

Making variation a virtue:  
evaluating the potential and limits of restorative justice

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Making variation a virtue: evaluating the potential and limits of restorative justice  
by Kathleen Daly

A good measure of the vitality of a new justice idea is the ratio between the claims made by advocates and the evidence to support those claims. The less evidence exists, the greater the excitement and debate about the new idea. When evidence arrives, we may begin to lose interest. The results may be equivocal, or worse, we may despair that the new idea does not 'measure up' in the expected ways. Roger Matthews (1988: 1-2) captured this problem well in 1988, when he reflected on the what happened in Britain and the United States in the 1970s and 80s with the introduction of the new idea of informal justice.

In the beginning there was optimism. The introduction of more informal forms of dispute processing would, it was claimed, provide a greater level of participation and access to justice. ... After a period of experimentation, ... the initial enthusiasm subsided and many observers became sceptical about the possibility of informal justice realising its promises. Less than a decade after the emergence of the first wave of optimism, [there was] an equally forceful wave of pessimism. ... The verdict was that informalism was a distraction, an error, an experiment which had failed. Despite these critiques, support for informal justice continued, and we are now entering a new phase, which involves moving beyond the poles of optimism and pessimism, and evaluat[ing] the movement towards informal justice in different theoretical and practical terms. [In doing so] ... We are push[ed] in two ... directions. On one hand, we [must] examine the specific details of informal dispute processing; and on the other hand, we [must consider] the wider political and social frameworks within which they operate. In this way, we might avoid the twin pitfalls of idealism and impossibilism which [have] informed much of the debate so far.

All of us conducting research on restorative justice should heed Matthews' advice. Today, we are in an optimistic phase. There are raised expectations, which will be impossible to meet. Apparent negative or contrary results will produce a mood of impossibilism, and this will set in motion a sterile debate in which advocates and critics argue past each other. A more constructive approach is to analyse how the ideal works in practice, while assuming there are limits on achieving the ideal. Rather than despair that restorative justice practices and outcomes vary, I propose we turn variation into a virtue.

In this paper, I present findings from the South Australia Juvenile Justice (SAJJ) research on conferencing project. From observational measures gathered on 89 youth justice conferences, I constructed a measure that differentiates those conferences that were judged by SAJJ observers to have higher levels of 'restorativeness', procedural justice, and coordinator management skill from other, less ideal conferences. This measure is an explicit recognition that some conferences succeed better than others and have more engaged participants who are prepared to think and act in restorative ways. A key question for research is whether it matters if the ideal is reached. For example, do those conferences classified as 'high' on restorativeness, procedural justice, and coordinator skill produce more favourable outcomes for victims and offenders? If we find no association between a measure of conference variability and outcomes for victims and offenders, then the theory of restorative justice is in doubt. However, if we do find that better conferences yield greater positive benefits to victims and offenders, then the theory of restorative justice has merit.

### **SAJJ methodology**

The SAJJ project had two waves of data collection in 1998 and 1999 (see Daly et al. 1998; Daly 2001).<sup>1</sup> In 1998, we observed 89 conferences that were held during a 12-week period in

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<sup>1</sup> Conferencing practices in Australia and New Zealand are varied (see Daly and Hayes 2001). Conferencing in South Australia (as in most other jurisdictions in the region) is 'New Zealand' style, having both a police officer and coordinator present. The Re-Integrative Shaming Experiments (RISE) in Canberra are of 'Wagga' style conferencing, where a police officer runs the conference.

the metropolitan Adelaide area and in two country towns. The conferences were selected on the basis of the offence category. SAJJ-eligible offences were personal crimes of violence and property offences that involved personal victims or community victims such as schools, churches, and housing trusts. Excluded were shoplifts, drug cases, and public order offences. Here are some features of the conference sample:

- Forty-four percent of conferences dealt with personal crimes of violence; the rest dealt with property offences (break and enter, illegal use of a motor vehicle, property damage).
- In two-thirds of conferences, the victim was a personal victim of crime; the rest were an organisational or occupational victim.
- In nearly 30 percent, the victim was injured, and in 70 percent, the victim sustained economic losses.
- In 74 percent of conferences, the victim was present at the conference.
- Half the conferences involved people who were completely unknown to each other.
- In 15 percent of conferences, there was more than one offender in the conference.

For each conference, the police officer and coordinator completed a self-administered survey, and a SAJJ researcher completed a detailed observational instrument. SAJJ researchers aimed to interview all the young people/offenders (YPs, N=107) and the primary victim associated with each offence (N=89) in 1998 and a year later, in 1999. Of a total of 196 offenders and victims, we interviewed 88 percent in year 1; of that group, we interviewed 94 percent in year 2. Therefore, the overall response rate (that is, completed interviews for victims and offenders in years 1 and 2) is 82 percent.

The interview schedules had open- and close-ended items. All the interviews were conducted face to face, except those with victims who did not attend the conference, which were conducted by phone. For the offenders, the length of the interview was 35 to 40

minutes; for the conference victims, the length was 45 to 60 minutes. The interviews were tape-recorded and the open-ended questions were transcribed.

In year 1 the focus of the interviews was on the offenders' and victims' judgments of whether elements of procedural justice and restorativeness were present in the conference. In year 2, we were interested in how the passage of time affected offenders' and victims' judgments of the process and promises made; their attitudes towards each other; whether the conference had an impact on 'staying out of trouble' (for offenders) or on 'getting the offence behind them' (for victims); and for victims, how their experience in the conference process affected (or not) their views of young people and the politics of crime control. In addition to the observational and interview data, the project analysed official police data on the offending histories, pre- and post-conference for the 107 YPs. The findings presented here rely on the quantitative items. I see the project's strength, however, in the blend of quantitative and qualitative data on the conference process and its impact on participants.

### **Procedural justice and restorativeness**

Like other studies of conferencing in Australia (e.g., Palk et al. 1998; Strang et al. 1999), the SAJJ project finds very high levels of procedural justice at conferences. Table 1a gives a small sampling of procedural justice variables; these tap the degree to which conference participants were treated with respect, the conference process was fair, the coordinator acted neutrally, and participants had a say in the outcome. SAJJ observers found that procedural justice was evident in 80 to nearly 100 percent of conferences, depending on the variable. From the interviews with the offenders and victims in 1998 (data not shown here), the SAJJ observations were confirmed: to procedural justice items such as the police treated you fairly, you were treated with respect, you had say, among others, 80 to 95 percent of both groups said they were treated fairly and had a say.<sup>2</sup>

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<sup>2</sup> Space limitations preclude giving more detailed results for these items from the interviews.

Compared to these very high levels of procedural justice, there is relatively less evidence of restorativeness. Table 1b lists a variety of restorativeness indicators in the observational protocol. Some items such as 'the YP accepted responsibility for the offence', 'the YP was actively involved in the conference', and 'the victim was effective in describing the offence and its impact' are indicators of potential restorativeness. Others are more direct measures of whether restorative actions or words of some kind occurred. They include the 'degree of positive movement or mutual understanding between the victim and YP', 'degree of positive movement or mutual understanding between the YP's supporter(s) and the victim or the victim's supporters', 'the YP understands the impact of the crime on the victim', and 'the victim understands the YP's situation'. These direct and relational measures tap the degree to which offenders and victims recognised and were affected by each other; they indicate whether there was positive movement between the offender, victim, and their supporters during the conference. Whereas procedural justice was present in 80 to 95 percent of conferences and potential restorativeness was present in 60 to 80 percent, actual restorative actions or words occurred in about 30 to 50 percent of conferences, and perhaps most solidly in about one-third. These findings suggest that although it is possible to have a fair process, it can be harder for victims and offenders to resolve their conflict completely or to find common ground, at least during the conference itself.

### **Limits on the restorative ideal**

It is essential to explore the finding that restorativeness is more difficult to accomplish than is procedural justice in the conference process. It is often remarked that if conferences do not go well (or do not measure up to the ideal), this may be overcome by better practice and more resources (see discussion in Maxwell and Morris 1996: 108). I am not so sure. Instead, from the SAJJ data, there appear to be limits on offenders' interests to repair harms and on victims' capacities to see offenders in a positive light. Indicative of these limits is a sampling of

responses to interview items by the YPs and the victims who attended conferences (Tables 2a-2d).

From the 1998 YP interviews, about 30 percent said that the conference was not important to them, half had not thought about what they would do or say to the victim at the conference, and half said that the victim's (or victim representative's) story had an effect on them (Table 2a). While very high proportions of the YPs said they had a better understanding of how their behaviour affected the victim (87 percent), a slim majority (58 percent) said they felt sorry for the victim. Some 58 percent said it was more important to make the victim feel better than to get what they wanted, while in another item, about 40 percent said it was more important to do something for the victim than to be treated fairly. These latter items suggest that the YPs are split between those who are other-regarding (make victim feel better, do something for the victim) and self-regarding (get what I wanted, be treated fairly). Therefore, while some offenders are prepared to act in ways that can produce the restorative ideal, others are less willing.

The 1998 victim interviews also show a mixed bag of restorative interests and capacities: most victims (over 60 percent) said that the YP's account of the offence had little impact on them, and about half said they have a better understanding of why the YP committed the offence (Table 2b). Like the YPs, the victims were split in their other- and self-regarding interests: a slim majority (56 percent) said it was more important to connect at a personal level with the YP than to get what they wanted, and 43 percent said it was more important to find common ground with the offender than to be treated fairly. While relatively small percentages of victims and YPs (15 to 16 percent) thought the conference was a waste of time, their restorative and 'other-regarding' orientations were more mixed and equivocal.

Selected items from the 1999 YP and victim interviews reveal other constraints on the restorative ideal (Tables 2c and 2d). Many victims did not believe that the YPs were really

sorry for what they did. Whereas 28 percent of victims thought the YP was really sorry, a substantially higher share of the YPs (68 percent) said that they were. (In analysing the smaller subset of YP and victim pairs, the percentages are similar.) One feature of a restorative justice process is that 'bad acts' should be distinguished from 'good actors' (Braithwaite 1989). Most victims (68 percent) saw young people as good actors and most YPs (68 percent) believed that victims saw them in this positive light. However, about one-third of the victims believed that the YP was a 'bad person' with a similar percentage of YPs believing that victims saw them in this negative light. Conference victims in 1999 were split between those who thought it was more important that the YP make up by paying money or doing work (44 percent) and those who thought it was more important that the YP make a genuine apology (40 percent).

### **How often do conferences succeed in optimal ways?**

The foregoing results show that conferences display varying degrees of restorativeness, along with varied interests and capacities of victims and offenders to see each other in positive or other-regarding ways. To capture this variability compactly, I devised a measure that combined the SAJJ observer's judgment of the degree to which a conference 'ended on a high, a positive note of repair and good will' with one that rated the conference on a 5-point scale ranging from poor to exceptional. While the first measure taps the degree of movement of victims and offenders (or their supporters) toward each other, the second taps elements of procedural justice and coordinator skill in managing the conference. The conference measure initially had four levels: ended on a high and rated very highly (10 percent), ended on a high and rated good (40 percent), did not end on a high and a fair/good rating (20 percent), and did not end on a high and a fair/poor rating (30 percent). I collapsed the four levels into two, with a measure that distinguished between 'high/good' and 'low/mixed' conference

classifications. These groups are nearly identical in size (N=45 for high/good and N=44 for low/mixed).

I then analysed the relationship of the high/low conference measure to several clusters of variables, including the type of offence, conference attendance and numbers, offender and victim demographics, in addition to measures of procedural justice, restorativeness, coordinator skill. To have construct validity, the high/low measure should be able to distinguish between conferences that have more and less restorativeness, procedural justice, and skillful work by coordinators. In addition, I was interested to determine if other conference elements were associated with the high/low measure. Table 3 presents a series of 2 x 2 tables, using the Phi statistic as the measure of association, to determine which variables are associated with the high/low measure. (The table also shows the frequency of each independent variable; for example, in Table 3c, 76 percent of primary offenders are male, 80 percent are white Australian, and 51 percent of primary victims are male.)

Table 3 reveals some fascinating patterns. First, there is no association between high/low conferences and characteristics of the offence, including victim-offender relationship, type of offence, type of victim, and number of offenders in the whole offence (Table 3a). Second, there is no association between high/low conferences and the number of people at the conference, whether the victim was present at the conference, the number of YPs at the conference, or the degree of emotionality present (such as participants crying) (Table 3b). These results challenge the conventional wisdom that conferences are more likely to be successful when victims are present and the number of participants is higher than average. Third, some demographic features of victims and offenders are related to the conference measure. Of the conferences with white Australian offenders, 55 percent are classified high, whereas of those with Aboriginal or other ethnic group offenders, 33 percent are so classified. In addition to the race-ethnicity of the offender, conferences with male

victims or with child/adolescent victims are more likely classified high (Table 3c). I did not expect these findings and do not yet have a satisfying explanation for them.

Almost all of the measures of procedural justice, restorativeness, and coordinator skill are associated with the high/low classification in the expected direction (Tables 3d-3f). High conferences are associated with the SAJJ observer's judgment that the process of deciding the outcome was fair, the coordinator seemed impartial, the young person understood the relationship between the offence and the outcome, and the outcome was decided by genuine consensus (Table 3d). With very high observed levels of procedural justice (95 percent or higher), some procedural justice variables cannot be used to distinguish high/low conferences. For the restorativeness indicators, high conferences are associated with offenders giving a clear story of what happened, being actively involved in the conference, being remorseful, apologising to the victim or victim representative (both spontaneously or having to be drawn out), assuring the victim the behaviour wouldn't happen again, and understanding the impact of the crime on the victim. High conferences are associated with victims' effectiveness in describing the offence and its impact, victims' understanding of the YP's situation, positive movement or mutual understanding between the victim and YP or between the victim (or victim supporters) and the YP or YP's supporters, and coordinator skill in managing movement through the conference stages and negotiating the outcome well. There are only two variables that show no association with the high/low measure: whether the YP accepted responsibility for the offence or was defiant.

These results tell us three things. First, each of the five SAJJ observers was consistent in their global conference ratings (measures of 'ended on high' and 'overall conference rating') and the many items tapping procedural justice, restorativeness, and coordinator skill. Second, and of significant theoretical interest, it is possible to identify a set of activities and behaviours that are related to better conferences, or to enhanced levels of actions and

behaviours anticipated by restorative justice theory. Finally, the high/low measure has construct validity as a compact measure of procedural justice, restorativeness, and coordinator skill. It should be emphasised that because procedural justice and coordinator skill are evident in a high share of conferences (80 to 95 percent), whereas restorativeness is more varied and relatively less evident (30 to 80 percent), 'high' conferences are those that have a greater degree of restorativeness, along with very high levels of procedural justice and coordinator skill.

### **High or low conference: does it matter?**

A major untested assumption in the literature is that when conferences succeed in optimal ways, there are positive effects for participants. For example, it is thought that if offenders learn from a restorative justice encounter to develop more empathetic feelings about the impact of crime on victims, they may be deterred from future offending. It is also believed that the conference process may assist in victims' recovery from crime. One way to test the theory of restorative justice is to determine whether conference variation, as measured by the high/low variable, is associated with variation in victims' and offenders' post-conference behaviour and attitudes.

I carried out analyses of the high/low measure with items from the offender and victim interviews and with measures of the YP's post conference re-offending. Tables 4 and 5 present a series of 2 x 2 and 2 x 3 tables, with the appropriate Phi and Chi-square statistical tests of association. In general, the results show that the high/low measure is predictive of offender attitudes toward the victim and toward the law, of victim attitudes toward offenders, and of both victims' and offenders' global judgments of the conference experience -- all in the expected direction. The 1998 interviews were conducted one week to two months after the conference (the median time was 25 to 33 days for the YPs and victims, respectively). Therefore, the temporal ordering of the conference followed by participants' reflections on

their experience (or official data on re-offending 8 to 12 months post conference) could invite a claim of causal effects of the conference. However, as we will see for some variables, the high/low measure resulted, in part, from orientations and capacities that offenders and victims brought with them to the conference.

Before turning to a discussion of the results, a word on statistical significance is in order. When the Phi coefficient is .12 to .14 in magnitude, it nears statistical significance for the YP analyses, but is just above the .15 error level. Because statistical significance is based partly on sample size (that is, there needs to be an even greater percentage point difference as the sample size grows smaller because of sampling error), we need to be mindful that some variables, while not statistically significant, are of substantial magnitude and related in the predicted direction. This is particularly important in characterising the results for the victims, for whom the Phi coefficient needs to be even larger to reach statistical significance compared to the YPs. This is because the number of YPs in the analysis (about 90) is larger than the number of victims (about 60).

From the YP interview results (Table 4), we can see the difficulty of making causal claims about conference effects. While high conferences may have enhanced positive effects on offenders compared to low conferences, what young people bring to a conference can also matter. The items asking the YPs about the degree of anger they felt toward the victim before and after the conference suggest there was a conference effect of reducing YP anger: while there is no statistically significant association between pre-conference anger and high/low conferences, there is a definite post-conference difference. A different pattern is evident for the items asking if the YP felt sorry for the victim before and after the conference. High conferences are associated with YPs who said they felt sorry for the victim both before and

after the conference. High conferences are also related to YPs who are 'other-regarding',<sup>3</sup> although this measure (like the 'sorry' items) may be tapping what the YPs bring to the conference as well as what they take from it.

For the YP's global judgment of the conference experience, high conferences are inversely related to those who said the conference was a waste of time, and positively related to those who said that they would go to a conference again and would recommend conferencing to friends who get into trouble. Three other measures, the YP's recommendation that the government keep conferencing, satisfaction with how his/her case was handled, and being involved in the agreement discussion, are in the predicted direction, but not statistically significant.

For the impact of the conference on changing the YP's attitude toward the legal system and the police, and toward more law-abiding behaviour, the results suggest that better conferences achieve these results (Table 4d). For items asking whether their respect for the legal system and police went up, down, or remained the same, for those YPs who said their respect went down (about 12 percent), few were in high conferences. The Chi-square statistic was significant for 'respect for legal system' and just neared significance for 'respect for police'. High conferences are also linked with those who said that what happened in the conference would encourage them to obey the law.

For re-offending, 38 to 40 percent of the YPs (depending on which group is analysed) re-offended one or more times 8 to 12 months after the conference. Details on the data and methods for this analysis are available in Hayes and Daly (2001); re-offending was defined as officially detected illegalities, which were dealt with by formal caution, conference, or court.

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<sup>3</sup> In coding this other-regarding variable, I found that when YPs said 'both equally' (both making the victim feel better and get what you wanted), they were more likely to have been in high conferences. Thus, I constructed the variable with code 1 including this 'mixed response'.

For all the YPs (N=107) and those interviewed in 1998 (N=93), there is a statistically significant inverse relationship between the YP participating in a high conferences and re-offending. (For the N=89 primary offenders, the Phi coefficient neared statistical significance.) These are important and striking results. They show that when conferences have higher levels of restorativeness and very high levels of procedural justice and coordinator skill, young people are less likely to re-offend.

Table 4f explores the relationship between the YP's re-offending and items in the 1998 YP interview. Re-offending is more likely when the YPs say that as a result of the conference, their respect for the legal system and for the law went down. Re-offending is less likely when the YPs say that as a result of the conference, their respect for the police went up, and that what happened at the conference would encourage them to obey the law. There is no relationship between the YP's participation in the agreement discussion and re-offending.

From the 1998 conference victim interviews, we see that like the YPs, the attitudes that victims bring to a conference contribute to the high/low classification; at the same time, high conferences can be said to produce positive outcomes (Table 5a). Victims in high conferences are significantly less likely to say they felt frightened of the offender after the conference, and less likely to say they felt angry toward the offender after the conference (neared statistical significance); both results suggest an enhanced effect of reductions in victim's fear and anger in high conferences. However, high conferences are associated with victims who felt positive or neutral toward the YP both before and after the conference. This means that the victims' attitudes toward the YP before the conference likely affected how the conference went.

Like the YPs, there is no relationship between a victim's own sense of being involved in the agreement discussion and a high/low conference (Table 5b). Also in line with the YPs, there is an association between global judgments of the conference experience and high/low

conferences. In 1998, low conferences are related to victims' judgments of the conference being a waste of time, and high conferences, with being satisfied by how their case was handled (Table 5c).

A puzzling set of findings emerges for victim recovery (Table 5d). In 1998, high conferences are related to victims saying that the conference was helpful in overcoming emotional or psychological effects of crime. However, when asked in 1999 whether they had fully recovered from the incident or only partly recovered from it, high conferences are not related to victim recovery. In fact, the sign of the coefficient shows that high conferences are associated with partial recovery (although not statistically significant). A third variable, which asked if the conference process aided the victim in recovering from the offence, shows no relationship to the high/low measure. These results suggest that while the conference process may have an immediate positive effect on victims, over time, other things may make more of a difference.

Victims' attitudes toward offenders in 1999 suggest that high conferences continue to be associated with reductions in victims' fear toward offenders (Table 5e). A new attitude measure in the 1999 interview -- the victim's judgment of the YP as a 'good' or 'bad' person -- shows that high conferences are associated with victims who see the YP as a good person. In other analyses not shown here, this measure also proves to be strongly related to victims' recovery: of those victims who said they had fully recovered from the offence, 81 percent said the YP was a good person; whereas of those who had partly recovered from the offence, 48 percent saw the YP as a good person. The good/bad person measure is also strongly related to victims' attitudes toward the offender before and after the conference (from the 1998 interview) and with the victims' attitudes toward the offender in the 1999 interviews. Thus, while high conferences are associated with changes in victim attitudes toward

offenders, for one-third of victims, their attitudes toward YPs are fixed and generally unmoved by the conference experience.

Global judgments of the conference by victims in 1999 show that high conferences are related to victims saying that the conference was worthwhile and being satisfied with how their case was handled. While high conferences are related to victims who were pleased their case went to conference rather than court, the result was not statistically significant.

### **Making variation a virtue**

From the SAJJ project, we see high levels of procedural justice: observational and interview data show that the conference process is viewed as fair and conference participants are treated fairly, with respect, and have a say. At the same time, it is relatively harder for victims and offenders to find common ground with each other and to recognise 'the other'. For these and other measures of restorativeness, there appear to be limits on victims' capacities to see offenders in a positive light and on offenders' capacities to feel sorry for what they did and to be affected by victims' accounts of the incident.

Contrary to the moving stories of repair and goodwill between victims, offenders, and their supporters that populate the literature (e.g., Braithwaite 1996: 9; Umbreit 1994: 1, 197-202), the high/low measure devised from the SAJJ conferences suggests that half can be characterised as high/good with a smaller share (10 percent) as especially high. It is important to keep in mind that South Australia is a high-volume conference jurisdiction, where conferences are used routinely, not selectively, and for more serious kinds of offences (see Daly and Hayes 2001 for a review of jurisdictional variation). Thus, when conferences are applied to large and diverse populations, we should expect to see a good deal of variation in the degree to which they succeed, especially on indicators of restorativeness. Rather than seeing failure in conferences that do not 'measure up', I have proposed that we turn variation

into a virtue. By making variation explicit and expectable, we are able to test the theory of restorative justice and its limits.

The high/low conference measure has high construct validity: all of the behaviours and movements one ideally hopes to see in conferences occurred to a significantly greater degree in the high conferences than in the low conferences. One way to test the theory of restorative justice is to determine whether it matters to victims and offenders if a conference succeeds in optimal ways. The results suggest that generally it can and does matter: high conferences are associated with a range of positive benefits. For offenders, high conferences are associated with some improvement in their attitudes toward the victim, with even stronger positive evaluations of their conference experiences, with increased respect for the legal system and the police, and with reduced levels of re-offending. For victims, high conferences are associated with reduced anger toward and fear of the offender, with even stronger positive evaluations of their conference experience, but with mixed results for victim recovery.

While high conferences are associated with increased levels of positive 'effects' for victims and offenders, in comparison to low conferences, I have cautioned against making strong causal claims about conference effects. One reason that conferences succeed or fail is that offenders and/or victims come to conferences with varied degrees of readiness to make the process work. Here is where we see the limits of restorative justice theory. Offenders and victims are not equally disposed to be restorative toward each other, to listen to each other, or to be willing to repair harms. Some come to conferences with negative orientations and closed minds that cannot be changed, and others come with positive orientations and open minds. The conference process may engage restorative orientations already present in offenders and victims, or it may create openings for those orientations to emerge. However, for those victims with fixed negative attitudes (e.g., those who think the offender is a 'bad

person'), the conference process is unlikely to move them in a more positive or restorative direction.

Research and policy in criminal justice are not well served by the poles of idealism and impossibilism in evaluating new justice ideas. For youth justice conferences, we need to analyse the degree to which the process succeeds, assuming all the while that there are limits on individuals' capacities and interests to think and act restoratively. We should expect variation in restorative processes and outcomes; without it, we would be unable to test the theory of restorative justice. Variation occurs because there is both potential for and limits on transforming relations between victims and offenders in the aftermath of crime.

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**Table 1. Indicators of procedural justice and restorativeness  
(SAJJ observers' judgments for N=89 conferences)**

**A. Indicators of procedural justice**

Process of deciding the outcome was fair <i>[agree/strongly agree]</i>	89%
Police officer talked to or treated YP in a respectful manner <i>[agree/strongly agree]</i>	99%
Coordinator permitted everyone to have their say <i>[agree/strongly agree]</i>	97%
Coordinator seemed impartial, not aligned with any one person <i>[agree/strongly agree]</i>	93%
YP was respectful to the police officer present <i>[agree/strongly agree]</i>	94%

**B. Indicators of restorativeness**

YP gave a clear story for what happened <i>[yes, mostly/fully]</i>	71%
YP accepted responsibility for the offence? <i>[yes, mostly or fully]</i>	62%
YP was actively involved in the conference <i>[yes, mostly or fully]</i>	78%
YP was remorseful for his/her actions? <i>[yes, mostly or fully]</i>	49%
YP was defiant (cocky, bold, brashly confident) (indicator of non-restorative behaviour) <i>[somewhat, mostly, or fully]</i>	30%
For conferences where the victim or rep was present (N=71)	
YP made spontaneous apology to victim or rep <i>[yes, mostly or fully]</i>	41%
Victim was effective in describing the offence and its impact <i>[yes, mostly or highly]</i>	72%
YP assured victim the behaviour wouldn't happen again <i>[yes, mostly/fully]</i>	58%
YP understood the impact of the crime on victim <i>[yes, mostly or fully]</i>	51%
Victim understood YP's situation <i>[yes, mostly or fully]</i>	34%
Positive movement or mutual understanding between the victim and YP, expressed in words <i>[yes, mostly/fully]</i>	31%
Positive movement or mutual understanding between YP supporters and victim (or victim supporters) <i>[yes, mostly/fully]</i>	37%

**Table 2. Limits on the restorative ideal****A. YP interviews in 1998 (N=93 YPs)**

Before the conference, was it important to you? <i>[no]</i>	31%
Before the conference, did you think about what you wanted to do or to say to the victim? <i>[no, not at all]</i>	53%
After listening to the victim or rep's story, did it have an effect on you?^ <i>[no, not at all or not much]</i>	49%
At the conference, was it more important to you to make the victim feel better or to get what you wanted? <i>[make victim feel better]*</i>	58%
Looking back at the conference, was it more important that you be treated fairly or that you were able to do something for the victim? <i>[do something for the victim]**</i>	39%
As a result of the conference, you have a better understanding of how your behaviour affected the victim <i>[agree]</i>	87%
The conference was largely a waste of time <i>[agree]</i>	15%
Before the conference & now: how sorry did/do you feel for the victim	
still not sorry at all	19% \ 42%
feel less sorry for victim after the conference	23 /
still a bit, somewhat, or very sorry	45 \ 58%
more sorry for victim after the conference	13 /
	---

**B. Victim interviews in 1998 (N=61 conference victims)**

Before the conference, did you think about what you wanted to say to YP? <i>[no, not at all]</i>	34%
In listening to the YP's account of the offence, how much impact did it have on you? <i>[none or not much]</i>	62%
At the conference, was it more important to you to connect at a personal level with YP or to get what you wanted? <i>[connect at personal level]*</i>	56%
Looking back at the conference, was it more important that you be treated fairly or that you find common ground with the offender? <i>[find common ground]**</i>	43%
As a result of the conference, you have a better understanding of why YP committed the offending behaviour <i>[agree]</i>	53%
The conference was largely a waste of time <i>[agree]</i>	16%

**C. YP interviews in 1999 (only YPs with conference victims present)**

What was the main reason you apologised to the victim at the conference?  
(N=60 YPs with known apologies)

Didn't feel sorry, but thought you'd get off easier	10%
Felt pushed into saying sorry	15
Thought it would make your family feel better	7
You wanted the victim to know you really were sorry	68
	---

What do you think the victim would say about you? (N=62 YPs)

You did a bad thing because of who you are	26%
You're not bad, but what you did was bad	68
YP says do not know	6
	---

**D. Victim interviews in 1999 (N=57 conference victims)**

What was the main reason YP apologised at the conference?  
(N=54 conference victims with known apologies)

YP wasn't sorry, but thought s/he would get off easier	31%
YP was pushed into saying sorry	26
YP thought it would make family feel better	15
YP was really sorry	28
	---

How would you describe the offender?

YP did a bad thing because of who they are	32%
YP is OK, but what s/he did was bad	68
	---

What was more important to you?

YP make genuine apology	40%
YP pay money or do work	44
both equally	11
neither	5
	---

## Table 2 notes

^Responses are of N=73 YPs in 1998 for whom a victim was present at the conference.

\*Detailed responses for the YPs in 1998 were: make victim feel better (58%), make sure I got what I wanted (16%), both equally (17%), and neither (9%). For the victims in 1998: connect with YP (56%), get what I wanted (33%), both equally (1%), and neither (10%).

\*\*Detailed responses for the YPs in 1998 were: be treated fairly (40%), do something for the victim (39%), both equally (20%), and neither (1%). For the victims in 1998: be treated fairly (49%), find common ground (43%), both equally (5%), and neither (3%).

**Table 3. Relationship between the conference high-low classification and observed features of the conference process**

Frequencies for each variable are given for the level of the independent variable coded "1".

Of the 89 conferences, N=45 were classified high/good (coded 1)  
N=44 were classified low/mixed (coded 0)

Row percentages are shown for each level of the independent variable.

	Conference classified high	low	phi & stat sig
<b>A. Features of the offence</b>			
Victim-offender relations			
1=known to each other, including by sight (52%)	52	48	.03 ns
0=strangers, had never seen before	49	51	
Type of offence			
1=violence (assault, sexual assault, robbery) (44%)	46	54	-.08 ns
0=rest (break & enter, prop damage, illegal use or theft of car, embezzlement)	54	46	
Type of victim			
1=personal, including personal-organisational and personal-occupational (80%)	49	51	-.05 ns
0=organisation only	56	44	
Number of offenders in the whole offence			
1=two or more (55%)	53	47	.05 ns
0=one	48	52	
<b>B. Conference attendance, numbers, and indicator of emotion</b>			
Number of YPs at the conference			
1=two or more (12%)	64	36	.10 ns
0=one	49	51	
Victim was present at conference			
1=yes (74%)	50	50	-.02 ns
0=no	52	48	
Victim or victim rep was present at conference			
1=yes (80%)	49	51	-.05 ns
0=no	56	44	
Number of conference participants (excluding police officer and coordinator)			
1=6 or more (higher than average) (30%)	58	42	.09 ns
0=5 or less	48	52	
Participants were crying during the conference			
1=yes (25%)	50	50	-.01 ns
0=no	51	49	

	Conference classified		phi & stat sig
	high	low	
<b>C. YP and offence victim+ demographics</b>			
Sex of primary YP			
1=male (76%)	52	48	.03 ns
0=female	48	52	
Race-ethnicity of primary YP			
1=white Australian (80%)	55	45	.17**
0=Aboriginal or other ethnic group	33	67	
Sex of primary offence victim			
1=male (51%)	62	38	.24***
0=female	39	61	
Race-ethnicity of offence victim			
1=white Australian (84%)	53	47	.13 ns
0=Aboriginal or other ethnic group	36	64	
Age of offence victim			
1=adult, 18 years or older (72%)	42	58	-.27****
0=child or adolescent	72	28	
<b>D. Indicators of procedural justice and conference outcome</b>			
Process of deciding the outcome was fair			
1=agree (89%)	56	44	.29****
0=disagree	10	90	
Police officer talked to or treated YP in a respectful manner			
1=agree (99%)		see note	
Coordinator permitted everyone to have their say			
1=agree (98%)		see note	
Coordinator seemed impartial, not aligned with any one person			
1=agree (93%)	53	47	.18**
0=disagree	17	83	
YP understands relationship between the offence and outcome			
1=agree (80%)	62	38	.45****
0=disagree	6	94	
Outcome was decided by genuine consensus			
1=yes (65%)	69	31	.50****
0=YP accepted w/ modification by police officer or w/reluctance	16	84	

	Conference classified		phi & stat sig
	high	low	
<b>E. Indicators of restorativeness</b>			
YP gave a clear story of what happened 1=mostly or fully (71%) 0=somewhat or not at all	56 39	44 61	.16*
YP accepted responsibility for the offence 1=mostly or fully (62%) 0=somewhat or not at all	53 47	47 53	.06 ns
YP was actively involved in the conference 1=mostly or fully (78%) 0=somewhat or not at all	59 20	41 80	.33****
YP was remorseful for his/her actions 1=mostly or fully (49%) 0=somewhat or not at all	66 36	34 64	.30****
YP was defiant (indicator of non-restorative behaviour) 1=somewhat, mostly, or fully (30%) 0=not at all	44 53	56 47	-.08 ns
YP made a spontaneous apology to victim or rep^ 1=mostly or fully (41%) 0=had to be drawn out or not at all	66 38	34 62	.25**
YP made any apology to victim or rep^ 1=yes, including had to be drawn out (73%) 0=not at all	56 32	44 68	.21**
Victim was effective in describing the offence^ and its impact 1=mostly or fully (72%) 0=somewhat or not at all	59 25	41 75	.30****
YP assured victim the behaviour wouldn't happen again^ 1=mostly or fully (58%) 0=somewhat or not at all	59 37	41 63	.22**
YP understands the impact of the crime on the victim^ 1=mostly or fully (52%) 0=somewhat or not at all	62 35	38 65	.27***
Victim understands the YP's situation^ 1=mostly or fully (34%) 0=somewhat or not at all	79 34	21 66	.43****
Positive movement or mutual understanding between the victim and YP, expressed in words^ 1=mostly or fully (31%) 0=somewhat or not at all	82 35	18 65	.44****
Positive movement or mutual understanding between YP supporters and victim (or victim supporters), expressed in words^ 1=mostly or fully (37%) 0=somewhat or not at all	73 36	27 64	.36****

	Conference classified		phi & stat sig
	high	low	
<b>F. Coordinator skill</b>			
Coordinator managed movement through conference stages well			
1=agree (91%)	56	44	.32****
0=disagree	0	100	
Coordinator negotiated the outcome well			
1=agree (89%)	56	44	.29****
0=disagree	10	90	

## Table 3 notes

^Percents shown are of N=71 conferences for which victims or victim reps were present. Of these, 35 were classified high/good and 36, low/mixed.

+Characteristics of *offence* victims can differ from those for *conference* victims in that the latter group may be speaking on behalf of a direct victim at the conference. Of the 89 conferences, 71 were attended by victims or victim representatives, of whom 5 were from the Victim Support Services and 2 were parents speaking on behalf of their children.

ns not significant  
 \* significant at .15 level  
 \*\* significant at .10 level  
 \*\*\* significant at .05 level  
 \*\*\*\*significant at .01 level

Observed levels of procedural justice are so high for some variables (e.g., greater than 95%) that it is inappropriate to test for differences between the high/low groups.

**Table 4. High/low conference: Does it matter to offenders?**  
(1998 interview, N=93 YPs)

Of the 93 YPs in 1998, N=47 were in conferences classified high/good (coded 1)  
N=46 were in conferences classified low/mixed (coded 0)

For re-offending using police data, three N-sized groups are shown (N=107 all YPs,  
N=89 primary YPs, and N=93 YPs interviewed in 1998)

	Conference classified		phi & stat sig
	high	low	
<b>A. Indicators of attitudes toward the victim</b>			
From the conference, you have a better understanding of how your behaviour affected the victim			
1=agree (87%)	52	48	.07 ns
0=disagree	42	58	
Feel angry about the victim before the conference			
1=not at all (75%)	54	46	.13 ns
0=yes, a little, somewhat, or a lot	39	61	
Feel angry about the victim now, after the conference			
1=not at all (83%)	56	44	.23***
0=yes, a little, somewhat, or a lot	25	75	
Feel sorry for the victim before the conference			
1=yes, a little, somewhat, or a lot (74%)	55	45	.15*
0=not at all	38	62	
Feel sorry for the victim now, after the conference			
1=yes, a little, some or a lot (75%)	59	41	.28****
0=not at all	26	74	
At conference, what was more important,			
1=make victim feel better and mixed response (75%)	56	44	.18**
0=get what you wanted and neither	35	65	
Looking back, what was more important			
1=do something for the victim and mixed response (59%)	56	44	.14 ns
0=be treated fairly and neither	42	58	
<b>B. Participation in agreement discussion</b>			
YP said that s/he was involved in the agreement discussion			
1=yes (76%)	54	46	.11 ns
0=no	41	59	
<b>C. Global judgments of conference experience</b>			
Conference was largely a waste of time			
1=agree (15%)	29	71	-.19***
0=disagree	54	46	
Would you go to a conference again?			
1=yes (86%)	55	45	.22***
0=no or not sure	23	77	

	Conference classified high	low	phi or chi sq & stat sig
Would you recommend conferencing to friends who get into trouble?			
1=yes (90%)	54	46	.19**
0=no or not sure	22	78	
Would you recommend the government keep conferencing?			
1=yes (93%)	52	48	.13 ns
0=no	29	71	
Were you satisfied with how your case was handled?			
1=yes (90%)	52	48	.11 ns
0=no	33	67	

#### D. Indicators of attitudes toward law and staying out of trouble

As a result of the conference, respect for legal system			
has gone down (12%)	27	73	Chi sq
has stayed the same (49%)	59	41	3.8*
has gone up (39%)	47	53	
As a result of the conference, respect for the police			
has gone down (13%)	25	75	Chi sq
has stayed the same (58%)	54	46	3.7 ns
has gone up (29%)	56	44	
As a result of conference, respect for the law			
has gone down (4%)	50	50	Chi sq
has stayed the same (46%)	58	42	1.9 ns
has gone up (50%)	50	49	
What happened in the conference will encourage you to obey the law			
1=agree (75%)	56	44	.18**
0=disagree	35	65	

#### E. Indicators of re-offending (official police data)

Offended one or more times 8 to 12 months after the conference (measure of prevalence)			
<i>All N=107 YPs</i>			
1=yes (38%)	42	58	-.14*
0=no	56	44	
<i>N=93 YPs interviewed in 1998</i>			
1=yes (37%)	38	62	-.19**
0=no	58	42	
<i>N=89 primary YPs</i>			
1=yes (40%)	42	58	-.15 ns
0=no	57	43	

**F. Relationship between officially detected re-offending and conference impact on changing attitudes toward law and re-offending**

Of 93 YPs, N=34 re-offended 8 to 12 months after the conference (coded 1)  
N=59 did not re-offend (coded 0)

	re-offended 8-12 mos after conference		
	no	yes	
As a result of the conference, respect for legal system			
has gone down (12%)	36	64	Chi sq
has stayed the same (49%)	61	39	5.7**
has gone up (39%)	75	25	
As a result of the conference, respect for the police			
has gone down (13%)	50	50	Chi sq
has stayed the same (58%)	57	43	5.6**
has gone up (29%)	82	18	
As a result of conference, respect for the law			
has gone down (4%)	25	75	Chi sq
has stayed the same (46%)	56	44	5.8**
has gone up (50%)	74	26	
What happened in the conference will encourage you to obey the law			
1=agree (75%)	69	31	-.19**
0=disagree	48	52	
YP said that they were involved in the agreement discussion			
1=yes (76%)	65	35	-.05 ns
0=no	59	41	

Table 4 notes

ns not significant  
\* significant at .15 level  
\*\* significant at .10 level  
\*\*\* significant at .05 level  
\*\*\*\*significant at .01 level

**Table 5. High/low conference: does it matter to conference victims?**

(1998, N=61 victims who attended the conference, N=32 conferences were classified high/good (coded 1) and N=29 were classified low/mixed (coded 0)

(1999, N=57 victims who attended the conference, N=31 conferences were classified high/good (coded 1) and N=26 were classified low/mixed (coded 0)

Conference  
classified  
high low phi or  
chi sq &  
stat sig

**A. Indicators of attitudes toward the YP in 1998**

As a result of the conference, you have a better understanding of why YP committed the offending behaviour

1=agree (53%) 56 44 .08 ns  
0=disagree 48 52

Feel angry toward YP before conference

1=no, not at all (23%) 50 50 -.03 ns  
0=a little, somewhat, or a lot 53 47

Feel angry toward YP now, after the conference

1=no, not at all (56%) 59 41 .14 ns  
0=a little, somewhat, or a lot 44 56

Feel frightened of YP before conference

1=no, not at all (62%) 55 45 .07 ns  
0=a little, somewhat, or a lot 48 52

Feel frightened of YP now, after the conference

1=no, not at all (75%) 59 41 .22\*\*  
0=a little, somewhat, or a lot 33 67

At conference, what was more important,

1=connect with YP and mixed response (57%) 57 43 .11 ns  
0=get what you wanted and neither 46 54

Looking back, what was more important,

1=find common ground and mixed response (48%) 59 41 .12 ns  
0=be treated fairly and neither 47 53

Before conference, feelings toward the YP

positive and neutral (39%) 67 33 .23\*\*  
negative 43 57

After conference, feelings toward the YP

positive and neutral (67%) 59 41 .17 ns  
negative 40 60

**B. Participation in agreement discussion in 1998**

Vic said that s/he was involved in the agreement discussion

1=yes (79%) 54 46 .07 ns  
0=no 46 54

	Conference classified high	low	phi or chi sq & stat sig
<b>C. Global judgments of conference experience in 1998</b>			
Conference was largely a waste of time			
1=agree (16%)	30	70	-.20**
0=disagree	57	43	
Would you go to a conference again			
1=yes (84%)	55	45	.11 ns
0=no or unsure	40	60	
Recommend conferencing to other victims of crime			
1=yes (87%)	55	45	.12 ns
0=no or unsure	38	62	
Satisfied with how your case was handled?			
1=yes (82%)	58	42	.24**
0=no	27	73	
<b>D. Indicators of conference impact on victim recovery in 1998 and 1999</b>			
Conference was helpful in overcoming emotional or psychological effects of crime (1998)			
1=yes, helpful^ (20%)	78	22	.25**
0=no	46	54	
How victim feels about the incident in 1999			
1=all behind me, have fully recovered (63%)	50	50	-.12 ns
0=partly behind me, not recovered	62	38	
What was more important to get offence behind you, participation in justice process or only things you could do for yourself?			
1=participation in the justice process and both (60%)	59	41	.11 ns
0=only things I could do for myself or neither	48	52	
<b>E. Indicators of attitudes toward the YP in 1999</b>			
Feel angry toward YP in 99			
1=not at all (61%)	57	43	.07 ns
0=a little, somewhat, or a lot	50	50	
Feel frightened of YP in 99			
1=not at all (83%)	60	40	.23**
0=a little, somewhat, or a lot	30	70	
Attitude toward YP in 99			
positive and neutral (60%)	62	38	.18 ns
negative	44	56	
Thinks that the YP is OK, but what s/he did was bad			
1=yes (68%)	62	38	.21*
0=no (YP seen as bad person)	39	61	

	Conference classified high	low	phi or chi sq & stat sig
<b>F. Global judgments of conference experience and conferencing as a response to crime in 1999</b>			
Was the conference worthwhile?			
1=yes (79%)	62	38	.31***
0=no or unsure	25	75	
Were you satisfied with how your case handled?			
1=yes (75%)	61	39	.21**
0=no	36	64	
Pleased your case went to conference or wish it had been dealt with in court?			
1=conference ok (83%)	57	43	.13 ns
0=wish it had gone to court	40	60	

Tables 5 notes

^In the 1998 victim interview, for the item asking if the conference was helpful in overcoming non-material harms, this was asked only of the 46 victims who said they had these problems (22 were in the low/mixed, and 24 were in the high/good categories).

\* sig at .15 level  
 \*\* sig at .10 level  
 \*\*\* sig at .05 level  
 \*\*\*\*sig at .10 level