



# *Individualizing Justice for Sexual Assault*

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# Objectives

- How is criminal justice “one size fits all?”
- Why individualized response is needed?
- What would individualized response look like?
- What can we learn from “hands on” experience?



# Justice Defined



- Standard dictionary definitions:
  - The upholding of what is just, fair treatment and due reward in accordance with honor, standards, or law;
  - The quality of being just; fairness.
  - The principle of moral rightness; equity.



# Individualized Defined

- Reparation and rehabilitation options matched to the assessed needs
- Minimally intimidating process using understandable language
- Accommodation culturally valued accountability and healing
- Empowerment of those most directly harmed
- Redress driven by both professional assessments and victim needs



# Criminal Justice: Theory and Practice

## Local Archival Data

- 1134 assaults (extrapolated from 30% reporting estimate)
- 378 sexual assaults reports taken by police
- 302 closed by police
- 76 sent to prosecutors
- 58 charged
- 17 pled guilty or were convicted of a felony



# A Standard Sexual Assault Trial

- Follows lengthy delays; poor communication
- Intimidating setting; incomprehensible language
- Formulized processes govern victim and offender role
- Victim impact comes after the verdict and carries no guarantees for input into outcomes
- Rigid sentencing guidelines may limit judicial options

# Rationale for Individualized Justice: Victim Needs



Survivors and their advocates say they need to:

- Tell their stories
- Get answers
- Experience validation
- Observe remorse
- Receive support
- Have choice and input not coercion

# Rationale: Offender Needs

- Access to effective therapy
- Promotion of responsibility and empathy
- Closure after which community integration can occur





# Individualized Justice

## ■ Victims

- Ensure safety and access to services
- Provide choice
- Reduce delay
- Is non-adversarial + validating + tell their story
- Include input into consequences
- Provide reparations and moral satisfaction

## ■ Offenders

- Increase meaningful accountability
- Remove need to deny and maintain innocence
- Maintain social bonds
- Mandate early treatment
- Facilitate remorse
- Avoid life time stigma after reparations have been made

# The Restorative Justice Family

- Victim-Offender Dialogue--often prison based
- Victim Impact Panels—often in prisons
- Sentencing Circles
- Conferencing
  - Introduced in New Zealand, adapted for sexual assault and used in Australia for juvenile offenses;
  - South Africa, Denmark, and New Zealand have pioneered basing restorative conferences in social service agencies and taking sexual assault victims on their own referral independent of criminal justice

# RESTORE Program



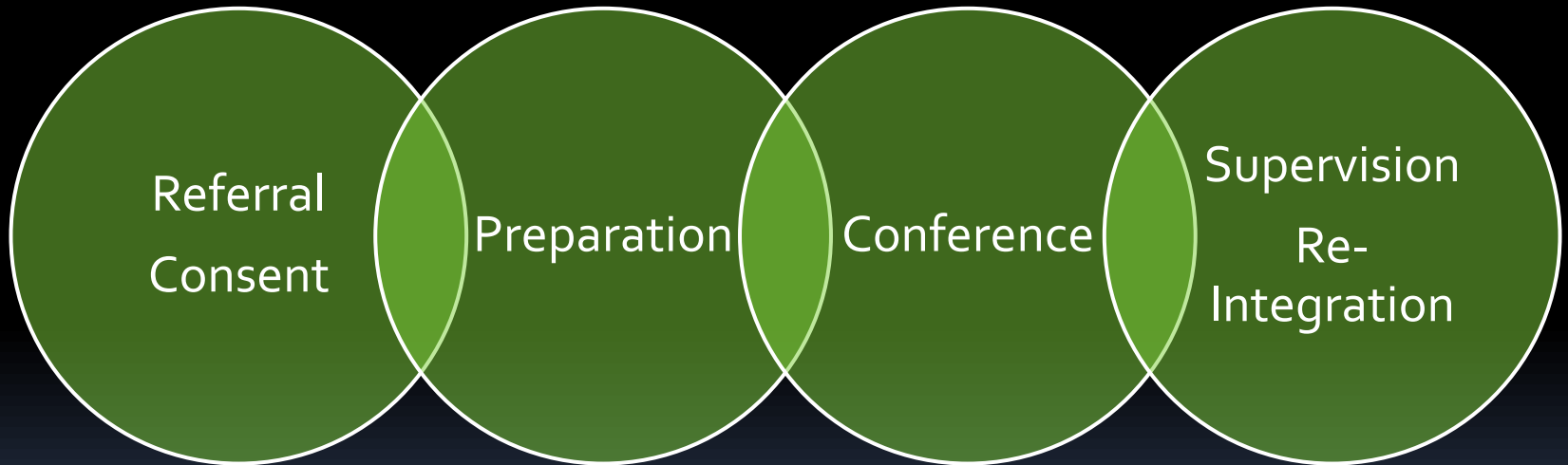
- **Voluntary** conference model
  - Prosecutor-referred felony + misdemeanor sexual assaults
  - Professional case manager
  - Trained Convener
  - Free legal counsel and psychological help
  - Offender forensically screened and supervised for 12 months

# Eligibility Criteria

- Date or acquaintance rape provided force was minimal, voyeurism, exhibitionism
- Over age 18 years both victim and offender
- First known offense, no prior domestic violence calls
- Offender acknowledges that the act occurred
- Both parties agree to participate



# RESTORE Stages



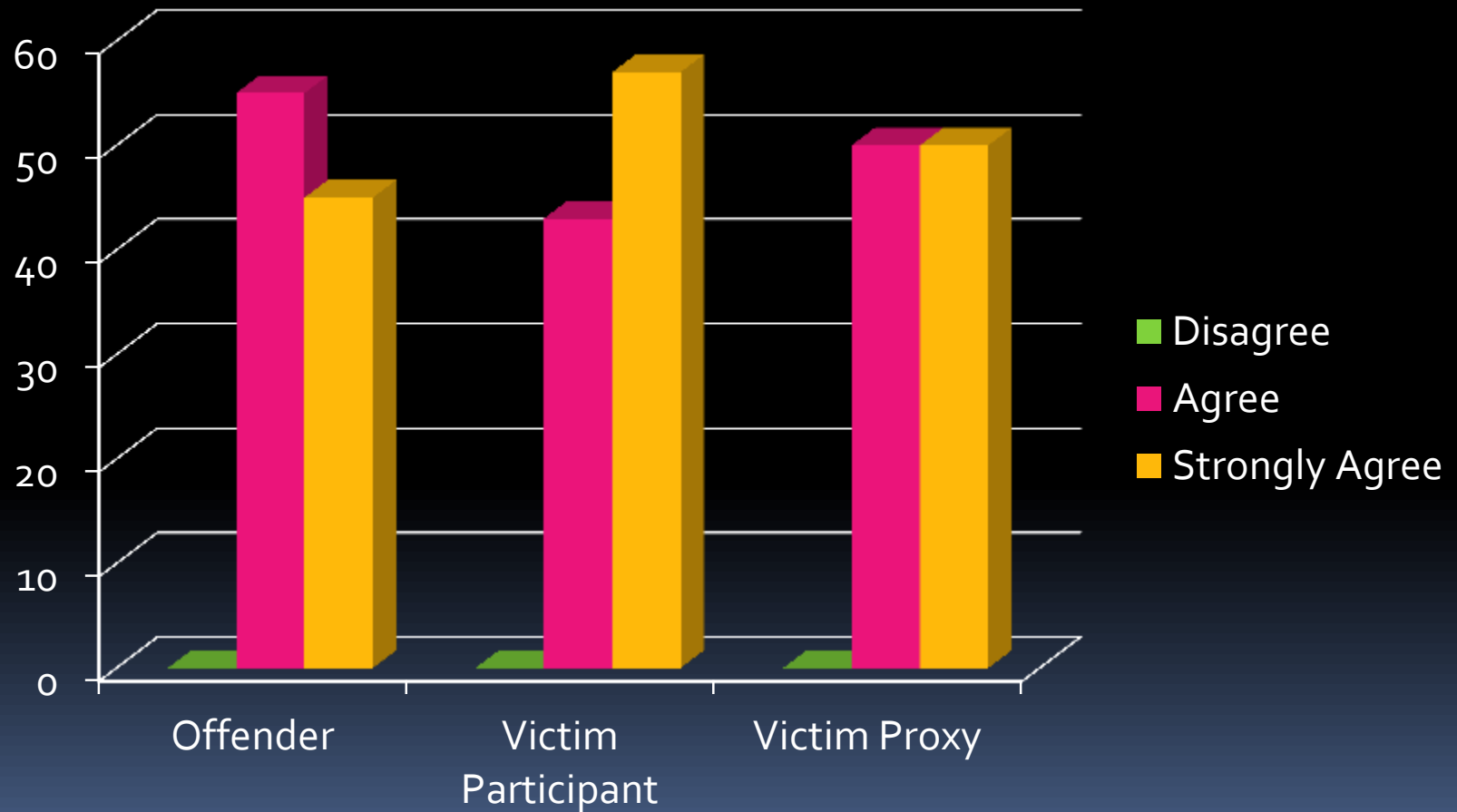


# Sample Cases

# Redress Plan Components

- ✘ Agreement to complete forensic evaluation & recommended treatment
- ✘ 12 months of supervision
- ✘ Restitution of material losses and costs of counseling or medical expenses if requested
- ✘ Stay away agreement
- ✘ Community service
- ✘ Culturally appropriate methods to promote self examination and repair
- ✘ Apology at program exit

# Satisfaction Percentage





# Selected Outcomes

Overall Program Completion was 80%

- Misdemeanors
  - 50% of victims consented
  - Victim proxy introduced
  - 91% successfully completed
- Felonies
  - 42% of victims consented
  - 70% successfully completed
- Intimate Assault Felonies
  - 64% of victims consented
  - 20% successfully completed
- Acquaintance Assault
  - 80% of victims consented
  - 75% successfully completed

# Empathy and Apology

- Were not encouraged at conference (70% offenders did apologize; only 1 victim forgave)
- Were expected to grow over time as result of program components
- Were measured by qualitative analysis of letters to victims written upon program exit



# Sample Apologies:

## Acceptance of Responsibility

- Apologies were presented to the CARB and the victim was invited. Only one did.
- In letter form, the apologies were mailed to victims.
- Apologies were quantitatively and qualitatively analyzed using dimensions developed by Webster (2002) in an English Prison System Sex Offender Unit

# Barriers to Individualized Justice



- Police-Prosecution feedback loop
- “Provable at trial” and stereotypical prosecutorial decisions
- Advocates’ concerns for victim welfare and preference for harsh retribution
- Community fear and vengeance
- Minimal or no funding



Pendulums Swing: Contact Me  
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