

Community Justice Panel in Christchurch: An Evaluation



November 2012

Alternative Resolutions Workstream,
New Zealand Police

Acknowledgements

The Alternative Resolutions workstream wants to acknowledge the immense contribution made by the Community Justice Panel (CJP) founders and volunteers, who have contributed their time, knowledge and skill with enthusiasm and passion, with particular acknowledgement of Paul O'Neill, Christine O'Brien, Annabel Taylor, Roger Kemp and Chris Nolan. Superintendent Dave Cliff and Inspector John Price provided leadership from the New Zealand Police in the initial phase and this was continued by Senior Sergeant Roy Appley. Roger Kemp and Ruth Shepherd maintained the monitoring data and Roger Kemp, Senior Sergeant Roy Appley and Constable Peter Campbell prepared quarterly updates that have provided rich information for this evaluation.

Thanks are due to the Ministry of Justice, which provided start-up funding for the CJP, and to Margaret McArthur for advisory support and Robert Lynn for the matched comparison study. Independent researchers Judy Paulin and Nicolette Edgar (Artemis Research) undertook the observations of the CJP hearings, the interviews with stakeholders and review of literature used in this report. Thanks are also due to the offenders who agreed to share their views and experiences of the CJP approach. The Police Evaluation Services Team provided advisory support and peer-review throughout this evaluation.

Published in November 2012 by the
New Zealand Police
PO Box 3017
Wellington
New Zealand

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ISBN 978-0-477-10395-4

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Overview

The Community Justice Panel (CJP) in Christchurch is an effective alternative resolution that contributes to reducing the number of prosecutions for low-level offending. The CJP initiative saves Police case processing time, has a reasonable level of offender compliance, and strong community involvement. There are positive early indications that re-offending is reduced for those who go through the CJP process, and most victims are reported as satisfied with the process. The evaluation has identified some areas where improvements could be made to align the initiative with known best practice and enhance effectiveness. As part of the pilot the CJP approach was tested on a small number of higher-threshold offences with some success, but future operation will retain the original maximum penalty threshold of six months imprisonment (and excluding family violence and methamphetamine offences).

Background

The Community Justice Panel pilot has operated in Christchurch since November 2010, with strong community participation and in partnership with Police. While only operating one day a week, by early August 2012 the CJP had seen 140 offenders. Around half of the offences referred were for dishonesty offences (mainly Shoplifting, values under \$500). Other offence types were property damage, disorder, violence, drug (cannabis) and driving offences.

To avoid charge and prosecution, offenders are required to complete conditions set as part of the CJP process, which aims to reduce and repair the harm caused by the offending. The CJP hearing and conditions include **A**ccountability, **R**estitution and **E**ducation (**A.R.E**) elements through apologies, community service, financial reparation, donations, essays and referrals to treatment or support services.

The CJP is used for adult offenders who admit guilt and agree to participate in the process. (The admission of guilt means the CJP process can focus on addressing the harm and damage caused by the offending, and factors underlying the offending behaviour, in contrast to the court process where guilt needs to be determined).

Compliance with the conditions set by the panel is actively monitored by the CJP community co-ordinator. Offenders who do not meet the conditions set are referred back to Police for charge and prosecution.

CJPs aim to target the upper-level of offences that can be resolved without charge and prosecution and where a pre-charge warning (PCW) is not considered a sufficient response. The offending circumstances may also suggest a CJP referral is the preferred resolution, as the process may be beneficial for victims, and/or help challenge and change offenders' behaviour through addressing the 'drivers of crime'.

Key findings

- **Offenders:** The CJP aims to deflect first-time offenders from court, and 41% of offenders referred had no prior offences. Referrals were also made to help address 'drivers of crime' (factors underlying offending) and in hearings offenders often raised issues with finances, alcohol, drugs, mental health or anger. A third of offenders had at least one support person attend the hearing with them, increasing offenders' accountability as well as providing them with support. The majority (79%) of offenders fully met conditions set, and a further 10% at least partially complied.
- **Victims:** Victims were represented in around one in four cases where the crime was against a person. Only two people (out of 71 cases) attended the CJP hearing where the crime was against a business (most likely reflecting that the majority of these were shoplifting from large retailers where an individual was not directly affected). While direct representation was low, when a victim attended a hearing most were reported as finding the experience positive and receiving the restitution sought (financial reparation, an apology).

- **Repeat offending:** The Ministry of Justice's 'matched comparison group' study showed positive early indications of the CJP's effectiveness on reducing offending, but the low number of cases seen to date means a reliable assessment of the initiative's impact on re-offending can not yet be made. Follow-up analysis will be undertaken as the number of cases builds.
- **Police:** The CJP gives Police another pre-charge alternative to prosecution, with the benefit of including external, community perspectives in the decision-making and on the conditions set for offenders. The higher level of response and accountability (compared to pre-charge warnings) means it can be more readily used for offenders with prior offending. Compared to pre-charge warnings, proportionally around twice as many referrals to the CJP were for offenders with more than 10 prior offences (21% compared to 10% for PCWs). CJP referrals take more Police time to process than a PCW (as officers attend hearings) but save around half an hour in Police time compared to prosecutions for low-level offences and around two hours compared to offences resolved with Police Adult Diversion.
- **Courts:** Even though operating only one day a week, the CJP resolved 6% of Shoplifting and 1.2% of Wilful damage offences in Canterbury in 2011/12. If the number of local CJPs increased, future court demand could be further reduced through resolving these types of high volume, low-level offences.
- **Community:** The CJP has attracted and retained a pool of volunteers from a cross-section of the community, many of whom have been involved for over a year. The length of involvement is of note given the challenges faced by Christchurch residents in the aftermath of the earthquakes. The CJP has secured support from a wide range of community partners, including those taking offenders for community service and accepting referrals made for treatment and support services.

Areas for development

Some variation in panel operation, level of victim representation at hearings and the type and level of conditions set has led to a new practice (from August 2012) where an additional panel member attends each hearing and provides peer review and feedback on these areas.

As part of the pilot, the CJP has been used for a small number of family violence cases and other offences outside the usual Alternative Resolutions criteria (as the maximum penalty thresholds were for more than six months imprisonment). Some stakeholders thought there was potential for this practice to continue. Consultation undertaken within Police as part of this evaluation however strongly recommended that alternative resolutions for family violence offences should only ever be initiated after charges have been laid, to ensure the organisational gains in treating family violence as a serious offence are maintained.

The levels of disclosure by offenders and the complexity of some cases has highlighted the need for training and guidelines for dealing with family violence (revealed at hearings) and mental health issues in particular. Other areas for development include increased victim representation and building panellists' knowledge of local services, and the suitability of these for different types of offenders.

Expansion into other communities

Strong community buy-in and ownership is needed for the CJP to operate effectively, and the approach needs to be tailored to the community's composition and needs. A representative Steering Group is needed in each area with a clear governance, management and funding framework.

Thought needs to be given to the scale of operation (eg how many hearings and cases per week). A good monitoring system is needed, balanced by the need to keep processes and paperwork simple. While the spirit of volunteerism is a key element of the CJP and should be retained, a paid community co-ordinator role is vital to effective operation.

There is potential to expand the CJP approach to other sites, subject to Police Executive approval and support from internal workgroups, the Ministry of Justice and communities.

Executive summary

Purpose

This report reviews the extent to which the Community Justice Panel in Christchurch is meeting its intended outcomes. Areas for development and factors to consider if implementing in other communities are also given.

Background

The Community Justice Panel (CJP) pilot is one of three Alternative Resolutions, Policing Excellence initiatives which allow NZ Police more graduated responses to low-level offending without the need to rely on the courts. The CJP initiative began as a grassroots partnership between Community Law Canterbury and Police in Christchurch, and has developed over time to include other government and community agencies as well as community representatives.

The Ministry of Justice (MOJ) provided funding to support establishing the CJP pilot (namely the development of governance arrangements and a monitoring and evaluation framework). Community funding has been used to pay for the part-time CJP Community Co-ordinator role.

The CJP pilot began in Christchurch City in November 2010 and had dealt with a small number of cases before being put on hold following the 22 February 2011 earthquake. The initiative relocated to Nga Hau E Wha marae in New Brighton and resumed operation in July 2011.

CJP approach

Police refer eligible offenders to attend a CJP hearing where vetted and trained community representatives hold them to account for their offending and set restitution conditions to redress and repair the harm and/or damage caused by their offending. To be eligible, offenders need to be aged 17 years or over, have committed an eligible low-level offence and admitted guilt. The CJP is a form of 'pre-charge' diversion.

CJPs aim to target the upper-level of offences that can be resolved without charge and prosecution and where a pre-charge warning (PCW) is not considered a sufficient response. The offending circumstances may also suggest a CJP referral is the preferred resolution, as the process may be beneficial for victims, and/or help challenge and change offenders' behaviour through addressing the 'drivers of crime'.

Referrals to the CJP can be used for:

- offenders who have never been charged and/or convicted before, to minimise their exposure to the Court while still holding them to account
- repeat offenders or people with offending patterns that suggest the benefits of identifying and addressing potential underlying causes of offending behaviour (eg poorly managed mental health conditions, drug and alcohol misuse).

The CJP monitors offenders' compliance with the conditions set, and offenders are referred back to the Police in cases of non-compliance. Offenders can refuse to participate in the CJP and instead have their offence heard in court.

CJP aims

The CJP approach aims to provide greater community and victim involvement in the justice process. The CJP hearings and conditions set aim to:

- hold offenders to account for their offending (**A**ccountability)
- provide opportunity for offenders to redress the harm/damage caused (**R**estitution)
- address contributing or underlying factors to their offending (**E**ducation).

In the shorter term, the CJP aims to reduce the time Police spend in court file preparation for low-level offences and reduce the flow of these offences to court. In the longer term the CJP process aims to reduce the time Police spend with repeat offenders processed by a CJP by stopping, reducing or delaying any subsequent offending.

Evaluation approach

This evaluation report draws on information from the CJP and Police monitoring data and quarterly updates, as well as observations of 12 CJP hearings and interviews with 19 key stakeholders and six offenders undertaken by independent evaluators¹ on behalf of the NZ Police. Attempts to secure interviews with victims were not successful.²

Panel membership

Panel members represent a broad cross-section of the community. They include community workers, counsellors, chaplains, lawyers, Māori cultural leaders, social workers and teachers. Of the 29 panellists and staff, over half (17) have been involved with the CJP for over one year (and of these, five have been involved for close to two years).

The overall length of involvement from the CJP founders and volunteers is of note, particularly given the challenges faced by Christchurch residents living through the aftermath of the earthquakes. Also of note is that the CJP has operated without any funding for panel members (eg to reimburse travel expenses), so involvement has come at a personal and financial cost. The independent evaluators commented that a passion for justice drove the enthusiasm of those involved in the CJP, among the volunteers and agencies alike.

CJP hearings

CJP hearings are held once a week and usually three offenders are seen in one night. The panel is comprised of three panellists, one of whom is the facilitator. The panel hearings aim to understand what was going on for the offender at the time of the offending, to identify any influencing factors, or 'drivers of crime.' The panellists discuss and decide what represents a suitable type and level of restitution with offender (and victim) input.

The hearing ends with the facilitator and offender signing their agreement to the CJP contract conditions. The hearing and the conditions aim to include elements of **A**ccountability, **R**estitution and **E**ducation (**A.R.E**). Most hearings last under 45 minutes, and half lasted 30 minutes or less.

After the panel, the CJP community co-ordinator helps set up arrangements for the offender to meet the conditions set, by organising reparation payments, helping offenders access services or arranging community service. The CJP community co-ordinator then monitors compliance with these conditions and provides updates to Police.

Offence types referred

The CJP aimed to target the upper-level of offences that can be resolved without prosecution and where a PCW is not considered a sufficient response. There were 143 referrals made to the CJP between November 2010 and early August 2012, and just over half were for dishonesty offences. The single most common offence type was Shoplifting (values under \$500). Property damage and disorder offences accounted for 11% of referrals each, followed by violence and drug offences (8%). There were seven referrals for driving offences (and four grouped under 'other').

¹ The independent evaluators were Judy Paulin and Nicolette Edgar, Artemis Research. Observations and interviews were undertaken between February and April 2012.

² It is unclear why attempts to interview victims were not successful.

While PCWs are mainly used for public order offences (Disorder, Breach of Liquor Ban offences), the majority of offences referred to the CJP had an identifiable victim. This reflects another aim of the CJP approach; to provide greater victim involvement in the justice process.

As part of testing the approach, 23 cases were referred to the CJP for 16 different offences types that fell outside the usual Alternative Resolutions criteria, as they had penalties of more than six months imprisonment, and three referrals were family violence related.³

The CJP team said while the initiative was in the pilot stage there was opportunity for Police to test the approach on a broader range of offences, to see if the eligibility criteria could be expanded. This was particularly the case for lower-level violence offences (which are not eligible for a PCW). In part the approach was to test whether greater victim involvement and a process to identify underlying drivers of crime could achieve more effective resolutions in these cases.

Characteristics of offenders referred

The gender, age, prior offending and ethnicity of offenders referred to the CJP are described next. Comparisons with the characteristics of offenders referred to the CJP and those receiving a PCW (the other main pre-charge alternative resolution) are made. Factors underlying offending behavior is described for those referred to the CJP.

Gender

Just over half (55%) of the referrals to the CJP were males. The proportion of females referred (45%) is higher than for some other offender populations. For example, it is about twice that of females apprehended nationally in 2011. This most likely reflects the fact that Shoplifting (under \$500) was the single most common offence referred to the CJP, and this offence typically has a higher proportion of female offenders (44% nationally).

Age

Offenders given a pre-charge alternative resolution (CJP or PCW) tended to be younger and have no prior offences compared to those charged and prosecuted for the same types of low-level offences. Over a quarter of offenders referred to the CJP were aged 19 years or younger, and two-thirds were aged 29 years or younger. There were 20 offenders aged 50 years or more, including two aged over 70.

Prior offending

One of the aims of the CJP is to deflect first-time offenders from court, and 41% of offenders referred to the CJP had no prior offences. There was a spread of offenders by levels of prior offending, noting that 11% of offenders referred to the CJP had over 50 prior offences, and of these, three had over 100 prior offences.

Compared to PCWs, proportionally around twice as many referrals to the CJP were made for offenders with more than 10 prior offences (21% compared to 10%). The higher level of response and accountability means the CJP can be more readily used for offenders with prior offending.

³ Offences outside the usual Alternative Resolutions criteria referred to the CJP were:

- dishonesty: theft \$501-\$1,000 and over \$1,000, burglary, receiving, theft by a person in a special relationship, unlawfully taking a motor vehicle
- property damage: intentional damage (section 269), arson
- violence: assaults child, common assault and domestic assault
- drugs: cultivate cannabis, sell/ supply cannabis
- driving: sustained loss of traction
- other: possession of an offensive weapon.

Ethnicity

Overall New Zealand European make up around 80% of the local population in Canterbury and Maori between 6-9%. Over two-thirds (69%) of the offenders referred to the CJP were New Zealand European. Maori offenders comprised 20% of the CJP referrals, Pacific people 4% and Asian 3%. 'Other' ethnicities accounted for 3% of offenders referred.

The proportions of offenders by ethnic group referred to the CJP were very close to the overall offending population in Canterbury in 2011.

Overall Maori are over-represented at every stage in the criminal justice system. Nationally Maori make up around 13% of the adult population but accounted for over a third (37%) of all charges in 2011. (For more information see *Over-representation of Maori in the criminal justice system: An exploratory report*, Department of Corrections, September 2007).

Maori are generally less likely to receive alternatives to charge and prosecution, at both the pre-charge and post-charge stage (Police Adult Diversion). Prior offending is taken into account when deciding to use a PCW, and as a group Maori are more likely to have higher levels of prior offences, which may reduce their perceived eligibility for this resolution type. The CJP process was used for a higher proportion of repeat offenders than PCWs and the majority (24 out of 28) of Maori offenders referred to the CJP had prior offences.

Underlying factors

Referrals to the CJP were also made to help address underlying causes of offending behaviour. Often issues with finances, alcohol, drugs, mental health or anger management came up naturally as part of the offender's explanation of what had driven their behaviour. Other stress (including earthquake-related), poor impulse control, poor anger management and drug and alcohol addiction were also given, as well as being bored and seeking an adrenaline rush. Five offenders had complex adverse backgrounds stemming from childhood.

CJP conditions

Most offenders had two to three conditions set by the CJP. For offenders not previously known to Police, community service was the single most common condition set, required of just under two-thirds of these offenders. After making an apology (69%), the second most common condition set for offenders previously known to Police was a referral to treatment/ support services, required of just over half of these offenders.

Financial reparation accounted for 11% of the reparation conditions set, and 6% of conditions were for donations to charity. (The panels check existing fine and debt repayments to ensure reparation conditions and donations are realistic).

Writing essays accounted for 7% of all conditions set. Essay topics included the effects of offending on retailers and the community, impacts of drug and alcohol misuse, reflections on changing behaviour and actions to become a better parent. Other conditions required offenders to connect to a local Marae, maintain contact with the Police Family Violence Team, undertake a defensive driving course, and pay board to parents.

The conditions set by the CJP had strong **Accountability** components and **Restitution** components (apologies, community service, financial reparation, and donations). The referrals to treatment service and essays on harm caused by offending or drugs and alcohol had **Educational** elements.

Types of conditions set, by offence type

In most cases there was a match between the offence and the main types of conditions set: offenders referred for driving offences were required to undertake defensive driving courses, offenders referred for drug offences were often referred to treatment/ support services. Some of the wilful damage/ public disorder offences tended to be more alcohol-fuelled indiscretions rather than a result of deeper-seated addiction issues. In these cases financial reparation, community service and an apology were the most common types of conditions set.

When looking at the offenders referred for dishonesty offences, a reasonable number were experiencing mental health problems and other stresses. Many of the items stolen were of a low financial value and in several cases parents had stolen food for their children. (In these instances charge and prosecution, with attendant fines and/or court costs, would only exacerbate the precarious financial situations that propelled some of the offending in the first place). In addition to reparation, apologies and community service, the panels often set conditions for offenders to access treatment or support services, deemed appropriate given the offending circumstances.

Compliance

Compliance with the conditions set by the CJP is actively monitored by the CJP community co-ordinator. Of the cases where conditions had been recorded and sufficient time had elapsed to allow completion, 79% of offenders had fully complied with the conditions set by the CJP and a further 10% had at least partially complied. Reasons for some of the partial completions included being remanded for more serious offending (more common among those with high prior offending levels) or health conditions. In other cases repayments had started but not been completed. The presence of support person was seen as a factor in increasing offenders' accountability, and may also have assisted with compliance with the conditions set.

The overall compliance rates for the CJP are around the same as the average achieved for offenders referred to Police Adult Diversion by the courts.

Outcomes

This section describes the key outcomes of the CJP for offenders, victims, the community, Police and Courts.

Offenders

The CJP initiative enables offenders to avoid a conviction where they complete the restitution conditions set, and 79% had achieved this. There was a high level of involvement of support people for offenders which provided another form of accountability (as well as support for the offender).

In terms of timeliness, well over half of all offenders attended a CJP hearing within a month of their offence, and just under two-thirds had completed the conditions set by the CJP within 4 weeks of the hearing (and the majority within 8 weeks).

The Ministry of Justice undertook a 'matched comparison group' study which compared the 65 offenders going through the CJP from November 2010 to January 2012 with a similar group of offenders who did not go through the CJP, and compared re-offending rates over the following seven months.⁴ Of the 65 CJP cases, only six had re-offended over the follow-up period. This is slightly below expected re-offending rates based on the re-offending patterns for comparable offenders who did not go through the CJP. While early indications are positive, a reliable assessment of the CJP's impact requires a larger number of cases and a longer period over which to track re-offending rates.

⁴ The comparison group was matched with the CJP group on the basis of whether the offender was a first-time offender or not, and predicted probabilities of re-offending over the following six months. The predicted probabilities were calculated from a logistic regression model of factors known to influence the likelihood of re-offending (eg age, criminal history, type and seriousness of offence).

Victims

A victim was represented in around one in four cases where the crime was against a person (10 out of 38). Only two people (out of 71) attended the CJP hearing where the crime had been against a business, most likely reflecting that the majority of these offences were shoplifting from larger retailers, where an individual was not directly affected.⁵

Out of the 10 cases with the highest financial losses caused by the offending, full reparation had been made in six cases and repayments started in two cases.

In most cases where a victim had attended the CJP, it had been a positive experience for them and they had received the restitution sought (financial reparation, an apology).

Community

The panels are representative of the community and by and large reflect the participants in the CJP, both offender and victim. The CJP has secured the support of a wide range of community partners who accept offenders for community service, as well as from local treatment and support services who accept referrals made.

The community has benefited directly through offenders' community service across range of organisations, as well as through donations to charity made as part of some restitution conditions.

Improved partnership between the community and Police

Stakeholders talked about the importance of Police support and the inclusiveness of the steering committee, which worked collegially.

The active involvement of the Police in the CJP initiative came through strongly as something that is working well. Having a Police officer in a uniform attend the CJP hearings provides a level of formality to proceedings and ensures the offenders realise the Police are aware of conditions set by Panel and that they constitute a formal sanction.

Police are able to provide feedback and up-skill panel members on how to structure questions to elicit information on intent, where this is an important element of an offence. Police can also help facilitate action following the hearing, for example facilitating a safety plan for a woman in a violent relationship (disclosed at the panel hearing).

Outcomes for Police

A key to the CJP operation is Police confidence in the approach. The fact over 140 referrals have been made attests to the fact local Police support the approach. A feature noted by Police is the open disclosure by offenders, something Police have not encountered in other forums.

Officers have found making referrals straightforward. More officers are now able to act as representatives at the hearings, increasing Police coverage and broadening internal support.

The CJP provides a higher level response than can be achieved through PCWs, the other main pre-charge alternative resolution. For example, while both Shoplifting (under \$500) and Wilful damage offences are eligible for resolution with a PCW, actual PCW resolution for these offences is relatively low (20% and 4% nationally, and 24% and 5% in Canterbury). Reasons for this include the fact these offences have either known victims or result in damage and/or loss of property.

Using a CJP referral for these offences requires a greater level of accountability for offenders (including making reparation) and provides a forum where victims can choose to participate. The profiles of some of the offenders referred to the CJP for Shoplifting offences also reveal underlying 'drivers of crime' (criminogenic factors) which could more effectively be addressed through the CJP process. The CJP process also includes an external, community perspective to help guide the types of sanctions imposed.

⁵ Costs are experienced by business owners and shareholders, and passed on to consumers, eg through insurance.

On average, a CJP referral takes about half an hour more Police time than a PCW resolution. A CJP referral saves on average around half an hour of Police time if used instead of proceeding to prosecution for low-level offences and around two hours if used instead of a Police Adult Diversion. For offences that would have gone to a status hearing, the CJP referral saves two hours of Police time, and over eight hours if the case had proceeded to a defended hearing.

Outcomes for Courts

At this stage the CJP has been operating only once a week, and not during holiday periods. While the numbers seen have as a result been low, the Ministry of Justice matched pair study showed the outcomes from the CJP are promising in terms of reducing re-offending.

If the number of local CJPs operating increased, the current practice of resolving high volume low-level offences like Shoplifting and Wilful Damage could help reduce some future court demand. Even though only operating one day a week, the CJP resolved an additional 6% of Shoplifting (under \$500) offences as well as 1.2% of Wilful damage offences in Canterbury.

Based on studies of similar Community Justice Panels in Britain, there is potential for cost savings to the justice sector from this approach. An evaluation of the Sheffield project found that the average cost of mediating a neighbour dispute through community justice panel processes was about three times lower (depending on throughput of cases) than if the local council went to court to resolve it.⁶

Areas for development

This section summarises the areas for development raised by stakeholders. Some new practices have already had been implemented in response, and these are noted.

Eligibility criteria

Some stakeholders thought the CJP initiative has the potential to deal with a wide range of offences and offenders. Some stakeholders suggested some lower-level family violence offences and disputes between neighbours could be well suited to the CJP approach. The CJP has been used for a small number of family violence cases. While some restorative justice providers elsewhere in New Zealand are using restorative justice processes successfully in family violence cases,⁷ facilitators and other panellists need to be specifically trained and skilled, and this may require additional funding and support.

Moving beyond the pilot stage, using the CJP process to resolve low-level family violence cases would require a change to the current Alternative Resolutions eligibility criteria. Consultation undertaken within Police as part of this evaluation, however, strongly recommended that alternative resolutions for family violence offences should only ever be initiated after charges have been laid, to ensure the organisational gains in treating family violence as a serious offence are maintained.

Levels of Police disclosure

As part of agreeing to participate in the CJP process, offenders consent to Police disclosing information about them. As an extra protection for offenders (and to help redress power imbalances) the parameters of consent should be confirmed again at the pre-briefing with the CJP co-ordinator and any changes communicated to Police, to ensure information given to the Panel does not breach the offenders' right to privacy.

⁶ See http://www.restorativejustice.org.uk/resource/evaluation_of_sheffield_community_justice_panel/

⁷ Kingi V, Paulin J, Porima L (2008). *Review of the delivery of restorative justice in family violence cases by providers funded by the Ministry of Justice*. Wellington: Ministry of Justice.

Panel operation

The quality of facilitation and questioning skills varies across panel members (by far the strongest theme for development raised across key stakeholders). Earlier on, some conditions set by the panel were not achievable in the time required, and in some instances conditions could not be monitored (for example there was no end date, or were recommendations, not requirements).

From August 2012 a new practice was introduced of having an additional panel member attend each hearing as an observer, to provide feedback on panel operation and the type and levels of conditions set. Scripts were also introduced to open and close hearings, to ensure key information is covered.

The complexity of some of the cases seen and the levels of disclosure has been higher than originally anticipated. Given the issues being encountered, there is a need for training for the wider pool of panellists on how to deal with issues of family violence and mental health, as well as having guidelines on how to deal with these situations.

Within the existing panel membership there is a depth of skill and experience in working with people with mental health, addiction and family violence issues. Panels are now scheduled with a two-to-three week lead in time, to help ensure panel members are matched to offenders where more specialised skills or experience are needed.

While some suggested the need to have specialised (and/or professionalised) panels, there was a strong view held by some that the CJP collectively represent the 'wisdom of the community' and that too much specialisation could lead to 'over-professionalising' the role which would reduce the community element at the heart of the approach.

Making referrals

While some Panel members in particular have an extensive knowledge of what is available from agencies within the community and how they might be beneficial for offenders, this was not always the case. To keep the panel members more informed of current service availability, the CJP co-ordinator and assistant will begin providing updates on the organisations/ groups taking CJP referrals, for treatment and support as well as community service. Included in this will be information on organisations' acceptance criteria (eg types of prior offending), waiting times, current capacity as well as outcomes from past referrals (eg what types of offenders were best suited to this organisation/ provider).

Victim participation

Some stakeholders thought the level of victim participation could be increased. Scheduling hearings with a longer lead-in time also aims to increase the likelihood that victims can attend.

The facilitator now assigns a panel member to represent the victim if one is not present, and the observer provides feedback on the extent to the victim's perspective was maintained. Updates (eg on offender compliance) should be routinely provided to victims, including retailers.

Managing support people

Clearer setting of ground rules could help when support people attend hearings. The panel (and facilitator in particular) need to ensure that participation of support people does not overshadow the focus on the offender or reduce the opportunities for the offender to take responsibilities for their actions. Again this is an area reviewed by the observer who provides peer-review and feedback to the panel.

Funding/ resourcing

The CJP has run for nearly two years without an operating budget, and is currently at close to capacity. (The part-time CJP Community Co-ordinator position has been funded by the community). Future resourcing will be explored as part work being undertaken by the Alternative Resolutions, Policing Excellence workstream.

Resourcing would help allow more panels to operate in more locations, and ideally in the communities where the offending has occurred. Having at the least some recompense for costs incurred by volunteers (eg petrol costs) would also ensure panel members could be drawn from the widest pool of people and not potentially exclude participation due to cost.

Internal support within Police

The degree to which frontline officers understand the CJP initiative and the associated processes was raised, noting there was a high degree of variation in the preparedness of files. Training and feedback can be developed to address this. This evaluation will also help provide information to help officers better understand the purpose of the CJP, offences and offenders referred, the penalties imposed and the outcomes it has achieved.

Implementation in other communities

Key stakeholders were asked what would be needed to support the implementation of the CJP initiative in other communities, if a decision was made to use the approach more widely.

Community buy-in

Strong community buy-in and a sense of ownership were considered keys to successful implementation, as well as having the approach tailored to the community's composition and needs. Alongside this, clear communication on the CJP purpose and approach is needed to build support among people, groups and service providers (including any existing restorative justice providers).

Governance and representation

To help support effective operation a Steering Group is needed in each area with a clear legal governance, management and funding framework in place. The Steering Group needs to include the key stakeholders, be inclusive and reflect the wider community in the area. The Steering Group can help ensure that community agencies involved in the initiative actively work together and keep communicating with each other.

Police support (but still community led)

Another key theme was that Police buy-in and engagement is essential for the initiative to be successful in other communities. The Police need to promote the use of the CJP to staff and support the day-to-day operations of the initiative. Some stakeholders talked about the importance of having champions in the Police that are community oriented, people-focused and have a passion for the underlying philosophy of the initiative; they need to believe in it.

Scale of operation

Thought needs to be given to the scale of operation: about how to manage the size of the initiative in each community (how many evenings, how many panel hearings per evening, and how many cases), while ensuring the quality of hearings remains high.

Importance of co-ordination role

The CJP community co-ordinator role is key to effective operation. This role requires the person with the right people and administrative skills and a clear job description. The amount of work required means this role needs to be funded, as it is beyond what can reasonably be contributed on a voluntary basis. (The co-ordinator works on average 25 hours a week, with 22 paid hours and three additional unpaid hours).

Monitoring

To help ensure fairness, consistency and integrity of the initiative when it is operating in different areas, a good monitoring system is needed, balanced by the need to keep processes and paperwork simple and not too bureaucratic.

Funding

While the spirit of volunteerism is a key element of the CJP and should be retained, as noted the co-ordination role needs to be funded. As indicative figures, providers delivering restorative justice conferences receive \$1,400 for conferences where a victim attends, \$900 for a conference without direct victim representation and \$700 for a restorative justice panel initiated following Police Adult Diversion.⁸

Concluding comments

The Community Justice Panel (CJP) in Christchurch is an effective alternative resolution that contributes to reducing the number of prosecutions for low-level offending. The CJP initiative saves Police case processing time, has a reasonable level of offender compliance, and strong community involvement. There are positive early indications that re-offending is reduced for those who go through the CJP process, and most victims are reported as satisfied with the process. The evaluation has identified some areas where improvements could be made to align the initiative with known best practice and enhance effectiveness. As part of the pilot the CJP approach was tested on a small number of higher-threshold offences with some success, but future operation will retain the original maximum penalty threshold of six months imprisonment (and excluding family violence and methamphetamine offences).

⁸<http://www.justice.govt.nz/policy/criminal-justice/restorative-justice/restorative-justice-info-for-providers/documents/Restorative%20Justice%20Funding%20Framework%20July%202011.pdf>

Main report

1. Introduction

1.1 Background

The Community Justice Panel (CJP) pilot is one of three Alternative Resolution, Policing Excellence initiatives which allow NZ Police more graduated responses for low-level offending without the need to rely on the courts.

The CJP initiative began as a grassroots partnership between Community Law Canterbury and Police in Christchurch, using a model adapted from the restorative justice programme operating at St Thomas of Canterbury College⁹ and the Community Panel Adult Pre-trial Diversion pilots funded by the Crime Prevention Unit in the late 1990s.¹⁰

The CJP partnership has grown to include other government and community agencies (eg Courts, Ministry of Social Development, Ngai Tahu Social Services, Urban Maori Authority, Te Runanga o Nga Maata Waka, University of Canterbury) as well as community representatives. The CJP is now overseen by a Trust.

The Ministry of Justice (MOJ) provided funding to support establishing the CJP pilot (eg development of governance arrangements and a monitoring and evaluation framework). Operating Guidelines were developed in consultation with the CJP partners, and set out the governance arrangements, referral processes, targets for timeframes (CJP hearings, meeting compliance conditions) and monitoring and reporting.¹¹

The CJP pilot began in Christchurch City in November 2010 and had dealt with a small number of cases before being put on hold following the 22 February 2011 earthquake. The initiative relocated to Nga Hau E Wha marae in New Brighton and resumed operation in July 2011.

1.2 CJP approach

Police refer eligible offenders to attend a CJP hearing where trained community representatives hold them to account for their offending and set restitution conditions to redress and repair the harm and/or damage caused by their offending. Conditions may also include referrals to treatment and support services to address any identified drivers of offending behaviour. Victims are invited to participate in the CJP process (but it can proceed without victim representation).

The CJP monitors offenders' compliance with the conditions set, and offenders are referred back to the Police in cases of non-compliance.

Police referral process

Police can refer an offender to the CJP if:

- the offender is aged 17 years or over
- the offence carries six months imprisonment or less (and is not an offence related to family violence or methamphetamine use)
- the offender admits guilt.

Prior offending, reparation and victim considerations are also taken into account as part of the Police decision-making process on whether to use a formal alternative resolution to charge and prosecution. (See Appendix 1 for the decision-making process flows). The other formal alternative resolution used instead of prosecution is a pre-charge warning (PCW), which is more commonly used to resolve public disorder offences (particularly Disorder and Breach of Liquor Ban offences). Note that offences resolved with a CJP or PCW alternative resolution are still counted in official Police crime statistics as offences have been detected; what has changed is how the crime is resolved.



⁹ See <http://www.caritas.org.nz/sites/default/files/Case%20study%20St%20Thomas%20of%20Canterbury.pdf>

¹⁰ See <http://www.justice.govt.nz/policy/criminal-justice/restorative-justice/restorative-justice-research>.

¹¹ See Community Justice Panels: operating guidelines for the Christchurch Pilot, December 2011.

CJPs aim to target the upper-level of offences that can be resolved without charge and prosecution and where a PCW is not considered a sufficient response. (Figure 1). The offending circumstances may also suggest a CJP referral is the preferred resolution, as the process may be beneficial for the victim, and/or help challenge and change offenders' behaviour through addressing the 'drivers of crime'.

Figure 1: Resolution types by offence and sanction level

	Alternative Resolutions (pre-charge)				Charge	
	Verbal warnings	Written traffic warnings	Pre-charge warnings	Community Justice Panels	Police Adult Diversion	Prosecution
Offence level	Very low					Serious
Sanction level	Lowest level					Highest level

Referrals to the CJP can be used for:

- offenders who have never been charged and/or convicted before, to minimise their exposure to the Court¹² while still holding them to account
- repeat offenders or people with offending patterns that suggest the benefits of identifying and addressing potential underlying causes of offending behaviour (eg poorly managed mental health conditions, drug and alcohol misuse).

Offenders can refuse to participate in the CJP and instead have their offence heard in court.

1.3 CJP aims

The CJP approach aims to:

1. provide greater community and victim involvement in the justice process
2. incorporate the three main reparation elements 'A.R.E':
 - **A**ccountability: hold offenders to account for their offending
 - **R**estitution: provide opportunity for offenders to redress the harm or damage caused by their offending
 - **E**ducation: address underlying factors that may have contributed to their offending (addressing the 'drivers of crime').
3. help reduce the likelihood that offenders re-offend due to accountability to the victim and/or community, action to redress harm/damage caused and/or address contributing factors
4. reduce the time spent by Police in court file preparation for low-level offences
5. reduce the time Police spend with repeat offenders processed by a CJP in the longer term, by reducing or delaying subsequent offending
6. reduce the flow of low-level offences to court in the shorter term and overall demand on courts in the longer term as the CJP process helps to reduce repeat offending.

The CJP process may also produce other benefits to the wider community, for example:

- direct benefits from the community service undertaken by offenders
- increased trust and confidence in the criminal justice process and the role of key agents (eg Police)
- capacity building for individuals, agencies and stakeholders which in turn contributes to community transformation.

¹² Resolution of offending outside the court system can help avoid 'labelling' people as criminals for minor offending, and the risk that once labelled as a criminal, people then behaving according. See Becker, H. (1963) Outsiders: Studies in the Sociology of Deviance. New York: Free Press for more on Labelling Theory.

1.4 Evaluation objectives

The CJP evaluation seeks to:

- assess the extent to which the CJP operates as intended
- assess the extent to which the CJP produces intended outcomes for offenders, victims, the community, Police, and the Courts
- identify areas where improvements can be made to the CJP approach and/or processes.

1.5 Method

This evaluation report draws on information from the CJP and Police monitoring data and quarterly updates, as well as observations of CJP hearings and interviews with key stakeholders and offenders. Independent evaluators¹³ undertook the following research on behalf of the NZ Police:

Method	Numbers
Observed panel hearings between February and April 2012	12
Interviewed stakeholders:	
• Community Justice Panel members, founders and co-ordinator	5
• Police officers and staff	6
• Ministry of Justice representatives	3
• community service providers	3
• wider stakeholders	2
Interviewed offenders	6
Total	25

Attempts to secure interviews with victims were not successful.¹⁴ Appendix 2 provides more details on the panel observations and interviews.¹⁵

1.6 Report structure

This report starts with a background to the CJP initiative and the aims of the approach. The CJP governance and partnership arrangements are described, followed by an overview of panel membership. The referral process and the characteristics of offenders referred to the CJP are given. The CJP hearing process is then looked at in reasonable depth, from setting up panels to running hearings. This section also looks at offender and victim representation, and the extent to which the hearings address **A**ccountability, **R**estitution and **E**ducation. Details on the types of restitution conditions set is given, along with examples to show how conditions are tailored to the offender, offence and offending circumstances. This is followed by a reflection on the CJP hearings, which also includes offenders' views and experiences.

The final sections look at facilitating and monitoring conditions, as well as levels of compliance. The extent to which the CJP initiative is achieving intended outcomes is described, for offenders, victims, the community, Police and Courts. The section on outcomes includes CJP re-offending rates from the Ministry of Justice 'matched comparison' study. The match between current practice and known best practice in restorative justice is reviewed, followed by areas for development. The report ends with factors to consider if implementing CJPs in other areas.

¹³ The independent evaluators were Judy Paulin and Nicolette Edgar, Artemis Research.

¹⁴ It is unclear why attempts to interview victims were not successful.

¹⁵ A separate document with the observation forms, interview guides and informed consent forms is available on request from the Evaluation Services Team, New Zealand Police.

2 CJP partnership arrangements and roles

This section provides an overview of the CJP partnership arrangements, governance and key roles, and a profile of the CJP volunteers.

2.1 Governance of the CJP

The initial partnership between the Community Law Canterbury and Police in Christchurch has grown to include other government and community agencies, as well as community representatives. The partnership is overseen by the CJP Trust Steering Group, which includes panel members and representatives from community and government agencies, including a senior commissioned Police officer. (See Appendix 3 for an overview of governance relationships and roles).

The CJP Trust Steering Group has been set up to:

- review overall CJP operation
- ensure the partner agencies are undertaking activities as agreed
- review CJP operation and outcomes achieved
- approve monitoring and other reports on CJP operation
- review what is working well and areas for improvement
- agree action steps.

(The CJP Trust Steering Group currently meet on an ad-hoc rather than a regular basis).

Police

Local Police assess and refer eligible offenders to the CJP and offer victims the option to participate in the CJP process. The operating guidelines (December 2011) note the target is for offenders to be seen at a CJP hearing within 14 days following a referral.

Frontline Police can refer eligible offenders to the CJP either pre-arrest (when a letter to attend the CJP is issued in the field) or post-arrest at the station. The Police CJP co-ordinator (a senior sergeant) is ultimately responsible for reviewing cases (including checking for evidential sufficiency, offence and offender eligibility) and approving referrals made to the CJP. In addition to approving referrals, the CJP Police coordinator also:

- ensures referrals are timely and documentation is complete
- attends CJP hearings (or oversee officers deputised to do this)
- reviews offender compliance with restitution conditions set and initiate remedial action if needed
- ensures accurate records of Police referrals and compliance status are maintained
- contributes to practice reviews and reports
- provides training to the CJP panellists and staff¹⁶
- liaises with the CJP co-ordinator
- liaises with the Alternative Resolution workstream lead.

The Police Case Co-ordinator spends around 15 minutes in case review/ approval, 40 minutes in panel attendance and five minutes in compliance monitoring for each case referred to the CJP.

¹⁶ Examples include Police processes, identifying material facts and intent, and techniques for interviewing.

The Police CJP administrator also plays a key role. Her role is to:

- maintain data entry for CJP referrals, into NIA (the main Police database) and the CJP monitoring spreadsheets
- copy documentation to the Police CJP co-ordinator and the CJP community co-ordinator
- send victims letters on CJP outcomes.

The Police CJP administrator spends 35 minutes in preparing paperwork and 30 minutes in compliance reporting for each case referred to the CJP.¹⁷ (The compliance monitoring takes longer than other similar initiatives as fuller data is recorded as part of the pilot and evaluation).

Community

The community is represented through the CJP community co-ordinator and panel members. There are 27 panel members who are unpaid volunteers.

The CJP panel members' role is to:

- participate in vetting, induction and ongoing training (including providing peer-feedback)
- participate in CJP hearings
- contribute to practice reviews and reports.

They are guided in their work by a CJP panel members' code of conduct.¹⁸

The CJP has a co-ordinator in a paid position (using community funds). The CJP Community Co-ordinator role is paid 22 hours a week (and on average around three additional unpaid hours are contributed). The CJP community co-ordinator's role is to:

- maintain records of panel membership, vetting and training
- organise vetting, induction and training of panel members
- organise CJP hearings (panel members, offender and victims, copies of Police documentation)
- brief participants (offenders, victims, and support persons)
- maintain records of CJP hearings (including details of the offender, offence, contract conditions)
- monitor offender compliance with contract conditions
- report compliance status to Police
- contribute to practice reviews and reports.

The CJP community co-ordinator is supported by an assistant community co-ordinator, who works around five hours a week (four of which are paid).

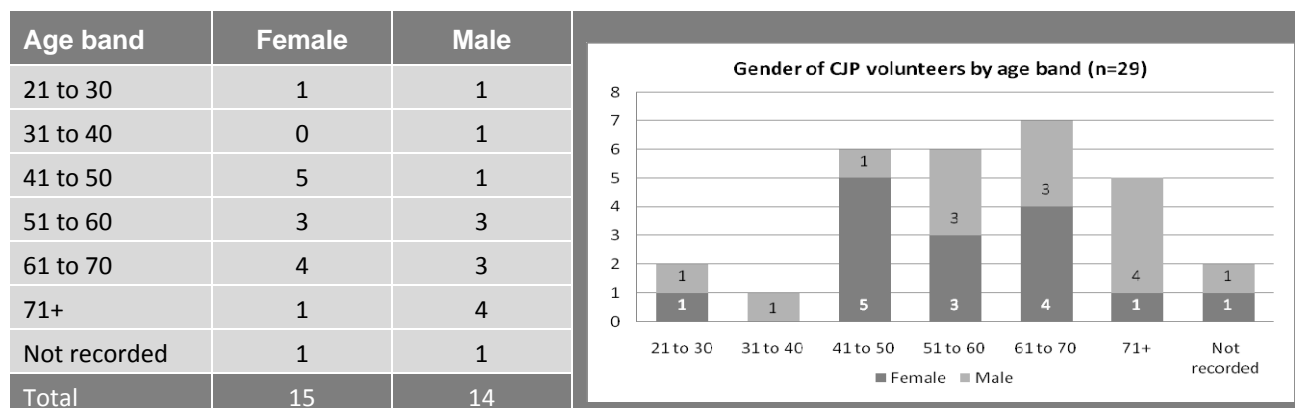
¹⁷ Estimates of processing time were provided by key Police staff involved with the CJP.

¹⁸ See the CJP Operating Guidelines for details.

2.2 CJP panel members

Of the 29 people who deliver the CJP, there is a close to equal mix of males and females. There are 15 female panel members and 12 male panel members, and the CJP community co-ordinator and assistant are both male. See Table 1 and Figure 2 below.

Table 1 and Figure 2: Gender and age group CJP panel members and staff (N=29)



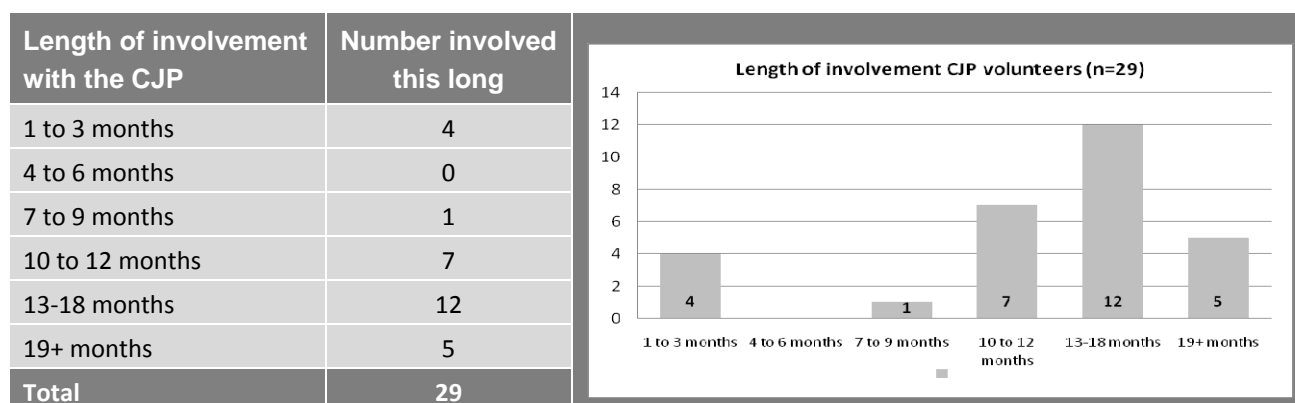
In terms of ethnicity, the majority of the panel and staff are NZ European (22) followed by Māori (5). Of the remaining three, one identified as Other European, one as Samoan, and one as New Zealand/ Malaysian.

Panel members represent a broad cross-section of the community. They include community workers, counsellors, chaplains, lawyers, Māori cultural leaders, social workers and teachers.

As of August 2012, over half (17) of the 29 panellists and staff had been involved with the CJP for over one year (and of these, five have been involved for close to two years). A further seven have been involved for nearly one year. The other four panellists started recently.

The overall length of involvement from the CJP founders and volunteers is of note, particularly given the challenges faced by Christchurch residents living through the aftermath of the earthquakes. Also of note is that the CJP has operated without any funding for panel members (eg to reimburse travel expenses), so involvement has come at a personal and financial cost.¹⁹ The independent evaluators commented that a passion for justice drove the enthusiasm of those involved in the CJP, among the volunteers and agencies alike.

Table 2 and Figure 3: Length of involvement with CJP (N=29)



¹⁹One panel member spends \$40 on petrol to attend a panel hearing; the amount would be lower for most others.

3 Referrals to the CJP

This section describes the Police decision-making process in making referrals to the CJP, and describes the number and characteristics of offenders referred, the types offences referred and the time from the offence to the CJP hearing.

3.1 Referral processes

The decision to resolve the offence with a referral to the CJP is made by the Police CJP co-ordinator, a senior sergeant. The decision is made following an offender's arrest or within a short period of time following a pre-arrest referral or a referral from the Police Criminal Investigation Bureau (CIB). (Note the majority of referrals are made pre-arrest).

Factors considered by the Police CJP co-ordinator when deciding to make a referral to the CJP include whether:

- the offence is eligible and meets evidential sufficiency
- the offender is eligible (aged 17 years or older and admits guilt)
- it is not in the public interest to proceed to charge (at this stage)
- an alternative resolution should be considered
- the offence type and/or offending circumstances suggest the CJP is the preferred alternative resolution type (as opposed to a pre-charge warning).

If the CJP referral is approved, the Police officer concerned explains the CJP process to the offender, and if the offender agrees to participate, they are released and told when to attend a CJP hearing. The referral process was seen as easy to do for officers.

Six offenders interviewed by the independent evaluators were asked how they felt when the Police gave them the chance to have their offending dealt with by the CJP. Five of the six felt positive about being given the chance while the sixth said she had not taken it in as she was in shock following being caught for shoplifting. Three of the offenders however said they did not feel they had a choice in accepting the referral to the CJP. Two offenders said they accepted the referral as they did not want to go through the courts and get a conviction.

3.2 Number of referrals made

In total 143 offenders²⁰ have been referred to the CJP since the initiative started in November 2010 to the beginning of August 2012. Three did not attend. Following the move to New Brighton (when the CJP became more fully operational), around 10 offenders were seen each month (noting the CJP has not had capacity to operate over holiday periods).

Table 3: Number of offenders referred to CJP hearings, November 2010 - early August 2012

CJP location	Referred to the CJP	Did not attend	Attended the CJP
Christchurch CBD (Nov '10 – Feb '11)	11	0	11
Nga Hau E Wha marae, New Brighton (July 2011 - early August 2012)	132	3	129
Total	143	3	140

²⁰ One offender attended the CJP twice for separate offences, so each referral is counted separately. Other offenders who were referred back to the CJP for the same offence (due to non-compliance) are only counted once.

3.3 Characteristics of offenders referred to the CJP

This section provides details of the offenders referred to the CJP between November 2010 and the beginning of August 2012. Information is provided on offenders' gender, age, ethnicity, prior contact with Police and levels of prior offending. This data was drawn from the CJP and Police monitoring data, supplemented with information recorded in the Police database (NIA) where monitoring data was incomplete.

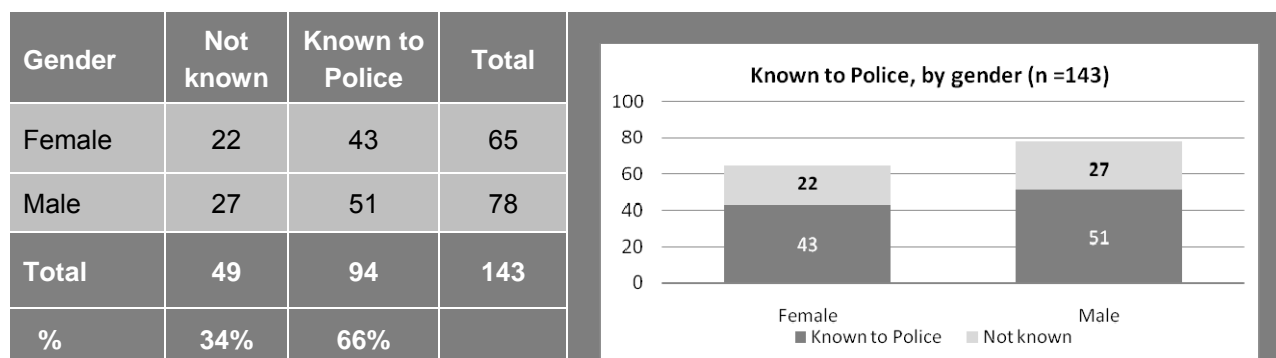
Gender

Of the 143 offenders referred to the CJP, 65 were female and 78 were male (45% and 55% respectively). The proportion of females referred is higher than for some other offender populations. (It is about twice that of females apprehended nationally in 2011).²¹

Prior contact with Police

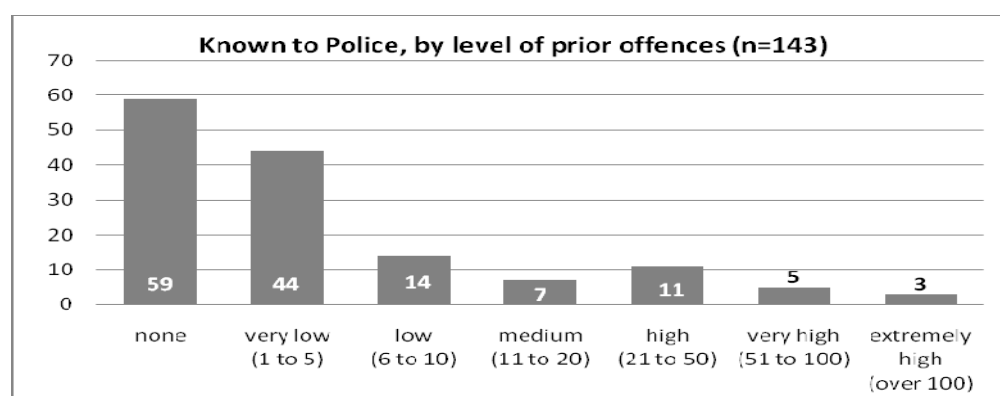
Overall two-thirds (66%) of the referrals to the CJP were for people who were already known to Police, with similar proportions of males and females previously known to Police. Previously 'known to Police' reflects prior offences (including in some cases those committed when aged under 17), as well as four males and six females who did not have prior offences but had primarily come into contact with Police as victims or witnesses of family violence.

Table 4 and Figure 4: Offenders referred to the CJP, by gender and prior contact with Police



Half of the offenders referred to the CJP had one or no prior offences.²² Eight offenders had over 50 prior offences, and of these, three had over 100 prior offences each. (See Appendix 4, Table A4.1). Figure 5 shows the number of offenders referred to the CJP by levels of prior offending (with previous Police contact but no prior offences included in 'no prior offending').

Figure 5: Offenders referred to the CJP, by level of prior offences



²¹ Apprehension figures for 2011 show that about 21% of all apprehensions nationally are of females. <http://wdmzpub01.stats.govt.nz/wds/TableViewer/tableView.aspx>

²² Overall 34% of offenders referred to the CJP had no prior offences, 7% had prior Police contact but not prior offences and 9% had one prior offence.

Proportionally more males referred to the CJP had 11 prior offences or more (23% compared to 14% of females referred), however two of the three offenders with very high prior offending (over 100 prior offences) were female.

Age

Two thirds of offenders referred to the CJP were aged 29 years or younger, and over a quarter were aged 19 years or younger.²³ There were 20 offenders aged 50 years or more, including two aged 70 years or older. (See Appendix 4, Table A4.2).

Unsurprisingly, the younger offenders were less likely to have had prior contact with Police. Over half (58%) of the offenders aged 19 years or younger had no prior contact with Police, while three-quarters of offenders aged 20 years and over were previously known to Police.

Figure 6: Offenders referred to the CJP, by age band and prior contact with Police

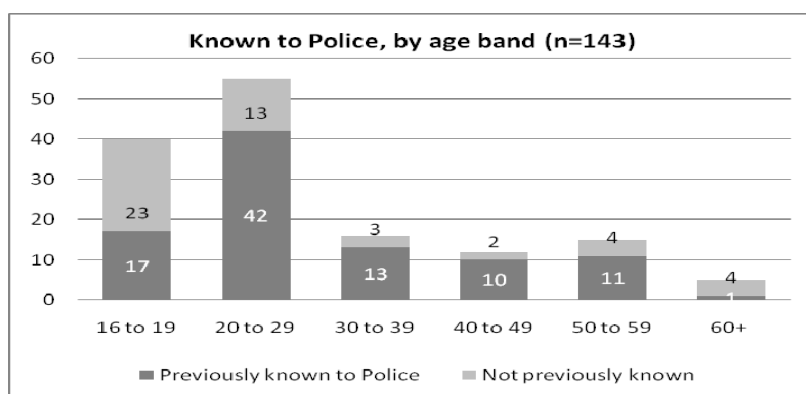


Table 5 shows the types of offences referred to the CJP by age-band, with the higher numbers shaded. Dishonesty, violence and driving offences had the greatest spread of offences across the age groups. By age-band, the greatest number of referrals to the CJP were for people aged between 20-29 years referred for dishonesty offences.²⁴ (See Section 3.4 for more details on offence types referred to the CJP).

Table 5: Age band of offenders by offence type

Age band	Dishonesty	Damage	Disorder	Violence	Drugs	Driving	Other
16 to 19	14	10	5	3	6	1	1
20 to 29	32	5	8	3	4	2	1
30 to 39	11		3	1			1
40 to 49	8				2	2	
50 to 59	9	1		3		1	1
60+	2			2		1	
Total	76	16	16	12	12	7	4

Ethnicity

Overall New Zealand European make up around 80% of the local population in Canterbury and Maori between 6-9%. Over two-thirds (69%) of the offenders referred to the CJP were New Zealand European. Maori offenders comprised 20% of the CJP referrals, Pacific people 4% and Asian 3%. 'Other' ethnicities accounted for 3% of offenders referred to the CJP.

The proportions of offenders by ethnic group referred to the CJP were very close to the overall offending population in Canterbury in 2011. (See Table 6).

²³ One offender was aged 16, younger than the eligible age of 17.

²⁴ See Appendix 4, Table 4.3 for analysis of dishonesty offences by gender and age-band.

Table 6: Offenders referred to the CJP, by ethnic group and prior contact with Police

Ethnicity	CJP referrals	% all CJP referrals	Offenders, Canterbury (2011)*	% of all offenders, Canterbury
NZ European	99	69%	13,704	70%
Maori	28	20%	4,301	22%
Pacific Island	6	4%	629	3%
Asian	5	3%	226	1%
Other	5	3%	271	1%
Unknown	-	-	361	2%
Total	143	100%	19,492	100%

*Source: Statistics New Zealand.

Of the NZ Europeans referred to the CJP, well over half (62%) were previously known to Police, as were the majority of Maori offenders (24 out of 28). (See Appendix 4, Figure A4.1).

Employment status

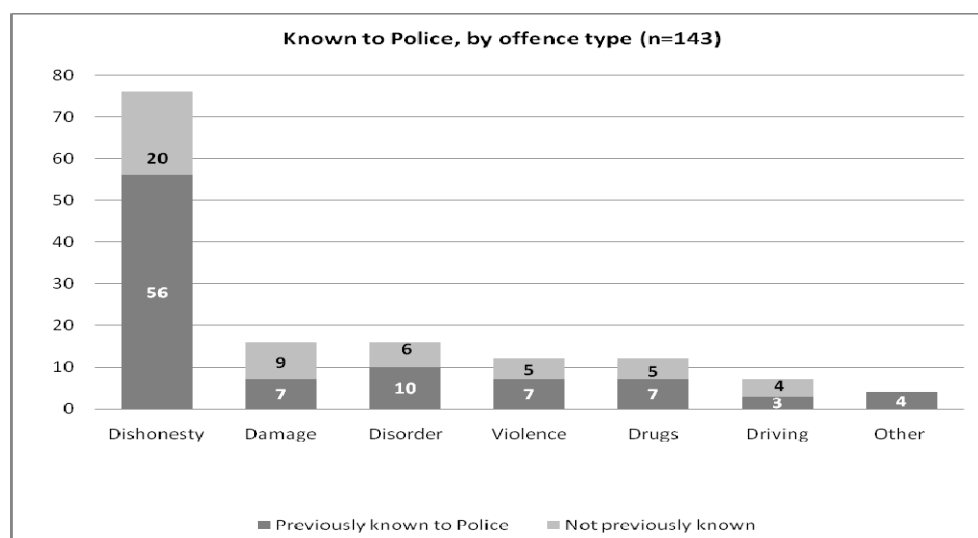
Overall 42% of offenders referred to the CJP were employed (full or part time), half of whom were previously known to Police. Just under a third (32%) of referrals were for people on a welfare benefit, the majority of whom were previously known to Police. Students accounted for 16 (or 11%) of CJP referrals. (See Appendix 4, Table A4.4).

3.4 Offences referred to the CJP

On the whole offenders were referred to the CJP for only one offence.²⁵ Dishonesty offences were the most common offence type resulting in a CJP referral, accounting for just over half (53%) of referrals and most of these were Shoplifting (under \$500) offences. Property damage and disorder offences accounted for 16 referrals (11%) each.

Over three-quarters of offences referred to the CJP had an identifiable victim (half were businesses and just over a quarter individuals).

Just under three-quarters of offenders referred for a dishonesty offence had prior contact with police. Around half of the offenders referred for other offences had prior Police contact. (See Figure 7).

Figure 7: Offences types referred to the CJP, by offenders' prior contact with Police

²⁵ There were 11 offenders referred with more than one offence in the initial stages following the relocation to New Brighton. Where there were multiple offences, the main offence has been used when presenting findings.

Females committed just over two-thirds of all the dishonesty offences referred to the CJP, and over two-thirds of these offenders were previously known to Police. Across all the other offence types, there were more males referred to the CJP than females. This was more pronounced in property damage, disorder offences, drugs and driving offences. (See Appendix 4, Table A4.5)

Offence eligibility

To be in line with the other Alternative Resolutions initiatives, CJP referrals are meant to be for offences with a maximum penalty of six-months imprisonment or less, and exclude family violence, methamphetamine and sustained loss of traction ('boy racer') offences.

In total 23 offenders (16%) were referred to the CJP for 16 offences outside the usual Alternative Resolutions criteria. (See Appendix 4, Table A4.6 for the full range of offences referred to the CJP).

Offences outside the usual Alternative Resolutions criteria referred to the CJP were:

- dishonesty: theft \$501-\$1,000 and over \$1,000, burglary, receiving, theft by a person in a special relationship, unlawfully taking a motor vehicle
- property damage: intentional damage (section 269), arson
- violence: assaults child, common assault and domestic assault
- drugs: cultivate cannabis, sell/ supply cannabis
- driving: sustained loss of traction
- other: possession of an offensive weapon.

Police considered the particular offender and/or offending circumstances in their decisions to refer these offenders to the CJP. For example two offenders referred for offences outside the usual criteria risked losing their jobs if convicted,²⁶ and the offender referred for 'assault child' was aged in their 70s.

The CJP team said while the initiative was in the pilot stage there was opportunity for Police to test the approach on a broader range of offences, to see if the eligibility criteria could be expanded. This was particularly the case for lower-level violence offences (which are not eligible for a PCW). In part the approach was to test whether greater victim involvement and a process to identify underlying drivers of crime could achieve more effective resolutions in these cases.

Main influencing factor

Data from the monitoring spreadsheets were reviewed and information on the main influencing behaviour for the offending was given in 126 cases.²⁷ Consumption of drugs and alcohol was given as the main influencing behaviour in just under a quarter of cases, and most commonly given as a factor for offenders previously known to Police (21 out of 30 cases).

Poor mental health was the next most common influencing factor, and more evenly present in offenders both previously known and not previously known to Police. Financial stress was more commonly given as an influencing factor among offenders previously known to Police (11 out of the 14 cases where this was given).

Five offenders with prior offending histories had complex adverse backgrounds stemming from childhood. See Table 7 for the complete range of factors.

²⁶ The offending was not a risk to the type of employment held by these offenders.

²⁷ This data was entered in the CJP monitoring spreadsheet under a section on factors influencing offending behaviour, noting that in some instances this section was completed by the researcher based on text entered in free-text fields.

Table 7: Main factor influencing offending, by prior contact with Police

Main factor influencing offending	Not known to Police	Previously known	total	%
Drugs or alcohol consumed	9	21	30	24%
Poor mental health	7	9	16	13%
Financial stress	3	11	14	11%
Stress (family, work, earthquakes)	4	7	11	9%
Poor impulse control	4	6	10	8%
Poor anger management	2	6	8	6%
Drug or alcohol addiction	3	4	7	6%
Bored/ being stupid/ adrenaline rush	2	4	6	5%
Accumulated adversity	0	5	5	4%
Negative peer influence	4	1	5	4%
Not aware offending at the time	2	1	3	2%
Lacked skills to resolve	2	0	2	2%
Other	2	7	9	7%
Total	44	82	126	

3.5 Comparison of referrals against CJP intended outcomes

One of the aims of the CJP is to deflect first-time offenders from court, and 41% of offenders referred had no prior offences. Referrals were also made to help address underlying causes of offending behaviour (eg poorly managed mental health conditions, drug and alcohol misuse).

The CJP also aimed to target the upper-level of offences that can be resolved without prosecution and where a PCW is not considered a sufficient response. While PCWs are mainly used for public order offences, the majority of offences referred to the CJP had an identifiable victim. (This reflects another aim of the CJP approach; to provide greater victim involvement in the justice process. Victim involvement is discussed more in Section 4.5).

3.6 Comparison of offender characteristics by resolution type

Table 8 shows the age, gender, ethnicity and prior offending status of offenders who received a PCW, a CJP referral or who were charged and prosecuted for a low-level offence.

Data for the CJP comes from all referrals made from the start of the initiative in November 2010 to early August 2012. The data for PCWs and prosecutions comes from a study based on the first six-months of PCW use following national implementation.²⁸

Age and prior offending

Offenders given a pre-charge alternative resolution (PCW or CJP) tended to be younger and have no prior offences compared to those charged and prosecuted for low-level offences.

²⁸ The three most common offences for the PCW and charge data are Disorder, Breach of Liquor Ban and Shoplifting (under \$500), similar to the main offence types resolved with a CJP referral. Pre-charge warnings: analysis using LOST (Lifetime Offender Seriousness Tool), Dr Elaine Mossman, May 2012.

For example:

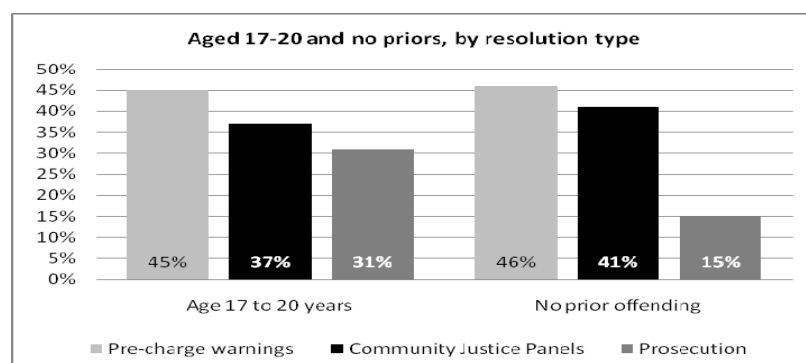
- nearly half (45%) of offenders who had a low-level offence resolved with a PCW were aged between 17-20 years,²⁹ compared to 37% of offenders referred to the CJP and 31% of offenders who were charged and prosecuted for similar offences
- nearly half (46%) of offenders who had their offence resolved with a PCW had no prior offending, compared to 41% of those referred to the CJP and only 15% of offenders prosecuted for a similar low-level offence.

Table 8: Comparison of offender characteristics by resolution type for low-level offences

Resolution type	Alternative Resolutions		Charge
Offender characteristics	PCW (NZ) (n=6,571)	CJP (Canterbury) (n=143)	Prosecution (NZ) (n=18,426)
Age 17 to 20 years	45%	37%	31%
No prior offending	46%	41%	15%
Male	77%	55%	79%
Female	22%	45%	21%
NZ European	44%	69%	44%
Maori	30%	20%	45%
Pacific Island descent	19%	4%	9%
Sanction level	Lower ----- Higher		

Figure 8 shows the percentage of offenders by age and prior offending status for the three resolution types for low-level offences.

Figure 8: Offenders aged 17-20 years and no priors by resolution type for low-level offences

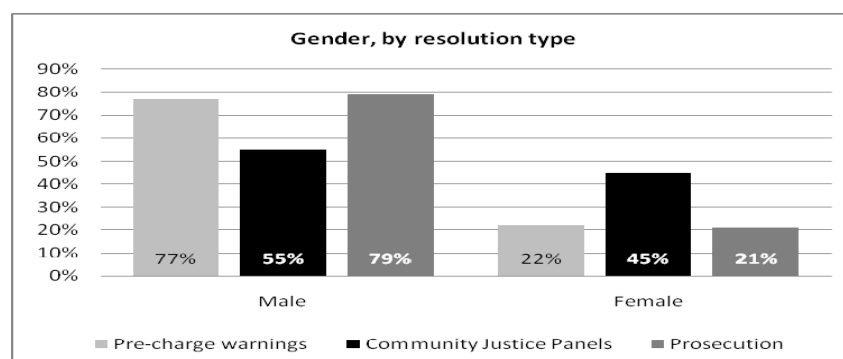


Gender

More males were prosecuted for low-level offences than females (79% vs 21%). Slightly more females received a PCW for low-level offences (22%) but a much higher proportion of CJP referrals were female (45%). This most likely reflects the fact that Shoplifting (under \$500) was the single most common offence referred to the CJP, an offence with a higher proportion of female offenders (44% nationally). (Females are also slightly more likely to have a Shoplifting (under \$500) offence resolved with a pre-charge warning, 29% compared to 21% for males).

²⁹ Age-bands used here have been modified to 17 to 20 years, to allow comparison with the PCW study.

Figure 9: Gender of offenders by resolution type for low-level offences



Ethnicity

Overall Maori are over-represented at every stage in the criminal justice system; for example Maori make up around 13% of the adult population but accounted for over a third (37%) of all charges in 2011. (For more information see *Over-representation of Maori in the criminal justice system: An exploratory report*, Department of Corrections, September 2007).

Maori are generally less likely to receive alternatives to charge and prosecution, at both the pre-charge and post-charge stage (Police Adult Diversion). Prior offending is taken into account when deciding to use a PCW, and as a group Maori are more likely to have higher levels of prior offences, which may reduce their perceived eligibility for this resolution type. The CJP process was used for a slightly higher proportion of repeat offenders than PCWs and the majority of Maori offenders referred to the CJP had prior offences.

Prior offending

Compared to PCWs, proportionally around twice as many referrals to the CJP were made for offenders with more than 10 prior offences (21% compared to 10%).³⁰ The higher level of response and accountability means the CJP can be more readily used for offenders with prior offending.

3.7 Time from offending to the CJP hearing

The CJP Operating Guidelines aim for the CJP hearing to occur within 14 days of the offender receiving a letter requiring them to attend. A third of offenders were seen by the CJP within this 14 day time-frame. Over half (58%) of offenders were seen by the CJP within 30 days, and over three-quarters (79%) were seen within 60 days. Four offenders had waited five months or more for a hearing. (See Appendix 4, Table A4.7).

The original aim of 14 days was ambitious, given the CJP operates only once a week and does not currently have capacity to operate over main holiday periods. The majority of the delays occurred because the CJP was not operating over the Christmas period, and there was a backlog of cases when it resumed operation. In a few instances there were difficulties contacting offenders, or hearing times were re-scheduled as the offender did not (or could not) attend due to personal circumstances. Police emphasised the importance of persevering, saying:

"If we are really interested in making a difference to defendants and victims and reducing Court time, then we need to commit and work hard with certain defendants to produce quality outcomes or alternative resolutions." (Police Case Co-ordinator).

While the Police referral process had worked well in the past, there had been recent occasions of offenders turning up for a panel hearing without notice. In these instances the officers making the referral had given the incorrect date or time for the CJP hearing in the letter to the offender. To avoid this situation, it was suggested that the CJP co-ordinator could arrange the hearing date and time with the offender instead of the Police.

³⁰ The offence bands used here is for 10 or more prior offences to allow comparison with the PCW study.

4 CJP hearings

This section looks at the CJP hearings. The processes used to set up and run a CJP hearing are described. Details on attendance at hearings by victims and support people for offenders is given. Information on the main influencing factor behind the offending is provided, using information recorded in the CJP community spreadsheets. The length of the CJP hearings is given, noting reasons for variations in length. The restitution conditions set by the panel are described overall and with examples by offender and offence types.

This section also incorporates the observations of panel operation undertaken by independent evaluators and their interviews with six offenders. (Appendix 5 provides details on the panels observed, noting that they are representative of the types of offences and offenders seen).

4.1 Arranging offenders' attendance and pre-panel briefing

Most of the panel preparation falls to the CJP community co-ordinator and his assistant. He describes the necessary attributes and skills of someone in the CJP co-ordinator role this way:

[You need to have] the ability to communicate with a wide sector of people. You need to have quite a degree of empathy, but gravitas as well and you have got to make sure that they realise that... you've done something wrong here and you've got to recognise that, we're not going to be soft on you. ... I think the integrity of the service is at risk if I take too lenient a view.

The preparation processes are well documented in the Operating Guidelines. The CJP community co-ordinator receives the referrals from Police, along with details of offenders/offences, including the Police coversheet, letter requiring attendance at CJP hearing and the Police Summary of Facts. The Police may also provide victim contact details if relevant and the victim has consented.

The CJP co-ordinator and his assistant draw up a schedule of two to four CJP hearings starting late afternoon each Wednesday. The offenders and consenting victims are notified as to their hearing time, and told they may bring a support person. They are given information about the CJP process and the types of restitution conditions typically imposed.

The independent evaluators observed the CJP co-ordinator (or his assistant) briefing a few offenders just prior to their hearing. These briefings occurred in a separate area to the room in which hearing was held and helped to settle the offender. The co-ordinator went over any questions the offenders had in relation to the panel process and/or its purpose. The co-ordinator does the same separately for victims who attend.

The six offenders interviewed for this study were asked to comment on the pre-hearing meeting with the CJP community co-ordinator. The majority view of those interviewed was that they had felt nervous initially but that the co-ordinator had put them at ease and had not judged them.

He didn't treat me like a piece of dirt. He treated me like a person. He didn't judge me.
(Offender)

4.2 Setting up a panel

The CJP co-ordinator and his assistant also arrange the composition of the panel. Efforts are made to tailor panel composition to the offender, by having panel members with similar ethnic backgrounds or particular skills or experience in dealing with specific issues (eg mental health). The same three panel members (including the facilitator) participate in all hearings held that evening. The panel members get copies of the information provided by Police.

The independent evaluators observed 12 hearings over five nights. At three evening sessions the CJP had both male and female members and the panel was female only for two evening sessions. In four of the five evening sessions the facilitator was female. In terms of ethnicity, age and socio-economic status, there was a tendency for panels observed to comprise European, middle aged and older, middle class individuals.

From their observations, the independent evaluators noted attributes of effective panel composition. (See Table 9).

Table 9: Attributes of effective panel composition, from independent evaluator observations

	Attributes of effective panels
Panel composition	<ul style="list-style-type: none"> • Panels seemed to work best when they had both males and females and people from diverse backgrounds (ethnicity, professional background etc). • Greater variation in the characteristics of panel members allowed more opportunities for the panel to make a real connection with the offender. • There were instances where male panel members reframed language or concepts used by female panel members in a way that male offenders could more easily relate to and understand. • Instances were observed where Māori members provided valuable insights and contributions where offenders were also Māori.

Similar themes on effective panel composition emerged from interviews with stakeholders (which included CJP partners and Police). The strongest theme was ensuring that the panel is made up of the people who have a commitment to restorative justice and that there is a good mix (or range) of people on each panel in terms of age, gender, ethnicity, professional/employment background, past experiences, personal views on justice etc. Having such a mix or range of people was felt to bring balance and fairness, and represent the wider community more accurately.

...you don't want too many of this type of person or that type of person. ... If we get a mixture of people on the panel, so we get a school teacher, a plumber ... a business owner, then together that panel will have a similar thought about maybe the offending, but come at it from several different angles. ... And so together those three will discuss with the offender the things that matter to them and then a good sanction comes out of that. (Key stakeholder)

4.3 Briefing the panel

Originally the Police did not get involved at all in the panel hearings. Now the Police Case Co-ordinator provides a briefing to the panel before the hearing (and debriefs the panel when the offender leaves). While the panel found this useful, a CJP member commented that the information sometimes moved “... beyond a factual record of the offender's history to making judgements or observations which influence the panel's view of the offender.”

One of the officers who regularly attends the CJP hearings described the challenges in knowing what level of information should be provided to the panel.

There's a fine line with me not disclosing too much...[There are] privacy issues as well, and while our arrangement is that we can share some information, sometimes too much information doesn't help either. ... [It's] a very hard thing to actually document again, you've really got to make gut calls on what's relevant today... (Key stakeholder)

What is shared is meant to reflect the level of disclosure approved by the offender, who as part of attending the CJP can choose to:

- agree that Police can share any information held about them with the CJP (this could include prior contact with Police as victims of family violence)
- agree that Police can share information held about them except any earlier offences
- not consent for Police to share information held about them to the CJP.³¹

³¹ See the CJP Operating Guidelines for details.

One of the Police officers most closely involved in the CJP noted the increase in panel members' ability to elicit information on prior offending, offending circumstances and potential drivers of offending behaviour during the panel hearings. As a result, Police have reduced the level of disclosure on offenders given at the pre-hearing briefing and tend to now only provide information related to the current offending.

4.4 Running the panel

According to the operating guidelines, it is the CJP facilitator's role to:

- welcome the offender and any victims (and support people)
- introduce the panel members and explain the CJP's purpose and process
- ensure a panel member reads the Police Summary of Facts (SoF)
- confirm that the offender agrees with the material points in the SoF and admits guilt.

Panellists then invite the offender to tell them what happened and why, with the aim of identifying any support the offender may need to address any influencing factors, or 'drivers of crime.' If the victim is present they are then asked to explain the impact of the offending on them. Then the panellists discuss and decide what represents a suitable type and level of restitution and response, with offender (and victim) input. The hearing ends with the facilitator and offender signing their agreement to the CJP contract conditions.

The CJP aims for conditions to include elements of **A**ccountability, **R**estitution and **E**ducation (**A.R.E**) to hold offenders to account for their offending, provide opportunity to redress the harm or damage caused and address underlying factors that may have contributed to the offending.

The CJP co-ordinator has prepared a script to assist the facilitator in their role, to improve consistency between panels and ensure that all key information is covered. (See Appendix 6 and 7 for the CJP hearing guidelines and scripts).

Usually three offenders are scheduled to be seen in an evening. The hearings usually start at 4pm and panellists finish between 7-8pm.³²

Initial phase

At all the hearings observed by the independent evaluators, the facilitators welcomed the offender and victim (if present), introduced other panel members and ensured that the Police Summary of Facts was read. The independent evaluators noted that while they did not generally hear panellists clearly articulate any ground rules (eg no arguing, be truthful etc) to the offender and other participants at the hearing, these were implied in the language (including body language) panellists used.

During the observations, the panellists did not usually explain the purpose of the panel to the offender or they did so in a minimal way. This may reflect an assumption that the CJP community co-ordinator or his assistant had already done this prior to the hearing.

³² Light refreshments are provided for panellists and staff.

Understanding the offending circumstances

During the panel observations, panel members consistently asked offenders open questions about the offending that led to the hearing, and probed them about what had driven their offending behaviour.

Often issues with finances, alcohol, drugs, mental health or anger management came up naturally as part of the offender's explanation of what had driven their behaviour. If not initially raised by the offender, panel members usually explicitly asked whether these factors had driven the offending or were an issue for the offender more generally.

There tended to be variation in whether panellists treated these possible issues as a checklist that they went through with each offender or explored only if it appeared likely to be related to the offending behaviour. Occasionally a potential issue was missed which could have been relevant (for example, financial problems in the case of theft).

Where the Police had indicated an issue in their pre-briefing, panellists generally (but not always) provided opportunities for this to be brought up by the offender through asking open questions and specific probing.

Panellists generally (but not always) asked the offender about the extent of their family and other support (such as from their GP or mental health provider).

The independent evaluators commented that in some of the hearings they observed, too much time seemed to be spent trying to establish underlying causes, and that occasionally some lines of enquiry reflected panel members' views and experiences rather than that of the offender or offending circumstances.

Some stakeholders had also commented on this aspect:

...When you get someone who's a little bit blinded by a particular issue or particular concern ... that then leads to the risk of ignoring other important things, other important indicators. (Key stakeholder)

Some stakeholders thought that panels could sometimes spend too long trying to solve significant issues for the offender. For example:

[The hearings] go on too long and I think the panel have to be very careful to not to try and fix these people's problems, you can't. ... You can't fix 14 years of abuse in a half an hour hearing. Their job is to recognise there is an issue here, let's go there and assist ... (Key stakeholder)

Understanding the consequences of the offending

As part of the hearing process there is an expectation that panellists talk with the offender about the consequences of their offending for the victim, the community, the offender themselves and for other groups (for example, the Police). The independent evaluators observed that panellists generally talked with offenders about the consequences for them (for example, the impact of having a conviction on employment, travel) and why they should not offend again.

The consequence for the victim was discussed in two-thirds of the cases observed and the consequences for the community and others (usually the wider family of the offender or the police) were discussed in about one-third of the cases.

4.5 Victim representation

Within New Zealand there is now an established practice of Restorative Justice victim-offender conferences, which operate around the country. (See Section 7.1, Restorative Justice in New Zealand). For restorative justice victim-offender conferences to proceed, the victim must consent to participate.

Victims can be represented at the CJP in person, via a nominated representative or through a written statement. A CJP hearing can, however, occur without the victim or their representative. When this occurs one of the panel members can act as a proxy victim representative and ensure the victim's perspective is considered throughout the CJP hearing.

Of the 143 referrals made to the CJP the most common victim type was a business (71), followed by a person (38) and the community (34).³³ Though accounting for half of all the victim types, only two victims attend the CJP hearing where the crime had been against a business. This most likely reflects the fact the majority of these offences were shoplifting from large stores, where no individual is directly affected.³⁴

A victim was represented in around one in four cases where the crime was against a person (10 out of 38). A person attended seven of these 10 hearings and victim statements were read in three hearings where the crime was against a person.

Table 10: Number of offences by victim type, and number of victims represented

Offences type	Number of offences	Victim representation
Business	71	2
Person	38	10
Community	34	
Total	143	12

Victims were directly represented at four of the 12 hearings observed by the independent evaluators. In two cases the victims attended the hearing. A detailed letter from the victim was read out at one panel hearing and a victim impact statement was read out at another hearing.

CJP hearings are now scheduled with a two-to-three week lead in time, to allow more time to secure victim representation. (In some instances victims had been unable to attend as hearings had occurred within days of the offending).

When victim representation went well

Examples of when victim representation had gone well included a shop attendant who appreciated being given the time to air his feelings about the effects of the offending. He liked the procedures of the panel and the fact that as a victim he was able to be part of the process.

Another victim had indicated that all she needed to make the matter right was for the defendant to admit guilt and for her to receive the outstanding reparation, and both matters were addressed at the hearing. The offender also fully recognised the harm caused by their offending, and this satisfied the victim.

³³ This data came from the CJP community spreadsheet. Some data was added by the researcher, based on other information recorded on a case (eg a victim type of business was added for shoplifting offences if data was not previously recorded).

³⁴ Costs are experienced by business owners and shareholders, and passed on to consumers, eg through insurance premiums for theft.

When victim representation had not gone well

In one of the quarterly updates prepared by Police there was an example of where a victim had not been happy with the process (as they had felt blamed) or the outcome (they did not receive an apology and thought the penalty was insufficient). The CJP community co-ordinator made a follow-up visit with this victim to listen to their concerns. In another case raised by a stakeholder the panel's questioning of the victim was seen as too aggressive.

Factors to consider to ensure victims are well represented

Some stakeholders felt that attending the panel hearing can be empowering for victims and can result in the hearing having a greater impact on offenders. However some also noted that there can be risks for victims such as re-victimisation or feeling intimidated if the hearing is not managed well.

A stakeholder commented that a letter can be a useful way for the victim to contribute without attending. Another suggested the co-ordinator could offer to help the victim prepare a letter if assistance was required.

The Police quarterly update noted the need for victims to be briefed on the order of the proceedings, particularly the need to address the offender first. (The CJP co-ordinator now checks with victims what order they would prefer, with the majority wanting to hear from the offender first. If the victim wants to speak first, this is communicated to the panel before the hearing starts).

The panel also needs to ensure that the victim is given due attention and efforts are made to understand what action they want to address the harm and/or damage caused by the offending.

Prompts have been developed to ensure victim needs are met. (More formal scripts to guide victim involvement were rejected as they could be perceived as too formal or lacking in sincerity when engaging the victim).

Some stakeholders noted there was a risk that if the victim was not represented, the panel could lose sight of the victim and the harm done. In these instances it was important for someone on the panel to represent the victim.

...we need to develop and always have panel members or a panel member who brings a victim perspective always because as I see it there is sometimes a risk of a panel becoming very caught up with the social context for the offender and where the victim isn't present, to get caught up with discussions about how that has been for the person and lose sight of the harm that has been done. (Key stakeholder)

The facilitator now also assigns a panel member to act as a victim representative if the actual victim is not present (or represented by a third party or via a statement). A new practice introduced in August 2012 is for a fourth panellist to attend as an observer, to monitor and provide feedback on overall panel operation, including the extent to which victim representation was maintained.

One stakeholder also felt it is important to ensure follow up with the victim after the hearing.

...there could be a circumstance where victims could be upset or inadvertently [upset]. The more people you have in the room who have different interests, the harder that it is to manage. (Key stakeholder).

4.6 Support people for offenders

In the 140 CJP hearings that occurred, just under a third of cases offenders had at least someone attend their panel hearing as a support person. In some instances up to three support people attended, but more commonly there was only one. Support people were more likely to attend for offenders not previously known to Police (37% of cases, compared to 26% for offenders previously known to Police).

The most common support was from a friend or relative. Three offenders previously known to Police were supported by a professional support person, eg a mental health nurse or social worker. (See Table 11).

Table 11: Number of others who attended the CJP hearings

Any others attended?	Not previously known	Previously known to Police	Total (n = 42)	%
Offender friend or relative	13	19	32	76%
Community support, mental health support, social worker	-	3	3	
Employer	1	-	1	
Student welfare officer	-	1	1	
Deaf interpreter	1	-	1	
Interpreter	1	-	1	
Church support	1	1	2	
Cultural support	1	-	1	
Total attended	18	24	42	
Total	49	91	140	
%	37%	26%	30%	

One officer commented on the number of offenders having support people accompany them to the hearings, and thought this may be a result of encouragement to do so by the CJP community co-ordinator when arranging panel attendance. The officer noted:

"I feel this [having a support person] is beneficial to the defendant and assists in achieving successful outcomes because if friends and/or family are present, and there is an agreed outcome, that then creates a peer pressure from friends or family to ensure the outcomes are completed. It also puts the defendants at ease and this comes through when they are addressing the Panel. (Police Case Co-ordinator).

4.7 Co-offenders appearing together

In some cases co-offenders have been seen by the panel together, and the Police quarterly updates have noted that this has worked well as it has helped clarify the facts surrounding the offending and the level of individual liability. Offenders were able to be heard separately but in front of each other, therefore negating any opportunity to minimise their part in the offending at the expense of the other.

4.8 Setting restitution conditions

This section looks at the process for setting the restitution conditions, then the numbers and types of restitution conditions set. An aim in the Operating Guidelines was for conditions to be completed with 28 days of the CJP hearing.

The independent evaluators thought the panellists did an excellent job of ensuring that the following processes occurred:

- the panellists and offender discussed the suitable type and level of restitution
- the panellists agreed and recorded the restitution conditions and timeframe for completion
- the CJP facilitator and offender signed their agreement to a contract setting out the restitution conditions and the offender was given a copy of the contract.

Number and type of conditions set

Data on the number of restitution conditions set is based on 134 offenders who attended a panel hearing and had conditions recorded. On average the panel set two to three conditions. Around a quarter to a fifth of conditions were an apology, community service or referrals to treatment/ support services. (Table 12).

Financial reparation accounted for 11% of the conditions, and 6% were for donations. Writing essays accounted for 7% of conditions, and topics included the effects of offending on retailers, impacts of drug and alcohol misuse, reflections on behaviour and steps to improve parenting. Other conditions required offenders to connect to a local Marae, maintain contact with the Police Family Violence Team, undertake a defensive driving course, and pay board to parents.

Table 12: Total types of reparation conditions set, by previously known to Police status

Restitution type	% all conditions set (n =322)
Apology	27%
Community service	21%
Referrals	20%
Financial reparation	11%
Other conditions	8%
Essay	7%
Donation	6%
Total	100%

For offenders not previously known to Police, community service was the single most common condition set, required of just under two-thirds of these offenders. After making an apology, the second most common condition set for offenders previously known to Police was a referral to treatment/ support services, required of just over half of these offenders. (See Appendix 4, Table A4.8).

Community service

In the original CJP monitoring spreadsheet, community service was recorded in two categories: between 3-6 hours or more than 6 hours of community service. The upper category did not sufficiently record the actual hours set (although this was sometimes recorded as free text). As examples, the community service hours set during the panel observations ranged between 16 hours (for Wilful damage) and 100 hours (for Common assault).

The CJP monitoring spreadsheet has now been changed to record the actual hours set for community service, and the actual hours completed. This will improve the accuracy of the data and provide a truer reflection of the hours of community service set as a CJP condition.

The ability to record actual hours completed will also better account for situations where offenders have completed some community service, but not the full amount set. This has happened in a few instances due to ill-health. As an example, one offender completed 50 of the 100 hours of community service set, and was released from completing the remainder due to worsening of an on-going health condition.

Clearer recording will also help panel members reflect on the level of hours set, and ensure that there are enough hours to make it workable from a management perspective for the organisations taking offenders for community service as well as not being so onerous as to jeopardise an offender's employment or family life.

As part of the pre-panel briefings, the CJP co-ordinator now also lets offenders know they can explain their current work and childcare arrangements for the panel to consider when setting conditions. This was introduced in August 2012, as some high levels of hours had been set for offenders. (One offender on ACC was set 120 hours community service, and another was set 100 hours of community service while already working six days a week).

Setting reparation when there had been more substantial financial loss

Financial loss caused by the offending through damaged or stolen goods, or treatment costs for victims were recorded where known. In total financial losses of just over \$18,000 were recorded for 77 offences where loss or damage had occurred.

The most common financial loss was modest; over a third were for amounts under \$50 and overall just over half were for damage/ loss of \$100 or less. Five offences had however resulted in financial losses of more than \$1,000 and eight had caused losses of between \$501-\$1000.

Table 13: Number of offences by level of financial damage or loss recorded

Number of offences by amounts of financial damage/ loss	Number of offences	% of offences with financial loss recorded	% (n=77)
Under \$50	29	38%	52% values under \$100
\$51 to \$100	11	14%	
\$101 to \$300	19	25%	
\$301 to \$500	5	6%	31% values \$101-\$500
\$501 to \$1000	8	10%	
Over \$1000	5	6%	16% values over \$500
Total	77	100%	

Table 14 shows the ten offences which generated the highest financial loss. The highest was caused through careless driving (\$1,426). Full reparation had been made in six cases, and repayments started in two. In one case the restitution conditions had only just been set so it was too soon to establish compliance. In one case financial reparation was not set as a condition (the offender had limited cognition and had been manipulated into the offending).

Table 14: Offences by level of financial damage or loss recorded

Offences with financial damages/loss over \$500	\$ value
Careless driving	\$1,426
Burglary by night	\$1,408
Wilful damage	\$1,235
Theft	\$1,205
Theft	\$1,018
Unlawfully taking a motor vehicle	\$1,000
Wilful damage	\$983
Theft	\$900
Wilful damage	\$800
Common assault	\$700

If reparation is being made in instalments, the panels check existing fine and debt repayments to ensure repayments levels set are realistic.

Types of conditions set, by offender type

Table 15 provides summaries to illustrate the types of conditions set for offenders with no prior offending.

Table 15: Examples of conditions set for offenders with no prior offending

No prior offending	An offender who committed a Careless driving offence was required to repay damages and undertake a defensive driving course.
	The theft of a low-value item by an elderly person led to a referral to Age Concern to ensure they had access to necessary support services.
	A young offender who was referred for Possession of cannabis was required to undertake community service (which later led to employment).
	A young sole parent who stole low value items completed a written apology, donated no-longer needed baby clothes and was required to complete their studies.

Offenders with no prior offending tended to respond well to the CJP process. However a minority either still minimised their offending or reacted negatively to the CJP process or conditions set. As an example, one young offender referred for Supplying cannabis did not acknowledge the seriousness of their offending and expressed anger at the conditions set by the panel (community service, a donation to a charity and an essay on the effects of cannabis).

Table 16 provides summaries to illustrate the types of conditions set for offenders with very high prior offending (more than 50 prior offences).

Table 16: Examples of conditions set for offenders with very high prior offending

Very high prior offending	<p>In addition to making an apology, a young offender with very high prior offending was given support to better manage their mental health condition, which when unmanaged was a significant factor contributing to their offending.</p> <p>A middle-aged offender with a history of drug and alcohol addiction referred to the CJP for a dishonesty offence was required to write a letter of apology and access support from a local organisation.</p> <p>An older offender with very high prior offences referred to the CJP for a driving offence and assault was required to attend a defensive driving course, write a letter of apology and access treatment/ support for addiction issues.</p>
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While a few offenders with high prior offending seemed cynical about the process, several were reported as finding the process and the way they were treated as very positive. One of the offenders with very high prior offending regularly rang the CJP community co-ordinator to ensure they were meeting the conditions set.

Types of conditions set, by offence type

In most cases there was a match between the offence and the main types of conditions set: offenders referred for driving offences were required to undertake defensive driving courses, and offenders referred for drug offences were often referred to treatment/ support services. Some of the wilful damage/ public disorder offences tended to be more alcohol-fuelled indiscretions rather than a result of deeper-seated addiction issues. In these cases financial reparation, community service and an apology were the most common types of conditions set.

When looking at the offenders referred for dishonesty offences, a reasonable number were experiencing mental health problems, financial and other stresses, and several had stolen food for their children. Many of the items stolen were of a low financial value. In addition to reparation, apologies and community service, the panels often set conditions for the offenders to access treatment or support services, deemed appropriate given the offending circumstances.

Table 17: Examples of conditions set for offenders referred for dishonesty offences

Dishonesty offences	<p>A young sole parent with low prior offending referred for a dishonesty offence was required to write a letter of apology, undertake community service and access budgeting services. (After completing the community service, the organisation accepted them as a longer-term volunteer).</p> <p>An offender referred for dishonesty offences was required to start making financial reparation for the items stolen and to access community support services.</p>
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The offences outside the usual criteria had conditions tailored to the offence type (eg voluntary temporary suspension of the offender's driver's licence for a 'boy racer' offence) and/or the offender's circumstances (eg poor mental health, drug and/or alcohol addictions). One offender had been in their job for several years and faced losing it if convicted. They had already taken steps to improve their life before the CJP hearing and avoiding a conviction allowed them to continue with both their job and these positive steps.

Review of conditions to offence/ offender circumstances

The independent evaluators commented that the conditions set by the panellists during the observations appeared to be tailored to the offender's personal circumstances. (See Appendix 5, Table A5). In terms of the three elements, the conditions seemed to have a stronger emphasis on holding the offender to account (**A**ccountability) and giving them the opportunity to restore harm or to give something back (**R**estitution). In some instances the independent evaluators noted that community service was substituted for financial reparation where the offender had limited financial means. Occasionally it seemed that the substitution was made even though the offender may have been able to pay.

Less immediately evident to the independent evaluators was an educational component (**E**ducation) in the conditions set. Looking at the conditions set during the 12 observations, three offenders were required to write essays (eg on the effects of alcohol, on the cost to taxpayers of theft) and five were referred to treatment or support services, which the panel may have been intended to have an educational component as well. Feedback from the CJP partners indicated that the process of the CJP hearing itself was seen as having an educational component, with questions and discussion used to challenge offenders to think about the consequences of their offending and patterns of behaviour that needed to change.

The independent evaluators noted that in many of the cases the panel set conditions in relation to what they perceived to be the underlying causes of offending, for example, anger, stress, social isolation, alcohol or drug use. Occasionally a condition was set which did not appear to be related to the offending or underlying causes of the offending, for example, attendance at a defensive driving course a dishonesty offence. (In this instance, the panel had tried to set a condition to help the offender obtain their full driver's licence, as a positive step in their life).

The 'severity' of conditions relative to the seriousness of the offence varied somewhat across panels. In a small number of cases the conditions would be difficult to meet within four weeks (the target timeframe for completion from the Operating Guidelines).

During the observations, the independent evaluators thought most offenders understood and accepted the conditions set, noting though that in three cases there was less certainty that the offenders had fully understood the conditions.

4.9 Length of CJP hearings

The Operating Guidelines did not specify a maximum length for CJP hearings, but there was an understanding among the CJP team that hearings should generally not exceed 30 minutes. Half of the 133 panel hearings³⁵ took 30 minutes or less. Just over a third of the hearings lasted between half and three-quarters of an hour. Six offenders (all of whom were previously known to Police) had panel hearings that lasted more than an hour.

³⁵ Three offenders did not attend the CJP. Some data was not recorded for another seven offenders, so data on the length of the CJP hearing is based on data for 133 offenders.

Table 18: Length of CJP hearing, by prior contact with Police

Time in front of panel	Not previously known	Previously known to Police	Total by time in front of panel	% (n =133)
Under 30 minutes	28	39	67	50%
31 to 45 minutes	16	32	48	36%
46 to 60 minutes	4	8	12	9%
More than an hour	0	6	6	5%
	48	85	133	

The shortest CJP hearings were 10 minutes (for graffiti/ vandalism for offenders with no prior offending). In several of the longest hearings the offenders were supported by professional care workers. Others with longer hearings tended to have mental health conditions and several had traumatic upbringings, one of whom was also in a violent relationship at the time of the hearing. In these instances, referrals to treatment and support services were included in the conditions set as well as accessing support from the Police Family Violence team for the woman in a violent relationship (and a safety plan was immediately put in place for her).

The amount of time that the offender spoke during the hearings observed by the independent evaluators varied markedly. In half of the 12 cases observed, the offender spoke for approximately quarter of the time and in four cases the offender spoke somewhere between quarter and fifty percent of the time. In two cases the offender dominated the hearing by speaking for approximately three-quarters of the time.

An example at one of the observed hearings was that the offender disputed some of the Summary of Facts and, with their support person, maintained the victim was the problem. The offender was articulate and persuasive and the panel spent most of the time listening to the offender and the support person. Without the victim present, the panel also appeared to lose sight of the victim. Substantial time was spent negotiating the restitution conditions, with the offender refusing several suggestions. In the end the offender agreed to the conditions but did not seem to accept them. The hearing took an hour.

Involvement of Police at the panels

The Police attended all 12 panel hearings observed by the independent evaluators, and provided a pre-briefing and debrief for the panel for each hearing. The Police briefings alerted the panel to areas they should keep in mind during the hearing with the offender. The debriefs often had suggestions on ways to manage hearings better in the future.

Police are only meant to participate in the hearing process at the invitation of the panel. Police only spoke in two of the hearings observed, responding to questions from the panel on whether an offender had been trespassed from the service station and whether help was needed with washing Police cars (as a possible community service activity).

4.10 Offenders views on the CJP process

As part of the interviews with six offenders (undertaken by the independent evaluators), they were asked what they thought the panel was trying to achieve. Their responses show they understood the purpose of the CJP by identifying the following as aims of the approach:

- get the offender to show remorse for the offending
- understand the offender's underlying reasons for the offending
- help the offender to understand the consequences of the offending and where they might end up if they continued
- do something of value for the community.

These six offenders were asked to rate elements of the CJP process and how they were treated. (Table A8 in Appendix 8 shows their responses). Of note were the high overall ratings, particularly around how the panel treated them. All six said they 'totally' understood the conditions set and also gave the highest rating for 'given the chance to put themselves in a better place'.

Offenders: what was good about the CJP

The six offenders interviewed were asked to describe what was good about the CJP hearing:

- two said they had liked the fact they were given a second chance and did not get a criminal record
- two mentioned the 'community' aspect of it
- one liked that that she hadn't been treated as a criminal and that it hadn't cost her. (She said she couldn't afford a lawyer's fee).
- one said it had made her think about the consequences of her offending.

Of the three offenders who had experienced the court system, all thought the CJP process was a better process, primarily for the reasons they gave in response to what was good about the CJP hearing.

Offenders: what was bad about the CJP

These six offenders were also asked to describe what was bad about the CJP hearing. Only two of the six could think of anything. One said he felt a panel member had judged him and one that it was too informal.

Offenders: overall views on the CJP

All six of the offenders interviewed thought that going to the CJP hearing had changed their behaviour for the better. Three said they would not commit the offence again, two said they had dealt with underlying issues related to the offending, and one that she was going to start a new life in another town.

All six would recommend a CJP hearing to another person in similar shoes. They gave a variety of reasons, none of which suggested it was because it was a 'soft' option. For example:

Definitely, because you don't have to go to court, you aren't arrested, and you have a better outcome. CJP makes you do a lot more [tasks].

It's not as soft option. I had to work my bum off at X. It was hard work. I enjoyed working on my own. It gave me time to think. It was a nice place and I wasn't among other offenders.

4.11 How well CJP hearings met intended outcomes

This section provides reflections based on the 12 CJP hearings observed by the independent evaluators. Offenders' perspectives on the CJP process are also included, based on interviews with six offenders. (Attempts to interview victims were unsuccessful).

The independent evaluators noted that their reflections were intended to help build on existing good practice and identify areas where improvements could be made. Updates on recent practice from the CJP community co-ordinator and Police quarterly updates are also included. (These new practices have been introduced based on the initial feedback from the independent evaluators and from training sessions run by the CJP).

Overview of practice

The independent evaluators found that in all of the 12 hearings they observed, the panels all rated 100% for the following elements:

- being respectful and empathetic
- being affirming (not talking down or stigmatising)
- being relatable and using language the offender can understand
- being active listeners and open minded (no agendas)
- considering options and sharing decision-making
- role modelling good behaviour (eg when dealing with disagreement among themselves).

In some situations (particularly where the offender disputed aspects of the Summary of Facts and argued with the panel), the independent evaluators thought the facilitator and panel needed to more actively demonstrate that they were in charge of the hearing and to focus more on the seriousness of the offending and the impact on the victim and others. In a couple of cases the evaluator felt that the offender was in control of the hearing rather than the facilitator or panel.

The quality of facilitator and panel performance

The evaluators made ratings of how well, in their view, the facilitator performed against a series of nine items. Facilitators were generally rated as doing an excellent job of ensuring that:

- the offender's views were heard
- the victim's views were heard in the cases where a victim was in attendance or where they had submitted an impact statement/letter
- the offender's support person's views were heard
- the views of other panel members were heard
- no one dominated the hearing.

The independent evaluators rated the panels as doing less well on explaining the purpose of the hearing. They thought the panels also did less well on managing any risks or unexpected things in the small number of cases where these occurred. An example of this was when offenders disputed details in the Police Summary of Facts, which occurred in five hearings. Disputes centred on the scale and seriousness of the offending as described by the Police. In one case, the offender agreed they had assaulted the victim but disputed the nature and severity of the assault. Another disputed the stated cost of an item.

The independent evaluators thought that these situations were not always well managed. Instead of handling the situation in a confident authoritative way and making it clear that admitting guilt and not debating the details of the Summary of Facts is a ground rule for participating in a hearing (otherwise it will go to a court process), the situation sometimes dissolved into a circular and lengthy debate about the accuracy of the Summary of Facts.

New practices: establishing material facts, confirming Summary of Facts and time-out

Police have provided advice to the Panel on how to focus on the material facts of a case (ie that an assault occurred) rather than the specifics (eg of what type of assault; pushing, biting, punching). The CJP community co-ordinator also now ensures the offender is aware of the offence when telephoning them to arrange attendance at a hearing. The Summary of Facts is also read to the offender at the pre-panel briefing. Ideally all discussions should occur with the offender present, but in exceptional circumstances the panel can request 'time-out' to re-group, seek clarification on points of law if needed and regain control of proceedings.

Where the victim was not in attendance, the independent evaluators thought that sometimes the panellists appeared to lose sight of the victim in their discussions with the offender.

New practice: panel assigned as victim representative

Before each hearing the facilitator assigns a panellist to provide a victim perspective throughout the hearing.

The evaluators were unable to assess whether the facilitators had given consideration to any requests by the offender, victim and/or a support person for culturally specific processes to happen (such as a karakia before the hearing), and did not observe any such processes.

Table 19 shows the attributes of the most effective panels. (One component, panel composition, was covered earlier; see Table 9, page 16). The role of the facilitator, whose understanding of the role and level of confidence in undertaking the role, was a key to the panel operating well.

Table 19: Attributes of effective panels: panel operation and facilitator

	Attributes of effective panels
Panel operation	<p>Panels were most effective when they:</p> <ul style="list-style-type: none">• identified and affirmed the offender's strengths, were respectful, empathetic, open minded and relatable, were excellent communicators, demonstrated active listening skills and probed for information in a sensitive way• modelled appropriate behaviours in how they interacted with each other and managed differences in views• used their personal knowledge and experience to add value to proceedings while taking care not to let this knowledge or experience dominate proceedings or bias their approach• considered different options for restitution conditions before determining the most appropriate ones, thereby ensuring Accountability, Restitution and Education components
Facilitator	<p>Facilitators were most effective when they:</p> <ul style="list-style-type: none">• were clear about the aims of the CJP and the role of panellists and could communicate this well to the offender• set a good balance and tone: took the offending seriously while showing a genuine interest in the offender and what might have contributed to their offending (balanced their 'head' and their 'heart' appropriately)• kept control of proceedings by speaking clearly and confidently and managed the time efficiently (did not get caught up in unnecessary lengthy discussions about the details of the Summary of Facts, extenuating circumstances or underlying causes).• kept a firm focus on the impact of the offending on the victim and others throughout the hearing (and did not lose sight of this and were not 'captured' by the offender)• were clear about the role of others who attended the hearing and set appropriate boundaries around their contribution.

Police noted the improved ability of panels to manage the CJP process and the emergence of natural leaders to act as facilitators. This had led to better control over proceedings and more structure to panel deliberations. Scripts were also introduced to open and close panel hearings. (See Appendix 6 for an overview of the purpose of each stage of the CJP process and Appendix 7 for the script used to open and close the hearings). This ensures key information is covered (eg the Police Summary of Facts are read verbatim) and that the right amount of formality is in place at each hearing.

New practice: panel observer

A new practice was introduced in August 2012 where an additional panel member acts as an observer, to provide feedback and peer review to the panel. This feedback includes how well victim representation was maintained and how well the panel addressed the **Accountability, Restitution and Education (A.R.E)** elements in the discussion and conditions set. (See Appendix 9).

The observer also escorts the offender into and out of the hearing and to a pre-briefing discussion with the co-ordinator, which helps the Panel to stay more independent.

New practice: Police case synopsis

A new practice was introduced in August 2012 where the Police officer attending the CJP hearing completes a case synopsis which covers details on the CJP hearing (panel members, victim or support people in attendance), reasons for the offending, coverage of the **Accountability, Restitution and Education (A.R.E)** elements in the discussion and conditions set, and any follow-up action needed (eg an alert in NIA if there is a family violence risk). The case synopsis are later used when preparing quarterly updates and practice reviews, looking at what has worked well and areas for improvement. (See Appendix 10).

5 Arranging and monitoring conditions set

5.1 Facilitating restitution conditions

The CJP community co-ordinator's role includes facilitating the way for the offender to meet their restitution conditions. This includes contacting NGOs, sports clubs and businesses in the community to set up community work arrangements.

The CJP community co-ordinator or assistant do not take part in the hearing itself and usually remain outside the hearing room. They saw a benefit in separating the judging from the coordination roles as offenders are less likely to try to re-litigate the contract conditions with them.

Isolating those two [judging and coordination] makes quite a difference for us in the handling of the offender, both prior and after because they don't see us then as the person that has set this for them. They know they can't come to me and say 'Oh, would you mind altering the conditions of my panel?'

The CJP assistant community co-ordinator made the point that having an assistance and support role made it easier for him to live in his community among those who had come before the panel.

I have seen a few of them regularly and now they come up and say 'How are you doing?' and chat to me rather than 'You're that guy that bloody gave me all that community work.' You know personally, I'd prefer to be the helping one rather than the judging one. ... It helps and I think if this is going in a small community...I'd emphasise the advantages of keeping this role separate from that role from the panel.

The CJP has been well supported by local community groups and services, including local Alcohol and Drug counselling services taking offenders referred for treatment/ support. Local businesses and organisations have also been accepted CJP offenders to undertake community service. One provider also expressed appreciation that the CJP co-ordinator kept in touch to ensure offenders undertook their hours as required.

One of the key stakeholders who had experience of managing CJP offenders in the workplace commented that CJP offenders required proportionately more of their time. The smaller number of hours set for some CJP offenders meant he had to find lots of small jobs for them to do rather than a bigger job (which could be given to offenders serving court imposed sentences). One provider noted their preference for offenders to have a reasonable number of hours to complete, to help with their management.

When requiring community service, the panel sometimes prescribed the community organisation/ business. A suggestion was made by one of the stakeholders that the panel sets the hours for community service and the organisation/business is determined by the co-ordinator.

As well as being less prescriptive, the co-ordinator has good ongoing relationships with local community organisations and businesses, and is aware of their conditions of acceptance. For example organisations/groups that work with the elderly will not accept offenders who have committed theft offences. Other organisations/groups have requested not to have offenders with violent offending.

What information can be shared with community providers

As well as knowing the current offence, organisations are sometimes requesting information on offenders' prior offending. However the offender's signed consent is needed before information on their prior offending can be shared with a third party, and prior offending resolved with diversion is not able to be shared (even if the offender agrees to this).

5.2 Monitoring restitution conditions

Monitoring of restitution conditions is a big part of the work undertaken by the CJP community co-ordinator and his assistant. (The robust administration by the CJP community co-ordinator was noted in the interviews with some stakeholders)

You've constantly got to have everything in your mind, who to ask, I mean we've got 15/20 that I'm monitoring at the moment. I think X has got about four, all due at different times.

Estimates from the CJP co-ordinator and assistant suggest on average 15 follow-up calls are made with offenders as part of monitoring compliance (noting not all calls are answered). The CJP monitoring spreadsheet has been revised to help capture the number of attempted and actual contacts made with offenders as part of compliance monitoring. There are also additional challenges in maintaining contact with the offenders, as many are young and change their mobile numbers frequently. (The Police watchhouse assistant can obtain current phone numbers from Work and Income where offenders are receiving a welfare benefit).

As part of the Operating Guidelines, the initiative aims for offenders to be able to complete their restitution conditions within 28 days (4 weeks) of the CJP hearing. This occurred in just under two-thirds of the 102 cases reviewed where completion dates had been entered.³⁶ The majority of these conditions (90%) had been completed within 8 weeks of the CJP hearing. (See Appendix 4 Table A4.9).

In some instances the restitution conditions set were unable to be monitored by the CJP co-ordinator. An example was a condition *'to be seen at Psychiatric Emergency Services'*. Another was non-association with a named person.

The panel also set some conditions in the form of recommendations such as *'maintain contact with Women's Refuge'* or *'work with the Family Violence team.'* Monitoring compliance with these recommendations was hard as they did have end points. (The CJP monitoring spreadsheet now has a separate section to record 'recommendations' separately from conditions).

5.3 Levels of compliance

Table 20 shows the compliance status for the 121 cases where restitution conditions had been set and recorded and sufficient time elapsed to allow completion.³⁷ In total 79% of these offenders had fully complied with the conditions set by the CJP and further 10% had at least partially complied. Reasons for some of the partial completions included being remanded for more serious offending (more common among those with high prior offending levels) or health conditions. In other cases repayments had started but not been completed.

The overall compliance rates for the CJP are around the same as the average achieved for offenders referred to Police Adult Diversion by the courts.³⁸

³⁶ Completion dates were not recorded in 22 cases. These figures also include a small number of cases where the substantive conditions had been met.

³⁷ Three offenders did not attend the CJP hearing. No conditions were recorded for four offenders. Fifteen offenders had had recent hearings and insufficient time had elapsed to allow completion of the conditions set.

³⁸ Source, personal communication, Police Prosecution Service.

Table 20: Compliance status, by prior contact with Police

Compliance status	Not previously known		Previously known to Police		Total	
	No.	%	No.	%	No.	%
Completed	37	86%	59	76%	96	79%
Partially completed	3	7%	9	12%	12	10%
None completed	3	7%	10	13%	13	11%
Total eligible³⁹	43		78		121	

Compliance by prior known to Police status

Compliance among offenders not previously known to Police was higher (86%) and a further 7% had at least partially complied. While lower, just over three-quarters of offenders previously known to Police had fully complied with the CJP conditions set, and a further 12% had at least partially complied. (See Appendix 4, Table A4.10 for compliance status by actual levels of offending).

Compliance by age-band

Proportionally those aged 16 to 19 were less likely to comply with the conditions set by the CJP compared to other age-bands, noting that just over three-quarters (76%) of this age group had still fully complied. Only one offender aged over 50 had not fully complied with the CJP conditions. (See Appendix 4, Table A4.11 for compliance status by age-band).

Compliance for offences outside the usual criteria

As part of the pilot, offences outside the usual Alternative Resolutions offence criteria had been referred to the CJP. Of the 22 cases of offences outside the usual criteria with conditions that were able to be met by the time of this report, 19 had fully completed the conditions set. This equates to a completion rate of 86% for offences outside the usual criteria, higher than the 78% compliance rate for offences within the offence criteria. This suggests good targeting of the CJP approach in these circumstances.

Table 21: Compliance status, for eligible and ineligible offences⁴⁰

Restitution status	Eligible offences	Offences outside usual criteria
Completed	77	19
Partially completed	11	1
Not completed	11	2
Total	99	22

³⁹ Of the 143 referrals, three offenders did not attend the CJP hearing. No conditions were recorded for four offenders. Fifteen offenders had had recent hearings and insufficient time had elapsed to allow completion of the conditions set.

⁴⁰ Three offenders did not attend the CJP hearing. No conditions were recorded for four offenders. Fifteen offenders had had recent hearings and insufficient time had elapsed to allow completion of the conditions set.

6 The extent to which CJP is meeting intended outcomes

This section reviews the extent to which the CJP is achieving its intended outcomes for offenders, victims, the community, Police and Courts. It also incorporates what is working well in the CJP operation.

6.1 Outcomes for offenders

The admission of guilt as a pre-requisite for referral means the CJP process can focus on addressing the harm and damage caused by the offending, and factors underlying the offending behaviour (in contrast to the court process where guilt needs to be determined).

The panel observations, profiles of offenders, review of compliance rates and interviews with offenders suggest that most offenders who appear before the panel accept responsibility for their offending and gain some understanding of the consequences of their offending and underlying causes. Four of the six offenders interviewed had 'totally' understood the impact of the crime from a victim or community perspective.

The profiles of offenders and the panel observations show the panels made concerted efforts to tailor restitution conditions to the offence and the offenders' personal circumstances, as well as considering victim requirements.

In setting some community service conditions, the panel had asked for offenders to be placed in organisations which potentially would help their future employment prospects, and this had occurred in two cases.

One offender commented that being placed individually with a provider was preferable to other forms of community service done with a group of offenders. It reduces the potential group pressure to identify with other offenders (them vs us) and the risk of meeting future co-offenders. (Some offenders said they were actively breaking contacts with people who offended, so individual placements also helped minimise this exposure).

The CJP initiative enables offenders to avoid a conviction where they complete the restitution conditions set, and 79% had achieved this. There was a high level of involvement of support people for offenders, with a third having someone attend the hearing, which provided another form of accountability, as well as support for the offender.

All six of the offenders interviewed thought the CJP had given them the chance to put themselves in a better place, and two said it had helped address underlying issues related to the offending, and one was moving town to start a new life. All six had completed the conditions set for them and would recommend a CJP hearing to another person in similar shoes.

In terms of timeliness, over half (58%) of all offenders attended a CJP hearing within a month of their offence, and just under two-thirds (65%) had completed the conditions set by the CJP within 4 weeks of the hearing. The majority (90%) had completed the conditions set within 8 weeks of the hearing.

Re-offending

As part of this evaluation, the Ministry of Justice undertook a 'matched comparison group' study which compared the 65 offenders going through the CJP from November 2010 to January 2012 with a similar group of offenders who did not go through the CJP, and compared re-offending rates over the following seven months.⁴¹ Of the 65 CJP cases, only six had re-offended over the follow-up period. This is slightly below expected re-offending rates based on the re-offending patterns for comparable offenders who did not go through the CJP. While early indications are positive, a reliable assessment of the CJP's impact requires a larger number of cases and a longer period over which to track re-offending rates.

⁴¹ The predicted probabilities were calculated from a logistic regression model of factors known to influence the likelihood of re-offending (eg age, criminal history, type and seriousness of offence).

Stakeholder views

Most stakeholders commented on the ability of panels to spend time with the offender and to identify what might making a difference for the individual to help reduce the likelihood of re-offending (a holistic approach). Common observations by stakeholders were that, in their experience, the CJP initiative appears to be making a positive impact on offenders through the discussion with the panel, resulting in offenders experiencing 'light bulb' moments about the impact of their offending on themselves and others.

6.2 Outcomes for victims

A victim was represented in around one in four cases where the crime was against a person (10 out of 38). Only two people (out of 71) attended the CJP hearing where the crime had been against a business, most likely reflecting that the majority of these offences were shoplifting from larger retailers, where an individual was not directly affected.

Out of the 10 cases with the highest financial losses caused by the offending, full reparation had been made in six cases and repayments started in two cases.

In most cases where a victim had attended the CJP, it was reported as a positive experience for them and they had received the restitution sought (repayment, an apology). One victim was however unhappy with the CJP process and thought the sanction was insufficient, and made a complaint outlining these points. Another had been questioned aggressively about their role in an incident.

Stakeholder views

Stakeholders generally felt that the CJP initiative can be effective for victims. Views can be grouped into the two following areas:

- timeliness:
 - victims receive financial reparation more quickly than through court processes
 - victims get closure more quickly than if the matter went to court.
- experience of the process itself:
 - victims get heard
 - victims get a response from the offender (usually an apology)
 - victims can find the process to be empowering
 - victims can build a relationship with offenders
 - victims appear to be satisfied with the CJP approach.

Several stakeholders commented that the victim perspective needed to be maintained in hearings where there was not direct victim representation. A panel member is now assigned to fulfil this role, and this is monitored by the panel member acting as an observer/ peer reviewer.

6.3 Outcomes for the community

The panels are representative of the community and by and large reflect the participants in the CJP, both offender and victim. The number of CJP panellists and staff (29) and their length of involvement shows a high degree of commitment and engagement. This is particularly so given the fact the CJP has only received modest start-up funding (\$30,000) from the Ministry of Justice and unlike other similar programmes, panellists do not receive any reimbursement for costs (eg travel) associated with their participation. The fact that CJP panellists have also devoted their time, skills and expertise while living through the aftermath of the Christchurch earthquakes is admirable.

The CJP secured the support of a wide range of community partners who accept offenders for community service as well as local health and treatment services who accept referrals made.

The community has also benefited directly through offenders' community service across a range of organisations, as well as through donations to charity made as part of some restitution conditions.

Up-skilling

Some of the panel members have considerable knowledge of community organisations and health and treatment services, which has been shared as part of the CJP hearing processes. The introduction of having a panel member observe panel hearings and provide peer-review and feedback on the process and conditions set has also contributed to up-skilling panellists, alongside more formal training sessions held.

Examples of the more formal training sessions held to date are:

- principles of restorative justice
- training of drug and alcohol addictions and treatment from Professor Doug Sellaman, Director of the National Treatment and Addiction Centre
- processes for opening and closing CJP hearings
- involving victims in the CJP process and a review of case studies
- role plays based on lessons learnt
- decision-making when setting restitution conditions, by Judge Dave Saunders
- identifying material facts and intent, and techniques for interviewing, by Senior Sergeant Roy Appley
- decision-making processes when making referrals, by panellist Yvonne Palmer.

The majority of panellists attended most or all of these training sessions.

Stakeholders' views

Another key theme in relation to what is working well was the community focus and involvement of members of the community. Some stakeholders felt that this can mean that the CJP initiative has more of an impact on the offender as community members are less 'removed' than professionals involved in the court process. A number of stakeholders felt that the quality and mix of panel members and the knowledge and experience they bring to panel hearings was working well.

When asked about effectiveness for the community, some stakeholders talked about community organisations expressing positive views about the initiative when they hear about it or are involved through offenders undertaking community service at their organisation.

6.4 Improved partnership between the community and Police

The active involvement of the Police in the CJP initiative also came through strongly as something that is working well. Having a Police officer in a uniform attend a panel hearing provides a level of formality to the proceedings. A Police officer attending hearings also ensures that offenders realise that the Police are aware of the conditions set by Panel and that the conditions constitute a formal sanction.

Police are able to provide feedback and up-skill panel members on how to structure questions to elicit information on intent, where this is an important element of an offence. Police can also help facilitate action following the hearing (for example facilitating a safety plan).

Also mentioned was the bringing together of key stakeholders, their skills and the quality of their working relationships. Stakeholders talked about the importance of Police support and the inclusiveness of the Steering Committee, which worked collegially.

I think even in one of the steering group meetings, X said that 'The more inclusive we are, the better that this thing will be' and I thought that was really great and really sort of summed it up, so I think initially the support from the community is vital and the more organisations and people involved is really helpful and the Police acknowledged that sort of early on. (Key stakeholder)

The quarterly updates prepared by the CJP Community Co-ordinator and the Police Case Co-ordinator provided a way of canvassing what was working well and areas for improvement from differing partner perspectives. This approach was seen as working well.

6.5 Outcomes for Police

A key to the CJP operation is Police confidence in the approach. The fact over 140 referrals have been made to the CJP attests to the fact local Police support the approach. The open disclosure by offenders was something Police have not encountered in other forums.

The honesty of the defendants and in-depth disclosure of issues affecting them are all helping to identify the 'drivers of crimes'. This is a rare thing that has not often been seen in my experience in over 26 years of policing. Some very open and personal discussions and revelations are being made. (Police Case Co-ordinator, quarterly update)

Officers have found making referrals straightforward. More officers are now able to act as representatives at the hearings, increasing Police coverage and broadening internal support.

The CJP provides another tool for Police to resolve low-level offences without the need to proceed to charge and prosecution and with the benefit of including external, community perspectives on the conditions set for offenders. The CJP also provides a higher level response than can be achieved through the other main pre-charge alternative resolution used by Police, (pre-charge warnings, PCWs). The next section describes Police's current use of PCWs, noting where the higher-level CJP response fits.

Pre-charge warnings (PCWs)

PCWs can be given to eligible offenders following an arrest when it is not in the public interest to proceed to charge and prosecution. Nationally PCWs are used to resolve 12% of charges, and in Canterbury 16% of charges were resolved with a PCW in the 2011/12 financial year.

The most common offences resolved with PCWs (both in Canterbury and across the country) are Disorderly Behaviour and Breach of Liquor Ban offences. In Canterbury PCWs are used to resolve 75% and 83% of these offences respectively. (See Table 23).

Table 23: Proportion of eligible offences resolved with a PCW, NZ and Canterbury 2011/12

2011/12 financial year, resolution of charges with a PCW	New Zealand	Canterbury	Difference Canterbury to NZ
Disorderly Behaviour	67%	75%	8%
Breach Of Liquor Ban	74%	83%	9%
Shoplifts (Under \$500)	20%	24%	4%
Fighting In Public Place	66%	72%	6%
Procure/Possess Cannabis	26%	35%	9%
Obstruct/Hinder Police	44%	60%	16%
Offensive Behaviour	65%	75%	10%
Disorder (likely cause violence)	33%	50%	17%
Wilful Trespass	18%	26%	8%
Wilful Damage	4%	5%	1%
Unlawfully In Enclosed Yard	21%	39%	18%
Possess Needle/Syringe	13%	16%	3%
Other	2%	4%	2%

Table 23 also shows that across every eligible offence type, Canterbury uses more PCWs than issued nationally for the same offence types. This may be in part be an adaptation of local Policing practices in response to the earthquakes in Christchurch. Recent data from the Ministry of Justice also noted there was a 31% drop in recorded crime in the Christchurch area during the aftermath of the earthquakes (compared to an 11% drop nationally in the same period). The larger reduction in recorded crime in the Christchurch area reflected fewer opportunities to commit crime, fewer offences being reported, and a stronger sense of community in the area.⁴²

Charges vs pre-charge alternative resolutions

Table 24 shows the number of offences resolved with a charge and prosecution, a PCW or a referral to the CJP in Canterbury in the 2011/12 financial year.

While both Shoplifting (under \$500) and Wilful damage offences are eligible for resolution with a PCW, the use of PCWs to resolve these offences is relatively low (24% and 5% respectively in Canterbury, and 20% and 4% nationally). Reasons for this include the fact these offences have either known victims or result in damage and/or loss of property.

Using a CJP referral for the offences listed in Table 24 requires a greater level of accountability for offenders (including making reparation) and also provides a forum where victims can choose to participate in the process. The profiles of some of the offenders referred to the CJP for Shoplifting offences also reveal underlying drivers of crime which could more effectively be addressed through the CJP conditions than prosecution (and not exacerbate existing precarious financial situations).

⁴² From Trends in Conviction and Sentencing in New Zealand, 2011. Published May 2012, Ministry of Justice, available on their website, www.justice.govt.nz

Table 24: Charges and pre-charge alternative resolutions (PCW and CJP) in Canterbury 2011/12

Canterbury 2011/12 financial year	Resolved with charge	Resolved with PCW	Resolved with CJP	% resolved with a PCW	% resolved with CJP
Disorderly Behaviour	259	780	4	75%	0.4%
Breach Of Liquor Ban	55	277	3	83%	1%
Shoplifts (Under \$500)	610	203	48	24%	6%
Fighting In Public Place	39	102		72%	
Procure/Possess Cannabis	371	205	7	35%	1.2%
Obstruct/Hinder Police	70	105		60%	
Offensive Behaviour	31	92		75%	
Disorder (likely cause violence)	52	51		50%	
Wilful Trespass	184	63		26%	
Wilful Damage	762	41	10	5%	1.2%
Unlawfully In Enclosed Yard	123	79	1	39%	0.5%
Possess Needle/Syringe	270	50		16%	
Other	13,718	644	39	4%	0.3%
Total: 2011/12 financial year	16,544	2,692	112		

Shoplifting (under \$500) and Wilful damage offences are both high-volume crimes, and having another level of alternative resolution through the CJP process could further reduce the need for some of these offences to proceed to court, while still holding the offender to account.⁴³

CJP targeted to offender types

Of the offenders referred to the CJP, 41% had no prior offences, addressing the intended outcome of minimising first-time offenders' exposure to Court while still holding them to account. Compliance with the conditions set by the CJP was highest among offenders not previously known to Police (86%).

The CJP also provides Police with an alternative to prosecution that can be used with repeat offenders whose prior offending would have precluded the use of the less intensive PCW resolution (as prior offending is taken into account when deciding to use a PCW). Two-thirds of offenders referred to the CJP had prior offending, and just under a fifth had more than 11 prior offences. A small minority (5%) had more than 50 prior offences.

Just over three-quarters (76%) of offenders with prior offending fully complied with the conditions set by the CJP and a further 12% had at least partially complied. Offenders with medium to extremely high prior offending were also more likely to comply with CJP conditions, with 14 of these 20 offenders fully completing conditions, four partially completing conditions and only two failing to complete any conditions set.

The CJP was also intended for people with offending patterns that suggest the benefits of identifying and addressing potential underlying causes of offending behaviour (eg drug and alcohol misuse, poorly managed mental health). The monitoring data shows this is occurring.

⁴³ In 2011/12 there were 861 Shoplifting (under \$500) offences detected in Canterbury in 2011/12 of which 610 (or 71%) led to charge and prosecution. Just under a quarter of these offences (203) were resolved with a PCW and 48 (6%) were resolved with a CJP referral. There were 813 Wilful damage offences in the same period, of which 762 (or 94%) led to charge and prosecution, while 41 (5%) were resolved with a PCW and 10 (1.2%) with a CJP referral.

Testing the CJP approach on offences outside the usual Alternative Resolutions criteria

Since its relocation to New Brighton, Police have referred 23 cases to the CJP that were outside the usual Alternative Resolutions criteria, as they carried more than six months imprisonment or were excluded offences (family violence related or 'boy racer' offences). Compliance with CJP conditions among offenders referred for offences outside the usual criteria was high, as of the 22 of these offenders with condition able to be met at the time of this report, 19 had fully complied with the conditions set.

Two of these cases were for family violence offences. As part of this evaluation (and the earlier reviews of PCWs) some officers raised the possibility of resolving some very low-level family violence offences without charge and prosecution. An example given was of two brothers pushing each other, neither of whom had prior offending.

PCWs were not seen as a sufficient response to family violence offences.⁴⁴ The CJP process has greater levels of accountability for the offender and can include more active victim participation in the process. The CJP process can also help to address and/or challenge behaviours underlying the offending. While the CJP process could be used for some very low-level family violence offences, this would require clear parameters and high-level approval to proceed.

Time savings for Police

For each case referred to the CJP, the Police Case Co-ordinator spends around 15 minutes in case review/ approval, 40 minutes in panel attendance and five minutes in compliance monitoring. The Police watchhouse assistant spends 35 minutes in preparing paperwork and 30 minutes in compliance reporting for each CJP case.⁴⁵

Combined, Police staff spend on average 125 minutes (just over two hours) to process each CJP case in the pilot phase. (The CJP Community Co-ordinator arranges the CJP hearings, including scheduling panel members and which offenders attend).

If the CJP moved to 'business as usual', the watchhouse assistant's time maintaining data for evaluation purposes would reduce, and the total time would reduce to 70 minutes per CJP case.

Table 26 shows the Police processing time (for file preparation and court/ hearing attendance) for different Police resolution types.⁴⁶

In terms of processing times, PCWs are the fastest formal resolution at 40 minutes, and defended hearings the longest at 560 minutes (around 9 hours).

⁴⁴ A legal opinion found that PCWs cannot be used to resolve a family violence offence as:

- it does not address or challenge underlying causes
 - the protection of victims is paramount and a formal warning does not bring offenders into the criminal justice system
 - accountability, consistent practices and victim protection are all key parts of Family Violence Policy.
- See legal opinion by Inspector Michael O'Brien in *Waitemata pre-charge pilot: report on evidential sufficiency and the use of formal police cautions*, Senior Sergeant Gray, October 2009.

⁴⁵ Estimates of processing time were provided by key Police staff involved with the CJP.

⁴⁶ These processing times are based on research undertaken in preparation for the pre-charge warnings Stage 1 Business Case.

Table 26: Police processing times by different Police resolution types

Average processing times by resolution type (file preparation and court/ hearing attendance)	Police officers*	Non-sworn Police staff	Total (minutes)	Total (hours)
Community Justice Panel – pilot phase	60	65**	125	2.1
Community Justice Panel – if 'BAU'	60	10	70	1.2
Pre-charge warning	40	5	45	0.7
Prosecution***	90	15	105	1.8
Police Adult Diversion***	175	10	185	3.1
Prosecution - status hearing	190	-	190	3.2
Prosecution - defended hearing	560	-	560	9.3

* Includes PPS and/or Diversion staff time. **Will reduce to 10 minutes once pilot ends. ***For lower-level offences.

Table 27 shows the Police time (in file preparation and any court/hearing attendance) for the main formal resolution types, noting the differences to resolution with a CJP referral.

Pre-charge warnings do not require file preparation for court or court attendance and take around half an hour less of Police time to process than a CJP referral (as officers attend the CJP hearing).

Resolutions that take more Police time than a CJP referral are prosecutions and Police Adult Diversion. Police spend on average half an hour more in file preparation and court attendance prosecuting a low-level offence instead of using a CJP referral. Police Adult Diversion requires nearly two more hours than an offence resolved with a CJP referral. More than eight additional Police hours are required for offences that go to a defended hearing compared to a CJP referral.

Table 27: Police processing times, comparing CJP to other resolution types

Police file prep, court/ hearing attendance	PCWs	CJP	Prosecution - low-level offences	Police Adult Diversion	Prosecution - status hearing	Prosecution - defended hearing
Time taken (mins)	45	70	105	185	190	560
Difference to CJP:	Less time		More Police time than CJP			
- minutes	-25		+35	+115	+120	+490
- hours	-0.4		+0.6	+1.9	+2.0	+8.2

6.6 Outcomes for Courts

At this stage the Christchurch CJP has been operating only once a week, and not during holiday periods. While the numbers seen have as a result been low, the Ministry of Justice matched comparison study noted the outcomes from the CJP are promising in terms of reducing re-offending.

If the number of local CJPs operating increased, the current practice of resolving high volume low-level offences like Shoplifting and Wilful Damage could help reduce some future court demand. Even though only operating one day a week, the CJP resolved an additional 6% of Shoplifting (under \$500) offences as well as 1.2% of Wilful damage offences in Canterbury in the 2011/12 financial year. (See earlier Table 25).

The Ministry of Justice review of conviction and sentencing trends for 2011 showed that fewer charges are being laid in court. The number of charges proceeding to court has declined by 16% nationally since 2009, and by 19% in Christchurch over the previous 12 months.⁴⁷

Public order offences showed the largest decrease in number and percentage (down by 15,774, or 47%) since 2009. This is likely due to the increased use of warnings by police for the less serious offences.⁴⁸

When charges do proceed to court, the conviction rate has increased from 70% to 75% over the last five years, suggesting that “...*appropriate charges are being prosecuted in court with police dealing with less serious offences outside of the courts.*”^{49 50}

Based on studies of similar Community Justice Panels in Britain,⁵¹ there is potential for cost savings to the justice sector from this approach. An evaluation of the Sheffield project found that the average cost of mediating a neighbour dispute through community justice panel processes was about three times lower (depending on throughput of cases) than if the local council went to court to resolve it.⁵²

⁴⁷ The national figures come from the Ministry of Justice Trends in Conviction and Sentencing in New Zealand, 2011, and the Christchurch figures from a key stakeholder interviewed as part of this evaluation.

⁴⁸ Serious and violent offences have also reduced. Only a few offence types increased in number since 2007, and the largest increase was for offences against justice procedures (up 18%). This includes breaching a Community Service Order, and the increased driven by the police proactively enforcing breaches of the Parole Act 2002, together with a large increase in the number of community sentences imposed since 2007.

⁴⁹ See Trends in Conviction and Sentencing in New Zealand, 2011.

⁵⁰ A recent UK briefing paper ‘Proceed with Caution’ reviewed the use of out-of-court disposals in England and Wales, and some NZ commentators have raised concerns about whether some of the issues experienced there also apply here. However the out-of-court disposals used in Britain differ from New Zealand in some key respects, namely the frequency of use, issuing to repeat offenders and the serious nature of some offences. In England and Wales in 2011, one third of all offences resulted in an out-of-court disposal (eg a formal caution or a penalty notice with on-the-spot fines). The review found there were wide variations across Police forces in the frequency of out-of-court disposals, with the lowest resolving 25% and the highest resolving nearly half (47%) of offences this way. Cautions were used for 41% of drug offenders, 20% of sexual offenders and 12% of burglary offenders. Over one in four violent offenders received a caution only. Over a third (35%) of all out-of-court disposals were issued to offenders who had previously received a caution, and in one Police force, half of the offenders had been given cautions before. A lack of consistency in use, the serious nature of some offending, and a lack of monitoring (particularly to repeat offenders) were highlighted as areas of concern. Proceed with caution: Use of out-of-court disposals in England and Wales. Sosa, K. Policy Briefing July 2012. Policy Exchange.

<http://www.policyexchange.org.uk/publications/category/item/proceed-with-caution>

⁵¹ Community Justice Panels are also being used in Sheffield, Somerset and Manchester. Like the Christchurch CJP the panellists consist of trained volunteers.

⁵² See http://www.restorativejustice.org.uk/resource/evaluation_of_sheffield_community_justice_panel/

7 Match to known best practice

This section looks at how well the CJP approach matches known best practice identified from New Zealand and international research on restorative justice approaches.

7.1 Restorative justice in New Zealand

Restorative justice provides processes for victims, offenders, and their 'communities of care' to come to decisions on how best to deal with offending.⁵³

In New Zealand, restorative justice principles and practices were introduced with Family Group Conferences for young offenders through the Children, Young Persons, and Their Families Act 1989. Over the 1990s, similar restorative justice principles and practices were used on an ad hoc basis with adult offenders. Since 2002 restorative processes have been formally recognised in the Sentencing, Parole and Victims' Rights Acts 2002 and the Corrections Act 2004. These Acts encourage the use of restorative justice wherever appropriate and require judges to take outcomes of restorative justice processes into account when sentencing an offender.

One of the leading researchers in restorative justice in New Zealand, Dr Allison Morris, noted that there is no single 'right way' to deliver restorative justice, instead *"the essence of restorative justice is not the adoption of one form rather than another; it is the adoption of **any** form which reflects restorative values and which aims to achieve restorative processes, outcomes and objectives."*⁵⁴

The most common restorative justice practice for adult offenders in New Zealand is victim-offender conferences which occur at the pre-sentencing stage for cases heard in the District Court. These can only proceed if the victim agrees to participate in the restorative justice process. The Ministry of Justice manage contracts for the delivery of restorative justice services in 35 courts (as well as providing support to build provider capacity, and providing policy advice).

For adult criminal offending, the other most common restorative justice approach are conferences with community panels.⁵⁵ These panels represent the interests of the community in the restorative justice process and as with victim-offender conferences, can only proceed if the victim agrees to participate or agrees to the conference taking place. Victim participation rates are higher than in the Christchurch CJP. Nationally in the 2011/12 financial year 67% of conferences held by community panels had at least one victim attend.⁵⁶

While increasing victim participation, a similar requirement could reduce the Christchurch CJP's ability to process some dishonesty and community disorder offences.

Best practice

While noting there will be variety in approaches, the Ministry of Justice released a set of eight best practice principles to guide the use restorative justice for criminal cases (Ministry of Justice, 2004). The principles are intended as a resource to help protect the integrity of restorative justice as a concept. They are not prescriptive and accommodate a range of approaches to restorative justice in New Zealand. Table 28 provides a summary of the Ministry of Justice's best practice principles for restorative justice. (See Appendix 11 for the fuller list).

⁵³ See Braithwaite J (1989) *Crime, Shame and Reintegration*. Cambridge: Cambridge University Press.

⁵⁴ Morris A (2002) *Critiquing the Critics. A Brief Response to Critics of Restorative Justice*. British Journal of Criminology 42: 596-615.

⁵⁵ Restorative justice processes are also now commonly used in schools to resolve conflicts and address anti-social or bullying behaviour.

Table 28: Ministry of Justice best practice principles for restorative justice

Principles of best practice for restorative justice processes in criminal cases	
1.	Restorative justice processes are underpinned by voluntariness
2.	Full participation of the victim and offender should be encouraged
3.	Effective participation requires that participants, particularly the victim and offender, are well informed
4.	Restorative justice processes must hold the offender accountable
5.	Flexibility and responsiveness are inherent characteristics of restorative justice processes
6.	Emotional and physical safety of participants is an over-riding concern
7.	Restorative justice providers (and facilitators) must ensure the delivery of an effective process
8.	Restorative justice processes should only be undertaken in appropriate cases.
Core restorative justice values	
In addition to the principles, restorative justice processes operate with the following values:	
• participation	• interconnectedness
• respect	• accountability
• honesty	• empowerment
• humility	• hope.

Match of CJP to known best practice

Based on their observations, the independent evaluators thought the CJP was generally performing well against the Ministry of Justice best practice principles for restorative justice. Some areas where the CJP might further improve its practices were identified, noting that the CJP has already adopted some new practices in response to these suggestions.

Those areas in which the CJP might look to further improve its practices include:

- where there are personal victims of crime, encouraging greater participation in the panel process
- providing offenders with the Police Summary of Facts in advance (in keeping with the principle of offenders being well informed)
- only responding to the offence(s) that is the subject of the original referral
- ensuring that CJP processes are appropriate and responsive to the culture of participants
- protecting and respecting to the extent possible the privacy and confidentiality of participants
- only using CJP processes in family violence cases after very careful consideration.

Some of these elements were also included in areas for development raised by stakeholders, and covered in the next section.

⁵⁶ Source: Ministry of Justice Restorative Justice Team.

8 Areas for development identified by stakeholders

Stakeholders were asked about areas for development for the CJP initiative. The main areas raised were:

- eligibility criteria for referrals
- level of Police disclosure
- panel facilitation and composition
- setting restitution conditions and making referrals
- victim participation and managing support people
- funding/ resourcing
- increasing internal support for the initiative within Police.

8.1 Eligibility criteria for referral

Some stakeholders thought the CJP initiative has the potential to deal with a wide range of offences and offenders. One stakeholder noted though that a minority of offenders had struggled to effectively participate in the CJP hearing as they lacked oral competency and the ability to identify and articulate feelings.

Some stakeholders commented that it would not be helpful if the referral criteria was too rigid and that it is more important to ensure that an individual or individuals with the right level of seniority and experience are making the decisions on a case by case basis.

...You'd need to make sure you establish at the right level in our organisation, the right level of person is looking at these offences and saying, yes, that fits there, that doesn't fit. ... you've got to rely on somebody who's got the authority to make good choices. (Key stakeholder)

In terms of the types of offending that the CJP initiative could address, some stakeholders suggested family violence (particularly where the victim does not want the matter to go to court and wants to stay with the offender) and disputes between neighbours.

... Domestic violence is not something that's seen as a kind of case for this, but I actually personally believe that some domestic violence would fit nicely in this process. (Key stakeholder)

... where neighbours have got really intense disputes between each other, ... it offers a way of settling those things. (Key stakeholder)

The CJP has been used for a small number of family violence cases. While some restorative justice providers elsewhere in New Zealand are using restorative justice processes successfully in family violence cases,⁵⁷ facilitators and other panellists need to be specifically trained and skilled, and this may require additional funding.

Moving beyond the pilot stage, using the CJP process to resolve low-level family violence cases would require a change to the current Alternative Resolutions eligibility criteria. Consultation undertaken within Police as part of this evaluation, however, strongly recommended that alternative resolutions for family violence offences should only ever be initiated after charges have been laid, to ensure the organisational gains in treating family violence as a serious offence are maintained.

⁵⁷ Kingi V, Paulin J, Porima L (2008). *Review of the delivery of restorative justice in family violence cases by providers funded by the Ministry of Justice*. Wellington: Ministry of Justice.

8.2 Level of Police disclosure

Police have reduced the level of disclosure on offenders that is provided to panels. As part of agreeing to participate in the CJP process, offenders consent to what information Police can disclose about them to the Panel. As an extra protection for offenders (and to help redress power imbalances) the parameters of consent should be confirmed by the CJP community co-ordinator before the hearing and any changes communicated to Police, to ensure information given to the Panel does not breach the offenders' right to privacy.

8.3 Panel facilitation

The quality of facilitation and questioning skills varies across panel members (by far the strongest theme for development raised across key stakeholders). For example:

- panel members can sometimes be too empathetic without being authoritative and taking a critical eye (described by one stakeholder as “too much heart without enough head”)
- panel members can sometimes display a particular bias which impacts on how they respond to a case (sometimes as a result of their own professional background or previous experiences).

A couple of stakeholders talked about the need to pick the right people to be facilitators. It cannot be assumed that anyone can provide facilitation of panel hearings: some people are more suited to it than others.

Some stakeholders thought that adherence to the prepared script was important since it helped ensure consistency of offender experience across the panel hearings. (See Appendices 6 and 7 for the CJP hearing guidelines and scripts).

... I think it's critical that the script at the beginning and the end is clear, consistent and the same at every panel hearing. (Key stakeholder)

One of the training sessions addressed the fact that in some hearings discomfort with silences meant sometimes panel members had spoken prematurely, not allowing sufficient time for the offender to respond. One example of this occurred with an offender for whom English was a second language.

The introduction of a panel member acting as an observer and providing feedback at the end of each hearing will help to provide peer-review to refine practice. (See Appendix 9 for the observer checklist used to review each panel hearing).

8.4 Panel composition

Another strong theme was ensuring that there is a good mix (or range) of people on each panel in terms of age, gender, ethnicity, professional/employment background, past experiences, personal views on justice for example. Having such a mix or range of people was felt to bring balance and fairness and represent the wider community more accurately.

... the people that you're going to have on the panel, you know, they've got to be good quality people, so you've got to find people with the right heart, if you like. So people that have got an interest in the betterment of the community ... (Key stakeholder)

The complexity of some of the cases seen and the levels of disclosure has been higher than originally anticipated. Given the issues being encountered, there is a need for training for the wider pool of panellists on how to deal with issues of family violence and mental health, as well as having guidelines on how to deal with these situations.

Within the existing panel membership there is a depth of skill and experience in working with people with mental health, addiction and family violence issues. Panels are now scheduled with a two-to-three week lead in time, to help ensure panel members are matched to offenders where more specialised skills or experience are needed.

While some suggested the need to have specialised (and/or professionalised) panels, there was a strong view held by some that the CJP collectively represent the 'wisdom of the community' and that too much specialisation could lead to 'over-professionalising' the role which would reduce the community element at the heart of the approach.

8.5 Setting restitution conditions

Some conditions set by the panel were not achievable in the time required, and in some instances conditions could not be monitored (there was no end date, or they were recommendations, not requirements). A stakeholder commented that this had improved over time.

The degree of variation in the number and type of conditions needs to be monitored, to ensure that there is a level of 'fairness' across decisions made, and also that what is imposed is not more punitive than conditions set by the Court. (This would be in line with the policy guidelines for Police Adult Diversion (a post-charge alternative resolution) which require that any conditions set do not exceed what the Courts would impose for similar offending).

There were some instances where high hours of community service were set, and in some cases were onerous given offenders' health, work or care-giving responsibilities. Panel members said they sometimes thought the level of hours was set too high, and have been encouraged to more actively challenge this during the hearing.

As part of the pre-briefing the CJP co-ordinator now lets offenders know they can inform the panel of factors that need to be taken into account when setting hours of community service.

Clarifying processes for non-attendance and partial completions

Processes for responding when offenders do not appear at a panel hearing need to be clarified, as well as partial compliance with conditions set.

8.6 Making referrals

Some Panel members have an extensive knowledge of what is available from agencies within the community and how they might be beneficial for offenders. However some stakeholders noted that not all Panel members had a strong enough understanding of what is available in the community (such treatment/ support services, organisations where offenders can undertake community service). In some instances the panel was making referrals for issues that really need professional assessments before proceeding (eg addiction).

These areas could be addressed in part through training. The CJP co-ordinator and assistant will begin providing updates on the organisations/ groups taking CJP referrals for treatment/ support as well as for community service. Included in this will be information on organisations' acceptance criteria (eg types of prior offending),⁵⁸ waiting times and current capacity and outcomes from past referrals (eg what types of offenders were best suited to different organisations/ providers).

A presentation is also planned to share the evaluation findings with community providers who have taken CJP referrals and offenders for community service, so they can find out more about the initiative and outcomes achieved to date.

Clarifying what information can be shared with community organisations on referral

Organisations are sometimes requesting information on offenders' prior offending. However offenders' signed consent is needed before information on prior offending can be shared with a third party, and prior offending resolved with diversion is not able to be shared (even if the offender agrees to this).

⁵⁸ Some organisations will not accept referrals for offenders with certain offending histories, eg dishonesty or violent offending.

8.7 Victim participation

Some stakeholders thought the level of victim participation could be increased. Scheduling hearings with a longer lead-in time aims to increase the likelihood that victims can attend.

When a victim or victim representative attends a hearing, the CJP co-ordinator now checks with them what order they would prefer to speak in, with the majority wanting to hear from the offender first. If the victim wants to speak first, this is communicated to the panel before the hearing.

The facilitator now assigns a panel member to represent the victim if one is not present, and the observer provides feedback on the extent to the victim's perspective was maintained.

Updates (eg on offender compliance) should be routinely provided to victims, including retailers.

8.8 Managing support people

Clearer setting of ground rules could help when support people attend a hearing. The panel (and facilitator in particular) need to ensure that participation of support people does not overshadow the focus on the offender or reduce the opportunities for the offender to take responsibilities for their actions. Again this is an area reviewed by the observer who provides peer-review and feedback to the panel.

8.9 Funding/ resourcing

The CJP has operated for nearly two years without an operating budget. Future resourcing will be explored as part work being undertaken by the Alternative Resolutions workstream (including this evaluation). As part of this, clarity is needed on the Trust's legal status.

Issues with the current level of Police resourcing to support the initiative were raised. Police co-ordination and administration of the initiative takes substantial time and is currently being undertaken amongst other work and responsibilities: there is no dedicated full-time resources allocated to the initiative at this stage.

The CJP is now operating at close to capacity. Resourcing would help allow more panels to operate in more locations (and ideally in the communities where the offending has occurred). Having at the least some recompense for costs incurred by volunteers (eg petrol costs) would also ensure panel members could be drawn from the widest pool of people and not potentially exclude participation due to cost.

8.10 Increasing internal support within Police

The degree to which frontline officers understand the CJP initiative and the associated processes was raised, noting there was a high degree of variation in the preparedness of files. Training and feedback can be developed to address this.

There was a high degree of variation amongst frontline officers in whether they refer to the CJP initiative or not (one stakeholder felt that it comes down to personal preference at the moment). This evaluation will provide information to help officers better understand the purpose of the CJP, the offences and offenders referred, the penalties imposed and the outcomes it has achieved.

Other areas suggested for improvement of Police practices were to explore ways of improving frontline officers' ability to give offenders a definite date for a panel hearing. (Alternatively, the CJP co-ordinator could arrange this as part of the pre-panel telephone call). Clarifying if Police files could be electronic only or a mix of electronic and paper would also help.

9 Implementation in other communities

Key stakeholders were asked what would be needed to support the implementation of the CJP initiative in other communities, if a decision was made to use the approach more widely.

Community support

A strong theme among stakeholders was that for the CJP initiative to be implemented successfully elsewhere the community needs to want to own it; there needs to be strong community buy-in. The initiative will not work if it is imposed on communities.

... It's about the community owning the community's problems and giving time to do that. (Key stakeholder)

Having an inclusive steering group and community representatives working on a voluntary basis was also seen as important for establishing and maintaining a sense of community ownership.

It needs to be seen to be a community initiative. That's one of the strengths here ... (Key stakeholder)

Clear communication in each area about what the CJP initiative is and how it operates is seen as a way of helping build community support among people, groups and service providers (including any existing restorative justice providers).

Tailored to the community

A common view amongst stakeholders was that the New Brighton CJP model could be used as a basis for other communities, but that it would need to be adapted for each specific area (particularly in relation to the composition of panels and the location of panel hearings).

You might adapt it, like for arguments sake, if you were a high population of one ethnic type then you might seek more of those sorts of folks for your panel ... In a high Māori population you wouldn't want to fill it up with all Pakeha on the panel. (Key stakeholder)

...So I think the diversity of makeup of the panel is absolutely critical. ...You know, the last thing you want is just a perpetuation of a court system where Māori offenders are continually held accountable to middle class white panels. (Key stakeholder)

For example, up in Northland where you've got a really strong culture still based around maraes and things like that, you will adapt it differently and work differently. (Key stakeholder)

Some stakeholders commented that you need the right people and the right relationships to get the initiative underway in a community.

At least one stakeholder felt that the initiative might work best in small distinct communities where the Police and panel members may know their community better.

I think perhaps one of the things is that it works well in a more distinct community, rather than a big urban, more anonymous metro sort of area, like Christchurch central was... (Key stakeholder)

In contrast, another stakeholder felt that it could work well in inner city areas for particular crimes.

I think it would be probably a very good way to resolve some of the CBD issues that come up in regard to nuisance and criminal damage. (Key stakeholder)

Governance and representation

To help support effective operation, a Steering Group is needed in each area with a clear legal governance, management and funding framework in place. The Steering Group needs to involve the key stakeholders, be inclusive and reflect the wider community in the area (for example, Police, local judiciary, city council, representatives of local business community, local iwi, government agencies such as Ministry of Justice and Ministry of Social Development, key community agencies). The Steering Group can help ensure that community agencies involved in the initiative actively work together and keep communicating with each other.

Police support (but still community led)

Another key theme was that Police buy-in and engagement is essential for the CJP initiative to be successful in other communities. The Police need to launch it, promote officers to use it and support delivery. Some stakeholders talked about the importance of having champions in the Police that are community oriented, people-focused and have a passion for the underlying philosophy of the initiative; they need to believe in it.

Ensuring there is dedicated Police resourcing for the Police CJP co-ordinator and administration of the initiative was identified as important by some stakeholders.

You absolutely need the support of Police ... The way that it has succeeded in Christchurch is because there has been some extraordinary policemen here who have been really keen on instituting it. That is critical. (Key stakeholder)

... Absolutely central ... is Police commitment ... Without Police and the commitment at the right level to be making appropriate referrals, it won't work. (Key stakeholder)

One CJP member also commented that while Police support is vital, the process needs to be community led.

The panel is a community justice panel and its decisions must be seen to reflect the community's response to the offender not the police's. Therefore every care must be taken to ensure those attending a panel hearing and the community at large do not perceive that the police are influencing the panel in any way; otherwise the integrity of community justice panels will be undermined." (Key stakeholder)

Scale of operation

Thought needs to be given the scale of operation: about how to manage the size of the initiative in each community (eg how many evenings, how many panel hearings per evening, and how many cases) while ensuring the quality of hearings remains high.

Importance of co-ordination role

The CJP community co-ordinator role is key to effective operation. This role requires the person with the right people and administrative skills and a clear job description. The amount of work required means this role needs to be funded, as it is beyond what can reasonably be contributed on a voluntary basis.

I think the co-ordinator role will become increasingly important, and there's going to need to be a level of funding whoever it comes from within government. I think there would need to be a commitment to funding to get this sort of services rolled out further. (Key stakeholder)

Monitoring

To help ensure fairness, consistency and integrity of the initiative when it is operating in different areas, a good monitoring system is needed, balanced by the need to keep processes and paperwork simple and not too bureaucratic.

Funding

While the spirit of volunteerism is a key element of the CJP and should be retained, as noted the co-ordination role needs to be funded and some recompense for costs associated with participation (eg travel costs) is needed for panel members.

As indicative figures, providers delivering restorative justice conferences receive \$1,400 for conferences where a victim attends, \$900 for a conference without direct victim representation and \$700 for a restorative justice panel initiated following Police Adult Diversion.⁵⁹

9.1 Concluding comments

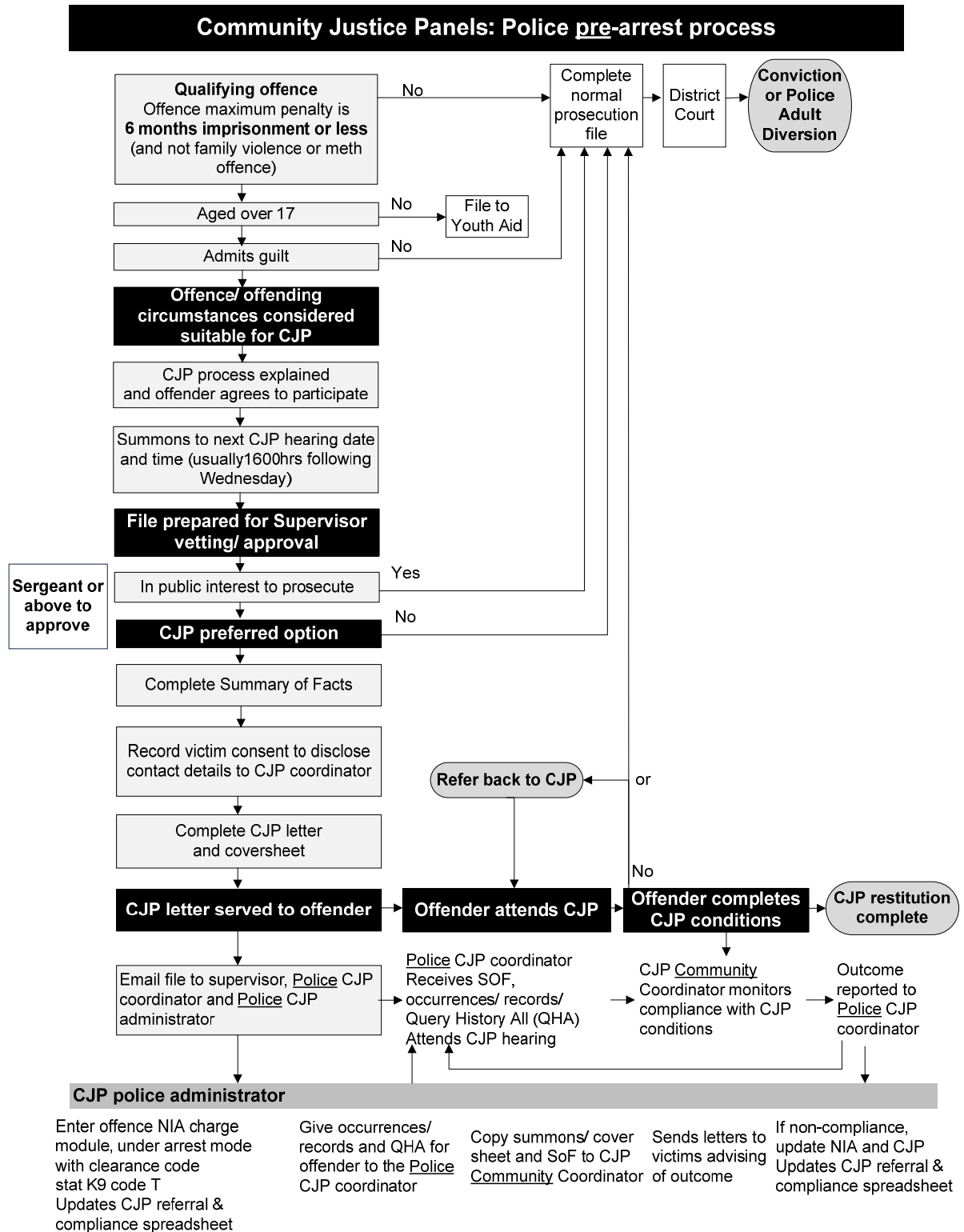
The Community Justice Panel (CJP) in Christchurch is an effective alternative resolution that contributes to reducing the number of prosecutions for low level offending. The CJP initiative saves Police case processing time, has a reasonable level of offender compliance, and strong community involvement. There are indications that re-offending is reduced for those who go through the CJP process, and most victims are reported as satisfied with the process. The evaluation has identified some areas where improvements could be made to align the initiative with known best practice and enhance effectiveness. As part of the pilot the CJP approach was tested on a small number of higher-threshold offences with some success, but future operation will retain the original maximum penalty threshold of six months imprisonment (and excluding family violence and methamphetamine offences).

⁵⁹<http://www.justice.govt.nz/policy/criminal-justice/restorative-justice/restorative-justice-info-for-providers/documents/Restorative%20Justice%20Funding%20Framework%20July%202011.pdf>

Appendices

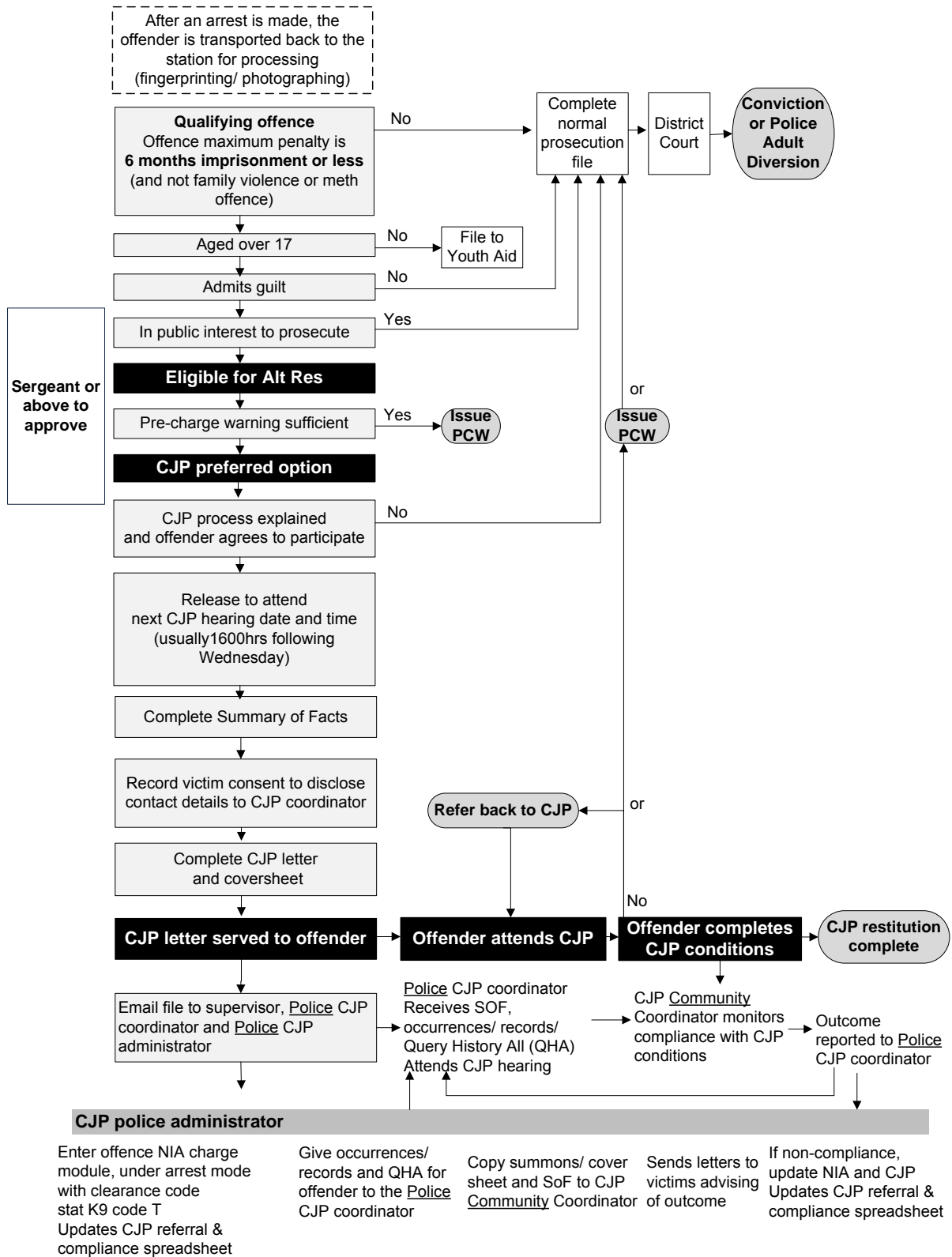
Appendix 1 Police CJP referral processes, pre and post arrest

1 Police CJP referral process, pre-arrest



2

Community Justice Panels: Police post-arrest process



Appendix 2 Methodology

1 Panel observations

Two independent evaluators undertook observations of panel hearings over 6 evening sessions.

Both evaluators attended the first session on 22 February 2012. They observed the panel hearing, moderated each other's observations, reviewed the draft panel observation sheet and made changes to it. The revised observation sheet was then used to collect data by an evaluator at the next five evening sessions in March and April 2012⁶⁰.

A total of twelve panel hearings occurred and were formally observed over the course of the five evening sessions. The number of panel hearings observed on each evening ranged from one to four. The length of hearings ranged from twenty minutes to sixty minutes with most taking at least forty minutes (two lasted an hour).

The table below provides an overview of the characteristics of the twelve offenders. It is interesting to note that no strong themes come through in respect to characteristics aside from a greater proportion of male offenders. This suggests that offenders seen by panels are a diverse group.

	Profile of offenders at the 12 hearings observed
Gender	8 males 4 females
Age	4 aged 17 to 19 years 5 aged mid to late 20s 3 aged in their 40s.
Work status	4 in paid employment 4 in receipt of a benefit (two were on a sickness benefit) Work status was unclear for two of the offenders.
Offence types	6 theft 3 wilful damage/ intentional damage 2 assault (one of which was family violence) 1 receipt of stolen goods.
Previous offending	5 had no prior offences 7 had prior offences, ranging from minor offending (for example, one earlier charge of unlawfully being in yard - not convicted) through to nineteen previous offences for burglary and drink driving. Previous offending tended to focus on dishonesty (burglary, fraud) and driving offences (drink driving, driving while disqualified).
Other circumstances	One offender was profoundly deaf and was accompanied by an interpreter. One offender's two children (aged 7 and 4) are cared for by their ex-partner, due to hospitalisation for a suicide attempt in the previous year. One offender was living with the victim due to the offender's post-natal depression.

60 14, 21 and 28 March sessions and 4 and 11 April sessions.

2 Interviews

Only six interviews with offenders and one interview with a victim were carried out. It is unclear why the independent evaluators were not able to interview more offenders and victims.

Interviews with 19 key stakeholders were undertaken between 22 February and mid May 2012. Most of these interviews took about one hour. A couple of interviews took 2-3 hours where the individual had significant involvement with the initiative. The table below outlines the role of those interviewed:

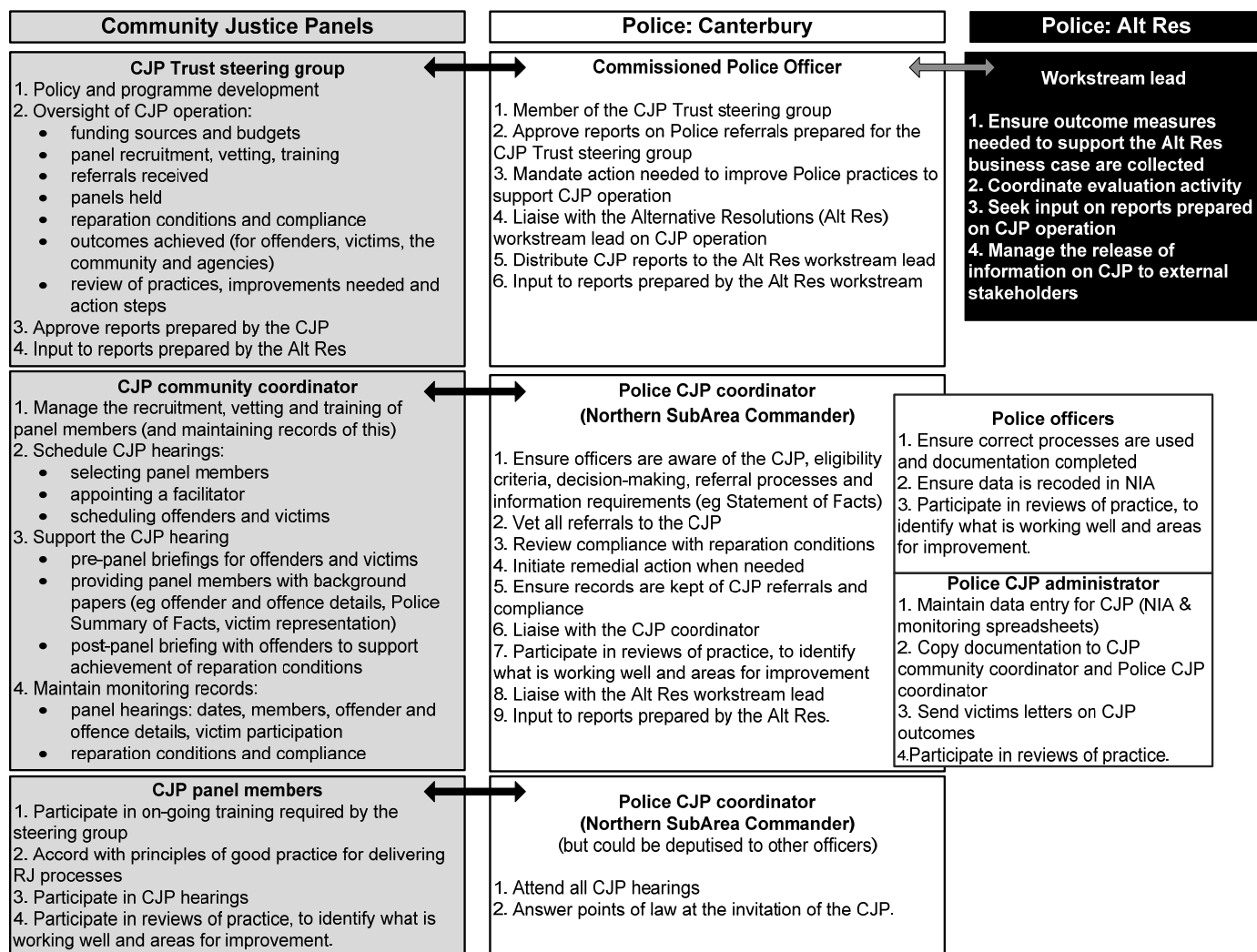
	#	Specific individuals	Day-to-day involvement
Panel members	3	Panel members (all of whom had been involved with the initiative since its inception and have been members of the Steering Group)	High
Community Co-ordinator	2	CJP Community Co-ordinator (paid position, 20-25 hours per week) CJP Community Co-ordinator Assistant	High Moderate
Police	4 2	CJP Police Co-ordinator CJP Police Administrator Police Youth Aid Officer (has attended hearings) Frontline Police Officer Referrer to CJP (x1) Brief telephone interviews or email correspondence was also undertaken with two frontline Police officers (one who had referred to CJP and one who had not referred to CJP). These officers felt that they did not know enough about CJP to make a useful contribution to the evaluation.	High Moderate Moderate Low Very low
Ministry of Justice (MoJ)	3	Criminal Caseload Manager National Office Restorative Justice Staff member Senior Policy Analyst, Drivers of Crime Team	Low Low Low
Wider Stakeholders	2	Representative of Canterbury Chamber of Commerce (and member of the Steering Group) Representative of Restorative Justice Services	Low Low
Community service providers	3		Low
Total	19		

It was originally envisaged that interviews would be undertaken with ten Police staff. This was not achieved despite numerous attempts made to set up interviews with frontline Police both prior to fieldwork visits and during fieldwork visits. This is likely to reflect difficulties in frontline staff being able to schedule time for the research and/or staff feeling that they have insufficient knowledge and experience of the CJP initiative to contribute to the research.

The key stakeholders interviewed varied greatly in their role in relation to and degree of involvement with the CJP initiative (see table above). Three of the stakeholders interviewed had had substantial involvement in the initiative since the inception of the initiative or at least very early on in the life of the initiative. Some had substantial involvement in the day-to-day operation of the initiative; others were far removed from the day-to-day operation of the initiative. This had an impact on the degree to which stakeholders were able to respond to the interview questions.

Appendix 3 Governance and roles

1 CJP governance relationships and roles



Appendix 4

Monitoring data

Table A4.1: Offenders referred to the CJP, by gender and level of prior offences

Number of prior offences	Female	Male	Total	% all CJP referrals	% all CJP referrals
No prior offences	22	27	49	34%	41% no prior offences
<i>No priors offences but known to Police</i>	6	4	10	7%	
1 prior offence	4	9	13	9%	20% 1 or 2 prior offences
2 prior offences	10	6	16	11%	
3 to 5 prior offences	9	6	15	10%	19% 3 and 10 prior offences
6 to 10 offences	5	8	13	9%	
11 to 20 offences	1	7	8	6%	19% 11 or more prior offences
21 to 50 offences	6	5	11	8%	
51 to 100 offences	0	5	5	3%	
100+ offences	2	1	3	2%	
Total	65	78	143	100%	100%

Table A4.2: Offenders referred to the CJP, by age-band and prior contact with Police

Age-band (age at offence)	Not previously known	Previously known to Police	Total by age band	% all CJP referrals
16 to 19	23	17	40	28%
20 to 29	13	42	55	38%
30 to 39	3	13	16	11%
40 to 49	2	10	12	8%
50 to 59	4	11	15	10%
60+	4	1	5	3%
Total	49	94	143	100%

Table A4.3: Offenders referred to the CJP for dishonesty offences by gender and age-band

Age-band	Female	Male	Total by age band	% of all referrals for dishonesty
16 to 19	7	7	14	18%
20 to 29	22	10	32	42%
30 to 39	8	3	11	14%
40 to 49	6	2	8	11%
50 to 59	7	2	9	12%
60+	1	1	2	3%
Total	51	25	76	100%

Figure A4.1: Offenders referred to the CJP, by ethnic group

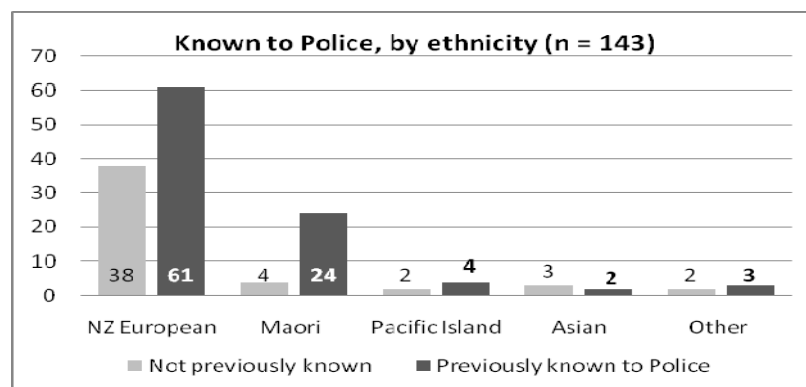


Table A4.4: Offenders referred to the CJP, by employment status and prior contact with Police

Employment status	Not previously known	Previously known to Police	Total by employment status	% all CJP referrals
Employed (full & part-time)	24	36	60	42%
Welfare benefit	8	38	46	32%
Student	8	8	16	11%
Not recorded	9	12	21	15%
Total	49	94	143	100%

Table A4.5: Offenders referred to the CJP, by offence type, gender and prior contact with Police

Offence type	Not previously known	Previously known to Police	Total by gender
Female	16	35	51
Male	4	21	25
Dishonesty	20	56	76
Female	2	1	3
Male	7	6	13
Property damage	9	7	16
Female	2	1	3
Male	4	9	13
Disorder	6	10	16
Female	1	3	4
Male	4	4	8
Violence	5	7	12
Female	0	1	1
Male	5	6	11
Drugs	5	7	12
Female	1	0	1
Male	3	3	6
Driving	4	3	7
Female	0	2	2
Male	0	2	2
Other	0	4	4
Total	49	94	143

Table A4.6: Number of offenders referred, by offence type and maximum penalty (N=143)

Code	Offence description	Number	Maximum penalty threshold	Outside criteria
4322	Theft (under \$500) (shoplifting)	56	3 months imprisonment	
4373	Theft (under \$500) s.219	7	3 months imprisonment	
4555	Fraud (obtain by deception, under \$500)	3	3 months imprisonment	
4323	Theft (over \$500) (shoplifting)	3	1 year imprisonment	yes
4342	Theft ex car (under \$500)	1	3 months imprisonment	
4362	Theft ex dwelling (under \$500)	1	3 months imprisonment	
4125	Burglary by night (\$500-\$1000)	1	10 years imprisonment	yes
4417	Receiving property (over \$1000)	1	7 years imprisonment	yes
4387	Theft (over \$1000)	1	7 years imprisonment	yes
4386	Theft by person in a special relationship	1	7 years imprisonment	yes
4211	Unlawfully taking a motor vehicle	1	7 years imprisonment	yes
	Total dishonesty offences	76		
5127	Wilful damage	7	3 months imprisonment	
5134	Intentional damage (wilful – graffiti)	4	3 months imprisonment	
5142	Intentional damage	2	7 years imprisonment	yes
5119	Other arson	3	7 years imprisonment	yes
	Total property damage offences	16		
3985	Breach of liquor ban	7	\$20,000 fine	
3531	Disorderly behaviour (likely cause violence)	4	3 months imprisonment	
3535	Offensive behaviour	3	\$1,000 fine	
3536	Offensive language	1	\$1,000 fine	
3549	Threatening language	1	\$1,000 fine	
	Total disorder offences	16		
1653	Common assault	8	6 months imprisonment	
1533	Assaults child	1	2 years imprisonment	yes
1593	Common assault	1	1 year imprisonment	yes
1582	Common assault – domestic	1	1 year imprisonment	yes
1583	Domestic assault	1	1 year imprisonment	yes
	Total violence offences	12		
3252	Procure/ possess cannabis	8	6 months imprisonment	
3157	Procure/ possess stimulants	1	6 months imprisonment	
3524	Procure/ possess cannabis oil	1	6 months imprisonment	
3271	Cultivate cannabis	1	7 years imprisonment	yes
3232	Sell/ supply cannabis	1	8 years imprisonment	yes
	Total drug offences	12		
D502	Careless driving	5	\$3,000 fine	
L143	Drove while licence suspended	1	3 months imprisonment	
D351	Sustained loss of traction	1	3 months imprisonment	yes
	Total driving offences	7		
3827	Conceals child from custody	1	\$1,000 fine	
1843	Non compliance with a restraining order	1	6 months imprisonment	
6132	Unlawfully in a building	1	3 months imprisonment	
1756	Possession of offensive weapon	1	3 years imprisonment	yes
	Total other offences	4		
	Total	143	23 offenders seen for 16 ineligible offences	

Note: All 11 offences referred to the CJP when it operated from the Christchurch CBD were within the offence criteria: 8 were for disorder offences, 2 for drug offences and 1 for intentional damage.

Table A4.7: Timeframe from offence to CJP hearing

Time from offence to CJP hearing	Number in this timeframe	% of those who attended (n= 140)	Total
Within 14 days	46	33%	58% within a month
15 to 30 days	35	25%	
31 to 60 days	30	21%	79% within 2 months
61 to 90 days	12	9%	
91 to 120 days	6	4%	
121 to 150 days	7	5%	
151+ days	4	3%	
<i>Did not attend</i>	3	-	
Total	143		

Table A4.8: Percentage of types reparation conditions set, by previously known to Police status

Restitution type	Not previously known to Police (n=45)	Previously known to Police (n =89)
Apology	58%	69%
Community service	64%	44%
Referrals	40%	53%
Financial reparation	22%	27%
Other conditions	13%	21%
Essay	27%	13%
Donation	18%	12%

Table A4.9 Time in which conditions were met

Time in which conditions completed (includes some partials)	Number	%
Within 2 weeks	41	40%
Between 3-4 weeks	26	25%
Between 5-6 weeks	13	13%
Between 7-8 weeks	12	12%
Between 9-10 weeks	3	3%
Between 11-12 weeks	3	3%
Between 13-14 weeks	2	2%
Between 15-16 weeks	0	0%
Between 17-18 weeks	2	2%
Total	102	100%

Table A4.10: Compliance status, by levels of prior offending

Compliance status by level of prior offences	Completed	Partially completed	Not completed	Total by offending level	% completed by offending level
None	41	3	6	50	82%
Very low (2 to 5)	31	3	5	39	79%
Low (6 to 10)	10	2	0	12	
Medium (11 to 20)	5	1	0	6	
High (21 to 50)	6	1	1	8	
Very high (51 to 100)	1	2	1	4	
Extremely high (over 100)	2	0	0	2	
Total	96	12	13	121	79%

Table A4.11: Compliance status, by age band

Compliance status by age band	Completed	Not completed	Total	% attended CJP, compliance data recorded and time to complete (n = 121)
16 to 19	26	8	34	76%
20 to 29	41	10	51	80%
30 to 30	7	4	11	
40 to 49	7	2	9	
50 to 59	11	1	12	
60+	4	0	4	
Total	96	25	121	79%

Appendix 5 Conditions set for hearings observed

Table A5 shows the offence, circumstances and conditions set the 12 hearings observed by the independent evaluators. In the 12 cases observed, most had four conditions set.

Table A5: Summary of the offence, circumstance and conditions set at the 12 hearings observed

	Offence and circumstances	Restitution conditions
Dishonesty	Case 1: Offender shoplifted products worth over \$100 from store.	<ul style="list-style-type: none"> • Apology letter to department store. • Inform mental health case manager. • 40 hours community work with Salvation Army. • Recommendation to tell parents.
	Case 2: Seventeen year old offender stole a sign as an earthquake memento.	<ul style="list-style-type: none"> • 20 hours community work - possibly with a local fire brigade on a Saturday morning. • Apology letter to City Council and letter to the community to be put in shop window.
	Case 3: Offender stole DVDs from store.	<ul style="list-style-type: none"> • Make sure apology letter has been received and if not then send another one. • Reparation of \$10 a week for costs. • Referral to Bridge for an assessment and counselling.
	Case 4: Offender stole a wallet left sitting on a counter at a supermarket. The wallet belonged to a man with a severely disabled wife.	<ul style="list-style-type: none"> • Apology letter which outlines the steps for reparation. • Reparation of \$25 a week until total of \$900 reached. • 60 hours voluntary cleaning (ideally for an organisation providing services to people with disabilities). • Attendance at CPIT course for Women.
	Case 5: Offender stole \$162 worth of petrol. Offence was premeditated.	<ul style="list-style-type: none"> • Verbal apology to service station and Police. • 350 word essay. • 16 hours community service at Linwood Rugby Club. • Pay half of \$162 (co-offender to pay other half) (already paid).
	Case 6: Offender stole a flash drive with a light on the end of it from large store.	<ul style="list-style-type: none"> • Apology letter to Police. • 500 word essay about how much theft costs the taxpayer. • Pay reparation of \$52.73. • Donation to St John's.
	Case 7: Offender received stolen property from family member (jewellery valued over \$3,000) and pawned it.	<ul style="list-style-type: none"> • Apology letter to jeweller. • Attend/encourage attendance at assertiveness course. • Undertake 24 hours community service. • Attend defensive driving course.
violence	Case 8. Offender assaulted a family member (family violence)	<ul style="list-style-type: none"> • Apology letter. • 8 hours community work with Salvation Army. • Counselling. • Recommended building relationship with family member and getting advice on getting legal custody of child.
	Case 9: Offender assaulted his workmate after a work party.	<ul style="list-style-type: none"> • Alcohol assessment and counselling. • 100 hours community work at a rugby club. • Reparation of \$700 @ \$50 per week. • Mentoring by work superiors.

Table A5: Summary of 12 hearings observed, continued

	Type of incident	Restitution conditions
Property damage	Case 10: Offender did not pay taxi fare, swore at taxi driver, kicked door of taxi and set their dog on taxi driver.	<ul style="list-style-type: none"> • Write essay on effects of alcohol. • Attend Salvation Army programme. • Pay reparation of \$764 (which included 3 hours of taxi driver's time lost as a result of the incident).
	Case 11: Offender committed road-rage incident.	<ul style="list-style-type: none"> • Apology letter to victim. • Attend 6 counselling sessions for past issues and anger. • Pay back person who paid the reparation money on their behalf. • Recommendation of a 6 month good behaviour bond of \$500 to the person who paid the reparation on their behalf
	Case 12: Offender committed intentional damage to earthquake related sewerage container parked outside their home.	<ul style="list-style-type: none"> • Personal apology to Police Constable. • 16 hours community service - 4 hours for 4 weeks at Habitat for Humanity. • Referral to counselling for stress-related issues. • Connect with Community Law Canterbury to advise whether entitled to more financial assistance/support.

Appendix 6

CJP members' guidelines

The focus of a CJP panel is to gain an understanding of the offender's state of mind at the time of the offending and those affected by the offending (step 3) the underlying causes of the offending (step 4)

Then to focus on a plan of action for the offender to (a) repair the harm caused; (b) address the underlying causes (step 5).

Note: CJP panels do not counsel the offender or offer legal advice.

1: PREPARATION

Panel members need to meet 15 minutes before commencing hearings to prepare themselves to listen and plan how the panel will work together.

Plan to listen:

- By clearing the mind of issues which may interfere with your ability to listen.
- By putting aside any prejudices you may have.

By reminding yourself to avoid being judgemental or critical as these are blocks to listening.

2: WELCOME

The facilitator: welcomes the offender and other parties present; introduces the panel; explains the process; reads the police caption summary; sets ground rules, especially important if the victim is present.

The facilitator sets the tone of the meeting with an appropriate mix of empathy and gravitas. If the offender disagrees with the police summary of events, remind the offender that a condition of being here is that he/she accepts the police summary. If not, the hearing will end and he/she will be referred back to the police.

Possible ground rules: no arguing, be truthful.

3: UNDERSTANDING

Facilitator will start the process by asking questions of the offender to gain an understanding of the incident and those affected by it.

Panel members not involved in the questioning wait until the facilitator has finished before asking their questions.

Facilitator controls this process ensuring the panel remains focused and the questions relevant.

VICTIM:

Once the panel has gained an understanding of the offender's offending the facilitator invites the victim to speak. If the victim is not present then one of the panel members speaks on behalf of victim(s). If the victim has provided a statement, this panel member reads it.

Ask open ended questions: What? How? When? Avoid "why" questions as they tend to give an interrogative atmosphere.

Closed questions can be used effectively to provide a lead-in to an open-ended question.

Avoid bombarding the offender with questions from all directions, as this not only confuses the offender, it compromises panel members' ability to listen.

Do not be afraid of silences as these can be a valuable listening experience. As a rule the panel member who is questioning the offender should break the silence.

It is advisable that only one panel member speaks for the victim.

4: UNDERLYING CAUSES

Once the panel is satisfied that they understand what happened during the offending, the facilitator moves the discussion on to look at why the offender behaved the way he/she did?

What in his/her background was a contributing cause?

This is a fact-finding exercise; be aware of the risk of turning this into a counselling session.

Ask yourselves: What do I know? What do I need to know? How do I find out what I need to know?

The panel is not there to solve all the offender's problems but to know where to direct the offender to get help.

5: SANCTIONS

Facilitator tells the offender “it is important that we agree on what needs to happen to repair the harm caused by your actions”.

Facilitator asks the victim, if present, what his/her needs are. If the victim is not present, the delegated panel member summarises the victim’s needs.

The panel may discuss sanctions with the offender present or it may ask the offender to leave the room. If the latter,

it is very important that the facilitator keeps discussions focused to limit the time the offender is out.

Note: If you send the offender out he/she must be escorted by a panel member to the co-ordinator.

It is important not to treat this as a negotiating process. It is in the end the panel’s decision. The success of the process is reliant on the offender’s acceptance of the decision of the panel.

A good decision:

- Is fair and appropriate
- Is achievable in a reasonable time (4/6 weeks)
- Seeks to address underlying causes
- Is able to be monitored.

Ideally the discussions are held with the offender present as he/she gets an understanding of the reasons behind the panel’s decisions and witnesses how cooperative problem solving works.

Know why you are asking the offender to leave the room and focus the discussion on this. Facilitator must keep tight control of this discussion.

6: END HEARING

The facilitator makes sure all forms are completed and both copies of the “decision record” are signed by the offender and facilitator. Thank the offender and victim, if present, for their participation.

The facilitator puts all papers in the “L” folder and a panel member takes this and the offender back to the co-ordinator.

Decisions must be clear and exact.

If community service is involved, hours must be clearly stated. It is helpful, though not necessary, for the panel to state where the community service should be.

Ideally time for completion of tasks should not exceed 4 weeks.

If donations are required, amount must be clearly stated

STEP 7: EVALUATION

Once the offender has left, the facilitator and panel complete the “offender’s evaluation form

This information is required by the Police researchers

Appendix 7 CJP script

Opening statement by facilitator (or designated panel member)

I would like to welcome everybody to this hearing. My name is.....and I will lead the discussion.

Before we begin I will introduce everybody and explain their reason for being here.

This panel hearing will focus on the incident which happened on (date).

(Name) was arrested by the police for (offence) and has admitted the offence. The police offered (Name) the opportunity to attend a Community Justice Panel Hearing to deal with the charge of (offence). (Name) agreed to this.

(Name) will be given the opportunity to have their say, there will also be an opportunity for questions to be asked and for answers to be given. We will then look at what (Name) can do to repair the harm caused by the offending and at what can be done to prevent re-offending. The Panel will set outcomes that need to be completed. If agreement is reached we will form a contract detailing these outcomes. If agreement cannot be reached (Name) will be referred to the court.

Telling the story and exploring the impact

Read out the summary of facts starting with the name of the offender and including the penalty and ask (name) to confirm them.

Ask the offender to tell what happened so we can all understand who has been affected by the incident.

Helpful prompts

- *Take us back to the start; tell us step by step what actually happened?*
- *What were you thinking at the time?*
- *What do you think now about what you did?*
- *How do you feel now about what you did?*
- *Who do you think has been affected by your actions?*
- *How do you think they were affected?*
- *Why do you think this behaviour happened?*

Victim representation

If victim or support people attend the meeting they would be given an opportunity to speak at this point.

If the victim does not attend the facilitator he/she may provide a statement to be read out at this point.

Ask the victim for his/her response to the incident and explore the impact.

Helpful prompts

- *What did you think at the time?*
- *What has been the hardest thing for you?*
- *How have you been affected?*

Reparation and restoration

Facilitator: It is important that we now agree what needs to happen to repair some of the harm caused by your actions. If we cannot reach an agreement you could be referred to the court and dealt with in some other way.

I will read out what the victim would like to see come out of this meeting.

Ask (name) what he/she thinks is the right and fair thing to do repair the harm?

Prevention of re-offending

It is important that we look at why you behaved in this way and agree a plan of action that you can be involved with to stop this happening again.

Earlier you said that you committed this offence for these reasons:

1.....

2.....

3.....

What do you think can be done to stop this happening again?

Contract

You have agreed to undertake the following actions to make up for the harm/ damage caused by your offending:

1.....

2.....

3.....

Contract to be signed by facilitator, offender, and any family or support person present.

Closing statement

Before signing this contract, I remind you that you will be expected to carry out all parts of the contract that have been agreed. Our co-ordinator will contact you and make the arrangements for what you have to do.

If you do not complete the tasks in the agreed time you will either be referred back to us to look at why the tasks have not been completed or you may be referred to the court.

Thank all participants for their participation in the hearing.

Appendix 8 Offenders' rating of elements of the CJP process

Independent evaluators asked six offenders to rate elements of the CJP process and how they were treated. Table A8 shows their responses. Of note are the high overall ratings, particularly around how the panel treated them. All six said they 'totally' understood the conditions set and also gave the highest rating for 'given the chance to put themselves in a better place'.

Table A8: Offenders' rating of elements of the CJP process

	1 Not at all	2	3	4	5 Totally
Had chance to explain why the offence happened			1	1	4
Had chance to explain what else was happening in their life, including any other problems they had			2	1	3
Had chance to say what they really wanted to say				2	4
Felt involved in the process			1	2	3
Understood what was going on at the hearing		1	1		4
No one spoke too much			1	1	4
Understood the tasks the panel set them				1	5
The panel members:					6
• treated them fairly					
• treated them with respect (like they weren't a bad person)				1	5
• listened to them with an open mind				1	5
• talked in a way they could understand					6
• behaved in a way they liked to see adults behave					6
Given the chance to put themselves in a better place					6
Understood the impact of the crime from:					
• a victim perspective	1			1	4
• a community perspective			1		4*
• the Police's perspective			1	3	1*

**Missing data: offender did not answer.*

Appendix 9 CJP observation sheet

Community Justice Panel – observation sheet		
Case: _____		Date: _____
Attitude (eg: defensive, argumentative, cocky, remorseful, angry, closed, accepting)		
Body language		
Interactions	Argues	
	Interrupts	
	Constructive	
	Questions	
SUPPORT PERSON/VICTIM		Comments

PANEL		Comments
Preliminaries	Introductions made	
	Format explained	
	Rules explained	
Questioning	Closed questions	
	Open questions	
	Wait time	
	Underlying causes sought	
Effective listening: <ul style="list-style-type: none"> • Rephrases • Relevant comment • Encouragement offered • Feelings acknowledged • Contradicts 		
Body language eg: <ul style="list-style-type: none"> • smile • frown • arms crossed • gesticulating • eye contact 		
Others	Interruptions	
Sanctions	Reparation	
	Education	
	Apology	
	Donation	
	Community hours	
Conclusion	Formalised?	

Appendix 10: Police CJP synopsis form



SYNOPSIS

DATE ____ / ____ / ____

QUARTER REPORTING 1 2 3 4 20__

DEFENDANT'S NAME _____

PANEL CHAIR _____ PANEL 1 _____

PANEL 2 _____ OBSERVER _____

OFFENCE _____ **FACTS** AGREES ☐ DISAGREES ☐

VICTIM ATTENDED YES ☐ NO ☐ **NAME** _____

COMMENTS _____

ACCOUNTABILITY

REASON FOR OFFENDING: _____

PREVIOUS HISTORY: _____

REPARATION

AMOUNT OWING: \$ _____ ORDERED ☐ NOT ORDERED ☐

EDUCATION

WHAT WAS DISCUSSED / RECOMMENDATIONS: _____

SANCTIONS

WHAT DEFENDANT SUGGESTS: _____

PANEL DECISION: _____

NIA ALERT REQUIRED _____

EXCEPTIONAL REVELATIONS

List any revelations made that are not directly relevant but that may have had an impact on the defendant's life circumstances and/or are possible reasons as the "driver of crime".

CASE NOTES

SUPPORT PERSONS ATTENDED: 1 _____ 2 _____

POLICE PANEL HEARING MANAGER _____

Appendix 11: Restorative justice best practice, Ministry of Justice

The eight principles from the Ministry of Justice '*Restorative Justice. Best practice in New Zealand principles*' (2004). Available at: <http://www.justice.govt.nz/publications/global-publications/r/restorative-justice-in-new-zealand-best-practice>

Principles	Description
Volunteers	Restorative justice processes are underpinned by voluntariness <ul style="list-style-type: none"> Participation of the victim and offender must be voluntary Outcomes must be arrived at voluntarily and reflect the agreed view of the victim and offender
Victims & offenders	Full participation of the victim and offender should be encouraged <ul style="list-style-type: none"> The victim and offender are the primary participants Victims must determine their own level of involvement The 'community' should be represented during the restorative justice process 'Professionals' (police officers etc) may attend but only on a carefully prescribed basis
Keeping participants informed	Effective participation requires participants, particularly the victim and offender, are well informed <ul style="list-style-type: none"> Participants in restorative justice processes must be well prepared Participants must have reasonable expectations of the process and outcomes
Hold the offender accountable	Restorative justice processes must hold the offender accountable <ul style="list-style-type: none"> The offender must acknowledge responsibility for the offence before a case can be referred to a restorative justice process Agreed outcomes should provide an appropriate and realistic response to the offending Agreed outcomes must be monitored Actions should be taken when an agreed plan breaks down The restorative justice process should only respond to the offence(s) that is the subject of the original referral
Flexible & responsive	Flexibility and responsiveness are inherent characteristics of restorative justice processes <ul style="list-style-type: none"> Restorative justice processes should be guided by restorative justice values Restorative justice processes must be appropriate and responsive to the culture of participants Decisions about how the restorative justice conference will operate should be responsive to participants
Safe	Emotional and physical safety of participants is an over-riding concern <ul style="list-style-type: none"> Restorative justice processes should be safe for participants at all times The privacy and confidentiality of participants must be protected and respected to the extent possible Participants may require some form of follow-up after the conference
Effective	Restorative justice providers (& facilitators) must ensure delivery of an effective process <ul style="list-style-type: none"> Robust internal management systems are required that include appropriate and transparent procedures and processes High-quality facilitators are critical to an effective restorative justice process Evaluation and review of restorative justice processes should be supported and encouraged
Used when appropriate	Restorative justice processes should only be undertaken in appropriate cases <ul style="list-style-type: none"> The use of a restorative justice process in a particular case must be carefully considered The use of restorative justice processes in cases of family violence and sexual violence must be very carefully considered Particular consideration should be given to the appropriateness of restorative justice processes when the victim is a child or a young person.

