

# BIAS BUSTERS

INCREASING THE RATE OF  
REFERRAL TO RESTORATIVE  
JUSTICE CONFERENCING

THE UNIVERSITY  
OF AUCKLAND



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In nearly all criminal cases, police decision-making will determine whether an offender is cautioned, charged or whether to refer through to diversionary services such as adult restorative justice conferencing (ARJC). Both operational police and police prosecutors have the discretion to initiate the ARJC referral process.

The first issue our brief will address is Queensland Police Service (QPS) attitudes to ARJC. If police have a negative attitude towards ARJC, they will not engage with it. QPS opinions can also have flow-on effects. For example, operational police who are hostile towards ARJC may convince victims to also disregard it, essentially ending the ability for a successful conference to take place. Police prosecutors often initiate the referral process at the request of duty solicitors and defence lawyers. If these parties sense that the prosecutor is opposed to initiating ARJC, they may think that recommending referral is futile.

The second issue we will focus on is increasing referrals, particularly early intervention referrals from operational police. Referral rates have been decreasing in recent years, and only 18% of those referrals come from operational police. The referrals which are occurring tend to happen later in the criminal justice process, which is less cost-effective than referring parties to ARJC pre-charge. Failing to refer parties to ARJC is linked to higher rates of recidivism, higher costs of putting offenders through the court and/or prison system, and poorer outcomes for victims.

There are multiple barriers that influence these points. The first is an acceptance issue. An operational officer or police prosecutor will have predetermined core beliefs about what “justice” entails. If the officer considers restorative justice incompatible with their core belief, they will not accept ARJC and additionally will have lower referral rates. Broadly, a person’s perception of justice is likely to fall into one of the following categories:

1. **The punisher:** the purpose of criminal justice is for criminals to be punished for their crimes;
2. **The redeemer:** the purpose of criminal justice is to put the victim in the same position they were in beforehand;
3. **The preventer:** the purpose of criminal justice is to prevent crimes from reoccurring.

The second barrier is an awareness issue. Officers and prosecutors may be either unaware that ARJC exists, or may not be aware of what determines whether a case is appropriate to refer to ARJC. This will cause lower rates of referral, and may cause police to discriminate against parties which police do not realise are actually eligible.

### ***Strategy 1: Screensavers framing ARJC as consistent with different core beliefs about justice***

We recommend updating all police screensavers and login displays for all work screens. These screensavers will appear when devices are left idle for some period, or when staff are prompted to log in. The screensavers will rotate between different messages targeted at either the punisher, redeemer or preventer. These messages will frame ARJC as compatible with police staff’s core beliefs, in order to evoke confirmation bias.

**“In 2018, most Queensland offenders in ARJC paid restitution for what they did.  
Have you considered restorative justice conferencing?”**

This message is targeted at the punisher. The focus of the message is that offenders need to pay for their crimes and take responsibility for their actions through ARJC.

This proposal addresses both issues the brief has highlighted. The proposal is designed to influence police perception, without challenging core beliefs. We expect that referrals will also increase as the screensaver will increase acceptance and awareness of ARJC. This hypothesis is supported by behavioural insights. This nudge evokes the primacy heuristic, as the screensaver is the first piece of information that they see when they use their work computer. Screensavers also utilise the mere exposure effect, spacing heuristic, and confirmation bias.

We would recommend implementing this strategy by doing the following:

1. Introduce the rotating screensavers to a limited number of police stations, and then after 6 months compare change in referral rates with controls where no screensavers were used.
2. Use colour to highlight the key takeaway of the message. For example, the key element above is to emphasise the restitutory aspect of ARJC. We used green as it is associated with positive outcomes.
3. The screensaver background should be done in the same font and colours as other police graphic design work, and have the QPS logo prominent in the design. This emphasises that the nudge is coming from internally and avoids the not-invented-here effect.

### **Strategy 2: Intranet quizzes addressing common misconceptions about ARJC**

This strategy uses a novel method to increase police understanding of the applications of ARJC. The quiz will be based on a mock scenario and police will answer yes/no questions. Following each answer, the officer will be taken to a page telling them whether or not their answer was correct, and the reasoning for the right answer.

This proposal addresses police attitudes and referral rates because it is designed to correct misconceptions police have developed about ARJC that prevent referrals from being made, for example believing that parties must know each other when this is not actually a part of eligibility criteria.

We would recommend implementing this strategy by doing the following:

1. The quiz should be uploaded to police intranet as this is an existing source of trustworthy information for police. This invokes likability.
2. Mock scenarios should be used as it simplifies the issue and isolates the misconception, which will improve police understanding about why an answer is incorrect.
3. The quiz should provide immediate feedback on police answers. This will increase appropriate referrals to ARJC, as active feedback tends to lead to greater expertise, which in this case will mean police will become more competent at making ARJC referrals.

Both our strategies are low-cost nudges and are relatively easy to configure onto police computers, meaning that this proposal can easily be adopted on a statewide level. In addition, our nudges are consistent with QPS's desire to become paperless and increase digitalisation, future-proofing the initiatives.

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