This particular structure fits well with an emphasis on the reduction of reoffending rates more so than reconciliation and healing, though the latter are certainly of interest in the process. Nevertheless, the long-term viability of the programme will be dependent on what happens to the reoffending rates.

In this structure both victim and offender are a bit more removed from the final outcome than in the CGC scheme. They can be in direct communication with each other as well as the panel, but the panel is the ultimate authority regarding what goes to the judge. The panel presumably represents the community—an involved party—but at a secondary level, a fact that should give it a certain level of objectivity in the process. Even though the ultimate decision to approve the plan for making things right does not lie with the

¹Personal interview with Allan MacRae, youth justice family group conference facilitator, Wellington, NZ, February 27, 2001. MacRae notes that one of the major responsibilities of an effective conference facilitator is to make certain that victim and offender interests and needs are equally represented in the process. It is easy for victim interests and needs to be under-represented in the process because of the offender centeredness of many social service and court-related programmes.

victim and offender, interviews with the community panel programmes we visited as well as formal evaluations of the programs in question show that in many cases this process, if well conducted, provides enough space for victim-offender dialog so that it produces highly restorative outcomes.¹

- *Group-to-Group Centred Conferencing*—This type of conferencing would be most typical in indigenous justice settings (e.g. the Te Whanau Awhena marae-based scheme or other Polynesian traditional group-based approaches—Samoan *Ifoga*, Tongan *Fakalelei*, etc.)²—in which the extended families of victim and offender meet to address the offending that has occurred. Like the community panel scheme above, an entity other than the offender and victim is charged with the responsibility to produce a plan to address the offending. Victim and offender participate as part of their respective groups, but the families take the initiative to talk. Offender and victim enter the conversation at the behest of the families. In other words, the family groups engage in the emotion of dialog with victim and offender as participants in their respective family groupings. However, the first line of reconciliation and restoring the balance is between or among the extended families and only secondarily the victim and offender. This differs from the community panel in that the parties in discussion in this scheme, the extended families, are often directly affected through the loss of *mana* or respect, which puts them in a position with reference to the offence quite different from the community in the community panel scheme. The offender and victim are structurally much more subordinate than in the community panel or the CGC schemes. Research shows that balance and integration are often achieved through this type of conferencing, but victim satisfaction was hard to assess due to the inability to interview enough victims to make generalisation possible.³
- *Police-Offender Conferencing for Diversion*—A wide range of interaction often takes place between the police and offenders. Many of these encounters are contemplated in Police Diversion plans in which the police may decide not to make an arrest after talking with the offender. On the other hand, the Police may decide that a charge needs to be laid for the offence, but if the offender accepts the invitation to participate in a diversion plan then he or she will likely not have the offence pressed further. In such a case, the dialog is usually between the police—an institution—and the offender or offenders—an individual or in some cases individuals. The victim may or may not be consulted, but typically plays a much more marginal role in these programmes than in the other types of programmes described above. The key conversations take place between the offender and the police. This particular arrangement is characterised by a higher degree of structured inequality than the others in that the institution of the Police enters into dialog with an individual, the offender, and often only minimally recognises the needs or

¹ Interviews with Project Turnaround Timaru, Wanganui Restorative Justice and Gisborne Restorative Justice program and board personnel highlighted the importance of a restorative outcome even though structurally the process may not be as explicit about that as in some other types of conferencing. See also G. Maxwell, A. Morris and T. Anderson, *Community Panel Adult Pre-trial Diversion: Supplementary evaluation*, May 1999.

² See J. Consedine's chapter on Samoan traditional justice in *Restorative Justice: Healing the Effects of Crime*, chapter 9, pp. 120-131.

³ See G. Maxwell, A. Morris and T. Anderson. *Ibid.*

interests of the victim. There is inequality between institution and individual as well as the fact that offender and victim are not accorded equal importance.

3. Typology: Programme Funding Source

The role of the Crime Prevention Unit in developing and funding a variety of alternative justice schemes is laudable. Without its efforts the alternative justice landscape would be much more sparsely populated. The sponsorship of the programmes we visited in New Zealand ranged from completely private funding to nearly total Crown funding and various points in between. Each type has its advantages and disadvantages.

- *Community Funded Programmes*—At the extreme end of community sponsorship one finds programmes that function totally on the basis of the income produced from facilitating court-referred and funded conferences and private contributions, e.g. PACT, Restorative Alternatives, The Restorative Justice Trust, Prison Fellowship's Sycamore Tree Project and a number of indigenous justice efforts. There are several groups that, in addition to funding from facilitations and private contributions, would also receive funding from local councils or trusts, e.g. Restorative Justice Services in Christchurch and the nascent Nelson Restorative Justice Trust. A major advantage for community-sponsored groups is that they are free to work with all types of offences, whereas publicly funded programmes may have to limit their work to certain types of offences or populations. Community-sponsored groups also have incentives to be creative and explore new avenues of alternative justice work because it is vital to their long-term sustainability.
- *Community-Ministry of Justice Jointly-Funded Programmes*—Several programmes would have moved from being primarily community-funded to a mixture of community and Ministry of Justice funding, e.g. Hawke's Bay Restorative Justice Te Puna Wai Ora, Inc. and Wanganui Restorative Justice Programme. Typically official funding, especially when channelled through the Crime Prevention Unit and its respective Safer Community Councils, only covers a portion of the cost of a given programme. Project Timaru may have been an exception to this when it was launched in 1995. Nevertheless, the positive aspect of this shared arrangement is that programmes are more likely to be rooted in the respective communities where they function because part of the funding needs to be generated locally. The dilemma with the joint-funding arrangement is that long-term sustainability may be compromised unless permanent Ministry of Justice funding can be obtained. This is due to the fact that the Ministry funding enables programmes to expand beyond what local resources might be capable of sustaining over the long term.
- *Ministry of Justice Funded Programmes*—For years a variety of voices has been calling for the Ministry of Justice to include alternative justice programmes in the regular Ministry budget just as the Police includes police diversion in its annual budget. That has not happened except for Project Turnaround in Timaru that now gets regular funding from the Ministry of Justice through the Safer Community Council. However, this is still very different from an arrangement that would be a standard line item in the Ministry's general budget. The new Court-Referred Adult Restorative Justice Pilot comes the

closest of any programme in recent history to being fully funded by government sources. The \$4.88 million four-year project will be fully funded by the money designated to the Department for Courts for that purpose. However, the community group conferences in the scheme will be facilitated by persons who are part of a private sector professional group capable of providing supervision to the facilitators who will be trained and certified by the Department for Courts. This will be a community contribution since the facilitation fees will not be enough to compensate the respective groups for their professional supervision. The participation of community professional groups in the process is a real asset since it will strengthen community-Pilot relationships and provide a non-Department for Courts facilitator, which should introduce more objectivity into the conferencing process. However, it is not clear if professional community groups will be willing to bear the costs of facilitator supervision in the long term or who will provide ongoing training for the certified facilitators. Furthermore, the fact that the certification will be done ultimately by the Department for Courts rather than community boards or networks of alternative justice groups would lead one to question how real community participation is in the final analysis. This is not meant to imply that the Department for Courts is not qualified to certify facilitators, but rather that community participation in the process may be less or more limited than what might first appear to be the case.

4. Typologies with Other Variables

Three typologies have already been identified, each based on a specific variable. However, one could also classify programmes we visited on a number of other variables. For example, they might be classified by the:

- person on whom the programme is primarily centred
 - offender-centred, victim-and-offender centred, or victim-centred programs
- level of professionalism
 - volunteer-based, mixed volunteer and part-time paid, or full time paid personnel
- point at which restorative/alternative process is initiated
 - pre-charge, post charge but pre-sentencing, post sentencing, during incarceration, post incarceration e.g. parole, etc.

As in all cases, it is possible that a given programme may fall somewhere in between the various types. However, what is clear is that there is far more similarity among programmes than stark differences. The differences that do appear are in most cases more of degree than of total disjuncture. The range of programmes will need to grow wider in order for a strong alternative justice movement to firmly take root in New Zealand. At this point, there is a real need for more persons who will promote a range of options that will help consolidate the movement and give the alternative justice movement a restorative overlay. Programmes like Prison Fellowship's Sycamore Tree Project and the Hawke's Bay Restorative Justice Te Puna Wai Ora, Inc.'s work with prisoners are moving restorative principles into an arena that has been relatively untested by efforts of this nature. Striving for common restorative outcomes would appear to be more important than uniformity of practice and structure.

D. Issues in Alternative/Restorative Justice in New Zealand

New Zealand has a long history of alternative justice efforts dating back to early settlement times when indigenous forms of justice were explored, incorporated or recognized in one way or another. What has emerged in the course of the past decade is an increased awareness of, and interest in, making these alternative justice efforts as restorative as possible. “Restorative” in this case would refer to the desire for reintegration, reconciliation and healing of all parties involved—victim, offender, families and communities. Looking to the future, a number of issues emerge that are currently being addressed or that will need to be addressed in the long term. Since this summary is primarily to document findings from my sabbatical research, what follows does not presume to discover areas of which many persons working in alternative justice programmes in New Zealand are not already aware. It is an inventory of what we have heard in our interviews and read in the New Zealand literature related to the field.

1. *Factionalism*

One quickly discovers that a number of currents wend their way through the alternative justice community in New Zealand, just as in other countries. In interviews with programmes throughout the country we found that groups saw themselves as part of the larger movement, yet were also keen to differentiate themselves from others in the field into fairly narrowly defined niches. For example, the Hawke's Bay Restorative Justice Te Puna Wai Ora, Inc. was like other groups that used community group conferencing, but it also worked with prisoners thereby giving it uniqueness in the field, which it rightly recognized. This is not unusual since each programme has to struggle for funding, community recognition, and gaining legitimisation in public opinion for alternative justice approaches to offending. Thus, every programme is forced by the market to be aware of its uniqueness in order to insure its survival and place in the community or funding from the State.

The pressure for uniqueness and distinctiveness, in addition to strengthening organisational identity, tends to highlight differences in philosophy, structure and practice even though at a general level the alternative justice efforts are all committed to work from a non-retributive base. Nevertheless, as Dr. Warwick Tie notes, in all social movements—especially value-based movements—one can expect to find a certain amount of social churning that will give rise to divisions, personality conflicts, struggles related to the ideological/philosophical definition of the movement, attempts to set boundaries to clearly define what/who is *in* or *out*, attempts to define acceptable standards of practice, competition for funds and clients, the tendency to believe that one's own group represents the purest form of practice or philosophy, etc. This is normal and needs to be recognized by actors in the movement as a part of the dynamic of social movements.¹ Recognising this is a step towards enabling movement adherents to step back and make a conscious effort to tolerate and celebrate differences and to attempt to see how all can fit into and enhance the broad movement. Ideally, this should enable the various groups to develop and maintain a sense of identity and commitment based on their respective contributions to the larger struggle for alternatives to a justice system based on retribution, rather than in relation to each other, who may be working in different niches within the broad field. One of the obvious strengths within the movement is the effort to adapt philosophy and practice to the local social environment. The Hon. Matt Robson, Minister for Courts, clearly identifies that his task and the Ministry's role is to provide the broad umbrella for a variety of programme options that are

¹ See Warwick Tie, *When Peacemakers Fight*. A paper presented to the WEA series: **Peace – Putting it Together**, Palmerston North Convention Centre, 24 May, 2000.

restorative in nature without becoming too closely identified with any particular segment.¹ The alternative justice movement definitely needs sustained support from the Ministry for Courts and Ministry of Justice over the next decade in order to foster the social transformation necessary for communities throughout the country to take deep ownership for the implementation of alternative justice schemes at the local level. Providing the space for healthy interaction among the various emphases and programmes will certainly be a vital role for the two ministries as well as a special challenge for them to create the necessary space, but at the same time allow for creativity and a sense of true partnership with respect to ownership to flourish at the grassroots.

Setting a time to reflect on the dynamics of social movements and how those dynamics manifest themselves specifically in New Zealand's alternative justice movement would be a good exercise—possibly combined with consideration of a pressing practical issue such as practise ethics—that could help minimise the impact of the typical tendencies towards factionalism that characterizes social transformation movements. It could help to keep these challenges from driving the movement into shaper dissension, more detailed differentiation and ultimate disintegration. Nevertheless, in spite of the normal trend towards factionalism that can be seen from time to time, one can be optimistic about the future of alternative justice in New Zealand because we found a deep commitment to a restorative option within the movement, great openness to do what needs to be done to ensure success, an eagerness among practitioners to meet to exchange experiences and ideas, and a general sense of personal joy and satisfaction in playing a role in confronting the effects of crime by promoting restoration, reconciliation and the healing of all parties involved as well as an unprecedented level of commitment by the current government to alternatives to retribution where that seems appropriate. Hence, even though there are signs of factionalism, the differences that exist do not seem to deter from a desire to gather together in order to move forward with work in the field. Many alternative justice practitioners and a number of academics have expressed interest in creating a forum in which persons representing the entire spectrum of programmes and emphases could gather for reflection on the social movement aspects of the alternative justice field and to address pressing practice issues. All of the practitioners with whom we spoke who had participated in the JustPeace Conference in April 2000 thought that the great success of the conference lay in the fact that it brought together practitioners of all types along with experienced academics keenly interested in the field and made possible conversations across boundaries that too frequently debilitate rather than strengthen the movement.²

2. *Public and Mutual Recognition*

Many of the alternative justice programmes function in relative obscurity as far public recognition is concerned. It was not uncommon to arrive in a community and find that not many persons were aware of the alternative justice programme operating there. The most outstanding exception to this was Project Turnaround in Timaru. There personnel in several of the cafes and restaurants talked to us about the programme when we asked about it. Project Turnaround's having been honoured with the International Community Justice Award in London in 2000 is both a source of pride for Timaru and the Programme as well as a feat that has certainly given it higher community recognition than what most other programmes enjoy. The high quality of the

¹ Interview with the Hon. Matt Robson, Minister for Courts, 29 June 2001, Auckland, New Zealand

² **JustPeace? Peacemaking and Peacebuilding for the New Millennium**, Massey University Albany, Auckland, New Zealand, 24-28 April 2000.

programmes that we visited was a source of encouragement. They all enjoyed strong support from a core of community people, to whom much of the credit for the respective programmes' success is due. Nevertheless, in many cases programmes seemed to feel keenly the lack of broad recognition in their respective communities and the lack of support for alternative/restorative justice options in national public opinion. Most felt that they had a major public awareness task before them. Programmes highly valued timely visits by the Minister for Courts, Minister of Justice or a well-known judge such as Judge David Carruthers because of the publicity they generated and the support they symbolised.

Another recognition issue typically emerged in the course of our conversations with programme and community trust personnel. There was a keen sense of need for recognition of their efforts by other programmes in the field. More opportunities to meet to share experiences and get acquainted with other programmes always surfaced as a strongly felt need, especially for the newer or smaller programmes. It is important to recognise that the need for funding and market forces operate to foster competition rather than collaboration among programmes, so general meetings are an important way to help counter the divisive forces and foster the opportunity for mutual encouragement and recognition. Every effort must be made to spread the movement net broadly to draw alternative efforts in rather than allow the natural tendency to flourish that defines groups out of the broad restorative justice community.

3. *Funding and sustainability*

Clearly one of the major concerns for most programmes is their long-term financial sustainability. Local trusts and the Crime Prevention Unit have played a major role in getting programmes going or financing new phases that enable them to develop a stronger presence in their respective communities. However, even with this funding, programmes rely heavily on the good will of community members and volunteers for staffing the essential tasks involved in making a successful programme—trustees, conference facilitators, community panel members, support staff functions, etc. Some programmes are able to count on community trust funding or other non-governmental sources, but most will need some type of funding from the state or more adequate compensation from the courts for conference facilitations in order to survive in the long-term. If the alternative justice movement is able to gain sufficient public recognition to enable it to be seen as a community-based and run component of the national justice system made up of state and community programmes, some of the savings generated by alternative justice schemes could presumably be used to cover a regular budget line for programmes of this type.¹ Nevertheless, even with this goal there is always the issue of how a strong sense of community ownership and implementation can be maintained when a significant amount of funding comes from the state. Possibly the current Court-Referred Adult Restorative Justice Pilot can help generate possibilities for the future derived from the experience of contracting local facilitator groups to do the adult conferencing. The key is to be committed to keeping and or fostering significant community ownership and involvement in the alternative schemes. How that is achieved may well require more experience with a variety of programme types before clearer options emerge. This will also mean that those programmes that are primarily funded

¹ This is the vision expressed by the Hon. Matt Robson, Minister of Corrections and for Courts in our 21 June 2001 interview.

from non-governmental sources should be fostered and their voice and experience valued as future directions are considered.¹

4. *Court-Referred Adult Restorative Justice Pilot and Its Benefits for Other Programmes*

The Department for Courts' publication on the Pilot reports, "Court-referred restorative justice is in addition to, not a substitute for, the range of restorative justice services already available, and draws on the expertise of community service providers."² It goes on to note that there are many other restorative justice services available in addition to the court-referred pilot. A September 6, 2000 Department for Courts' press release states, "The new court-referred restorative justice pilot will complement the various community-managed restorative justice projects currently in place around the country and will build upon the pioneering efforts of these community groups."³ Though this was recognized as an objective in the early stages it seems that programmes outside of the Pilot area have had trouble seeing how the Pilot would strengthen their efforts. A major concern was the fear that public resources and the shaping of the alternative/restorative justice movement would increasingly be tied to Pilot programmes and controlled by the Department for Courts resulting in less community involvement and control rather than more. Even so, there was no question that the ultimate success of the movement depended heavily on strong support and involvement of the Ministry of Justice and Department for Courts. Non-pilot area groups seemed to be calling for ways that their efforts could be recognised along with the publicity generated by the Pilot and some symbolic demonstration of support from the Ministry of Justice and Department for Courts. In other words, they hoped that as the spotlight shone on the Pilot programmes that other community programmes could at least be silhouetted as well. This could be done through visits to non-pilot programmes by officials such as government ministers and other dignitaries, frequent opportunities for consultation between Pilot and non-pilot programmes, and funding—even if in small amounts—for community programmes that demonstrated creativity in promoting the cause of alternative justice with a restorative focus.

During our interview with the Hon. Matt Robson, he expressed a strong commitment to encouraging programmes that fell outside of the Pilot and to see the Pilot as a means to advance the general cause of alternative/restorative justice rather than to have it become the standard for defining the overarching philosophy and best practice for the movement.⁴ It remains to be seen if the Minister's commitment can outweigh the tendency of state administered efforts to take to themselves the prerogative of defining the standards and practices in the field. Our research

¹ We visited three programmes that fit into this category—Restorative Justice Services, Christchurch; PACT, Auckland; and Restorative Justice Trust, Auckland— whose experience should be carefully considered when future options are explored. Other programmes, no doubt, exist that are also primarily funded by non-governmental sources, but we did not personally visit them. Several programmes like the Wanganui Restorative Justice Programme and the Hawke's Bay Restorative Justice Te Puna Wai Ora, Inc. are mixed programmes and also merit careful consideration.

² Department for Courts, *Restorative Justice: Information on Court-Referred Restorative Justice*, Wellington, 2001, p. 19.

³ Office of the Hon Matt Robson, Minister for Courts, Media Statement, 6 September 2000, Wellington, New Zealand.

⁴ Interview with the Hon. Matt Robson, Minister of Corrections and for Courts, 21 June 2001, Auckland, New Zealand.

suggests that not only the success of the Pilot programmes, but also the movement in general depends heavily on being able to build a results-based sense that the Pilot benefits all types of alternative/restorative justice programmes while it attempts to move into areas that have not been systematically tested—practice designed explicitly to be evaluated on a set of criteria at specific points in time—even though other programmes may have moved into or even beyond those areas as a result of needs in their respective communities.¹

5. *Balance of Impulses towards Standardization with the Need for Constant Openness to Creativity and Flexibility*

Any movement for social change must constantly strive to balance the tendency, on the one hand, of the pressure to move towards a clearer definition of practical issues—e.g. identifying best practices, establishing uniform standards, achieving greater efficiency in practice, assuring organizational sustainability, expansion of the movement, etc.—and the need to engage in reflection, analysis and theorizing to foster rich conceptual development that will constantly expand current vision and understandings. It is important that participants in value-based social change movements take time to deliberately work to challenge the tendency to a premature closure of discourse that leads to movement stagnation with a resulting loss of passion and the resort to mechanical practice rather than passion-filled commitment to daily activity. It also exposes the movement to being subverted by good intentions that are not adequately examined. Flexibility, creativity and passion need to be maintained by taking time out along the way for in-depth reflection and refreshment that will enable the mundane character of everyday practice to remain meaningful and full of hope.²

Networks such as the Restorative Justice Network and academic institutions like Massey University's Centre for Justice and Peace Development, Victoria University's Institute of Criminology and the Centre for Conflict Resolution are especially well suited to promote these horizon-expanding and energizing encounters. Even though New Zealand is among the world's leaders in working seriously with restorative justice, much still needs to be done related to evaluation, cultural expansion of the concept, and analytical/theoretical exploration in the broad field. However, as noted above, this very important activity will be most useful to the larger movement if there is regular dialog and deep respect between those who work in practice and those who push the theoretical and conceptual boundaries. The division of labour between the two sets of people should be blurred by periodic encounters designed for exchange and developing a sense of unity and appreciation for all types of activity related to the movement. The need for these encounters is widely recognized by many persons in the movement and activity is underway to plan such a gathering. The regular newsletters from a number of programmes and the Department for Courts newly published newsletter on the Court-Referred

¹ Cases of domestic violence or abuse are explicitly excluded from Pilot programmes even though the Pilot intends to focus on relatively serious cases of offending. However, simply because of demand some community restorative justice programmes have begun to apply restorative justice conferencing in certain cases of domestic abuse even though these cases are highly complex because of the natural relationships that characterise them.

² J. Consedine, *Restorative Justice: A movement of hope*. **RESTORE: Newsletter of the Restorative Justice Network**, Issue No. 17, March.

Pilot are significant steps in this direction, but they do not replace the need for face-to-face contact.¹

6. *Relationship of the Alternative/Restorative Justice Movement with Police Diversion.*

Police diversion is definitely part of the broad alternative justice concept and has been part of policing for many years. However, in many cases the concept of restorative justice or of using police diversion with a restorative focus seems to be relatively unfamiliar to police or opposed by them. Small but growing numbers of officers are interested in restorative justice programmes or actively support them, as we saw in Wanganui and Timaru. Based on its work with police regarding the Treaty of Waitangi provisions, the Rowan Partnership notes that open hostility to restorative approaches and Treaty provisions is often transformed after police officers have had time to reflect seriously on the role restorative justice and the more just treatment of Maori could play in reducing crime and creating a safer community.² Even so, police officers who support a more restorative approach, where appropriate, to offending generally claim that major attitudinal changes are needed within the police force before alternative/restorative justice schemes will be considered essential components of New Zealand criminal justice.

Our interviews highlighted that restorative justice practitioners frequently find little enthusiasm for restorative justice even among police diversion personnel who resist the possibility of making diversion more restorative and victim-centred. From the vantage point of an outsider, it would appear that police diversion, as an alternative justice option, could be significantly strengthened by a more restorative emphasis. It could also greatly contribute to the overall movement if it shared its experience with others and enriched its practice by examining the experience of others. However, in order for this to occur police personnel will have to begin to view diversion as only one of a number of alternative justice options that can be enhanced by interaction with other alternative practices. In other words, police diversion should see itself as part of a larger movement rather than a programme to itself.

7. *Interface with Population Groups with Highest Rates of Incarceration/Offending*

A major thread running through post-European-settlement New Zealand history is the relationship of Maori populations to European institutions, particularly the criminal justice system.³ The struggle to deal creatively and appropriately with Maori traditional practice and the demands of an increasingly Europeanised society is clearly evident in considerations and discussions leading up to the *Children, Young Persons and Their Families Act 1989* that reoriented youth justice towards a restorative justice approach to offending and its effects.

Personnel in most of the programmes we visited expressed the desire and the need to involve more fully in restorative justice programmes the populations (usually non-pakeha groups) with

¹ The Department for Courts' newsletter for the Pilot published in June 2001 is the latest entrant into the restorative justice newsletter field. It is called **Te Ara Whakatika: Newsletter of the Court-Referred Restorative Justice Project**.

² Personal interviews with David James and Jillian Wychel of Rowan Partnership, Wanganui, 26 February and 25 May 2001.

³ The Maori Land Wars and other events of this nature are all part of this complex relationship.

the highest offending rates. The various schemes work hard to address offending behaviour in a restorative and culturally appropriate fashion, but this does not solve the problem of under-representation by these populations. Helen Bowen and Jim Boyak, trainers for facilitators in the Adult Pilot, along with the coordinators for the four programmes in the Pilot expressed concern about finding enough Maori, Pacific Island and other ethnic group facilitators in order to have an ample number of facilitators from the groups most heavily represented in the offending population.¹ PACT and the Wanganui programme also voiced similar concerns. This concern assumes that these ethnic groups will want to enter sufficiently into the official criminal justice structure so as to be able to participate in the implementation of the court-referred restorative justice programmes. Other voices would call for these groups to develop and adapt their own systems for dealing restoratively with offenders, since anything short of that is basically a cooptation by the dominant system. Juan Tauri differentiates between indigenising the national justice system—including indigenous personnel and practices--and autonomising indigenous systems—allowing indigenous groups to adapt and develop their traditional systems along side the “Western” system. He concludes that New Zealand’s approach is clearly the indigenisation of the current criminal justice system with the concomitant cooptation of indigenous groups.² This issue is current and involves the energy of many persons and groups within the alternative/restorative justice movement, Polynesian cultural groups, and government departments. It is a protracted issue that will persist and likely evolve to greater complexity rather than be resolved in the short or medium term. It will therefore force proponents of alternative/restorative and indigenous justice in New Zealand to maintain a level of reflection and creativity that will challenge, but also strengthen, all participants in the discussion. It will continue to be part of the national discussions on the implications of the Treaty of Waitangi for New Zealand today and tomorrow.

8. *Working Creatively with Prison Populations*

The Hon. Matt Robson, Minister of Corrections, asserts that New Zealand has a level of incarceration second only to that of the United States in the world. This suggests that alternatives to long-term imprisonment must be explored, a major challenge for Corrections, according to the Minister.³ He noted the work among prisoners by Prison Fellowship International’s Sycamore Tree and the Hawke’s Bay Restorative Justice Te Puna Wai Ora Whakatikatika Prison Project as steps in the right direction. The two programmes use different approaches, but both work with prisoners to help them develop empathy for their victims and remorse for their actions. The Sycamore Tree project involves prisoners and surrogate victims in a series of seminar/encounter sessions in which prisoners hear victims perspectives and victims can ask offenders some of the questions they need to ask in order to enhance the healing process. The initial seminars have led to some truly remarkable result as prisoners take responsibility for their actions, often their first public recognition of the fact, and develop victim empathy through

¹ Interviews with Helen Bowen and Jim Boyak, 5 June 2001; Islay Brown, Auckland Programme Coordinator, 26 April 2001; and Cathy Brown, Dunedin Programme Coordinator, 22 March 2001.

² Juan Marcellus Tauri, *Family Group Conferencing: The Myth of Indigenous Empowerment in New Zealand, Justice as Healing*; Vol. 4 No. 1 (Spring 1999).

³ Personal interview 29 June 2001.

face-to-face encounters with victims of crime. Victims also experience healing and release even though the offenders are not necessarily the perpetrators of the offences they suffered.¹

The Hawke's Bay programme, the first of its kind in New Zealand, relies on educational seminars and, whenever possible, facilitated victim/offender conferences. In the first eight months of operation the program received sixty-two referrals. Twelve of them led to some type of victim/offender conferences. Given that often a significant amount of time has passed since the offence was committed, conferences are frequently difficult to arrange because victims often move to other communities and are difficult to find. Jackie Katounas, Coordinator of the Whakatikatika Prison Project in Hawke's Bay says, "We have been surprised by the serious nature of the offences and the willingness of the offenders to proceed down this path of reconciliation." She has also "been amazed and humbled" by the willingness of victims—many of whom have "suffered horrendously" from the offence—to enter into the process as well.² Both the Hawke's Bay work and the Sycamore Tree Project are very new, but they appear to be having early success. The Minister considers that this type of work with prisoners is an important frontier for restorative justice efforts both in New Zealand and throughout the world. Only time will tell if at the beginning of this decade as in the 90s with youth justice, New Zealand has again signalled new possibilities for restorative justice for the world.

9. *Interface with Victims' Support and Advocate Groups*

A number of support or advocate groups operate within and around the criminal justice system. Some groups focus on the needs of the offender whether they be personal development needs such as anger management, skills training or addiction rehabilitation. These efforts are intended to lower the likelihood of reoffending. However, sometimes other groups see these actions as being soft on the offender or sending the wrong message concerning the unacceptability of the offence. In the United States victims support groups are sometimes the most ardent opponents of restorative justice because they equate it with being soft on the offender. Victims' groups look out for the welfare of victims. Traditionally the victim and the victim's needs have been marginal to the criminal justice system because the state has stepped in to define itself as the offended party. In light of this, it should not be difficult to understand why these groups are wary of efforts to work with alternative justice.

Victims' groups are pleased that restorative justice calls for victims' needs to be made central to the process yet language such as this can convey the impression that offender needs have been marginalized from the process. The forces that operate to ensure that the respective needs of victim and offender are appropriately addressed require alternative justice efforts to engage in a delicate balancing act to make certain that victims' needs are adequately addressed and yet that the offender get proper attention as well. In light of this, it would be important for both victim-centred as well as offender-centred groups to participate in the general gatherings of the

¹ Personal interview with Graeme Taylor, Prison Fellowship International Pacific Region Director, 7 April 2001, Lower Hutt, Wellington, New Zealand. Consult the Prison Fellowship International website for more details on the Project--< <http://www.restorativejustice.org/>>.

² Personal interview with Jackie Katounas, Prison Project Coordinator for Hawke's Bay Restorative Justice Te Puna Wai Ora, 5 March 2001. See also J. Katounas, *Whakatikatika Project*, in **Hawke's Bay Restorative Justice Te Puna Wai Ora, Inc., Newsletter Number Four**, Winter 2001, p. 3.

alternative/restorative justice movement. The general gatherings provide the space for groups that rarely talk to each other to sit and converse and to discover their commonalities.

10. *Interface of Adult Schemes and Youth Justice Structures*

The youth justice system pioneered restorative-justice type practices at the Youth Court level in 1989.¹ However, Principal Youth Court Judge David Carruthers, commented in February 2001 that institutionalisation, overwork and the declining quality of the facilitation of family group conferences (FGC) were a source of concern for him even though he still believed strongly in restorative justice approach to which the youth justice system had committed itself. He identified the need to strengthen training and professional supervision for Youth Court Facilitators across the system.² Others share Judge Carruthers' concern, which raises the question of how the energy, training, and resources currently devoted to the Court-Referred Adult Restorative Justice Pilot might serve to energise a youth justice system in need of a boost, at least according to some people. Would there be any way for bureaucratic boundaries to allow some energy exchange between the two efforts? It seems like an exchange of the experience of the youth justice system and the energy and skills of the Pilot facilitators could be mutually beneficial.

11. *Interface of Restorative Justice Efforts with Treaty of Waitangi Work*

The Treaty of Waitangi as a basis for justice in New Zealand is being promoted from a number of sources. The Rowan Partnership in Wanganui is an example of efforts to bring Treaty provisions to bear on relationships within society at a number of points. For example, cultural appreciation and tolerance in and race and cultural relations, restorative and traditional justice alternatives to retributive approaches in criminal justice, and native land rights and reparations are only some of the efforts that form part of a larger search for justice at different levels and settings in society. The alternative/restorative justice movement must continue to highlight the connections between what it calls for and the spirit of the Treaty of Waitangi. In a sense, the Treaty raises restorative justice to a more macro level as a way to deal with a variety of "offences" or offending behaviour, be it racism or disenfranchisement.

12. *Interface with Cultural Renaissance and Renewal Efforts*

Matt Hakiha notes that one of the most effective ways to reduce the growing number of Maori persons in prison is for the *whanau* to regain its vitality and importance in the Maori community.³ Cultural renaissance and renewal movements must be seen as allies of the alternative/restorative justice movement since strong community solidarity and identity are vital to the reduction of offending. However, sometimes the call for parallel systems by various cultural groups may make it more difficult to see commonalities, so the challenge is to rise above

¹ Judge FWM McElrea, *The Intent Of The Children, Young Persons, And Their Families Act 1989: Restorative Justice?* A paper presented at the **Youth Justice Conference of the New Zealand Youth Court Association (Auckland) Inc.**, Auckland, New Zealand, 25 February 1994, p. 2.

² Personal interview with Judge David Carruthers while he was still Principal Youth Court Judge, February 27, 2001, Wellington, New Zealand. He is not Head District Court Judge.

³ Personal interview with Matt Hakiha, Auckland, New Zealand, 18 June 2001.

the tendency to see these calls as divisive and to seek ways to remain in dialog and committed to justice that may be expressed in a variety of ways.

III. Restorative Justice and Participatory Democracy

A. Civil Society and Participatory Democracy

The concept of Civil Society—those organisations that mediate social life between the individual and the State—is strongly linked to visions of social organization of liberal Western Democratic thought. As such, it shares all the positives and negatives that those conceptions embody. The merits or shortcomings of “civil society” as a concept will not be debated here. For purposes of my sabbatical work I accepted that in the case of New Zealand, as in many other nations throughout the world, this is the general framework within which society functions. From this perspective, a robust civil society is the basis for participatory democracy. In the past decade or so, the rise of community-based, non-governmental organizations has been hailed as the unleashing of democratic forces in society that would propel it forward as civil society carried out more efficiently services that had traditionally been the purview of the state. Authors like Clark, Flora and Flora, Korten, Putnam and others maintained that as communities acquired the ability and social infrastructure to address many of their own needs participatory democracy would be strengthened.¹ Hence, the role of the state was to spin off as many functions as possible to the community and provide the infrastructure and freedom to make it possible for communities to pick up those responsibilities. Among the most important provisions was the opening of a dialog between communities and regions and the state that would enable grassroots voices and interests to influence public policy—participatory democracy at work.

Some of the basic assumptions regarding civil society follow:

- Civil society is the non-governmental and non-production sector of society—often referred to as the third sector,
- The stronger the civil society sector, the more productive and democratic the society,
- Decentralisation and devolution of power to the local level will contribute to a strong civil society.

In New Zealand’s case it would seem appropriate to question if devolution of functions to the local level has been as beneficial as proponents would claim. Nevertheless, when alternative/restorative justice schemes are discussed, inevitably the issue of local ownership and implementation comes to the fore. The debate raises the civil society issue.

¹ See John Clark, **Democratizing Development: The Role of Voluntary Organizations**, Kumarian Press: West Hartford, CT, 1991.

Cornellia Butler Flora and Jan Flora, *Entrepreneurial Social Infrastructure: A Necessary Ingredient*, **The Annals of the American Academy of Political and Social Science**, 529:48-58, 1993.

David Korten, **Getting to the 21st Century**, Kumarian Press: West Hartford, CT, 1990.

R. Putnam, **Making Democracy Work: Civic Traditions in Modern Italy**, Princeton University Press: Princeton, NJ, 1993.

B. Restorative Justice and Civil Society

The call for community-owned and implemented alternative justice schemes is a civil society question. Alternative/restorative justice is based on the premise that the community begins to participate in defining and carrying out justice. Fr. Jim Consedine's description of restorative justice clearly reflects some of this commitment to heavy community involvement. He states,

In the old model of justice the judge is in control, representing the state and exercising authority given by the state either to impose punishment or to direct intervention in people's lives for 'welfare' reasons. By contrast, in the new model the principal task of the judge is to facilitate and encourage the implementation of solutions devised through the family group conference procedure, and to act as a backup if these solutions are not implemented.

Fr. Consedine goes on to point out that Judge Michael Brown, a former principal Youth Court judge for New Zealand, used to ask judges to aid this process by asking who the community was, what its strengths were and how those strengths could best be used. He notes further that the "concept of a judge trying to facilitate the strengths of others and bring them to the fore is radically different to the controlling positions of the traditional judge."¹

Judge McElrea also highlights the community aspect of restorative justice. In 1994 he told the National Conference of District Court Judges in Rotorua:

Nor is it new to be **involving the community** in providing solutions. Neighbourhood Watch schemes, and community policing, are but two manifestations of a clear trend in this direction. Indeed the New Zealand government has promoted a Crime Prevention Action programme, and the New Zealand Police have announced a five-year strategic plan, both of which at different points are strongly community-based. In many ways a CGC (Community Group Conferencing) system would be a practical manifestation of thinking already well developed in New Zealand.

The idea of **negotiated justice**, rather than imposed justice, is also one that has parallels readily found in the 1990's. The movement towards proportional representation in the New Zealand parliament is one such parallel. "Alternative Dispute Resolution" is another - a well-developed movement in New Zealand and elsewhere..... Disputes Tribunals have an obligation to try and achieve a settlement between the parties. Many judges are regularly raising the question of settlement of civil disputes in pre-trial conferences. The Court of Appeal has encouraged parties to negotiate settlements of Treaty of Waitangi disputes. A process of detailed negotiation between all interested parties often resolves major environmental issues. The high rate of agreement at FGC's (Family Group Conferences) (90%) is testimony to the ability of the parties to resolve most cases of youth offending.²

Community group conferencing brings together community organisations to support the conference process that may not normally be in contact with each other. As these groups forge stronger relationships and become more efficient because of closer collaboration, civil society is

¹ J. Consedine, *Restorative Justice: Healing the Effects of Crime*, 1999, pp. 98-99. See also Judge Ryan's description of his work in H. Bowen and J. Consedine, *Restorative Justice: Contemporary Themes and Practice*, 1999, pp. 51-55.

² Judge F.W.M. McElrea, *Restorative Justice: The New Zealand Youth Court—A Model for Development in Other Courts?* A paper presented to the **National Conference of District Court Judges**, Rotorua, New Zealand, 6-9 April 1994.

further strengthened. In some cases new groups are formed to carry out alternative/restorative justice programmes, e.g. community trusts, advisory boards, community panels, wrap-around networks in support of victims and/or offenders. All of this creates new potential in a community that may not have been there previously.

C. Possibilities for Alternative/Restorative Justice

The Truth and Reconciliation Commissions set up in post-apartheid South Africa are an excellent example of restorative justice applied to massive institutionalised racism, known today as apartheid primarily because of the South African situation. These commissions are an example of how major grievances can be restoratively redressed when the most typical reaction by many people outside of the context would immediately look to solutions that would be, in the final analysis, more destructive of the human spirit than the evil to be remedied. Many of the same principles that apply in restorative justice family or community group conferencing hold at the macro level as well.¹ In New Zealand, though strongly debated, the reparations and land reversions to the Maori is an example close at hand of an effort to bring justice and healing to long-standing wounds.

Restorative principles and alternative justice schemes are useful in the social reconstruction necessary in areas that have just come through a period of protracted conflict or have experienced a rapid transition from one political system to another. For example, in Haiti when the entire justice system basically disappeared in the years of chaos after the downfall of the Duvallier dictatorships, communities began to construct their own local systems. Restorative justice principles provided the framework to keep many communities from reverting to vigilante justice, pure and simple. The post colonial and post independence instability and war in parts of Africa have led countries such as Uganda, Mozambique, Ghana and Somalia to explore how to use restorative justice principles to revive and renew traditional justice systems on a limited basis at least. The rapid transition experienced by former Soviet Union countries as they moved to new models of society has created a great interest in restorative justice as a way to address the pain and injustice created by the transition. In Russia itself there is great interest in restorative justice.

IV. Conclusions

¹See many of the principles outlined in Roy L. Brooks, ed., **When Sorry Isn't Enough: The Controversy over Apologies and Reparation for Human Injustice**, New York and London: New York University Press.

New Zealand is on the forefront of alternative/restorative justice development in the world. It was the first country to reorient an entire component of its criminal justice system to a more restorative approach. *The Children, Young Persons and Their Families Act, 1989* transformed youth justice in New Zealand. Since the early 1990s community-based programmes in alternative/restorative justice began to emerge. They focused on adult offenders and took a variety of forms. In June of 2000 the Ministry of Justice and Ministry for Courts jointly announced the launching of the Court-Referred Adult Restorative Justice Pilot that would use community group conferencing to bring victim and offender together, if both parties consented, for a clearly specified range of cases. The alternative/restorative justice movement has slowly, but surely been gaining momentum and strength.

Even though the movement is growing steadily there are a number of issues that proponents are dealing with that will affect the course of restorative justice work in New Zealand. People are aware of the issues and are acting on them, so the following list is not new to most persons involved in the movement. The most pressing issues are the need to:

1. Deal creatively with the tendency towards factionalism within the movement that occurs as groups vie for resources and power.
2. Have regular general gathering—conferences, symposia, retreats, etc. that will foster communication across group and type boundaries thereby reinforcing the overall strength of the movement.
3. Balance the desire for professional development and interest in fostering rich conceptual development.
4. Secure funding and address issues of long-term sustainability related to the various groups in the alternative/restorative justice movement.
5. Implement the adult court-referred pilot in such a way that it benefits and strengthens non-pilot community-sponsored programmes as well.

New Zealand has gained enough experience so that it is in a position to promote alternative/restorative justice in settings beyond criminal justice. Its restorative justice expertise and its work to implement the provisions of the Treaty of Waitangi make New Zealand an example for other societies that are also dealing with protracted macro injustices perpetuated by the colonial experience or practices of mass injustice as in the case of South African apartheid. Just as industrial development in many societies was fuelled by the innovativeness of small firms on the margins of the industrial core, New Zealand may well demonstrate the same to be true among nations in terms of the achievement of social justice and peace.

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APPENDIX 1

PERSONS INTERVIEWED BY AREA/DATE

February to June 2001

(Note: interview dates are in parentheses)

NORTH ISLAND

AUCKLAND AREA

Warwick Tie, PhD, Sociologist and Director of Centre for Justice and Peace Development,
Massey University-Albany (February 7, April 24, June 11, June 21)

Auckland District Court

Judge Fred McElrea, District Court Judge (February 16, April 30, June 28)

Islay Brown, Auckland Coordinator, Court-Referred Adult Restorative Justice Pilot (April 18,
April 26)

Chris Marshall, restorative justice advocate and theologian, Bible College of New Zealand
(February 24, April 30)

Restorative Justice Trust, Auckland (February 24, June 5)

Helen Bowen, Trustee; restorative justice trainer/facilitator, lawyer

Jim Boyack, Trustee; restorative justice trainer/facilitator, lawyer

PACT (Promoting Accord and Community Trust) Trustees, Auckland (April 18)

Douglas Mansill, restorative justice facilitator, trainer, community mediator, Minister of St. Giles
Presbyterian Church, Roskill South (April 18, May 4, June 17 in addition to group
meeting)

Elizabeth Mansill, restorative justice trainer, facilitator, community mediator, Minister of St.
Austell Presbyterian/Methodist Church (April 18, May 4, June 17 in addition to group
meeting)

Bruce Cropper, restorative justice facilitator and mediator

Ann Hayden, restorative justice facilitator, mediator, researcher

Marie Ropeti, Samoan Community Counselor, Minister of Samoan Presbyterian Church,
Onehunga

Emily Gendall, restorative justice facilitator

Cathy Tautus, leader in Cook Island community, Justice of the Peace

Waipareira Trust

Matt Hakiaha, Trustee; member of facilitator-training team for Court-Referred Adult Restorative
Justice Pilot Program (June 18)

WANGANUI AREA

Rowan Partnership, Wanganui; trainers and practitioners in Treaty of Waitangi issues

David James (February 26, May 25)

Jillian Wychel (April 6, May 25)

Wanganui Restorative Justice Program (March 1)

Jacqui Goodwin, Coordinator Safer Community Council (at time of interview);

Colin Irvine, Restorative Justice Trustee and police officer;

Keith Smith, retired police officer, community liaison officer, and community panel member;

Bruce Parr, Coordinator, Wanganui Restorative Justice Program;

Sandy Gibbard, Wanganui Restorative Justice Program in the Schools;

Maree Munro, Principal, Sacred Hart College

Judge Andrew Becroft, Wanganui District Court (March 1)

WELLINGTON AREA

Allan McRae, Wellington, Youth Court Family Group Conference facilitator (February 27)

Judge David Carruthers, Wellington, Principal District Court Judge (was Principal Youth Court Judge at time of interview--February 27)

Ministry of Justice, Crime Prevention Unit, Wellington (February 28)

Bronwyn Sommerville, Director

Brian Webster, Senior Policy Analyst

Gabrielle Maxwell, Victoria University--Wellington, Senior Research Fellow, Institute of Criminology; member of evaluation team for Youth Justice System (April 3)

Department for Courts, Wellington, Court-Referred Adult Restorative Justice Pilot

Alison Hill, Project Manager (April 4)

Margaret Thompson, Policy Analyst (April 4, May 24, May 25)

Matt Robson, M.P., Minister for Courts, Minister of Corrections, Minister for Disarmament and Arms Control, Minister of Land Information, Associate Minister of Foreign Affairs and Trade (June 29, Auckland Office)

Prison Fellowship (April 5)

Kim Workman, Prison Fellowship of New Zealand, Executive Director

Graeme Taylor, Prison Fellowship International--Pacific Regional Development Director; Coordinator, Sycamore Tree Program;

Julie Leibrich, author of *Straight to the Point*, stories of persons who have decided to go straight to one degree or another (April 5, May 25)

Steven Hooper, Mediator, Employment Mediation Service, Wellington (Feb 28)

Ministry of Justice, Criminal Justice Group, Wellington (May 24)

Warren Young, Deputy Secretary

Donald Schmid, Assistant United States Attorney, recipient of New Zealand Government Restorative Justice Fellowship

NAPIER-HASTINGS/GISBORNE AREA

Hawkes Bay Restorative Justice Te Puna Wai Ora Inc (March 5)

Kay Whelan, Secretary; Hastings Family Court

Roy Boonan, Coordinator

Jackie Katounas, Whakatikatika Prison Project Coordinator & Restorative Justice Conference Facilitator; co-facilitator in RJ video being produced by the Court's pilot

Eric Foster, Convener of Restorative Justice Program

Barry Lloyd, Treasurer;

Patrick McGill, restorative justice promotor; promotes special Robson Collection on justice issues at Napier Library

Joan-Ella Ngata, Gisborne, Coordinator, Restorative Justice and Safer Community Council (March 6)

SOUTH ISLAND

DUNEDIN

Cathy Brown, Dunedin Coordinator, Court-Referred Adult Restorative Justice Pilot (March 22)

Gerald Pilay, Dean, School of Arts and Sciences, University of Otago, Dunedin (March 23)

TIMARU

Project Turnaround, Timaru (March 27)

Linda Gaskin, Coordinator;

Judge J. Edward Ryan, Christchurch District Court, (was in Timaru District Court at time of interview);

Kevin Foley, Head Probation Officer;

Mark Offen, Police Prosecutor;

Ross Haggart, Youth Social Worker;

Jane Cullimore, Coordinator, Safer Community Council

CHRISTCHURCH AREA

Restorative Justice Services Trust, Christchurch (March 29)

Roger Kemp, Trust Coordinator

Restorative Justice Network, Lyttleton (March 30)

Jim Consedine, National Coordinator; Editor, Ploughshares Publishing

APPENDIX 2
HISTORICAL SKETCH OF ADULT RESTORATIVE JUSTICE IN NEW ZEALAND¹

NAME	LOCATION	TYPE ²	FUNCTIONING	FUNDING
<i>Youth Justice System</i>	National ³	FGC	1989-Ongoing	Ministry of Justice
<i>Te Oritenga (1999 divided into: 1. PACT- Promoting Accord and Community Trust 2. Restorative Justice Trust)</i>	Auckland	CGC	1994-99 (August) (1999-Ongoing) (1999-Ongoing)	Private (Private) (Private/CPU)
<i>Project Turnaround</i>	Timaru	CPAD	1995/96-Ongoing	SCC Timaru
<i>Te Whanau Awhina</i>	Waitakere	Marae Panel	1995/96-Ongoing	Waipareira Trust/Hoani Waititi Marae & SCC Waitakere
<i>Community Accountability Programme</i>	Rotorua	CPAD	1995/96	SCC Rotorua
<i>Hawke's Bay Restorative Justice Te Puna Wai Ora, Inc.</i>	Hastings	CGC	1997-Ongoing (1999/00 selected for CPU funding)	Private & in 2000 SCC Hawke's Bay
<i>Restorative Justice Services</i>	Christchurch	CGC	1997-Ongoing	Private & City Council
<i>Kokona Ngakau</i>	Hamilton	CGC	1997-99	Private
<i>Project Turnaround Kerekere</i>	Horowhenua	CPAD	1998/99-Ongoing	SCC Kerekere
<i>Turnaround Waimakariri</i>	Rangiora	CPAD	1998/99-Ongoing	SCC Waimakariri
<i>Second Chance Programme</i>	Rotorua	CGC in bi-cultural environment	1998/99-Ongoing	SCC Rotorua/ Mana Social Services Trust
<i>Justice Alternatives</i>	Waitakere	CGC	1999-Ongoing	Restorative Justice Trust & CPU
<i>Asburton Restorative Justice Programme</i>	Asburton	CPAD	1999/00-Ongoing	SCC Asburton
<i>Waitaki Turnaround</i>	Waitaki	CPAD	1999/00-Ongoing	SCC Waitaki
<i>Wanganui Restorative Justice Programme</i>	Wanganui	CPAD	1999/00-Ongoing	SCC/Wanganui Restorative Justice Trust
<i>Te Runanga O Turanganui a Kiwa Restorative Justice</i>	Gisborne	CGC-marae based	1999/00-Ongoing	Te Runanga O Turanganui A Kiwa Trust/SCC Gisborne
<i>Sycamore Tree Project</i>	Lower Hutt, Wellington	Seminar-based conferencing ⁴	2000—Ongoing	Prison Fellowship International/NZ
<i>Taranaki Restorative Justice Trust</i>	New Plymouth	CGC ⁵	2000/01-Ongoing	SCC Greymouth (CPU)
<i>Nelson Restorative Justice Programme</i>	Nelson	CGC	2000-not yet taking cases-7-01	Nelson Restorative Justice Trust
<i>CRARJP (Court-Referred Adult Restorative Justice Programme)⁶</i>	Dunedin	CGC	2000/01-not yet taking cases-7-01	Department for Courts
<i>CRARJP (Pilot)</i>	Hamilton	CGC	Ditto above	Department for Courts
<i>CRARJP (Pilot)</i>	Waitakere	CGC	Ditto above	Department for Courts
<i>CRARJP (Pilot)</i>	Auckland	CGC	Ditto above	Department for Courts

¹ This sketch does not include any of the school-based restorative justice programmes sponsored by the Ministry of Education or individual schools and colleges. Youth Justice is listed as a point of reference from which adult restorative justice initiatives have taken inspiration, but the chart is intended to recap mainly the history of adult restorative justice practise in New Zealand.

² Legend: FGC=Family Group Conferencing, CGC=Community Group Conferencing, CPAD=Community Panel Adult Diversion, SCC=Safer Community Council funded through the Crime Prevention Unit, Ministry of Justice, CPU=Crime Prevention Unit.

³ The national youth justice system restructured under the *Children, Young Persons, and Their Families Act, 1989*.

⁴ Series of seminar-type settings run in prisons to promote dialog between prisoners and surrogate victims.

⁵ Based on the REAL JUSTICE model of conferencing, which may differ somewhat from Community Group Conferencing practised elsewhere in New Zealand.

⁶ According to the 6 September 2000 release from the Office of the Minister for Courts, a four-year *Court-Referred Adult Restorative Justice Pilot* funded for \$4.88 million by the Ministry of Justice and administered by the Department for Courts.