



# Restorative Justice

## Case studies

# CASE STUDIES

## Introduction

This document presents nine case studies that provide in-depth examples of the social, wellbeing and cultural outcomes achieved through restorative justice conferencing. Much of the national evidence about the effectiveness of conferencing is based on the assessment of criminogenic outcomes, such as reductions in reoffending. However, an exclusive focus on reoffending fails to capture other important benefits for victims, young people and families, such as: offenders taking responsibility for their actions; the healing benefits for victims; reductions in fear of crime; material restoration; the reintegration of marginalised young people back into their communities; and conflict resolution (Suzuki, 2017, p. 7; Larsen, 2014; Cunneen & Luke, 2007). The case studies also provide a practitioner account of the conferencing process and include reflections about key elements of effective practice. All cases have been anonymised and prepared with the consent of the young people and participants of the conference.

## Social, wellbeing and cultural outcomes

The case studies highlight a number of positive outcomes for young people, victims and families which are summarised below in Box 1.

### Box 1. Social, wellbeing and cultural outcomes

#### Outcomes for young people

- Helping young people to gain insight into their behaviour and impact on others.
- Providing young people with an opportunity to apologise, take responsibility for their actions and make appropriate reparation to help make things right.
- Healing and repairing relationships between young people, victim(s) and the community.
- Linking young people to a 'community of care' and support networks (e.g. family members, support services and community organisations).
- Reintegrating young people back into their community and preventing social exclusion.

#### Outcomes for victims

- Providing victims with the opportunity to meet with the offender so they can tell their story; explain the impact of the crime; and express their feelings and needs.
- Helping victims to understand more about the offender and providing reassurance that the victim was not deliberately targeted by the offender.
- Restoring the victim's sense of safety and security and reducing feelings of anger and a desire for revenge.
- Empowering victims by giving them a voice and providing an opportunity for them to be involved in the justice process and decision making about how the young person will repair the harm caused by their offending behaviour.
- Helping victims to attain closure and heal from traumatic experiences.
- Providing material reparation for victims.

#### Benefits for families and communities

- Empowering families by involving them in decision-making about their child's behaviour.
- Helping family members to better understand their child's actions; what support is available; and what strategies may help to reduce the risk of future offending.
- Healing and strengthening family relationships.
- Resolving conflict within communities.

## Case Study 1: NOT A SOFT OPTION

*Tyrone was referred to a restorative justice conference after committing multiple property and stealing offences. Tyrone and his mother expressed concerns about attending the conference because they knew some of the victims. After the conference, Tyrone realised that his fear of the victims being rude and angry were unfounded.*

**Referral type:** Court-ordered Restorative Justice Order (RJO)

### The offences

Tyrone<sup>26</sup>, a 14 year old male, committed several property and stealing offences in a regional town. The offences were committed with other youths and occurred in two distinct episodes. The first offending episode occurred on an autumn evening shortly after 7 pm when two youths entered the local bottle shop. They concealed their identity by placing their t-shirts over their heads and stole two cartons of alcohol. Tyrone was chased by the bottle shop staff and threw the alcohol cartons at them to avoid being caught. The second offending episode occurred at approximately 2 am on a winter's morning. Again Tyrone was with other youths. Tyrone entered the yards of local residents and businesses - stealing items of value such as wallets, handbags and cigarettes from unlocked motor vehicles. At the time of the offences, Tyrone had elected to move out of his family's home due to family issues. Tyrone was charged by police, appeared in court and was sentenced to a Restorative Justice Order (RJO). During the year prior to these offences, Tyrone had appeared in court on two occasions and received unsupervised youth justice orders.

### Restorative justice process

A restorative justice conference was held four months after the offences were committed. Tyrone was 15 years of age at the time of the conference. The conference was attended by four adult victims and all victims were still upset and wanted to understand why their properties were targeted. One victim, a school teacher,

was convinced she was targeted due to her position in the community. The police officer informed the restorative justice convenors that he did not believe in conferencing. Tyrone was very nervous to be in the same room with his victims because he was worried they would be rude and angry towards him. Tyrone's mother was wary of the conference and indicated to the convenor that many of the victims were known to the family. The convenor reassured Tyrone and his mother that 'the conference meeting is a safe place in which Tyrone can share his story'.

During the conference, Tyrone spoke openly and honestly when telling his story. He displayed signs of remorse and was able to identify how his victims may have felt. Tyrone presented as interested throughout the conference process and engaged well in the discussions. As an educative function of the conference, the community representative provided a summary of how Tyrone's offending impacted on the whole community and the level of concern that community members experienced during this time. The police officer provided a snapshot of how much work and police resources were used in investigating the offences.

### Outcomes

The conference concluded with Tyrone offering a verbal apology to the victims present at conference. He also agreed to undertake several tasks to help repair the harm and restore community relations. These tasks included completing one hour of voluntary work at the local school, writing two apology letters and preparing three statements of intent – which included a promise to attend school each day; a promise to help his younger sibling to 'not end up in trouble' with the law; and a promise to 'not take from other people'.

After the conference, Tyrone and his mother stated that their initial fears were unwarranted. The police officer approached the convenors and commented that he had seen a "different side of conferencing". One victim stated that it put her at ease being able to speak with Tyrone. Another victim provided positive feedback to Tyrone on his ability to engage in the conferencing process. They also commented on the level of respect in the room. All participants commended Tyrone on

<sup>26</sup> The names of all conference participants have been removed and replaced with pseudonyms.

owning up to his actions and his behaviour during the conference. Tyrone completed the voluntary work and the two written apology letters within one week of the conference.

*'[A] victim stated that ' it put her at ease being able to speak with the young person'*

## Reflections

- Restorative justice conferencing should not be considered a 'soft option' for young offenders. Facing up to what they have done and to the people they have harmed can be a confronting experience.
- Young people engaged in anti-social behaviour and repeat offending can increase community concerns about local safety and high crime rates. This case demonstrates how restorative justice conferencing can be used to proactively address concerns about local safety by bringing together the young offender(s) and relevant family and community members to discuss what happened; to reach a shared understanding about how everyone has been affected; and to agree on what can be done to restore community relations and prevent future

offending. The success of this case was enhanced by the willingness of multiple parties to meet face-to-face.

- One of the key differences between restorative justice and traditional criminal justice approaches is its 'restorative' approach to offenders' (Shapland et al., 2006). The restorative justice process makes a clear distinction between the negative aspects of the offence and the 'future potential' of the young person (Shapland, 2006). For example, conference participants may mention positive attributes of the offender apart from their offending. In this case, Tyrone was commended for 'owning up to his actions' and for his positive participation during the conference. The restorative justice process can also assist in helping to reconcile marginalised young offenders with their communities, while minimising stigmatisation and social exclusion.
- Research indicates that victims often provide feedback that they feel better for having met with the offender and that the restorative justice process helps to reduce their level of fear and improve their perceptions of safety (Beven et al., 2011; McGarrell & Hipple, 2007; Shapland et al, 2006). In this instance, one victim stated that "it put her at ease" being able to speak with Tyrone.



## Case Study 2: HEALING RELATIONSHIPS

*A 10 year old boy from a remote Queensland Community was referred by police to a restorative justice conference following an incident with a peer at school. The restorative justice process helped to restore the relationship between two young people and their families.*

**Referral type:** Police referral

### Background

Michael, a 10 year old boy from a remote Queensland community threw an object at the victim's head and verbally threatened the victim by stating he would have someone sexually assault his sister. Michael was charged with making threats and common assault. These offences occurred in the school classroom and both boys and their families were known to each other. The two boys described their friendship prior to this incident as 'being best friends'.

### Restorative justice process

Lengthy pre-conference interviews were conducted with the parents of both boys. The key concerns held by parents was the loss of friendship between the families and boys. All parties wished for the relationships to return to the way they were prior to the offence. Michael initially minimised his actions by stating the verbal threats 'were a joke'. The conference was attended by both young people, their parents, the School Guidance Officer and a Police Officer.

During the conference, Michael's father delivered a powerful speech evoking tears amongst some participants when he discussed his Cook Islander culture, the traditional role of men and the importance of respecting women.

### Outcomes

The conference helped Michael to better understand the impact of his behaviour. He apologised to the victim and the victim's parents. Both boys shook hands and agreed to 'be better friends'. Michael thanked his

mother for supporting him at the conference and gave her a hug. The conference helped to repair the harm caused by Michael's behaviour and promoted healing and reconciliation. Both boys are 'best friends' again and the relationship between the two families has been restored.

### Reflections

- Restorative justice provides an alternative framework for responding to juvenile crime. Rather than focussing on 'punishment', it holds young people to account by helping them to understand the impact of their behaviour and providing an opportunity for them to address the resulting harm.
- The process can help young people to learn how to communicate their thoughts or feelings without resorting to threats or violence. It can also help to strengthen relationships and promote community cohesion.
- Restorative justice aims to meet the needs of all participants by involving victims, offenders, family and community members in an effort to put things right.
- The restorative justice process needs to take into account the age and maturity of the child. Parents/ caregivers should be fully involved in the process. Convenors need to ensure that the child is safe, supported and understands what is happening.
- Restorative justice conferencing can play a role in helping to re-connect young people to their culture. Family and community members can also play a role in modelling respectful behaviour.
- The cultural needs of the victim, offender and their support people are an important part of restorative justice. The convenor can ask participants if they would like a prayer or other rituals, a particular location for the conference, or a cultural support person to attend.

## Case Study 3: MEANINGFUL REPARATIVE ACTIVITIES

*Aiden and his peers caused damage to a school classroom used by special education students and a school administration block. Aiden was referred to a restorative justice conference with the School Principal representing those impacted by this crime. The restorative justice process helped Aiden repair the harm caused to the school community through voluntary work and allowed the School Principal to assist a young person to re-engage with the school community.*

**Referral type:** Police referral

### The offender

Aiden, a 14 year old male, and his friends entered the building of a local school on an autumn night at approximately 9 pm. The group smashed a glass panel on a door to gain entry and proceeded to rummage through the classroom - opening cupboards, drawers, and the classroom fridge. Further damage was caused when shaving cream was sprayed through the classroom. The group then moved onto the school administration block. The group smashed another glass door to gain entry and rifled through the office cupboards and drawers. Aiden was referred to a restorative justice conference by the local police. One month prior to these offences, Aiden had appeared in court for an offence of a similar nature and was reprimanded by the Magistrate.

### The victim

The School Principal was willing to participate in the restorative justice process stating that she had heard from other School Principals in the area that the conferencing process was positive. She was keen to talk to Aiden about the damage that had been caused to the school property, the extent of the cleaning and repairs to the school, and the harm caused to the school community.

### Restorative justice process

A pre-conference interview was conducted by the convenor with Aiden and his grandmother (his support person). During the interview Aiden displayed signs

of shame - commenting to the convenor that he was worried the teachers knew he caused damage to the school. He also displayed regret that he did nothing to stop his co-offenders. He accepted responsibility for his wrongdoing by stating that he knew he shouldn't have done it. Aiden's grandmother told the convenor that she would like to see Aiden return to school and attend a local youth program.

The conference was held six weeks after the offence date and was attended by the School Principal, two police officers, Aiden, Aiden's grandmother and the convenor. Aiden arrived at the restorative justice conference in a nervous state concerned about how the School Principal would perceive him. Aiden and his grandmother were delayed by 15 minutes due to transport arrangements, which further exacerbated Aiden's nervousness. The convenor explained to Aiden that the conference was a safe forum to tell his story.

During the conference, Aiden talked about his actions and emotions. He also identified the potential harm experienced by the school community. The School Principal became emotional when sharing the views of the teachers and students affected by the damage. At this point, the young person's grandmother stated that she was 'very upset' when she became aware the boys had caused trouble. A learning identified by Aiden was that he should think about others before doing 'something stupid'.

The conference participants negotiated an agreement which involved Aiden undertaking a total of five hours of voluntary work to clean the school sporting equipment, learning aids and setting up school materials. This was a meaningful reparative activity for the school since the teachers had to clean the classroom following the offence to ensure it was a safe environment for students. Aiden fulfilled these activities over three sessions. Feedback from the school on Aiden's conduct whilst fulfilling the agreement was positive and complimentary to the extent that the supervisor of the voluntary work offered to attend Aiden's graduation to help motivate him to re-engage in attending the school.

### Outcomes

Aiden started to re-engage in education and it is reported that he has 'gained confidence in himself to make better choices'. Aiden has found new friends to hang around. The victim reported she was very happy with the outcome from the conference because it allowed her to help a young person in the local

community. The convenor declared this conference to be most rewarding as the young person 'really took responsibility for his actions' despite being faced with many obstacles that could have hindered the completion of the voluntary work.

*'... since the conference the victim has seen the boy in the community and interacted with him. She has stated that this type of integration would have not been possible without the restorative justice process.'*

## Reflections

- This case provides an example of how a young person can undertake meaningful, reparative activities to repair the harm caused to a community.
- It also highlights how restorative justice can serve as a pathway to re-engage young people who have offended with integral social support networks, such as school communities.



## Case Study 4: RE-INTEGRATION THROUGH REPARATION

*There was extensive graffiti and property damage to the local Rotary Club caused by Joseph's offending behaviour. Joseph repaired the harm by undertaking voluntary work at the Rotary Club. The Rotary Club is planning to invite Joseph back to the club.*

**Referral type:** Court-ordered Restorative Justice Order (RJO)

- *Fraud – dishonest application of property of another x 2*
- *Enter premises with intent x 1*
- *Enter dwelling and commit indictable offence x 1*
- *Enter premises and commit indictable offence x 1*
- *Possess dangerous drugs x 1*
- *Possession of a knife in a public place x 1*
- *Received tainted property x 1*

**Referral type:** Court diversion referral

- *Fraud – dishonestly gain benefit/advantage x 1*
- *Receiving tainted property x 2*
- *Commit public nuisance x 1*

### The offences

Joseph, a 15 year old, committed several fraud and property offences under the Criminal Code as well as offences under the *Drug Misuse Act and Weapons Act*. The offences were committed with co-offenders, most of whom were older than Joseph, over a three month period. Joseph was given two separate notices to appear in court.

At the time the offences were committed, Joseph was intermittently living rough on the streets, hanging out with older peers, not attending school and had begun to use marijuana on a regular basis. Joseph claims he was stealing to feed himself, clothe himself and to purchase marijuana.

### The consequences

Joseph had two proceedings progressing through the Childrens Court. Both proceedings included multiple offences. About eight weeks after the offences were committed, Joseph was sentenced to a court-ordered Restorative Justice Order and one month later he was sentenced to a Court Diversion referral.

### The victims

During the pre-conference interview, the convenor noted that Joseph appeared to present with little remorse and a limited sense of responsibility for his offences. There were seven people identified as victims of Joseph's offending. One victim was fearful of ongoing harassment from Joseph and did not want to participate. The Rotary Club and one other victim chose to participate in the conference. Due to the seriousness of the offences and complexity of the referral a co-convenor model was chosen.

### The conference

The conference was held approximately six months after the offences were committed. The conference was attended by a member of the Rotary Club, a Drug and Alcohol Counsellor, a police officer, two convenors, Joseph and his father. On the day of the conference, one victim did not arrive and was unable to be contacted. A generic statement about fraud was sourced by the convenor and was read regarding the impacts of 'fraud'.

During the conference, the convenor observed that Joseph spoke in a defensive manner when discussing how he was caught with the cannabis. Joseph stated that he had approximately \$800 worth of cannabis in his bedroom, for which he still owed money to his supplier. Joseph's father discussed the impacts of his offending on the family, which included concern's about Joseph's mental health, other young people breaking into Joseph's family home to sleep, stolen goods being brought into the family home, and concerns for Joseph's younger siblings.

The representative from the Rotary Club discussed how Joseph's offending had adversely affected the club. Club members volunteered their time to clean off graffiti to the club structures and chattels, repair the shed door and wire fence, and replace damaged chairs and tables and sound system. The Drug and Alcohol Counsellor provided advice about the harmful effects of regular cannabis use and expressed his concerns regarding

Joseph's regular use of cannabis. The police officer discussed the impacts of the motor vehicle and property offences on the victims and community. The conference concluded with Joseph agreeing to undertake two sessions of volunteer work at the Rotary Club.



## Outcomes

Joseph has not re-offended in the three months since the conference. He is also no longer associating with his co-offenders, has secured full-time employment and ceased his frequent marijuana use. He completed the volunteer work at the Rotary Club within one month of the conference. The following is an excerpt from the Rotatory Club representative:

*'[Joseph] completed the volunteer work as we agreed at the conference. He worked over two weekends, was very enthusiastic and very proud of what he achieved. I set him the task of revitalising the garden area which was a strip of garden about 30 M long. Removed weeds & dead plants & barrowed loads of mulch to cover the garden. I also got him to remove some graffiti to show him how hard it was to remove. He also helped me set out the Men's Shed building site. I told him I will invite him back to the site, once the Men's shed is complete, to see how everything looks when completed. I must say that he was a delight to work with, seems settled & contented in his job ... I was so pleased to be part of the whole process and I suggest that he has learned a valuable lesson...'*

## Reflections

- A young person's affect and presentation in relation to remorse and suitability for conference can change in the period between conducting the pre-conference interview and the conference. Persistence may be worthwhile even when the young person's initial presentation is less than positive.
- Not all victims need to participate in the conference for it to have meaningful outcomes. In the case above, the conference was a re-integrative and restorative process which helped to re-connect Joseph and his family with the Rotary Club and local community.
- When some victims are not represented or choose not to attend a conference, police participation is invaluable in ensuring impacts are discussed and fully understood by the young person.

## Case Study 5: A VICTIM-SENSITIVE PROCESS

*A 15 year old male was physically and verbally assaulted and threatened with a knife. He was traumatised by the assault and hesitant to participate in a conference.*

**Referral type:** Court-ordered Restorative Justice Order

### Background

Two 15 year old acquaintances, Melissa and Jake, arranged to meet at a local train station to smoke marijuana together. Melissa and two male peer-aged friends planned to assault Jake as an act of retribution as they believed Jake had sexually assaulted their friend. At approximately 10 pm, Melissa met with Jake as arranged. Jake was accosted by two males who had been hiding in the nearby bushes. Jake was punched, kicked and struck in the head with broken glass bottles. A knife was produced by the one of the co-offenders and verbal threats were made to murder Jake. As Jake was being assaulted, Melissa picked up her backpack and walked away - offering no assistance to Jake. One of the co-offenders later visited Jake's family home threatening to cause harm to him and his family.

Melissa appeared in court on one charge of assault occasioning bodily harm and was sentenced by the court to a restorative justice order. Melissa had no prior involvement with the Youth Justice system.

### Restorative justice process

Jake attended an interview with the restorative justice convenor, supported by his mother. Jake's mother communicated the impacts of the crime on herself and her family. She also discussed the changes she had observed in her son since the assault. Both Jake and his mother were initially hesitant to engage in a restorative justice conference because they were concerned that the conference would expose him to further harm. Jake stated that he could not speak about the assault because it was too traumatic. Jake's mother agreed to attend the conference after the convenor provided detailed information about the restorative justice process. Jake stated he would not commit to attending the conference or answering questions if he decided to attend on the day. Jake declined the offer of referrals to support services.

The conference was held seven months after the offence was committed at a neutral location - a local community centre. During the conference, Melissa learned that Jake began searching for her after the assault, thinking she might have been harmed and not realising her involvement in the ambush. Likewise, Jake learned more about Melissa's involvement in the offence and her thoughts and feelings since. The perceived wrongdoing by Jake which triggered the retribution was also found to be untrue.

### Outcomes

The conference helped to repair damaged relationships between Melissa, Jake and their respective families. Melissa offered a verbal apology to Jake, which was accepted. Melissa committed to being a witness against her co-offenders if she was asked to do so. Jake indicated that he wanted Youth Justice to monitor the conference agreement but that he trusted Melissa to keep her commitment.

*The victim's mother stated that 'the restorative justice process was the right process for them to be able to gain closure and allow her son to move towards a more positive future'*

### Reflections

- It is critical to protect the interests of the victim during a restorative justice conference. Pre-conference preparation is essential for ensuring that the victim is emotionally and psychologically ready to engage in a discussion with the offender. This may require a substantial amount of preparatory work with the victim and their family prior to meeting with the offender. The preparation may take weeks to months in the case of serious offences (National Justice CEOs Group, 2011; United Nations Office on Drugs and Crime, 2006).
- Participant readiness was crucial to the success of this conference and its outcomes. The victim and his mother were well supported which helped to allay their fear and anxiety about meeting with the offender. The conference was convened when the victim was ready to participate. This timeframe was outside of the standard six week period.

- The suitability of the victim, offender and other participants needs to be carefully assessed to prevent re-victimisation and ensure the emotional safety of the victim and other participants. Re-victimisation may arise in situations where the offender is not prepared to accept responsibility for

their actions or where they become defensive and try to blame the victim. Other contraindications for conferencing include relationships of inequality and power imbalances (Centre for Innovative Justice, 2014; Neave, 2004; Garkawe, 1999; Daly, 1998).



## Case Study 6: A RESTORATIVE JUSTICE RESPONSE TO SEXUAL OFFENDING

*A young male was referred by police to a restorative justice conference to assist with healing the harm caused to the victim after a sexual assault.*

**Referral type:** Police referral

### Background

A 16 year old male was referred to a restorative justice conference for an offence of a sexual nature. The victim was a 13 year old female. The young man and girl met through social media. After multiple exchanges on social media, they agreed to meet in the girl's neighbourhood. It was the girl's expectation that there were going to be other young people present when they met. This was not the case and she found herself alone with the young man.

Both the young man and girl had differing views and perceptions of what then occurred and what each party was thinking, feeling and actually saying. The young man was charged with carnal knowledge of a child under 16 years and the police referred him to a restorative justice conference. The victim sought professional counselling following the incident. The assault had an enormous impact on the girl including the loss of a very close friend whom she had known since childhood. This friend was also the young male's best friend. The victim, through her counsellor, stated that she felt the loss of this friendship every day.

### Restorative justice process

The Restorative Justice Service Leader assessed the suitability of the referral both upon receipt and following initial meetings between restorative justice convenors and the participants. Consistent with all conferencing processes involving sexual offences, it is a requirement that a young person must attend or engage in a suitable specialist intervention or education service in preparation for a restorative justice conference. The young person was referred to a specialist intervention service. After consultation with both parties, their families, and treating professionals, a conference date was scheduled as soon as possible to alleviate the damage being caused by social media commentary. Over a six month period, this had become incredibly painful, hurtful and damaging to both parties and their families. During the pre-conference preparation, the young male and his father were very fearful about

meeting the victim's father stating 'if that was my daughter I'd feel really angry'.

The conference was attended by the young male and his parents, the victim and her parents, counsellors for each of the young people and a community representative from a sexual offending support agency, the referring police officer and two convenors.

During the conference, all participants were able to share their stories about how they had been directly and indirectly impacted by the offence. The victim expressed her feelings through her counsellor by way of a Victim Impact Statement. The counsellors and police officers discussed broader impacts on the community. The victim's father became emotional when he talked about how he had been affected and broke down several times. He ended his discussion by pointing to all the men in the room and stating:

***'Men need to protect our women. To stand up. The #MeToo campaign and Weinstein abuse is all too common and it's we as men who need to drive the motion to protect our women'***

There were nods of agreement and a sense of shared sense of purpose and responsibility from the men on all sides of the circle including the police, parents and young people.

The young male took responsibility for his actions by being open and honest about what he had done. He wanted to try to take away the guilt and shame that the victim had articulated in her statement and stated that 'It was all my fault. You did nothing wrong'. He went on to apologise to the victim. The victim acknowledged the apology. He also apologised to the victim's parents and to his own parents for bringing shame on the family.

### Outcomes

The development of the agreement was driven by the victim who indicated that it was important for her to feel safe in the neighbourhood where she lived. The young male made a commitment to stay away from her neighbourhood, acknowledging that it was her home and that she had a right to feel safe. He also agreed to attend further therapeutic counselling sessions. There



was a lengthy discussion between families about what everyone could do as a community to resolve the loss of the victim's close friend. The young male agreed to talk to their mutual friend and to reinforce that the victim had done nothing wrong and to support the restoration of the friendship. The victim agreed that this would be really meaningful to her. After the conference, the following feedback was provided by one of the conference participants.

*Thanks for the follow-up. We're...  
on a holiday at the moment. It looks like  
[the victim] is reconnecting with her friend so I  
think that is progress.  
I've spoken to some of the parents of other kids  
and think we're all on the same page now. Will  
see how things go.  
Thanks for helping us through the process,  
it felt like an important step in putting it all  
behind us.*

## Reflections

- Restorative justice has been recognised as an 'innovative' justice process that has the potential to address the needs of victims of sexual offending (Centre for Innovative Justice, RMIT University, 2014). Conferencing has the potential to provide victims with 'a greater degree of justice than the court' (Neave, 2004, p. 4). For example, when the offender accepts responsibility for the offence, it can serve as an 'important public validation of the harm suffered by the victim' (Neave, 2004, p. 4). The restorative justice process also provides an opportunity for apology and reparation.
- A literature review by Gal (2011) highlights a number of benefits associated with using a restorative justice response to support child victims, which are summarised in the quote below. Many of these benefits are reflected in this case study.
 

*Child victims need and deserve a fair process in which they are treated with respect, their specific needs, interests and wishes are considered and their rehabilitation is a central concern. Possible specific needs of child victims might be having a group discussion whereby their harm is acknowledged, their behaviour validated, the perpetrator apologizes and reparation is negotiated.*

*Restorative justice offers an environment where... victims are provided an opportunity to have significant control over the process that follows their victimization and its outcomes by being active partners... Issues of self-blame have the potential of being resolved as the victim is given the opportunity to discuss his or her behaviour with sympathetic listeners. At the same time, offenders are expected to take full responsibility for the harm they have caused the victim, and ideally to apologize (Gal, 2011, p. 115).*
- Comprehensive safeguards are required when conferencing sexual assaults to protect the victim and ensure that the process does not compromise the offender's legal rights. Critical success factors that contributed towards the positive outcomes of this conference were as follows:



- » It is a completely voluntary process for all participants.
  - » The case involved extensive pre-conference preparation and thorough consultation with expert professionals (i.e. forensic mental health professionals and a clinical psychologist).
  - » A comprehensive suitability assessment was undertaken after the referral was received. This assessment involved meeting with all participants to ensure that restorative justice was an appropriate response and that there was no risk of further trauma to the victim.
  - » The conference was facilitated by convenors with advanced, specialist skills.
  - » The collaborative approach between stakeholders (e.g. police, counsellors and families) was essential for ensuring that all parties were adequately supported throughout the restorative justice process and that everyone was on 'the same page' when developing a plan (agreement) for providing redress and managing the negative flow-on effects of the offence.
  - » All parties were respected and valued participants and the restorative justice principle of 'no further harm' was upheld.
  - Restorative justice acknowledges 'the reality' that there may be an ongoing relationship of some degree between the offender and victim (Neave, 2004). They may be members of the same community or may have mutual friends in common - making it difficult for them to avoid each other, particularly if they live in a small community.
- A number of the case studies in this report highlight the negative impact of social media in exacerbating the trauma that victims experience as a result of sexual assault and other violent offences. The restorative justice process provides a forum for family and relevant community members to develop strategies to mitigate against the harm caused by misuse of social media.

## Case Study 7: AN INTERPRETER, VICTIM SUPPORT, AND A CONVENOR

*Laurent, a 16 year old male was referred to a restorative justice conference by the court for a late night carjacking.*

**Referral type:** Court pre-sentence referral

### Background

Laurent, a 16 year old male, was waiting on the side of a major road close to midnight and marshalled a passing vehicle to stop. Laurent was with three other young men and all were holding replica guns. Laurent pointed his replica gun at the driver of the vehicle ordering him to get out of the car. The young men entered the vehicle and drove off. The victim was concerned because he had his house keys, wallet, garage remote, personal papers and employer's office keys in the vehicle. A short time later, Laurent was arrested by police and remanded in custody for a month before being released on strict bail conditions, with bail support by Youth Justice. Approximately seven months after the offence was committed, the court requested a pre-sentence restorative justice conference to provide additional information to assist in arriving at an appropriate sentence.

### Restorative justice process

Upon receiving the court referral, a convenor arranged to meet with Laurent and his parents. The interview was held with an interpreter because Laurent's parents did not speak English. Laurent had moved to Australia from another country approximately a decade earlier. Laurent's parent expressed appreciation for being included in the restorative justice process via the interpreter and a written statement, which was read aloud at conference.

The victim did not attend the conference but was represented by a victim support agency. The victim representative was able to provide insight into the victim's feelings during the offence and the ongoing emotional impact of the crime. Laurent stated that he would like to offer his sincerest apologies to the victim. He offered to create a video recording for the victim believing it would be more meaningful than a letter. Laurent also agreed to perform 16 hours of unpaid work involving packing and loading food supplies for a not-for-profit food relief organisation. Laurent completed the volunteer work as agreed at conference with the victim representative.

### Outcomes

Following the conference, the court took into consideration the following mitigating circumstances: Laurent's remand in custody period, his age at the time of the offence and the outcome of the restorative justice conference. Laurent was sentenced to a nine month Youth Justice Probation Order.

### Reflections

- Restorative justice can empower and strengthen families by allowing them to actively participate in the criminal justice process and by involving them in the decision-making about their child's offending behaviour. The process can also help parents to better understand the nature of their child's offending behaviour and its impact on others.
- Families from Non-English Speaking Backgrounds may struggle to understand legal and court processes. Language barriers can be overcome with adequate pre-planning, the use of interpreters and flexibility in tailoring the conference process so it is responsive to the cultural needs of participants.
- The lengthy time delay between the commission of the offences and the conference did not dilute the meaningfulness for participants.

## Case Study 8: ONE CONFERENCE, ONE VICTIM AND TWO CO-OFFENDERS

*Brodie and Randall, 15 year old co-offenders, attempted to steal a young person's sneakers by inflicting violence. Both offenders were referred by police to a restorative justice conference with their victim. The victim was concerned about retribution. After the conference, all parties were able to 'move on' despite the conference being a challenging experience.*

**Referral type:** Police referral

### Background

Brodie and Randall, both 15 year old young men, were referred by police to a restorative justice conference two months after committing an offence of attempted robbery. The attempted robbery involved Brodie and Randall surrounding their victim and demanding his sneakers. The victim was of similar age to the offenders. The victim refused and following a verbal altercation was hit to the side of the head by Brodie. The victim's head hit a wall resulting in him collapsing on the ground. Randall punched the victim in the stomach while he was on the ground. The entire incident was filmed on a mobile phone and uploaded to social media where it was frequently viewed in a very short amount of time. The victim had willingly met with his attackers on the understanding that it was going to be a friendly encounter. Prior to this incident, neither offender had been in conflict with the law.

### Restorative justice process

The conference was convened within six weeks of the referral and was attended by the victim, his parents, the arresting/referring police officer, the two offenders and their parents, a legal representative for the offender, two restorative justice convenors and a representative from a victim support agency. Participants displayed high levels of emotion during the conference, including sadness, embarrassment and anger. The convenors used silence when participants were telling their stories to enable participants to compose themselves.

The victim's parents shared the impact of endless phone calls from family and friends following the media coverage and social media views of the assault and how this impacted on the victim's siblings.



### Outcomes

Brodie and Randall both offered the victim a verbal apology. All participants were able to move forward and put the offence behind them after a stressful couple of months. The victim stated that the restorative justice process helped him to 'move on'. He no longer felt he needed to be concerned about retribution from Brodie. The arresting/referring police officer and the representative from the victim support agency both shared the sentiment that this conference was 'one of the most restorative' and 'well facilitated' conferences they had participated in.

The victim's mother messaged the convenor a few days after the conference to tell her that her son had been at a shopping centre with a group of friends when they bumped into Brodie. One of the victim's friends asked the victim 'is that the guy who bashed you?' To which the victim replied 'it is all good' and proceeded to shake Brodie's hand. The victim's mother was relieved to hear this and very proud of her son.

### Reflections

- Crime can result in significant harm and trauma for victims. Restorative justice can assist victims to recover from this harm by 'giving them a voice' in the justice process; helping them to understand more about the offence; and providing them with an opportunity to provide input into the justice process and how redress will occur.

- Restorative justice conferencing is one avenue for assisting victims to move through the different stages of anger, grief or loss when a crime has been committed against them. The process allows people's emotions to be expressed. It can promote healing and help victims to regain a sense of meaning and control over their lives.
- A victim's recovery after an offence can be assisted by having support people - such as family, friends or a victim support agency - participate with them during the conference.



## Case Study 9: MULTIPLE OFFENCES, MULTIPLE VICTIMS

*Cooper, a 15 year old male committed offences against a number of victims whilst under the influence of drugs and was referred to a restorative justice conference by the court. Cooper has had no further contact with the police since the conference.*

**Referral type:** Court diversion referral

### Background

Cooper was homeless and under the influence of methamphetamines when he offended by breaking into people's homes and stealing valuable family items. Cooper committed 15 property offences and several misdemeanour offences over a two week period when he was heavily engaged in methamphetamine use. Cooper's offending was erratic, opportunistic, and at times violent. His offences included stealing a car when the owner temporarily stepped away from the vehicle and assaulting a taxi driver when the driver informed Cooper and his friends that his EFTPOS machine was not working.

Cooper's escalation of offending behaviour eventually saw him remanded in custody for a three month period before being placed back in the community on bail with strict conditions under the supervision of Youth Justice. Cooper was referred by the court to a restorative justice conference.

### Restorative justice process

Prior to the conference, Cooper was unable to identify any impacts for the victims other than the loss of money. One victim attended the conference in person and two victims opted to participate indirectly via Victim Impact Statements. During the conference, the female victim was able to tell the offender about her anger and frustrations arising from the incident and the ongoing impact on her daily life. Cooper gained a better understanding of the consequences of his actions on other people's lives. This was evident when he indicated to the conference participants that he will 'think twice before doing things' and that he wants to seek employment and live a more pro-social life.

The victim who attended the conference suggested that Cooper could undertake 35 hours of voluntary work to help repair the harm. Cooper also suggested recording a video with his apology for the two victims

who did not attend the conference (in person) to assure them that there would be no repercussions. These two suggestions formed the basis of the conference agreement.

### Outcomes

In the period since the conference, one of the victims has continued to feel anger towards Cooper. However, she advised the convenor that she now has a better insight into what was happening for Cooper at the time of his offending and that she appreciated being involved in the restorative justice process.

Cooper's magnitude of offending has significantly reduced. During the two month period since the conference, he has been charged with one proven offence.

### Reflections

- Victims of physical assault and violent crime can experience a range of negative impacts: physical injuries, financial loss and psychological consequences, including stress; anger; depression; feelings of shame or guilt; a sense of 'not being in control'; and feelings of being unsafe (Fuller, 2015; Shapland & Hall, 2007). Some effects may be short-term; others may be more severe and long-lasting and can result in post-traumatic stress disorder (PTSD) which may require treatment by a psychiatrist or clinical psychologist.
- To assist victims in recovering from the traumatic effects of crime, it is essential they receive professional support immediately after the crime. They should also be offered support before, during and after any restorative justice session. The support needs of victims may include information, reparation, recognition, emotional and social support, therapeutic counselling and/or practical assistance (Camp & Wemmers, 2016; Garkawe, 1999).
- Victims of crime sometimes fear intimidation and retaliation by the offender, which can leave them feeling vulnerable and unsafe. Restorative justice conferencing can assist in reducing their fear of crime by seeing the young offender apologise and take steps to repair the harm (Camp & Wemmers, 2016). The provision of further information about the offence may also help them to realise that the crime was opportunistic and that they were not deliberately targeted.

- Victims should never be pressured into attending a restorative justice conference. In instances where a victim does not wish to meet face-to-face with the offender, they can opt for indirect participation through a Victim Impact Statement. Victim Impact Statements are written or tape-recorded information from victims about how a crime has impacted on them. They may include descriptions of the physical or emotional damage caused by the offence, financial costs, medical or psychological treatments required by the victims and their family, the victim's views on the crime and an appropriate form of restitution.
- In this case study, each victim was able to participate in the restorative justice process in a way that they felt comfortable participating – either face-to-face or indirectly.
- It is essential that victims receive an adequate level of information to prepare them for the conference. Information can help victims to feel less uncertain because they know what to expect during the conference, what is expected of them and how their safety will be ensured during the conference.

